

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

FORM 20-F

(Mark One)

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

OR

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

For the fiscal year ended December 31, 2015

OR

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

For the transition period from _____ to _____

OR

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

Date of event requiring this shell company report : Not applicable

Commission file number 001-32458

DIANA SHIPPING INC.

(Exact name of Registrant as specified in its charter)

Diana Shipping Inc.

(Translation of Registrant's name into English)

Republic of The Marshall Islands

(Jurisdiction of incorporation or organization)

Pendelis 16, 175 64 Palaio Faliro, Athens, Greece

(Address of principal executive offices)

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(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

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

Title of each class	Name of each exchange on which registered
Common Stock, \$0.01 par value	New York Stock Exchange
Preferred Stock Purchase Rights	New York Stock Exchange
8.875% Series B Cumulative Redeemable Perpetual	New York Stock Exchange
Preferred Shares, \$0.01 par value	
8.500% Senior Notes due 2020	New York Stock Exchange

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

None

(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

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

As of December 31, 2015, there were 82,546,017 shares of the registrant's common stock outstanding

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

☐ Yes ☒ No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

☐ Yes ☒ No

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

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

☒ Yes ☐ No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

☒ Yes ☐ No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐

Accelerated filer ☒

Non-accelerated filer ☐

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

U.S. GAAP ☒

International Financial Reporting Standards as issued by the
International Accounting Standards Board ☐

Other ☐

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.

☐ Item 17

☐ Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

☐ Yes ☒ No

(APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PAST FIVE YEARS)

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.

☐ Yes ☐ No

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FORWARD-LOOKING STATEMENTS

Diana Shipping Inc., or the Company, desires to take advantage of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 and is including this cautionary statement in connection with this safe harbor legislation. This document and any other written or oral statements made by us or on our behalf may include forward-looking statements, which reflect our current views with respect to future events and financial performance. The words "believe", "except," "anticipate," "intends," "estimate," "forecast," "project," "plan," "potential," "may," "should," "expect" and similar expressions identify forward-looking statements.

Please note in this annual report, "we", "us", "our" and "the Company" all refer to Diana Shipping Inc. and its subsidiaries.

The forward-looking statements in this document are based upon various assumptions, many of which are based, in turn, upon further assumptions, including without limitation, management's examination of historical operating trends, data contained in our records and other data available from third parties. Although we believe that these assumptions were reasonable when made, because these assumptions are inherently subject to significant uncertainties and contingencies which are difficult or impossible to predict and are beyond our control, we cannot assure you that we will achieve or accomplish these expectations, beliefs or projections.

In addition to these important factors and matters discussed elsewhere herein, including under the heading "Item 3.D.—Risk Factors," important factors that, in our view, could cause actual results to differ materially from those discussed in the forward-looking statements include the strength of world economies, fluctuations in currencies and interest rates, general market conditions, including fluctuations in charter hire rates and vessel values, changes in demand in the dry-bulk shipping industry, changes in the supply of vessels, changes in the Company's operating expenses, including bunker prices, crew costs, drydocking and insurance costs, changes in governmental rules and regulations or actions taken by regulatory authorities, potential liability from pending or future litigation, general domestic and international political conditions or labor disruptions, potential disruption of shipping routes due to accidents or political events, and other important factors described from time to time in the reports filed by the Company with the Securities and Exchange Commission, or the SEC, and the New York Stock Exchange, or the NYSE. We caution readers of this annual report not to place undue reliance on these forward-looking statements, which speak only as of their dates. We undertake no obligation to update or revise any forward-looking statements.

PART I

Item 1. Identity of Directors, Senior Management and Advisers

Not Applicable.

Item 2. Offer Statistics and Expected Timetable

Not Applicable.

Item 3. Key Information

A. Selected Financial Data

The following table sets forth our selected consolidated financial data and other operating data. The selected consolidated financial data in the table as of December 31, 2015, 2014, 2013, 2012 and 2011 are derived from our audited consolidated financial statements and notes thereto which have been prepared in accordance with U.S. generally accepted accounting principles, or U.S. GAAP. The following data should be read in conjunction with Item 5. "Operating and Financial Review and Prospects", the consolidated financial statements, related notes and other financial information included elsewhere in this annual report.

As of and for the Year Ended December 31,				
2015	2014	2013	2012	2011
(in thousands of U.S. dollars, except for share and per share data, fleet data and average daily results)				

Statement of Operations Data:

Time charter revenues	\$ 157,712	\$ 175,576	\$ 164,005	\$ 220,785	\$ 255,669
Other revenues	-	-	447	2,447	1,117
Voyage expenses	15,528	10,665	8,119	8,274	10,597
Vessel operating expenses	88,272	86,923	77,211	66,293	55,375
Depreciation and amortization of deferred charges	76,333	70,503	64,741	62,010	55,278
General and administrative expenses	25,335	26,217	23,724	24,913	25,123
Management fees to related party	405	-	-	-	-
Foreign currency gain	(984)	(528)	(690)	(1,374)	(503)
Operating income / (loss)	(47,177)	(18,204)	(8,653)	63,116	110,916
Interest and finance costs	(15,555)	(8,427)	(8,140)	(7,618)	(4,924)
Interest and other income	3,152	3,627	1,800	1,432	1,033

	As of and for the Year Ended December 31,				
	2015	2014	2013	2012	2011
	(in thousands of U.S. dollars, except for share and per share data, fleet data and average daily results)				
Income / (loss) from derivative instruments	-	68	(118)	(518)	(737)
Income / (loss) from equity method investments	(5,133)	12,668	(6,094)	(1,773)	1,207
Net income / (loss)	<u>\$ (64,713)</u>	<u>\$ (10,268)</u>	<u>\$ (21,205)</u>	<u>\$ 54,639</u>	<u>\$ 107,495</u>
Loss assumed by non-controlling interests	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2</u>
Dividends on series B preferred shares	<u>\$ (5,769)</u>	<u>\$ (5,080)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Net income / (loss) attributed to common stockholders	<u>\$ (70,482)</u>	<u>\$ (15,348)</u>	<u>\$ (21,205)</u>	<u>\$ 54,639</u>	<u>\$ 107,497</u>
Earnings / (loss) per common share, basic and diluted	<u>\$ (0.89)</u>	<u>\$ (0.19)</u>	<u>\$ (0.26)</u>	<u>\$ 0.67</u>	<u>\$ 1.33</u>
Weighted average number of common shares, basic and diluted	<u>79,518,009</u>	<u>81,292,290</u>	<u>81,328,390</u>	<u>81,083,485</u>	<u>81,081,774</u>

Balance Sheet Data:

Cash and cash equivalents	\$ 193,218	\$ 218,901	\$ 240,633	\$ 446,624	\$ 416,674
Total current assets	215,013	238,234	251,868	466,986	432,691
Vessels' net book value	1,440,803	1,373,133	1,320,375	1,211,138	1,046,719
Property and equipment, net	23,489	23,887	22,826	22,774	21,659
Total assets	1,836,965	1,787,122	1,701,981	1,742,802	1,604,471
Total current liabilities	58,889	98,092	62,297	61,477	48,095
Long-term debt (including current portion), net of deferred financing costs	600,071	484,256	431,557	459,112	373,338
Total stockholders' equity	1,218,366	1,282,226	1,253,392	1,266,424	1,208,878

Cash Flow Data:

Net cash provided by operating activities	\$ 23,945	\$ 44,910	\$ 67,400	\$ 119,886	\$ 154,230
Net cash used in investing activities	(155,637)	(152,513)	(245,156)	(169,913)	(90,428)
Net cash provided by / (used in) financing activities	106,009	85,871	(28,235)	79,977	7,458

Fleet Data:

Average number of vessels (1)	40.8	37.9	33.0	27.6	23.6
Number of vessels at year-end	43.0	39.0	36.0	30.0	24.0
Weighted average age of vessels at year-end (in years)	7.4	7.1	6.6	6.0	6.3

	As of and for the Year Ended December 31,				
	2015	2014	2013	2012	2011
Ownership days (2)	14,900	13,822	12,049	10,119	8,609
Available days (3)	14,600	13,650	12,029	9,998	8,474
Operating days (4)	14,492	13,564	11,944	9,865	8,418
Fleet utilization (5)	99.3%	99.4%	99.3%	98.7%	99.3%
Average Daily Results:					
Time charter equivalent (TCE) rate (6)	\$ 9,739	\$ 12,081	\$ 12,959	\$ 21,255	\$ 28,920
Daily vessel operating expenses (7)	5,924	6,289	6,408	6,551	6,432

- (1) Average number of vessels is the number of vessels that constituted our fleet for the relevant period, as measured by the sum of the number of days each vessel was a part of our fleet during the period divided by the number of calendar days in the period.
- (2) Ownership days are the aggregate number of days in a period during which each vessel in our fleet has been owned by us. Ownership days are an indicator of the size of our fleet over a period and affect both the amount of revenues and the amount of expenses that we record during a period.
- (3) Available days are the number of our ownership days less the aggregate number of days that our vessels are off-hire due to scheduled repairs or repairs under guarantee, vessel upgrades or special surveys and the aggregate amount of time that we spend positioning our vessels for such events. The shipping industry uses available days to measure the number of days in a period during which vessels should be capable of generating revenues.
- (4) Operating days are the number of available days in a period less the aggregate number of days that our vessels are off-hire due to any reason, including unforeseen circumstances. The shipping industry uses operating days to measure the aggregate number of days in a period during which vessels actually generate revenues.
- (5) We calculate fleet utilization by dividing the number of our operating days during a period by the number of our available days during the period. The shipping industry uses fleet utilization to measure a company's efficiency in finding suitable employment for its vessels and minimizing the amount of days that its vessels are off-hire for reasons other than scheduled repairs or repairs under guarantee, vessel upgrades, special surveys or vessel positioning for such events.
- (6) Time charter equivalent rates, or TCE rates, are defined as our time charter revenues less voyage expenses during a period divided by the number of our available days during the period, which is consistent with industry standards. Voyage expenses include port charges, bunker (fuel) expenses, canal charges and commissions. TCE rate is a non-GAAP measure, and management believes it is useful to investors because it is a standard shipping industry performance measure used primarily to compare daily earnings generated by vessels on time charters with daily earnings generated by vessels on voyage charters, because charter hire rates for vessels on voyage charters are generally not expressed in per day amounts while charter hire rates for vessels on time charters are generally expressed in such amounts. The following table reflects the calculation of our TCE rates for the periods presented.

	Year Ended December 31,				
	2015	2014	2013	2012	2011
(in thousands of U.S. dollars, except for TCE rates, which are expressed in U.S. dollars, and available days)					
Time charter revenues	\$157,712	\$ 175,576	\$164,005	\$220,785	\$255,669
Less: voyage expenses	(15,528)	(10,665)	(8,119)	(8,274)	(10,597)
Time charter equivalent revenues	<u>\$142,184</u>	<u>\$ 164,911</u>	<u>\$155,886</u>	<u>\$212,511</u>	<u>\$245,072</u>
Available days	14,600	13,650	12,029	9,998	8,474
Time charter equivalent (TCE) rate	\$ 9,739	\$ 12,081	\$ 12,959	\$ 21,255	\$ 28,920

- (7) Daily vessel operating expenses, which include crew wages and related costs, the cost of insurance, expenses relating to repairs and maintenance, the costs of spares and consumable stores, tonnage taxes and other miscellaneous expenses, are calculated by dividing vessel operating expenses by ownership days for the relevant period.

B. Capitalization and Indebtedness

Not Applicable.

C. Reasons for the Offer and Use of Proceeds

Not Applicable.

D. Risk Factors

Some of the following risks relate principally to the industry in which we operate and our business in general. Other risks relate principally to the securities market and ownership of our securities, including our common stock, Series B Preferred Shares, and 8.5% Senior Notes due 2020, which we refer to as our Notes. The occurrence of any of the events described in this section could significantly and negatively affect our business, financial condition, operating results, cash available for the payment of dividends on our shares and interest on our Notes, or the trading price of our securities.

Industry Specific Risk Factors

Charter hire rates for dry bulk carriers may remain at low levels or decrease in the future, which may adversely affect our earnings.

The dry bulk shipping industry is cyclical with attendant volatility in charter hire rates and profitability. The degree of charter hire rate volatility among different types of dry bulk carriers has varied widely, and charter hire rates for Panamax and Capesize dry bulk carriers have reached near historically low levels. Because we charter some of our vessels pursuant to short-term time charters, we are exposed to changes in spot market and short-term charter rates for dry bulk carriers and such changes may affect our earnings and the value of our dry bulk carriers at any given time. In addition, more than half of our vessels are scheduled to come off of their current charters in 2016, based on their earliest redelivery date, for which we may be seeking new employment. We cannot assure you that we will be able to successfully charter our vessels in the future or renew existing charters at rates sufficient to allow us to meet our obligations or pay any dividends in the future. Fluctuations in charter rates result from changes in the supply and demand for vessel capacity and changes in the supply and demand for the major commodities carried by water internationally. Because the factors affecting the supply of and demand for vessels are outside of our control and are unpredictable, the nature, timing, direction and degree of changes in industry conditions are also unpredictable.

Factors that influence demand for vessel capacity include:

- supply and demand for energy resources, commodities, semi-finished and finished consumer and industrial products;

- changes in the exploration or production of energy resources, commodities, semi-finished and finished consumer and industrial products;
- the location of regional and global exploration, production and manufacturing facilities;
- the location of consuming regions for energy resources, commodities, semi-finished and finished consumer and industrial products;
- the globalization of production and manufacturing;
- global and regional economic and political conditions, including armed conflicts and terrorist activities; embargoes and strikes;
- natural disasters and other disruptions in international trade;
- developments in international trade;
- changes in seaborne and other transportation patterns, including the distance cargo is transported by sea;
- environmental and other regulatory developments;
- currency exchange rates; and
- weather.

Factors that influence the supply of vessel capacity include:

- the number of newbuilding orders and deliveries, including slippage in deliveries;
- the number of shipyards and ability of shipyards to deliver vessels;
- port and canal congestion;
- the scrapping rate of older vessels;
- vessel casualties; and
- the number of vessels that are out of service, namely those that are laid-up, drydocked, awaiting repairs or otherwise not available for hire.

In addition to the prevailing and anticipated freight rates, factors that affect the rate of newbuilding, scrapping and laying-up include newbuilding prices, secondhand vessel values in relation to scrap prices, costs of bunkers and other operating costs, costs associated with classification society surveys, normal maintenance and insurance coverage, the efficiency and age profile of the existing dry bulk fleet in the market and government and industry regulation of maritime transportation practices, particularly environmental protection laws and regulations. These factors influencing the supply of and demand for shipping capacity are outside of our control, and we may not be able to correctly assess the nature, timing and degree of changes in industry conditions.

Demand for our dry bulk carriers is dependent upon economic growth in the world's economies, including China and India, seasonal and regional changes in demand, changes in the capacity of the global dry bulk carrier fleet and the sources and supply of dry bulk cargo transported by sea. Given the seemingly large number of new dry bulk carriers currently on order with shipyards, the capacity of the global dry bulk carrier fleet could increase and economic growth may not resume in areas that have experienced a recession or continue in other areas. Adverse economic, political, social or other developments could have a material adverse effect on our business and operating results.

The dry bulk carrier charter market remains significantly below its high in 2008, which has had and may continue to have an adverse effect on our revenues, earnings and profitability, and may affect our ability to comply with our loan covenants.

The abrupt and dramatic downturn in the dry bulk charter market, from which we derive substantially all of our revenues, has severely affected the dry bulk shipping industry and has adversely affected our business. The Baltic Dry Index, or the BDI, a daily average of charter rates for key drybulk routes published by the Baltic Exchange Limited, has long been viewed as the main benchmark to monitor the movements of the dry bulk vessel charter market and the performance of the entire dry bulk shipping market. The BDI declined 94% in 2008 from a peak of 11,793 in May 2008 to a low of 663 in December 2008 and has remained volatile since then. During 2015, the BDI remained volatile, ranging from a high of 1,222 to a low of 471. The BDI recorded a record low of 290 in February 2016. There can be no assurance that the dry bulk charter market will not decrease further. The decline and volatility in charter rates is due to various factors, including the lack of trade financing for purchases of commodities carried by sea, which has resulted in a significant decline in cargo shipments, and the excess supply of iron ore in China, which has resulted in falling iron ore prices and increased stockpiles in Chinese ports. The decline and volatility in charter rates in the dry bulk market also affects the value of our dry bulk vessels, which follows the trends of dry bulk charter rates, and earnings on our charters, and similarly, affects our cash flows, liquidity and compliance with the covenants contained in our loan agreements.

The decline in the dry bulk carrier charter market has had and may continue to have additional adverse consequences for our industry, including an absence of financing for vessels, no active secondhand market for the sale of vessels, charterers seeking to renegotiate the rates for existing time charters, and widespread loan covenant defaults in the dry bulk shipping industry. Accordingly, the value of our common shares could be substantially reduced or eliminated.

Weak economic conditions throughout the world could negatively affect our earnings, financial condition and cash flows and may adversely affect the market price of our common shares.

Negative trends in the global economy continue to adversely affect global economic conditions. In addition, the world economy continues to face a number of new challenges, including recent turmoil and hostilities in the Middle East and other geographic areas and countries and continuing economic weakness in the European Union and Asia Pacific Region. The weakness in the global economy has caused, and may continue to cause, a decrease in worldwide demand for certain goods and, thus, shipping. We cannot predict how long the current market conditions will last. However, recent and developing economic and governmental factors, together with the concurrent decline in charter rates and vessel values, have had a material adverse effect on our earnings, financial condition and cash flows, have caused the price of our common shares to decline and could cause the price of our common shares to decline further.

The economies of the United States, the European Union and other parts of the world continue to experience relatively slow growth or remain in recession and exhibit weak economic trends. Securities and futures markets and the credit markets are subject to comprehensive statutes, regulations and other requirements. The SEC, other regulators, self-regulatory organizations and exchanges are authorized to take extraordinary actions in the event of market emergencies, and may effect changes in law or interpretations of existing laws.

A significant economic slowdown in the Asia Pacific region could exacerbate the effect of recent slowdowns in the economies of the United States and the European Union and may have a material adverse effect on our business, financial condition and earnings.

Continued economic slowdown in the Asia Pacific region, particularly in China, may exacerbate the effect on us of continued weakness in the rest of the world, as we anticipate a significant number of the port calls made by our vessels will continue to involve the loading or discharging of dry bulk commodities in ports in the Asia Pacific region. Before the global economic financial crisis that began in 2008, China had one of the world's fastest growing economies in terms of gross domestic product, or GDP, which had a significant impact on shipping demand. The growth rate of China's GDP is estimated to be around 6.9% for the year ended December 31, 2015, which is China's slowest growth rate in 25 years. China and other countries in the Asia Pacific region may continue to experience slowed or even negative economic growth in the future. Moreover, the current economic slowdown in the economies of the United States, the European Union and other Asian countries may further adversely affect economic growth in China and elsewhere. Our earnings and ability to grow our fleet would be impeded by a continuing or worsening economic downturn in any of these countries.

A decrease in the level of China's export of goods or an increase in trade protectionism could have a material adverse impact on our charterers' business and, in turn, could cause a material adverse impact on our earnings, financial condition and cash flows.

Our vessels may be deployed on routes involving trade in and out of emerging markets, and our charterers' shipping and business revenue may be derived from the shipment of goods from the Asia Pacific region to various overseas export markets including the United States and Europe. Any reduction in or hindrance to the output of China-based exporters could have a material adverse effect on the growth rate of China's exports and on our charterers' business.

For instance, the government of China has implemented economic policies aimed at increasing domestic consumption of Chinese-made goods and restricting currency exchanges within China. This may have the effect of reducing the supply of goods available for export and may, in turn, result in a decrease of demand for shipping. Additionally, though in China there is an increasing level of autonomy and a gradual shift in emphasis to a "market economy" and enterprise reform, many of the reforms, particularly some limited price reforms that result in the prices for certain commodities being principally determined by market forces, are unprecedented or experimental and may be subject to revision, change or abolition. The level of imports to and exports from China could be adversely affected by changes to these economic reforms by the Chinese government, as well as by changes in political, economic and social conditions or other relevant policies of the Chinese government.

Our operations expose us to the risk that increased trade protectionism will adversely affect our business. If the continuing global recovery is undermined by downside risks and the recent economic downturn is prolonged, governments may turn to trade barriers to protect their domestic industries against foreign imports, thereby depressing the demand for shipping. Specifically, increasing trade protectionism in the markets that our charterers serve has caused and may continue to cause an increase in: (i) the cost of goods exported from China, (ii) the length of time required to deliver goods from China and (iii) the risks associated with exporting goods from China, as well as a decrease in the quantity of goods to be shipped.

Any increased trade barriers or restrictions on trade, especially trade with China, would have an adverse impact on our charterers' business, operating results and financial condition and could thereby affect their ability to make timely charter hire payments to us and to renew and increase the number of their time charters with us. This could have a material adverse effect on our business, earnings and financial condition and our ability to pay dividends to our shareholders and interest on our Notes.

The current state of global financial markets and current economic conditions may adversely impact our ability to obtain additional financing or refinance our existing loan and credit facilities on acceptable terms which may hinder or prevent us from expanding our business.

Global financial markets and economic conditions continue to be volatile. This volatility has negatively affected the general willingness of banks and other financial institutions to extend credit, particularly in the shipping industry, due to the historically volatile asset values of vessels. As the shipping industry is highly dependent on the availability of credit to finance and expand operations, it has been and may continue to be negatively affected by this decline in lending. The current state of global financial markets might adversely impact our ability to issue additional equity at prices which will not be dilutive to our existing shareholders or preclude us from issuing equity at all.

Also, as a result of concerns about the stability of financial markets generally and the solvency of counterparties specifically, the cost of obtaining money from the credit markets has increased as many lenders have increased interest rates, enacted tighter lending standards, refused to refinance existing debt at all or on terms similar to current debt and reduced, and in some cases ceased, to provide funding to borrowers. Due to these factors, we cannot be certain that additional financing will be available if needed and to the extent required, or that we will be able to refinance our existing loan and credit facilities, on acceptable terms or at all. If additional financing or refinancing is not available when needed, or is available only on unfavorable terms, we may be unable to meet our obligations as they come due or we may be unable to enhance our existing business, complete additional vessel acquisitions or otherwise take advantage of business opportunities as they arise.

The instability of the euro or the inability of countries to refinance their debts could have a material adverse effect on our revenue, profitability and financial position.

As a result of the credit crisis in Europe, the European Commission created the European Financial Stability Facility, or the EFSF, and the European Financial Stability Mechanism, or the EFSM, to provide funding to Eurozone countries in financial difficulties that seek such support. In September 2012, the European Council established a permanent stability mechanism, the European Stability Mechanism, or the ESM, to assume the role of the EFSF and the EFSM in providing external financial assistance to Eurozone countries. Despite these measures, concerns persist regarding the debt burden of certain Eurozone countries and their ability to meet future financial obligations and the overall stability of the euro. An extended period of adverse development in the outlook for European countries could reduce the overall demand for dry bulk cargoes and for our services. These potential developments, or market perceptions concerning these and related issues, could affect our financial position, earnings and cash flow.

An over-supply of dry bulk carrier capacity may prolong or further depress the current low charter rates and, in turn, adversely affect our profitability.

The market supply of dry bulk carriers has been increasing due to the high level of new deliveries in the last few years. Dry bulk newbuildings were delivered in significant numbers starting at the beginning of 2006 and continued to be delivered in significant numbers through the end of 2015. While vessel supply will continue to be affected by the delivery of new vessels and the removal of vessels from the global fleet, either through scrapping or accidental losses, an over-supply of dry bulk carrier capacity could prolong the period during which low charter rates prevail. Currently, more than half of our vessels are scheduled to come off of their current charters in 2016, based on their earliest redelivery date, for which we may be seeking new employment.

World events could affect our earnings and financial condition.

Continuing conflicts and recent developments in the Middle East, North Africa and Ukraine, and the presence of U.S. and other armed forces in the Middle East, may lead to additional acts of terrorism and armed conflict around the world, which may contribute to further economic instability in the global financial markets. These uncertainties could also adversely affect our ability to obtain additional financing on terms acceptable to us or at all. In the past, political conflicts have also resulted in attacks on vessels, mining of waterways and other efforts to disrupt international shipping, particularly in the Arabian Gulf region. Acts of terrorism and piracy have also affected vessels trading in regions such as the South China Sea, the Gulf of Aden off the coast of Somalia and the Gulf of Guinea. Any of these occurrences could have a material adverse impact on our operating results.

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

Acts of piracy have historically affected ocean-going vessels trading in regions of the world such as the South China Sea, the Indian Ocean and in the Gulf of Aden off the coast of Somalia. Although the frequency of sea piracy worldwide has generally decreased since 2013, sea piracy incidents continue to occur, particularly in the Gulf of Aden off the coast of Somalia and increasingly in the Gulf of Guinea, with dry bulk vessels and tankers particularly vulnerable to such attacks. Acts of piracy could result in harm or danger to the crews that man our vessels. In addition, if these piracy attacks occur in regions in which our vessels are deployed that insurers characterized as "war risk" zones or Joint War Committee "war and strikes" listed areas, premiums payable for such coverage could increase significantly and such insurance coverage may be more difficult to obtain. In addition, crew costs, including due to employing onboard security guards, could increase in such circumstances. Furthermore, while we believe the charterer remains liable for charter payments when a vessel is seized by pirates, the charterer may dispute this and withhold charterhire until the vessel is released. A charterer may also claim that a vessel seized by pirates was not "on-hire" for a certain number of days and is therefore entitled to cancel the charter party, a claim that we would dispute. We may not be adequately insured to cover losses from these incidents, which could have a material adverse effect on us. In addition, any detention hijacking as a result of an act of piracy against our vessels, or an increase in cost, or unavailability, of insurance for our vessels, could have a material adverse impact on our business, financial condition and earnings.

Our operating results are subject to seasonal fluctuations, which could affect our operating results.

We operate our vessels in markets that have historically exhibited seasonal variations in demand and, as a result, in charter hire rates. This seasonality may result in quarter-to-quarter volatility in our operating results. The dry bulk carrier market is typically stronger in the fall and winter months in anticipation of increased consumption of coal and other raw materials in the northern hemisphere during the winter months. In addition, unpredictable weather patterns in these months tend to disrupt vessel scheduling and supplies of certain commodities. As a result, our revenues may be weaker during the fiscal quarters ended June 30 and September 30, and, conversely, our revenues may be stronger in fiscal quarters ended December 31 and March 31. While this seasonality will not directly affect our operating results, it could materially affect our operating results to the extent our vessels are employed in the spot market in the future.

Fuel, or bunker prices, may adversely affect profits.

While we generally will not bear the cost of fuel, or bunkers for vessels operating on time charters, fuel is a significant factor in negotiating charter rates. As a result, an increase in the price of fuel beyond our expectations may adversely affect our profitability at the time of charter negotiation. Fuel is also a significant, if not the largest, expense in our shipping operations when vessels are under voyage charter. While the price of fuel is currently at very low levels due to the price of oil, the price and supply of fuel is unpredictable and fluctuates based on events outside our control, including geopolitical developments, supply and demand for oil and gas, actions by the Organization of Petroleum Exporting Countries and other oil and gas producers, war and unrest in oil producing countries and regions, regional production patterns and environmental concerns. Further, fuel may become much more expensive in the future, which may reduce the profitability and competitiveness of our business versus other forms of transportation, such as truck or rail.

We are subject to complex laws and regulations, including environmental regulations that can adversely affect the cost, manner or feasibility of doing business.

Our operations are subject to numerous laws and regulations in the form of international conventions and treaties, national, state and local laws and national and international regulations in force in the jurisdictions in which our vessels operate or are registered, which can significantly affect the ownership and operation of our vessels. These requirements include, but are not limited to, European Union Regulations, the United Nation's International Maritime Organization, or IMO, International Convention for the Prevention of Pollution from Ships of 1973, or MARPOL, including the designation of Emission Control Areas, or ECAs, thereunder, the IMO International Convention for the Safety of Life at Sea of 1974, the International Convention on Load Lines of 1966, the International Convention on Civil Liability for Bunker Oil Pollution Damage, the U.S. Oil Pollution Act of 1990, or OPA, requirements of the U.S. Coast Guard and the U.S. Environmental Protection Agency, or EPA, the U.S. Comprehensive Environmental Response, Compensation and Liability Act of 1980, or CERCLA, the U.S. Clean Air Act, U.S. Clean Water Act and the U.S. Marine Transportation Security Act of 2002. Compliance with such laws, regulations and standards, where applicable, may require installation of costly equipment or operational changes and may affect the resale value or useful lives of our vessels. We may also incur additional costs in order to comply with other existing and future regulatory obligations, including, but not limited to, costs relating to air emissions including greenhouse gases, the management of ballast and bilge waters, maintenance and inspection, development and implementation of emergency procedures and insurance coverage or other financial assurance of our ability to address pollution incidents. These costs could have a material adverse effect on our business, earnings, cash flows and financial condition. A failure to comply with applicable laws and regulations may result in administrative and civil penalties, criminal sanctions or the suspension or termination of our operations. Environmental laws often impose strict liability for remediation of spills and releases of oil and hazardous substances, which could subject us to liability without regard to whether we were negligent or at fault. Under OPA, for example, owners, operators and bareboat charterers are jointly and severally strictly liable for the discharge of oil within the 200-mile exclusive economic zone around the United States. Furthermore, the 2010 explosion of the *Deepwater Horizon* and the subsequent release of oil into the Gulf of Mexico, or other events, may result in further regulation of the shipping industry, and modifications to statutory liability schemes, which could have a material adverse effect on our business, financial condition, earnings and cash flows. For example, in April 2015, it was announced that new regulations are expected to be imposed in the United States regarding offshore oil and gas drilling. An oil spill could result in significant liability, including fines, penalties and criminal liability and remediation costs for natural resource damages under other federal, state and local laws, as well as third-party damages. We are required to satisfy insurance and financial responsibility requirements for potential oil (including marine fuel) spills and other pollution incidents. Although we have arranged insurance to cover certain environmental risks, there can be no assurance that such insurance will be sufficient to cover all such risks or that any claims will not have a material adverse effect on our business, earnings, cash flows and financial condition and our ability to pay dividends to our shareholders and interest on our Notes.

We are subject to international safety regulations and requirements imposed by our classification societies and the failure to comply with these regulations and requirements may subject us to increased liability, may adversely affect our insurance coverage and may result in a denial of access to, or detention in, certain ports.

The operation of our vessels is affected by the requirements set forth in the IMO's International Management Code for the Safe Operation of Ships and Pollution Prevention, or ISM Code. The ISM Code requires ship owners, ship managers and bareboat charterers to develop and maintain an extensive "Safety Management System" that includes the adoption of a safety and environmental protection policy setting forth instructions and procedures for safe operation and describing procedures for dealing with emergencies. The failure of a shipowner or bareboat charterer to comply with the ISM Code may subject it to increased liability, may invalidate existing insurance or decrease available insurance coverage for the affected vessels and may result in a denial of access to, or detention in, certain ports. Each of the vessels that has been delivered to us is ISM Code-certified and we expect that each other vessel that we have agreed to purchase will be ISM Code-certified when delivered to us.

In addition, vessel classification societies also impose significant safety and other requirements on our vessels. In complying with current and future environmental requirements, vessel-owners and operators may also incur significant additional costs in meeting new maintenance and inspection requirements, in developing contingency arrangements for potential spills and in obtaining insurance coverage. Government regulation of vessels, particularly in the areas of safety and environmental requirements, can be expected to become stricter in the future and require us to incur significant capital expenditures on our vessels to keep them in compliance.

The operation of our vessels is also affected by other government regulation in the form of international conventions, national, state and local laws and regulations in force in the jurisdictions in which the vessels operate, as well as in the country or countries of their registration. We are required by various governmental and quasi-governmental agencies to obtain certain permits, licenses, certificates, and financial assurances with respect to our operations. Because such conventions, laws, and regulations are often revised, we cannot predict the ultimate cost of complying with such conventions, laws and regulations or the impact thereof on the resale prices or useful lives of our vessels. Additional conventions, laws and regulations may be adopted that could limit our ability to do business or increase the cost of our doing business and which may materially adversely affect our operations.

Increased inspection procedures, tighter import and export controls and new security regulations could increase costs and disrupt our business.

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

It is possible that changes to inspection procedures could impose additional financial and legal obligations on us. Changes to inspection procedures could also impose additional costs and obligations on our customers and may, in certain cases, render the shipment of certain types of cargo uneconomical or impractical. Any such changes or developments may have a material adverse effect on our business, financial condition and earnings.

The operation of dry bulk carriers has certain unique operational risks which could affect our earnings and cash flow.

The operation of vessels, such as dry bulk carriers, has certain unique risks. With a dry bulk carrier, the cargo itself and its interaction with the vessel can be an operational risk. By their nature, dry bulk cargoes are often heavy, dense, easily shifted, and react badly to water exposure. In addition, dry bulk carriers are often subjected to battering treatment during unloading operations with grabs, jackhammers (to pry encrusted cargoes out of the hold) and small bulldozers. This treatment may cause damage to the vessel. Vessels damaged due to treatment during unloading procedures may be more susceptible to breach to the sea. Hull breaches in dry bulk carriers may lead to the flooding of the vessels' holds. If a dry bulk carrier suffers flooding in its forward holds, the bulk cargo may become so dense and waterlogged that its pressure may buckle the vessel's bulkheads leading to the loss of a vessel. If we are unable to adequately repair our vessels after such damages, we may be unable to prevent these events. Any of these circumstances or events could negatively impact our business, financial condition, earnings, and ability to pay dividends, if any, in the future, and interest on our Notes. In addition, the loss of any of our vessels could harm our reputation as a safe and reliable vessel owner and operator.

If our vessels call on ports located in countries that are subject to sanctions and embargoes imposed by the U.S. or other governments, that could adversely affect our reputation and the market for our common stock.

From time to time on charterers' instructions, our vessels may call on ports located in countries subject to sanctions and embargoes imposed by the United States government and countries identified by the U.S. government as state sponsors of terrorism, including Iran, Sudan and Syria. Since July 11, 2011, none of our vessels have called on ports in Sudan or Syria. The U.S. sanctions and embargo laws and regulations vary in their application, as they do not all apply to the same covered persons or proscribe the same activities, and such sanctions and embargo laws and regulations may be amended or strengthened over time. In 2010, the U.S. enacted the Comprehensive Iran Sanctions Accountability and Divestment Act, or CISADA, which expanded the scope of the Iran Sanctions Act. Among other things, CISADA expands the application of the prohibitions to companies such as ours and introduces limits on the ability of companies and persons to do business or trade with Iran when such activities relate to the investment, supply or export of refined petroleum or petroleum products. In addition, in 2012, President Obama signed Executive Order 13608 which prohibits foreign persons from violating or attempting to violate, or causing a violation of any sanctions in effect against Iran or facilitating any deceptive transactions for or on behalf of any person subject to U.S. sanctions. Any persons found to be in violation of Executive Order 13608 will be deemed a foreign sanctions evader and will be banned from all contacts with the United States, including conducting business in U.S. dollars. Also in 2012, President Obama signed into law the Iran Threat Reduction and Syria Human Rights Act of 2012, or the Iran Threat Reduction Act, which created new sanctions and strengthened existing sanctions. Among other things, the Iran Threat Reduction Act intensifies existing sanctions regarding the provision of goods, services, infrastructure or technology to Iran's petroleum or petrochemical sector. The Iran Threat Reduction Act also includes a provision requiring the President of the United States to impose five or more sanctions from Section 6(a) of the Iran Sanctions Act, as amended, on a person the President determines is a controlling beneficial owner of, or otherwise owns, operates, or controls or insures a vessel that was used to transport crude oil from Iran to another country and (1) if the person is a controlling beneficial owner of the vessel, the person had actual knowledge the vessel was so used or (2) if the person otherwise owns, operates, or controls, or insures the vessel, the person knew or should have known the vessel was so used. Such a person could be subject to a variety of sanctions, including exclusion from U.S. capital markets, exclusion from financial transactions subject to U.S. jurisdiction, and exclusion of that person's vessels from U.S. ports for up to two years. In addition, the Iran Freedom and Counter-Proliferation Act of 2012 (IFCA) and Executive Order 13645 went into effect on July 1, 2013. Pursuant to the IFCA, as implemented by Executive Order 13645, a person is subject to sanctions for the provision of material support to Iranian Specially Designated Nationals, members of the Iranian energy, shipping and shipbuilding sectors and Iranian port operators. The foregoing also expanded existing Iran sanctions against persons or foreign financial institutions relating to, among other things, the sale and transport of Iranian petroleum, petroleum products and petrochemicals.

On November 24, 2013, the P5+1 (the United States, United Kingdom, Germany, France, Russia and China) entered into an interim agreement with Iran entitled the "Joint Plan of Action", or JPOA. Under the JPOA it was agreed that, in exchange for Iran taking certain voluntary measures to ensure that its nuclear program is used only for peaceful purposes, the U.S. and E.U. would voluntarily suspend certain sanctions for a period of six months.

On January 20, 2014, the U.S. and E.U. indicated that they would begin implementing the temporary relief measures provided for under the JPOA. These measures include, among other things, the suspension of certain sanctions on the Iranian petrochemicals, precious metals, and automotive industries from January 20, 2014 until July 20, 2014. The JPOA was extended twice.

On July 14, 2015, the P5+1 and the EU announced that they reached a landmark agreement with Iran titled the Joint Comprehensive Plan of Action Regarding the Islamic Republic of Iran's Nuclear Program, or the JCPOA, which is intended to significantly restrict Iran's ability to develop and produce nuclear weapons for 10 years while simultaneously easing sanctions directed toward non-U.S. persons for conduct involving Iran, but taking place outside of U.S. jurisdiction and does not involve U.S. persons. On January 16, 2016, or Implementation Day, the United States joined the EU and the UN in lifting a significant number of their nuclear-related sanctions on Iran following an announcement by the International Atomic Energy Agency, or IAEA, that Iran had satisfied its respective obligations under the JCPOA.

U.S. sanctions prohibiting certain conduct that is now permitted under the JCPOA have not actually been repealed or permanently terminated at this time. Rather, the U.S. government has implemented changes to the sanctions regime by: (1) issuing waivers of certain statutory sanctions provisions; (2) committing to refrain from exercising certain discretionary sanctions authorities; (3) removing certain individuals and entities from OFAC's sanctions lists; and (4) revoking certain Executive Orders and specified sections of Executive Orders. These sanctions will not be permanently "lifted" until the earlier of "Transition Day," set to occur on October 20, 2023, or upon a report from the IAEA stating that all nuclear material in Iran is being used for peaceful activities.

Although it is our intention to comply with the provisions of the JCPOA, there can be no assurance that we will be in compliance in the future as such regulations and U.S. Sanctions may be amended over time, and the U.S. retains the authority to revoke the aforementioned relief if Iran fails to meet its commitments under the JCPOA.

Certain of our charterers or other parties that we have entered into contracts with may be affiliated with persons or entities that are the subject of sanctions imposed by the Obama administration, and European Union and/or other international bodies as a result of the annexation of Crimea by Russia in March 2014. If we determine that such sanctions require us to terminate existing contracts or if we are found to be in violation of such applicable sanctions, our results of operations may be adversely affected or we may suffer reputational harm.

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

Maritime claimants could arrest or attach one or more of our vessels, which could interrupt our cash flows.

Crew members, suppliers of goods and services to a vessel, shippers of cargo, lenders, and other parties may be entitled to a maritime lien against a vessel for unsatisfied debts, claims or damages. In many jurisdictions, a maritime lien holder may enforce its lien by arresting or attaching a vessel through foreclosure proceedings. The arrest or attachment of one or more of our vessels could interrupt our cash flows and require us to pay large sums of money to have the arrest or attachment lifted. In addition, in some jurisdictions, such as South Africa, under the "sister ship" theory of liability, a claimant may arrest both the vessel that is subject to the claimant's maritime lien and any "associated" vessel, which is any vessel owned or controlled by the same owner. Claimants could attempt to assert "sister ship" liability against one vessel in our fleet for claims relating to another of our vessels.

We conduct business in China, where the legal system is not fully developed and has inherent uncertainties that could limit the legal protections available to us.

Some of our vessels may be chartered to Chinese customers and from time to time on our charterers' instructions, our vessels may call on Chinese ports. Such charters and voyages may be subject to regulations in China that may require us to incur new or additional compliance or other administrative costs and may require that we pay to the Chinese government new taxes or other fees. Applicable laws and regulations in China may not be well publicized and may not be known to us or to our charterers in advance of us or our charterers becoming subject to them, and the implementation of such laws and regulations may be inconsistent. Changes in Chinese laws and regulations, including with regards to tax matters, or changes in their implementation by local authorities could affect our vessels if chartered to Chinese customers as well as our vessels calling to Chinese ports and could have a material adverse impact on our business, financial condition and results of operations.

Governments could requisition our vessels during a period of war or emergency, resulting in a loss of earnings.

A government could requisition one or more of our vessels for title or for hire. Requisition for title occurs when a government takes control of a vessel and becomes her owner, while requisition for hire occurs when a government takes control of a vessel and effectively becomes her charterer at dictated charter rates. Generally, requisitions occur during periods of war or emergency, although governments may elect to requisition vessels in other circumstances. Although we would be entitled to compensation in the event of a requisition of one or more of our vessels, the amount and timing of payment would be uncertain. Government requisition of one or more of our vessels may negatively impact our revenues and reduce the amount of cash we may have available for distribution as dividends to our shareholders, if any such dividends are declared.

Failure to comply with the U.S. Foreign Corrupt Practices Act could result in fines, criminal penalties and an adverse effect on our business.

We may operate in a number of countries throughout the world, including countries known to have a reputation for corruption. We are committed to doing business in accordance with applicable anti-corruption laws and have adopted a code of business conduct and ethics which is consistent and in full compliance with the U.S. Foreign Corrupt Practices Act of 1977, or the FCPA. We are subject, however, to the risk that we, our affiliated entities or our or their respective officers, directors, employees and agents may take actions determined to be in violation of such anti-corruption laws, including the FCPA. Any such violation could result in substantial fines, sanctions, civil and/or criminal penalties, curtailment of operations in certain jurisdictions, and might adversely affect our business, earnings or financial condition. In addition, actual or alleged violations could damage our reputation and ability to do business. Furthermore, detecting, investigating, and resolving actual or alleged violations is expensive and can consume significant time and attention of our senior management.

Company Specific Risk Factors

The market values of our vessels have decreased, which could limit the amount of funds that we can borrow under our loan facilities.

The fair market values of our vessels are related to prevailing freight charter rates. While the fair market value of vessels and the freight charter market have a very close relationship as the charter market moves from trough to peak, the time lag between the effect of charter rates on market values of ships can vary.

The fair market values of our vessels have generally experienced high volatility, and you should expect the market value of our vessels to fluctuate depending on a number of factors including:

- the prevailing level of charter hire rates;
- general economic and market conditions affecting the shipping industry;
- competition from other shipping companies and other modes of transportation;
- the types, sizes and ages of vessels;
- the supply and demand for vessels;
- applicable governmental regulations;
- technological advances; and
- the cost of newbuildings.

As a result of the decline in the market value of our fleet, we may not be able to obtain other financing or incur debt on terms that are acceptable to us or at all.

A decrease in the market values of our vessels could cause us to breach covenants in our loan facilities and adversely affect our operating results.

The market values of our vessels are at very low levels compared to historical averages. As at December 31, 2015, we believe we were in compliance with all of the covenants of our loan facilities, however we obtained a waiver from the applicable lender under one of our loan facilities with regard to the minimum hull cover ratio requirement contained in the facility. If we are not in compliance with our loan facilities or are unable to obtain waivers, our lenders could accelerate our debt and foreclose on our fleet. In addition, if the book value of a vessel is impaired due to unfavorable market conditions or a vessel is sold at a price below its book value, we would incur a loss that could adversely affect our operating results.

We charter some of our vessels on short-term time charters in a volatile shipping industry and the decline in charter hire rates could affect our results of operations and our ability to pay dividends.

We charter certain of our vessels pursuant to short-term time charters, although we have also entered in the past into long-term time charters of up to 61 months. Although significant exposure to short-term time charters is not unusual in the dry bulk shipping industry, the short-term time charter market is highly competitive and spot market charter hire rates (which affect time charter rates) may fluctuate significantly based upon available charters and the supply of, and demand for, seaborne shipping capacity. While the short-term time charter market may enable us to benefit in periods of increasing charter hire rates, we must consistently renew our charters and this dependence makes us vulnerable to declining charter rates. As a result of the volatility in the dry bulk carrier charter market, we may not be able to employ our vessels upon the termination of their existing charters at their current charter hire rates. The dry bulk carrier charter market is volatile, and in the recent past, short-term time charter and spot market charter rates for some dry bulk carriers declined below the operating costs of those vessels before rising. We cannot assure you that future charter hire rates will enable us to operate our vessels profitably, or to pay dividends.

Rising crew costs could adversely affect our results of operations.

Due to an increase in the size of the global shipping fleet, the limited supply of and increased demand for crew has created upward pressure on crew costs. Continued higher crew costs or further increases in crew costs could adversely affect our results of operations.

Our investment in Diana Containerships Inc. exposes us to the risks of the containership market and the value of our investment may be adversely affected.

As at December 31, 2015 we had a \$48.8 million outstanding balance of a loan facility and owned approximately 26.08% of Diana Containerships Inc. (NASDAQ:DCIX), or Diana Containerships, which operates in the containership market. Through this investment, we are partially exposed to containership market risks such as the cyclical and volatility of charterhire rates, the reduction in demand for container shipping due to the recent global economic recession, increased risk of charter counterparty risk due to financial pressure on liner companies as a result of a decline in global trade, and the risk of over-supply of containership capacity. Containership market risks may reduce the value of our investment in Diana Containerships and could adversely affect our financial condition. Additionally, on January 14, 2016, Diana Containerships received written notification from The NASDAQ Stock Market LLC indicating that because the closing bid price of their common stock for the 30 consecutive business days following the notice was below US\$1.00 per share, they no longer meet the minimum bid price requirement for The Nasdaq Global Select Market set forth in Nasdaq Listing Rule 5450(a)(1). Pursuant to The Nasdaq Listing Rules, the applicable grace period to regain compliance is 180 calendar days, or until July 12, 2016. According to Diana Containerships, the notification letter has no effect at this time on the listing of their common stock, which continues to trade on The Nasdaq Global Select Market. In February of 2016 their shareholders approved a reverse stock split, to be implemented at the discretion of the Board. If they do effect a reverse stock split, the liquidity of Diana Containerships' common shares may be adversely affected given the reduced number of shares that will be outstanding following the reverse stock split. In the event they do not regain compliance within the 180-day grace period and they meet all other listing standards and requirements, they may be eligible for an additional 180-day grace period if they transfer to The Nasdaq Capital Market.

Our investment in Diana Wilhelmsen Management Limited may expose us to additional risks.

During 2015 we invested in a 50/50 joint venture with Wilhelmsen Ship Management to provide management services to a limited number of vessels in our fleet, but our eventual goal is to provide fleet management services to unaffiliated third party vessel operators. While this joint venture may provide us in the future with a potential revenue source, it may also expose us to risks such as low customer satisfaction, increased operating costs compared to those we would achieve for our vessels, and inability to adequately staff our vessels with crew that meets our expectations or to maintain our vessels according to our standards, which would adversely affect our financial condition.

The Greek crisis could adversely affect the operations of our fleet manager, which has offices in Greece.

As a result of the ongoing economic slump in Greece and the capital controls imposed by the government in June 2015, Diana Shipping Services S.A., our manager which has offices in Greece, may be subjected to new regulations that may require us to incur new or additional compliance or other administrative costs and may require that we pay to the Greek government new taxes or other fees. Furthermore, renewed political uncertainty and social unrest due to the worsening economic conditions and the growing refugee population in the country may undermine Greece's political and economic stability and may lead it to exit the Eurozone, which may adversely affect the operations of our manager located in Greece. We also face the risk that enhanced capital controls, strikes, work stoppages, civil unrest and violence within Greece may disrupt the operations of our manager located in Greece.

The Public Company Accounting Oversight Board inspection of our independent accounting firm, could lead to findings in our auditors' reports and challenge the accuracy of our published audited consolidated financial statements.

Auditors of U.S. public companies are required by law to undergo periodic Public Company Accounting Oversight Board, or PCAOB, inspections that assess their compliance with U.S. law and professional standards in connection with performance of audits of financial statements filed with the SEC. For several years certain European Union countries, including Greece, did not permit the PCAOB to conduct inspections of accounting firms established and operating in such European Union countries, even if they were part of major international firms. Accordingly, unlike for most U.S. public companies, the PCAOB was prevented from evaluating our auditor's performance of audits and its quality control procedures, and, unlike stockholders of most U.S. public companies, we and our stockholders were deprived of the possible benefits of such inspections. During 2015, Greece agreed to allow the PCAOB to conduct inspections of accounting firms operating in Greece. In the future, such PCAOB inspections could result in findings in our auditors' quality control procedures, question the validity of the auditor's reports on our published consolidated financial statements and the effectiveness of our internal control over financial reporting, and cast doubt upon the accuracy of our published audited financial statements.

Our earnings may be adversely affected if we are not able to take advantage of favorable charter rates.

We charter certain of our dry bulk carriers to customers pursuant to short term time charters. However, as part of our business strategy, the majority of our vessels are currently fixed on short term time charters. We may extend the charter periods for additional vessels in our fleet, including additional dry bulk carriers that we may purchase in the future, to take advantage of the relatively stable cash flow and high utilization rates that are associated with long-term time charters. While we believe that long-term charters provide us with relatively stable cash flows and higher utilization rates than shorter-term charters, our vessels that are committed to long-term charters may not be available for employment on short-term charters during periods of increasing short-term charter hire rates when these charters may be more profitable than long-term charters.

Investment in derivative instruments such as forward freight agreements could result in losses.

From time to time, we may take positions in derivative instruments including forward freight agreements, or FFAs. FFAs and other derivative instruments may be used to hedge a vessel owner's exposure to the charter market by providing for the sale of a contracted charter rate along a specified route and period of time. Upon settlement, if the contracted charter rate is less than the average of the rates, as reported by an identified index, for the specified route and period, the seller of the FFA is required to pay the buyer an amount equal to the difference between the contracted rate and the settlement rate, multiplied by the number of days in the specified period. Conversely, if the contracted rate is greater than the settlement rate, the buyer is required to pay the seller the settlement sum. If we take positions in FFAs or other derivative instruments and do not correctly anticipate charter rate movements over the specified route and time period, we could suffer losses in the settling or termination of the FFA. This could adversely affect our results of operations and cash flows.

We may have difficulty effectively managing our planned growth, which may adversely affect our earnings.

Since the completion of our initial public offering in March 2005, we have increased our fleet to 45 vessels in operation, and we expect to take delivery in 2016 of three newbuilding vessels and one secondhand Panamax vessel. The significant increase in the size of our fleet has imposed significant additional responsibilities on our management and staff. While we expect our fleet to grow further, this may require us to increase the number of our personnel. We will also have to increase our customer base to provide continued employment for the new vessels.

Our future growth will primarily depend on our ability to:

- locate and acquire suitable vessels;
- identify and consummate acquisitions or joint ventures;
- enhance our customer base;
- manage our expansion; and
- obtain required financing on acceptable terms.

Growing any business by acquisition presents numerous risks, such as undisclosed liabilities and obligations, the possibility that indemnification agreements will be unenforceable or insufficient to cover potential losses and difficulties associated with imposing common standards, controls, procedures and policies, obtaining additional qualified personnel, managing relationships with customers and integrating newly acquired assets and operations into existing infrastructure. We cannot give any assurance that we will be successful in executing our growth plans or that we will not incur significant expenses and losses in connection with our future growth.

We cannot assure you that we will be able to borrow amounts under our loan facilities and restrictive covenants in our loan facilities may impose financial and other restrictions on us.

Since February 2005 we have entered into several loan agreements to finance vessel acquisitions and the construction of newbuildings. As of December 31, 2015, we had \$605.9 million outstanding under our facilities and our Notes. Our ability to borrow amounts under our facilities is subject to the execution of customary documentation relating to the facility, including security documents, satisfaction of certain customary conditions precedent and compliance with terms and conditions included in the loan documents. Prior to each drawdown, we are required, among other things, to provide the lender with acceptable valuations of the vessels in our fleet confirming that the vessels in our fleet have a minimum value and that the vessels in our fleet that secure our obligations under the facilities are sufficient to satisfy minimum security requirements. To the extent that we are not able to satisfy these requirements, including as a result of a decline in the value of our vessels, we may not be able to draw down the full amount under the facilities without obtaining a waiver or consent from the lender. We will also not be permitted to borrow amounts under the facilities if we experience a change of control.

The loan facilities also impose operating and financial restrictions on us. These restrictions may limit our ability to, among other things:

- pay dividends if we do not repay amounts drawn under our loan facilities, if there is a default under the loan facilities or if the payment of the dividend would result in a default or breach of a loan covenant;
- incur additional indebtedness, including through the issuance of guarantees;
- change the flag, class or management of our vessels;
- create liens on our assets;

- sell our vessels;
- enter into a time charter or consecutive voyage charters that have a term that exceeds, or which by virtue of any optional extensions may exceed a certain period;
- merge or consolidate with, or transfer all or substantially all our assets to, another person; and
- enter into a new line of business.

Therefore, we may need to seek permission from our lenders in order to engage in some corporate actions. Our lenders' interests may be different from ours and we cannot guarantee that we will be able to obtain our lenders' permission when needed. This may limit our ability to finance our future operations, make acquisitions or pursue business opportunities.

We cannot assure you that we will be able to refinance indebtedness incurred under our loan facilities.

We cannot assure you that we will be able to refinance indebtedness with equity offerings on terms that are acceptable to us or at all. If we are not able to refinance these amounts with the net proceeds of equity offerings on terms acceptable to us or at all, we will have to dedicate a greater portion of our cash flow from operations to pay the principal and interest of this indebtedness than if we were able to refinance such amounts. If we are not able to satisfy these obligations, we may have to undertake alternative financing plans. The actual or perceived credit quality of our charterers, any defaults by them, and the market value of our fleet, among other things, may materially affect our ability to obtain alternative financing. In addition, debt service payments under our loan facilities or alternative financing may limit funds otherwise available for working capital, capital expenditures and other purposes. If we are unable to meet our debt obligations, or if we otherwise default under our loan facilities or an alternative financing arrangement, our lenders could declare the debt, together with accrued interest and fees, to be immediately due and payable and foreclose on our fleet, which could result in the acceleration of other indebtedness that we may have at such time and the commencement of similar foreclosure proceedings by other lenders.

Purchasing and operating secondhand vessels may result in increased operating costs and reduced operating days.

While we have the right to inspect previously owned vessels prior to our purchase of them and we usually inspect secondhand vessels that we acquire, such inspections do not provide us with the same knowledge about their condition that we would have if these vessels had been built for, and operated exclusively by, us. A secondhand vessel may have conditions or defects that we were not aware of when we bought the vessel and which may require us to incur costly repairs to the vessel. These repairs may require us to put a vessel into drydock, which would reduce our operating days. Furthermore, we usually do not receive the benefit of warranties on secondhand vessels.

We are subject to certain risks with respect to our counterparties on contracts, and failure of such counterparties to meet their obligations could cause us to suffer losses or otherwise adversely affect our business.

We enter into, among other things, charter parties with our customers. Such agreements subject us to counterparty risks. The ability and willingness of each of our counterparties to perform its obligations under a contract with us will depend on a number of factors that are beyond our control and may include, among other things, general economic conditions, the condition of the maritime and offshore industries, the overall financial condition of the counterparty, charter rates received for specific types of vessels, and various expenses. Should a counterparty fail to honor its obligations under agreements with us, we could sustain significant losses, which could have a material adverse effect on our business, financial condition, results of operations and cash flows.

In addition, in depressed market conditions, our charterers may no longer need a vessel that is currently under charter or may be able to obtain a comparable vessel at lower rates. As a result, charterers may seek to renegotiate the terms of their existing charter agreements or avoid their obligations under those contracts. If our charterers fail to meet their obligations to us or attempt to renegotiate our charter agreements, it may be difficult to secure substitute employment for such vessels, and any new charter arrangements we secure may be at lower rates given currently decreased drybulk carrier charter rate levels. As a result, we could sustain significant losses, which could have a material adverse effect on our business, financial condition, results of operations and cash flows.

In the highly competitive international shipping industry, we may not be able to compete for charters with new entrants or established companies with greater resources, and as a result, we may be unable to employ our vessels profitably.

We employ our vessels in a highly competitive market that is capital intensive and highly fragmented. Competition arises primarily from other vessel owners, some of whom have substantially greater resources than we do. Competition for the transportation of dry bulk cargo by sea is intense and depends on price, location, size, age, condition and the acceptability of the vessel and its operators to the charterers. Due in part to the highly fragmented market, competitors with greater resources than us could enter the dry bulk shipping industry and operate larger fleets through consolidations or acquisitions and may be able to offer lower charter rates and higher quality vessels than we are able to offer. If we are unable to successfully compete with other dry bulk shipping companies, our results of operations may be adversely impacted.

We may be unable to attract and retain key management personnel and other employees in the shipping industry, which may negatively impact the effectiveness of our management and results of operations.

Our success depends to a significant extent upon the abilities and efforts of our management team. We have entered into employment contracts with our Chief Executive Officer and Chairman of the Board, Mr. Simeon Palios; our President, Mr. Anastasios Margaronis; our Chief Financial Officer, Mr. Andreas Michalopoulos; and our Chief Operating Officer, Mr. Ioannis Zafirakis. Our success will depend upon our ability to retain key members of our management team and to hire new members as may be necessary. The loss of any of these individuals could adversely affect our business prospects and financial condition. Difficulty in hiring and retaining replacement personnel could have a similar effect. We do not currently, nor do we intend to, maintain "key man" life insurance on any of our officers or other members of our management team.

The fiduciary duties of our officers and directors may conflict with those of the officers and directors of Diana Containerships.

Certain of our officers and directors are officers and directors of Diana Containerships and have fiduciary duties to manage our business in a manner beneficial to us and our shareholders, as well as a duty to the shareholders of Diana Containerships. Consequently, these officers and directors may encounter situations in which their fiduciary obligations to Diana Containerships and to us are in conflict. The resolution of these conflicts may not always be in our best interest or that of our shareholders and could have a material adverse effect on our business, results of operations, cash flows and financial condition.

Risks associated with operating ocean-going vessels could affect our business and reputation, which could adversely affect our revenues and stock price.

The operation of ocean-going vessels carries inherent risks. These risks include the possibility of:

- marine disaster;
- terrorism;
- environmental accidents;
- cargo and property losses or damage;
- business interruptions caused by mechanical failure, human error, war, terrorism, political action in various countries, labor strikes or adverse weather conditions; and
- piracy.

These hazards may result in death or injury to persons, loss of revenues or property, environmental damage, higher insurance rates, damage to our customer relationships, delay or rerouting. If our vessels suffer damage, they may need to be repaired at a drydocking facility. The costs of drydock repairs are unpredictable and may be substantial. We may have to pay drydocking costs that our insurance does not cover in full. The loss of earnings while these vessels are being repaired and repositioned, as well as the actual cost of these repairs, would decrease our earnings. In addition, space at drydocking facilities is sometimes limited and not all drydocking facilities are conveniently located. We may be unable to find space at a suitable drydocking facility or our vessels may be forced to travel to a drydocking facility that is not conveniently located to our vessels' positions. The loss of earnings while these vessels are forced to wait for space or to steam to more distant drydocking facilities would decrease our earnings. The involvement of our vessels in an environmental disaster may also harm our reputation as a safe and reliable vessel owner and operator.

We may not have adequate insurance to compensate us if we lose our vessels or to compensate third parties.

We procure insurance for our fleet against risks commonly insured against by vessel owners and operators. Our current insurance includes hull and machinery insurance, war risks insurance and protection and indemnity insurance (which includes environmental damage and pollution insurance). We can give no assurance that we are adequately insured against all risks or that our insurers will pay a particular claim. Even if our insurance coverage is adequate to cover our losses, we may not be able to timely obtain a replacement vessel in the event of a loss. Furthermore, in the future, we may not be able to obtain adequate insurance coverage at reasonable rates for our fleet. We may also be subject to calls, or premiums, in amounts based not only on our own claim records but also the claim records of all other members of the protection and indemnity associations through which we receive indemnity insurance coverage for tort liability. Our insurance policies also contain deductibles, limitations and exclusions which, although we believe are standard in the shipping industry, may nevertheless increase our costs.

Our vessels may suffer damage and we may face unexpected drydocking costs, which could adversely affect our cash flow and financial condition.

If our vessels suffer damage, they may need to be repaired at a drydocking facility. The costs of drydock repairs are unpredictable and can be substantial. The loss of earnings while a vessel is being repaired and repositioned, as well as the actual cost of these repairs not covered by our insurance, would decrease our earnings and cash available for dividends, if declared. We may not have insurance that is sufficient to cover all or any of the costs or losses for damages to our vessels and may have to pay drydocking costs not covered by our insurance.

The aging of our fleet may result in increased operating costs in the future, which could adversely affect our earnings.

In general, the cost of maintaining a vessel in good operating condition increases with the age of the vessel. Currently, our fleet consists of 45 vessels in operation, having a combined carrying capacity of 5.2 million dead weight tons, or dwt, and a weighted average age of 7.5 years as of March 28, 2016. Additionally, we have shipbuilding contracts for the construction of three additional vessels and expect to take delivery of one secondhand vessel in April 2016. As our fleet ages, we will incur increased costs. Older vessels are typically less fuel efficient and more costly to maintain than more recently constructed vessels due to improvements in engine technology. Cargo insurance rates increase with the age of a vessel, making older vessels less desirable to charterers. Governmental regulations and safety or other equipment standards related to the age of vessels may also require expenditures for alterations or the addition of new equipment to our vessels and may restrict the type of activities in which our vessels may engage. We cannot assure you that, as our vessels age, market conditions will justify those expenditures or enable us to operate our vessels profitably during the remainder of their useful lives.

We are exposed to U.S. dollar and foreign currency fluctuations and devaluations that could harm our reported revenue and results of operations.

We generate all of our revenues in U.S. dollars but incur around half of our operating expenses and our general and administrative expenses in currencies other than the U.S. dollar, primarily the Euro. Because a significant portion of our expenses is incurred in currencies other than the U.S. dollar, our expenses may from time to time increase relative to our revenues as a result of fluctuations in exchange rates, particularly between the U.S. dollar and the Euro, which could affect the amount of net income that we report in future periods. While we historically have not mitigated the risk associated with exchange rate fluctuations through the use of financial derivatives, we may employ such instruments from time to time in the future in order to minimize this risk. Our use of financial derivatives would involve certain risks, including the risk that losses on a hedged position could exceed the nominal amount invested in the instrument and the risk that the counterparty to the derivative transaction may be unable or unwilling to satisfy its contractual obligations, which could have an adverse effect on our results.

Volatility in LIBOR could affect our profitability, earnings and cash flow.

LIBOR may be volatile, with the spread between LIBOR and the prime lending rate widening significantly at times. These conditions are the result of disruptions in the international markets. Because the interest rates borne by our outstanding loan facilities fluctuate with changes in LIBOR, it would affect the amount of interest payable on our debt, which, in turn, could have an adverse effect on our profitability, earnings and cash flow.

We depend upon a few significant customers for a large part of our revenues and the loss of one or more of these customers could adversely affect our financial performance.

We have historically derived a significant part of our revenues from a small number of charterers. During 2015, 2014, and 2013, approximately 66%, 55% and 58%, respectively, of our revenues derived from four charterers. If one or more of our charterers chooses not to charter our vessels or is unable to perform under one or more charters with us and we are not able to find a replacement charter, we could suffer a loss of revenues that could adversely affect our financial condition and results of operations.

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

We are a holding company and our subsidiaries conduct all of our operations and own all of our operating assets. We have no significant assets other than the equity interests in our subsidiaries. As a result, our ability to satisfy our financial obligations depends on our subsidiaries and their ability to distribute funds to us. If we are unable to obtain funds from our subsidiaries, we may not be able to satisfy our financial obligations.

Because we are organized under the laws of the Marshall Islands, it may be difficult to serve us with legal process or enforce judgments against us, our directors or our management.

We are organized under the laws of the Marshall Islands, and substantially all of our assets are located outside of the United States. In addition, the majority of our directors and officers are non-residents of the United States, and all or a substantial portion of the assets of these non-residents are located outside the United States. As a result, it may be difficult or impossible for someone to bring an action against us or against these individuals in the United States if they believe that their rights have been infringed under securities laws or otherwise. Even if you are successful in bringing an action of this kind, the laws of the Marshall Islands and of other jurisdictions may prevent or restrict them from enforcing a judgment against our assets or the assets of our directors or officers.

The international nature of our operations may make the outcome of any bankruptcy proceedings difficult to predict.

We are incorporated under the laws of the Republic of the Marshall Islands and we conduct operations in countries around the world. Consequently, in the event of any bankruptcy, insolvency, liquidation, dissolution, reorganization or similar proceeding involving us or any of our subsidiaries, bankruptcy laws other than those of the United States could apply. If we become a debtor under U.S. bankruptcy law, bankruptcy courts in the United States may seek to assert jurisdiction over all of our assets, wherever located, including property situated in other countries. There can be no assurance, however, that we would become a debtor in the United States, or that a U.S. bankruptcy court would be entitled to, or accept, jurisdiction over such a bankruptcy case, or that courts in other countries that have jurisdiction over us and our operations would recognize a U.S. bankruptcy court's jurisdiction if any other bankruptcy court would determine it had jurisdiction.

As we expand our business, we may need to improve our operating and financial systems and will need to recruit suitable employees and crew for our vessels.

Our current operating and financial systems may not be adequate as we expand the size of our fleet and our attempts to improve those systems may be ineffective. In addition, as we expand our fleet, we will need to recruit suitable additional seafarers and shoreside administrative and management personnel. While we have not experienced any difficulty in recruiting to date, we cannot guarantee that we will be able to continue to hire suitable employees as we expand our fleet. If we or our crewing agents encounter business or financial difficulties, we may not be able to adequately staff our vessels. If we are unable to grow our financial and operating systems or to recruit suitable employees as we expand our fleet, our financial performance may be adversely affected, among other things.

We may have to pay tax on U.S. source income, which would reduce our earnings.

Under the U.S. Internal Revenue Code of 1986, as amended, or the Code, 50% of the gross shipping income of a vessel-owning or chartering corporation, such as ourselves and our subsidiaries, that is attributable to transportation that begins or ends, but that does not both begin and end, in the United States is characterized as U.S. source shipping income and such income is generally subject to a 4% U.S. federal income tax without allowance for deductions, unless that corporation qualifies for exemption from tax under Section 883 of the Code and the Treasury Regulations promulgated thereunder.

We expect that we and each of our subsidiaries qualify for this statutory tax exemption for the 2015 taxable year and we will take this position for U.S. federal income tax return reporting purposes. However, there are factual circumstances beyond our control that could cause us to lose the benefit of this tax exemption in future years and thereby become subject to U.S. federal income tax on our U.S. source shipping income. For example, in certain circumstances we may no longer qualify for exemption under Code Section 883 for a particular taxable year if shareholders, other than "qualified shareholders", with a five percent or greater interest in our common shares owned, in the aggregate, 50% or more of our outstanding common shares for more than half the days during the taxable year. Due to the factual nature of the issues involved, we can give no assurances on our tax-exempt status or that of any of our subsidiaries.

If we or our subsidiaries are not entitled to this exemption under Section 883 of the Code for any taxable year, we or our subsidiaries would be subject for those years to a 4% U.S. federal income tax on our gross U.S.-source shipping income. The imposition of this taxation could have a negative effect on our business and would result in decreased earnings available for distribution to our shareholders, although, for the 2015 taxable year, we estimate our maximum U.S. federal income tax liability to be immaterial if we were subject to this U.S. federal income tax. See Item 10.E "Taxation" for a more comprehensive discussion of U.S. federal income tax considerations.

U.S. federal tax authorities could treat us as a "passive foreign investment company", which could have adverse U.S. federal income tax consequences to U.S. shareholders.

A foreign corporation will be treated as a "passive foreign investment company", or PFIC, for U.S. federal income tax purposes if either (1) at least 75% of its gross income for any taxable year consists of certain types of "passive income" or (2) at least 50% of the average value of the corporation's assets produce or are held for the production of those types of "passive income." For purposes of these tests, "passive income" includes dividends, interest, gains from the sale or exchange of investment property, and rents and royalties other than rents and royalties which are received from unrelated parties in connection with the active conduct of a trade or business. For purposes of these tests, income derived from the performance of services does not constitute "passive income." U.S. shareholders of a PFIC are subject to a disadvantageous U.S. federal income tax regime with respect to the income derived by the PFIC, the distributions they receive from the PFIC and the gain, if any, they derive from the sale or other disposition of their shares in the PFIC.

Based on our current and proposed method of operation, we do not believe that we will be a PFIC with respect to any taxable year. In this regard, we intend to treat the gross income we derive or are deemed to derive from our time chartering activities as services income, rather than rental income. Accordingly, we believe that our income from our time chartering activities does not constitute "passive income," and the assets that we own and operate in connection with the production of that income do not constitute assets that produce or are held for the production of "passive income".

There is substantial legal authority supporting this position consisting of case law and U.S. Internal Revenue Service, or "IRS", pronouncements concerning the characterization of income derived from time charters and voyage charters as services income for other tax purposes. However, it should be noted that there is also authority which characterizes time charter income as rental income rather than services income for other tax purposes. Accordingly, no assurance can be given that the IRS or a court of law will accept this position, and there is a risk that the IRS or a court of law could determine that we are a PFIC. Moreover, no assurance can be given that we would not constitute a PFIC for any future taxable year if the nature and extent of our operations changed.

If the IRS or a court of law were to find that we are or have been a PFIC for any taxable year, our U.S. shareholders would face adverse U.S. federal income tax consequences. Under the PFIC rules, unless those shareholders make an election available under the Code (which election could itself have adverse consequences for such shareholders), such shareholders would be subject to U.S. federal income tax at the then prevailing U.S. federal income tax rates on ordinary income plus interest upon excess distributions and upon any gain from the disposition of our common stock, as if the excess distribution or gain had been recognized ratably over the shareholder's holding period of our common stock. See Item 10.E "Taxation – United States Taxation of U.S. Holders – PFIC Status and Significant Tax Consequences" for a more comprehensive discussion of the U.S. federal income tax consequences to U.S. holders of our common stock if we are or were to be treated as a PFIC.

Risks Relating to Our Common Stock

Our board of directors decided to suspend the payment of cash dividends on our common stock. We cannot assure you that our board of directors will reinstate dividend payments in the future, or when such reinstatement might occur.

In order to position us to take advantage of market opportunities in a deteriorating market, our board of directors, beginning with the fourth quarter of 2008, has suspended our common stock dividend. Our dividend policy will be assessed by the board of directors from time to time. We believe that this suspension has enhanced our flexibility by permitting cash flow that would have been devoted to dividends to be used for opportunities that arise in the current marketplace, such as funding our operations, acquiring vessels or servicing our debt.

Our policy, historically, was to declare quarterly distributions to shareholders by each February, May, August and November substantially equal to our available cash from operations during the previous quarter after accounting for cash expenses and reserves for scheduled drydockings, intermediate and special surveys and other purposes as our board of directors may from time to time determine are required, and after taking into account contingent liabilities, the terms of our loan facilities, our growth strategy and other cash needs and the requirements of Marshall Islands law. The declaration and payment of dividends, if any, will always be subject to the discretion of our board of directors. The timing and amount of any dividends declared will depend on, among other things, our earnings, financial condition and cash requirements and availability, our ability to obtain debt and equity financing on acceptable terms as contemplated by our growth strategy and provisions of Marshall Islands law affecting the payment of dividends. In addition, other external factors, such as our lenders imposing restrictions on our ability to pay dividends under the terms of our loan facilities, may limit our ability to pay dividends. Further, under the terms of our loan agreements, we may not be permitted to pay dividends that would result in an event of default or if an event of default has occurred and is continuing.

Our growth strategy contemplates that we will finance the acquisition of additional vessels through a combination of debt and equity financing on terms acceptable to us. If financing is not available to us on acceptable terms, our board of directors may determine to finance or refinance acquisitions with cash from operations, which could also reduce or even eliminate the amount of cash available for the payment of dividends.

Marshall Islands law generally prohibits the payment of dividends other than from surplus (retained earnings and the excess of consideration received for the sale of shares above the par value of the shares) or while a company is insolvent or would be rendered insolvent by the payment of such a dividend. We may not have sufficient surplus in the future to pay dividends. We can give no assurance that we will reinstate our dividends in the future or when such reinstatement might occur.

In addition, our ability to pay dividends to holders of our common shares will be subject to the rights of holders of our Series B Preferred Shares, which rank prior to our common shares with respect to dividends, distributions and payments upon liquidation. No cash dividend may be paid on our common stock unless full cumulative dividends have been or contemporaneously are being paid or provided for on all outstanding Series B Preferred Shares for all prior and the then-ending dividend periods. Cumulative dividends on our Series B Preferred Shares accrue at a rate of 8.875% per annum per \$25.00 stated liquidation preference per Series B Preferred Share, subject to increase upon the occurrence of certain events, and are payable, as and if declared by our board of directors, on January 15, April 15, July 15 and October 15 of each year, or, if any such dividend payment date otherwise would fall on a date that is not a business day, the immediately succeeding business day. For additional information about our Series B Preferred Shares, please see the section entitled "Description of Registrant's Securities to be Registered" of our registration statement on Form 8-A filed with the SEC on February 13, 2014 and incorporated by reference herein.

There is no guarantee that there will continue to be an active and liquid public market for you to resell our common stock in the future.

The price of our common stock may be volatile and may fluctuate due to factors such as:

- actual or anticipated fluctuations in our quarterly and annual results and those of other public companies in our industry;
- mergers and strategic alliances in the dry bulk shipping industry;
- market conditions in the dry bulk shipping industry;
- changes in government regulation;
- shortfalls in our operating results from levels forecast by securities analysts;
- announcements concerning us or our competitors; and
- the general state of the securities market.

The dry bulk shipping industry has been highly unpredictable and volatile. The market for common stock in this industry may be equally volatile.

Since we are incorporated in the Marshall Islands, which does not have a well-developed body of corporate law, you may have more difficulty protecting your interests than shareholders of a U.S. corporation.

Our corporate affairs are governed by our amended and restated articles of incorporation and bylaws and by the Marshall Islands Business Corporations Act, or the BCA. The provisions of the BCA resemble provisions of the corporation laws of a number of states in the United States. However, there have been few judicial cases in the Marshall Islands interpreting the BCA. The rights and fiduciary responsibilities of directors under the laws of the Marshall Islands are not as clearly established as the rights and fiduciary responsibilities of directors under statutes or judicial precedent in existence in the United States. The rights of shareholders of the Marshall Islands may differ from the rights of shareholders of companies incorporated in the United States. While the BCA provides that it is to be interpreted according to the laws of the State of Delaware and other states with substantially similar legislative provisions, there have been few, if any, court cases interpreting the BCA in the Marshall Islands and we cannot predict whether Marshall Islands courts would reach the same conclusions as U.S. courts. Thus, you may have more difficulty in protecting your interests in the face of actions by the management, directors or controlling shareholders than would shareholders of a corporation incorporated in a U.S. jurisdiction which has developed a relatively more substantial body of case law.

Certain existing shareholders will be able to exert considerable control over matters on which our shareholders are entitled to vote.

As of the date of this annual report Mr. Simeon Palios, Chief Executive Officer and Chairman of the Board, beneficially owns 18,823,331 shares, or approximately 22.2% of our outstanding common stock, which is held indirectly through entities over which he exercises sole voting power. Please see "Item 7.A. Major Shareholders." While Mr. Palios and the non-voting shareholders of these entities have no agreement, arrangement or understanding relating to the voting of their shares of our common stock, they are able to influence the outcome of matters on which our shareholders are entitled to vote, including the election of directors and other significant corporate actions. The interests of these shareholders may be different from your interests.

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

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

Our amended and restated articles of incorporation authorize us to issue up to 200,000,000 shares of common stock, of which as of December 31, 2015, 82,546,017 shares were outstanding. The number of shares of common stock available for sale in the public market is limited by restrictions applicable under securities laws and agreements that we and our executive officers, directors and principal shareholders have entered into.

Anti-takeover provisions in our organizational documents could make it difficult for our shareholders to replace or remove our current board of directors or have the effect of discouraging, delaying or preventing a merger or acquisition, which could adversely affect the market price of our common stock.

Several provisions of our amended and restated articles of incorporation and bylaws could make it difficult for our shareholders to change the composition of our board of directors in any one year, preventing them from changing the composition of management. In addition, the same provisions may discourage, delay or prevent a merger or acquisition that shareholders may consider favorable.

These provisions include:

- authorizing our board of directors to issue "blank check" preferred stock without shareholder approval;
- providing for a classified board of directors with staggered, three year terms;
- prohibiting cumulative voting in the election of directors;
- authorizing the removal of directors only for cause and only upon the affirmative vote of the holders of a majority of the outstanding shares of our common stock entitled to vote for the directors;
- prohibiting shareholder action by written consent;
- limiting the persons who may call special meetings of shareholders; and
- establishing advance notice requirements for nominations for election to our board of directors or for proposing matters that can be acted on by shareholders at shareholder meetings.

In addition, we have adopted a Stockholders Rights Agreement, dated January 15, 2016, pursuant to which our board of directors may cause the substantial dilution of any person that attempts to acquire us without the approval of our board of directors.

These anti-takeover provisions, including provisions of our Stockholders Rights Agreement, could substantially impede the ability of public shareholders to benefit from a change in control and, as a result, may adversely affect the market price of our common stock and your ability to realize any potential change of control premium.

Our Series B Preferred Shares are senior obligations of ours and rank prior to our common shares with respect to dividends, distributions and payments upon liquidation, which could have an adverse effect on the value of our common shares.

The rights of the holders of our Series B Preferred Shares rank senior to the obligations to holders of our common shares. Upon our liquidation, the holders of Series B Preferred Shares will be entitled to receive a liquidation preference of \$25.00 per share, plus all accrued but unpaid dividends, prior and in preference to any distribution to the holders of any other class of our equity securities, including our common shares. The existence of the Series B Preferred Shares could have an adverse effect on the value of our common shares.

Risks Relating to Our Series B Preferred Stock

We may not have sufficient cash from our operations to enable us to pay dividends on our Series B Preferred Shares following the payment of expenses and the establishment of any reserves.

We pay quarterly dividends on our Series B Preferred Shares only from funds legally available for such purpose when, as and if declared by our board of directors. We may not have sufficient cash available each quarter to pay dividends. The amount of dividends we can pay on our Series B Preferred Shares depends upon the amount of cash we generate from and use in our operations, which may fluctuate.

The amount of cash we have available for dividends on our Series B Preferred Shares will not depend solely on our profitability. The actual amount of cash we have available to pay dividends on our Series B Preferred Shares depends on many factors, including the following:

- changes in our operating cash flow, capital expenditure requirements, working capital requirements and other cash needs;
- restrictions under our existing or future credit facilities or any future debt securities on our ability to pay dividends if an event of default has occurred and is continuing or if the payment of the dividend would result in an event of default, or under certain facilities if it would result in the breach of certain financial covenants;
- the amount of any cash reserves established by our board of directors; and
- restrictions under Marshall Islands law, which generally prohibits the payment of dividends other than from surplus (retained earnings and the excess of consideration received for the sale of shares above the par value of the shares) or while a company is insolvent or would be rendered insolvent by the payment of such a dividend.

The amount of cash we generate from our operations may differ materially from our net income or loss for the period, which is affected by noncash items, and our board of directors in its discretion may elect not to declare any dividends. As a result of these and the other factors mentioned above, we may pay dividends during periods when we record losses and may not pay dividends during periods when we record net income.

The Series B Preferred Shares represent perpetual equity interests.

The Series B Preferred Shares represent perpetual equity interests in us and, unlike our indebtedness, will not give rise to a claim for payment of a principal amount at a particular date. As a result, holders of the Series B Preferred Shares may be required to bear the financial risks of an investment in the Series B Preferred Shares for an indefinite period of time. In addition, the Series B Preferred Shares will rank junior to all our indebtedness and other liabilities, and to any other senior securities we may issue in the future with respect to assets available to satisfy claims against us.

Our Series B Preferred Shares are subordinate to our indebtedness, and your interests could be diluted by the issuance of additional preferred shares, including additional Series B Preferred Shares, and by other transactions.

Our Series B Preferred Shares are subordinated to all of our existing and future indebtedness. Therefore, our ability to pay dividends on, redeem or pay the liquidation preference on our Series B Preferred Shares in liquidation or otherwise may be subject to prior payments due to the holders of our indebtedness. Our existing indebtedness restricts, and our future indebtedness may include restrictions on, our ability to pay dividends on or redeem preferred shares. Our amended and restated articles of incorporation currently authorize the issuance of up to 25,000,000 preferred shares, par value \$0.01 per share. Of these preferred shares, 1,000,000 shares have been designated Series A Participating Preferred Stock and 5,000,000 shares have been designated Series B Preferred Shares. The Series B Preferred Shares are senior in rank to the Series A Participating Preferred Shares. The issuance of additional Series B Preferred Shares or other preferred shares on a parity with or senior to the Series B Preferred Shares would dilute the interests of holders of our Series B Preferred Shares, and any issuance of preferred shares senior to our Series B Preferred Shares or of additional indebtedness could affect our ability to pay dividends on, redeem or pay the liquidation preference on our Series B Preferred Shares. The Series B Preferred Shares do not contain any provisions affording the holders of our Series B Preferred Shares protection in the event of a highly leveraged or other transaction, including a merger or the sale, lease or conveyance of all or substantially all our assets or business, which might adversely affect the holders of our Series B Preferred Shares, so long as the rights of our Series B Preferred Shares are not directly materially and adversely affected.

We may redeem the Series B Preferred Shares, and you may not be able to reinvest the redemption price you receive in a similar security.

On or after February 14, 2019, we may, at our option, redeem Series B Preferred Shares, in whole or in part, at any time or from time to time. We may have an incentive to redeem Series B Preferred Shares voluntarily if market conditions allow us to issue other preferred shares or debt securities at a rate that is lower than the dividend on the Series B Preferred Shares. If we redeem Series B Preferred Shares, then from and after the redemption date, your dividends will cease to accrue on your Series B Preferred Shares, your Series B Preferred Shares shall no longer be deemed outstanding and all your rights as a holder of those shares will terminate, except the right to receive the redemption price plus accumulated and unpaid dividends, if any, payable upon redemption. If we redeem the Series B Preferred Shares for any reason, you may not be able to reinvest the redemption price you receive in a similar security.

Market interest rates may adversely affect the value of our Series B Preferred Shares.

One of the factors that may influence the price of our Series B Preferred Shares is the dividend yield on the Series B Preferred Shares (as a percentage of the price of our Series B Preferred Shares) relative to market interest rates. An increase in market interest rates, which are currently at low levels relative to historical rates, may lead prospective purchasers of our Series B Preferred Shares to expect a higher dividend yield, and higher interest rates would likely increase our borrowing costs and potentially decrease funds available for distribution. Accordingly, higher market interest rates could cause the market price of our Series B Preferred Shares to decrease.

As a holder of Series B Preferred Shares you have extremely limited voting rights.

Your voting rights as a holder of Series B Preferred Shares are extremely limited. Our common shares are the only outstanding class or series of our shares carrying full voting rights. Holders of Series B Preferred Shares have no voting rights other than the ability, subject to certain exceptions, to elect one director if dividends for six quarterly dividend periods (whether or not consecutive) payable on our Series B Preferred Shares are in arrears and certain other limited protective voting rights.

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

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

The amount of your liquidation preference is fixed and you will have no right to receive any greater payment regardless of the circumstances.

The payment due upon a liquidation is fixed at the redemption preference of \$25.00 per share plus accumulated and unpaid dividends to the date of liquidation. If, in the case of our liquidation, there are remaining assets to be distributed after payment of this amount, you will have no right to receive or to participate in these amounts. Furthermore, if the market price for your Series B Preferred Shares is greater than the liquidation preference, you will have no right to receive the market price from us upon our liquidation.

Risks Relating to our Notes

The investment in our Notes is subject to our credit risk.

Our Notes are unsubordinated unsecured general obligations of ours and are not, either directly or indirectly, an obligation of any third party. Our Notes will rank equally with any senior and unsubordinated debt obligations that we may enter into in the future, except as such obligations may be preferred by operation of law. Any payment to be made on our Notes, including the return of the principal amount at maturity or any redemption date, as applicable, depends on our ability to satisfy our obligations as they come due. As a result, our actual and perceived creditworthiness may affect the market value of our Notes and, in the event we were to default on our obligations, holders of our Notes may not receive the amounts owed to them under the terms of our Notes.

Our subsidiaries conduct the substantial majority of our operations and own our operating assets, and the right to receive payments on our Notes is structurally subordinated to the rights of the lenders of our subsidiaries.

Our subsidiaries conduct the substantial majority of our operations and own our operating assets. As a result, our ability to make required payments on our Notes depends in part on the operations of our subsidiaries and our subsidiaries' ability to distribute funds to us. To the extent our subsidiaries are unable to distribute, or are restricted from distributing, funds to us, we may be unable to fulfill our obligations under our Notes. Our subsidiaries are separate and distinct legal entities and have no obligation, contingent or otherwise, to pay amounts due on our Notes or to make funds available for that purpose. Our Notes are not guaranteed by any of our subsidiaries or any other person.

The rights of holders of our Notes are structurally subordinated to the rights of our subsidiaries' lenders. A default by a subsidiary under its debt obligations would result in a block on distributions from the affected subsidiary to us. Our Notes will be effectively junior to all existing and future liabilities of our subsidiaries. In the event of a bankruptcy, liquidation or reorganization of any of our subsidiaries, creditors of our subsidiaries will generally be entitled to payment of their claims from the assets of those subsidiaries before any assets are made available for distribution to us.

Our Notes are unsecured obligations and are subordinated to our secured debt.

Our Notes are unsecured and therefore are effectively subordinated to any secured debt we maintain or may incur to the extent of the value of the assets securing the debt. In the event of a bankruptcy or similar proceeding involving us, the assets that serve as collateral will be available to satisfy the obligations under any secured debt before any payments are made on our Notes. We will continue to have the ability to incur additional secured debt, subject to limitations in our loan facilities and the indenture relating to our Notes.

We may not have the ability to raise the funds necessary to purchase our Notes as required upon a change of control, and our existing and future debt may contain limitations on our ability to purchase our Notes.

Following a change of control, holders of Notes will have the right to require us to purchase their Notes for cash. A change of control may also constitute an event of default or prepayment under, and result in the acceleration of the maturity of, our then existing indebtedness. We may not have sufficient financial resources, or be able to arrange financing, to pay the change of control purchase price in cash with respect to any Notes surrendered by holders for purchase upon a change of control. In addition, restrictions in our then existing loan facilities or other indebtedness, if any, may not allow us to purchase the Notes upon a change of control. Our failure to purchase the Notes upon a change of control when required would result in an event of default with respect to the Notes which could, in turn, constitute a default under the terms of our other indebtedness, if any. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and purchase the Notes.

Some significant restructuring transactions may not constitute a change of control, in which case we would not be obligated to offer to purchase the Notes.

The change of control provisions contained in the indenture governing our Notes will not afford protection to holders of Notes in the event of certain transactions that could adversely affect our Notes. For example, transactions such as leveraged recapitalizations, refinancing or certain restructurings would not constitute a change of control requiring us to repurchase the Notes. In the event of any such transaction, holders of the Notes would not have the right to require us to purchase their Notes, even though each of these transactions could increase the amount of our indebtedness, or otherwise adversely affect our capital structure or any credit ratings, thereby adversely affecting holders of the Notes.

Our Notes have not been rated, and ratings of any of our other securities may affect the trading price of our Notes.

We have not sought to obtain a rating for our Notes, and our Notes may never be rated. It is possible, however, that one or more credit rating agencies might independently determine to assign a rating to our Notes or that we may elect to obtain a rating of our Notes in the future. In addition, we may elect to issue other securities for which we may seek to obtain a rating. If any ratings are assigned to our Notes in the future or if we issue other securities with a rating, such ratings, if they are lower than market expectations or are subsequently lowered or withdrawn, or if ratings for such other securities would imply a lower relative value for our Notes, could adversely affect the market for, or the market value of, our Notes. Ratings only reflect the views of the issuing rating agency or agencies and such ratings could at any time be revised downward or withdrawn entirely at the discretion of the issuing rating agency. A rating is not a recommendation to purchase, sell or hold any particular security, including our Notes. Ratings do not reflect market prices or suitability of a security for a particular investor and any future rating of our Notes may not reflect all risks related to us and our business, or the structure or market value of our Notes.

Servicing our current or future indebtedness limits funds available for other purposes and if we cannot service our debt, we may lose our vessels.

Borrowing under our loan facilities requires us to dedicate a part of our cash flow from operations to paying interest on our indebtedness under such facilities. These payments limit funds available for working capital, capital expenditures and other purposes, including further equity or debt financing in the future. Amounts borrowed under our loan facilities bear interest at variable rates. Increases in prevailing rates could increase the amounts that we would have to pay to our lenders, even though the outstanding principal amount remains the same, and our net income and cash flows would decrease. We expect our earnings and cash flow to vary from year to year due to the cyclical nature of the dry bulk industry. If we do not generate or reserve enough cash flow from operations to satisfy our debt obligations, we may have to undertake alternative financing plans, such as:

- seeking to raise additional capital;
- refinancing or restructuring our debt;
- selling vessels; or
- reducing or delaying capital investments.

However, these alternative financing plans, if necessary, may not be sufficient to allow us to meet our debt obligations. If we are unable to meet our debt obligations or if some other default occurs under our loan facilities, our lenders could elect to declare that debt, together with accrued interest and fees, to be immediately due and payable and proceed against the collateral vessels securing that debt even though the majority of the proceeds used to purchase the collateral vessels did not come from our loan facilities.

We may redeem the Notes, at our option, on or after May 15, 2017.

We may redeem the Notes, at our option, in whole or in part on or after May 15, 2017, at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued and unpaid interest to the date of redemption. Prior to May 15, 2017 we may redeem the Notes, in whole or in part, at a redemption price equal to 100% of the principal amount to be redeemed, plus a make-whole premium and accrued and unpaid interest to the date of redemption. In the event we choose to redeem the Notes, the holders of our Notes may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as the interest rate on our Notes. Our redemption right also may adversely impact the holders' ability to sell our Notes as the optional redemption date or period approaches.

Item 4. Information on the Company

A. History and development of the Company

Diana Shipping Inc. is a holding company incorporated under the laws of Liberia in March 1999 as Diana Shipping Investments Corp. In February 2005, the Company's articles of incorporation were amended. Under the amended and restated articles of incorporation, the Company was renamed Diana Shipping Inc. and was re-domiciled from the Republic of Liberia to the Republic of the Marshall Islands. Our executive offices are located at Pendelis 16, 175 64 Palaio Faliro, Athens, Greece. Our telephone number at this address is +30-210-947-0100. Our agent and authorized representative in the United States is our wholly-owned subsidiary, Bulk Carriers (USA) LLC, established in September 2006, in the State of Delaware, which is located at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

Business Development and Capital Expenditures and Divestitures

In March 2012, we entered into, through two of our wholly owned subsidiaries, shipbuilding contracts with China Shipbuilding Trading Company, Limited and Jiangnan Shipyard (Group) Co., Ltd, for the construction of two ice class Panamax dry bulk carriers for the contract price of \$29.0 million each. One of the vessels, the *Crystalia*, was delivered on February 20, 2014 and the other vessel the *Atalandi*, was delivered on May 12, 2014.

In 2013, we took delivery of the *Myrto*, a 2013 built Kamsarmax dry bulk carrier, which we acquired for \$26.5 million, the *Maia*, a 2009 built Kamsarmax dry bulk carrier, which we acquired at an auction for \$19.7 million; the *Baltimore*, a 2005 built Capesize dry bulk carrier, which we acquired for \$26.8 million; the *Artemis*, a 2006 built Panamax dry bulk carrier, which we acquired for \$20.2 million; the *Myrsini*, a 2010 built Kamsarmax dry bulk vessel, which we acquired in a bid offer for \$22.7 million; and the *P.S. Palios*, a 2013 built Capesize dry bulk vessel, which we acquired for \$52.0 million.

On May 17, 2013, we entered, through two separate wholly owned subsidiaries, into two shipbuilding contracts with China Shipbuilding Trading Company, Limited and Jiangnan Shipyard (Group) Co., Ltd. for the construction of two Newcastlemax dry bulk vessels for a contract price of \$48.7 million each. We expect to take delivery of the two vessels in 2016.

On May 20, 2013, we entered into a loan agreement with Eluk Shipping Company Inc., a subsidiary of Diana Containerships, to provide to it an unsecured loan of up to \$50.0 million, the drawdown of which was completed on August 20, 2013. On September 9, 2015, the agreement was amended, pursuant to which the loan matures on March 15, 2022; bears interest at LIBOR plus a margin of 3% per annum; the back-end fee accumulated up to and became payable on the date of the amendment; and the borrowers will pay to the lender a fee of \$200 on the maturity date. In addition, the borrowers agreed to repay the principal amount of the loan on the last day of each interest period in amounts of \$5.0 million per annum, but not to exceed \$32.5 million in the aggregate. The loan is subordinated to Diana Containerships' loan with the Royal Bank of Scotland.

On May 24, 2013, we entered into, through two separate wholly-owned subsidiaries, a term loan facility for up to \$30.0 million with The Export-Import Bank of China having a majority interest and DNB Bank ASA, as agent, to partly finance, after delivery, the construction cost of our two newbuilding Ice Class Panamax dry bulk carriers, named *Crystalia* and *Atalandi*, which we drew down on May 22, 2014.

On June 18, 2013, we signed, through two separate wholly-owned subsidiaries, a term loan facility for up to \$18.0 million with Deutsche Bank Aktiengesellschaft Filiale Deutschlandgeschäft, or Deutsche Bank, and on June 20, 2013, we completed the drawdown of \$18.0 million in order to partially finance the acquisition costs of the *Myrto* and the *Maia*, both delivered earlier in 2013. On the same date, our wholly owned subsidiary, Bikini Shipping Company Inc., entered into a supplemental agreement with Deutsche Bank in order to amend the terms of its loan agreement dated October 8, 2009 with respect to the cross collateralization of the *New York* with *Maia* and *Myrto*. The agreement between Deutsche Bank and Bikini was terminated on March 10, 2015 following full repayment of the outstanding loan balance and on March 20, 2015, we prepaid the outstanding indebtedness under the loan agreement for *Myrto* and *Maia*, of \$15.8 million.

On August 8, 2013, Diana Shipping Services S.A., or DSS, our wholly-owned subsidiary, was found guilty on felony counts and on December 5, 2013 was sentenced by the United States District Court in Norfolk, Virginia to a fine of \$1.1 million, which was fully settled in two installments, and a period of probation of three years and six months, as a result of a conviction in which DSS was held vicariously liable for the actions of the chief engineer and second assistant engineer of the *Thetis*, who were found guilty by the Court of violating several U.S. statutes and regulations in failing to properly handle waste oils, maintain required records and for obstruction of justice. In addition, the sentence includes a requirement to maintain an enhanced system subject to independent audit for managing waste oils on vessels managed by DSS.

On November 26, 2013, the charterers of the *Houston* terminated the charter earlier than the termination date determined under the terms of the charter party and redelivered the vessel. We were awarded damages in arbitration proceedings against the charterers seeking to recover the losses resulting from the early termination. Following the publication of the award, the charterers filed for a creditors' voluntary liquidation in Hong Kong and we have filed our claim in the liquidation in Hong Kong.

On January 8, 2014, we entered, through a separate wholly-owned subsidiary, into a shipbuilding contract with Yangzhou Dayang Shipbuilding Co., Ltd. and Shanghai Sinopacific International Trade Co., Ltd., and since April 21, 2014 with Sumec Marine Co., Ltd., pursuant to an addendum, for the construction of a Kamsarmax dry bulk vessel for a contract price of \$28.8 million. We expect to take delivery of the vessel in 2016.

On January 9, 2014, we entered into, through two separate wholly-owned subsidiaries, a term loan facility for up to \$18.0 million with Commonwealth Bank of Australia to partially finance the acquisition costs of two Panamax dry bulk vessels, the *Melite* and the *Artemis*, which were delivered on January 28, 2010 and August 26, 2013, respectively, and we completed the drawdown of \$18.0 million on January 13, 2014.

On February 24, 2014, we completed a public offering of 2,600,000 shares of 8.875% Series B Cumulative Redeemable Perpetual Preferred Shares, par value \$0.01 per share at \$25.00 per share. We received net proceeds from the offering of \$62.7 million, net of underwriting discount and offering expenses.

On May 22, 2014, our Board of Directors authorized a share repurchase plan for up to \$100 million of our common shares of which, up to January 30, 2015, we repurchased and retired 3,259,353 shares at the aggregate cost of \$28.0 million and an average price of \$8.6 per share. We have not repurchased any other shares since January 30, 2015.

In 2014, we, through two separate wholly-owned subsidiaries, acquired from unaffiliated third parties the G. P. Zafirakis, a new-building Capesize dry bulk vessel, for a purchase price of \$58.0 million, which was delivered in August 2014 and the Santa Barbara, a new-building Capesize dry bulk vessel, for a purchase price of \$50.0 million, which was delivered in January 2015.

On July 29, 2014, we purchased 15,936,255 shares of the common stock of Diana Containerships for an aggregate purchase price of \$40.0 million.

On December 18, 2014, we entered into, through two separate wholly-owned subsidiaries, a term loan facility for up to \$55.0 million with BNP Paribas to finance part of the acquisition cost of the G. P. Zafirakis and P. S. Palios. We completed the drawdown of \$53.5 million on December 19, 2014.

In December 2014, DSS acquired jointly with two other related entities, from unrelated individuals, a plot of land for an aggregate purchase price of €2.0 million or \$2.5 million (based on the exchange rate of U.S. Dollars to Euro as of the date of acquisition). DSS paid one third of the purchase price amounting to \$0.9 million, including additional purchase costs incurred. The plot is under the common ownership of the joint purchasers.

On March 17, 2015, we entered into, through eight separate wholly-owned subsidiaries, a term loan facility of up to \$110.0 million with Nordea Bank AB, London Branch, or Nordea, to refinance the existing agreements we had with the bank for working capital and general corporate purposes. We completed the drawdown of \$93.1 million on March 19, 2015 and we fully repaid all outstanding indebtedness with the bank at that date.

On March 26, 2015, we entered into, through three wholly-owned subsidiaries, a loan agreement with ABN AMRO Bank N.V. for up to \$53.0 million to refinance part of the acquisition cost of the vessels *New York*, *Myrto* and *Maia*. On March 30, 2015, we drew down the amount of \$50.16 million under the loan facility.

On April 20, 2015, we entered into, through a wholly-owned subsidiary, an agreement to acquire from an unrelated third party a new-building Capesize dry bulk vessel, named *New Orleans*, for a purchase price of \$43.0 million. The vessel was delivered on November 10, 2015.

On April 27, 2015, we entered into, through a wholly-owned subsidiary, a memorandum of agreement with an unrelated third party to acquire a Kamsarmax dry bulk vessel, renamed to *Medusa*, for a purchase price of \$18.05 million. The vessel was delivered in June 2015.

On April 29, 2015, we entered into, through a wholly-owned subsidiary, a loan agreement with Danish Ship Finance A/S for a loan facility of \$30.0 million, drawn on April 30, 2015 to partly finance the acquisition cost of the *Santa Barbara*.

On May 20, 2015, we offered \$63.3 million aggregate principal amount of 8.5% Senior Notes due 2020 (the "Notes"), including an overallotment, at the price of \$25.0 per Note. As part of the offering, the underwriters sold \$12.8 million aggregate principal amount of the Notes to, or to entities affiliated with, the Company's chief executive officer, Mr. Simeon Palios, and other executive officers and certain directors of the Company at the public offering price. As of May 29, 2015, the Notes are trading on the NYSE under the ticker symbol "DSXN". The Notes bear interest from May 28, 2015 at a rate of 8.5% per year and will mature on May 15, 2020. Interest is payable quarterly in arrears on the 15th day of February, May, August and November of each year, commencing on August 15, 2015. The Company may redeem the Notes at its option, in whole or in part, at any time on or after May 15, 2017 at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. The Notes include financial and other covenants, including maximum net borrowings and minimum tangible net worth.

On May 7, 2015, our wholly owned subsidiary Diana Ship Management Inc. and Wilhelmsen Ship Management Holding Limited, an unaffiliated third party, established Diana Wilhelmsen Management Limited, or DWM, a 50/50 joint venture, with the purpose of providing management services to a number of vessels in our fleet. The DWM office is located in Limassol, Cyprus and currently it provides services to six of our vessels.

On July 22, 2015, we entered into a loan agreement with BNP Paribas for a loan of \$165.0 million, drawn on July 24, 2015 to refinance the revolving credit facility with the Royal Bank of Scotland. In this respect, the revolving credit facility, having an outstanding balance of \$195.0 million, was voluntarily prepaid in full and the related agreement was terminated.

On September 30, 2015, we entered into, through two wholly-owned subsidiaries, a term loan agreement with ING Bank N.V. for a loan of up to \$39.7 million, drawn in two tranches, one in October 2015 and one in November 2015, to finance part of the acquisition cost of the *Medusa* and the *New Orleans*, delivered in June and November 2015 respectively.

On November 2, 2015, we entered into, through a wholly-owned subsidiary, a memorandum of agreement with an unrelated third party to acquire a Capesize dry bulk vessel, named *Seattle*, for a purchase price of \$28.5 million, which was delivered in November 2015.

On January 7, 2016, we entered into, through the three wholly-owned subsidiaries with vessels under construction, a loan agreement with the Export-Import Bank of China for a loan of up to \$75.7 million to finance part of the construction cost of these vessels. The loan will be available for drawdown until March 12, 2017, or such later date as all the lenders may in their discretion agree and will mature by March 2032 at the latest.

On February 4, 2016, we entered into, through three separate wholly-owned subsidiaries, three Memoranda of Agreement to acquire from a related party three Panamax vessels for an aggregate purchase price of \$39.8 million, reduced to \$39.3 million pursuant to addendum agreements dated March 4, 2016. Two of the vessels were delivered in March 2016 and the third vessel is expected to be delivered in April 2016. The Company has agreed to acquire the vessels from entities affiliated with Mrs. Semiramis Paliou and Mrs. Aliko Paliou, each of whom is a family member of the Company's Chief Executive Officer and Chairman of the Board. Mrs. Semiramis Paliou is also a director of the Company. The transaction was approved unanimously by a committee of the Board of Directors established for the purpose of considering the transaction and consisting of the Company's independent directors and each of its executive directors other than Mrs. Semiramis Paliou and Mr. Simeon Palios. The agreed upon purchase price of the vessels was based, among other factors, on independent third party broker valuations obtained by the Company. Consummation of the purchases is subject to the Company obtaining bank financing from the sellers' existing lenders for substantially the entire purchase price of the vessels, thereby resulting in little or no current cash outlay on the part of the Company.

On March 11, 2016, we signed, through two wholly-owned subsidiaries, a commitment letter with ABN AMRO Bank N.V. for a loan of up to \$25.8 million to finance the acquisition cost of two of the three Panamax vessels mentioned above.

Please see "Item 5.B Liquidity and Capital Resources" for a discussion of our loan facilities.

B. Business overview

We are a global provider of shipping transportation services. We specialize in the ownership of dry bulk vessels. Currently, our operating fleet consists of 45 dry bulk carriers, of which 22 are Panamax, four are Kamsarmax, three are Post-Panamax, 14 are Capesize and two are Newcastlemax vessels, having a combined carrying capacity of approximately 5.2 million dwt. In addition, in 2016, we expect to take delivery of three vessels under construction and one secondhand vessel we agreed to acquire from a related party.

As of December 31, 2015, our fleet consisted of 43 vessels of which 20 Panamax, four Kamsarmax, three Post-Panamax, 14 Capesize and two Newcastlemax vessels, having a combined carrying capacity of approximately 5.0 million dwt, and a weighted average age of 7.4 years. In addition, we had three vessels under construction with expected delivery in 2016.

As of December 31, 2014, our fleet consisted of 39 vessels of which 20 Panamax, three Kamsarmax, three Post-Panamax, eleven Capesize and two Newcastlemax vessels, having a combined carrying capacity of approximately 4.4 million dwt, and a weighted average age of 7.1 years. In addition, we had three vessels under construction with expected delivery in 2016 and we had agreed to acquire *Santa Barbara*, which was delivered in January 2015.

As of December 31, 2013, our fleet consisted of 36 vessels of which 18 Panamax, three Kamsarmax, three Post-Panamax, ten Capesize and two Newcastlemax vessels, having a combined carrying capacity of approximately 4.1 million dwt, and a weighted average age of 6.6 years, excluding four vessels we had under construction.

During 2015, 2014 and 2013, we had a fleet utilization of 99.3%, 99.4% and 99.3%, respectively, our vessels achieved daily time charter equivalent rates of \$9,739, \$12,081 and \$12,959, respectively, and we generated revenues of \$157.7 million, \$175.6 million and \$164.0 million, respectively.

The following table presents certain information concerning the dry bulk carriers in our fleet, as of March 28, 2016.

	Vessel		Gross Rate (USD Per Day)	Com**	Charterers	Delivery Date to Charterers***	Redelivery Date to Owners****	Notes
BUILT	DWT	Sister Ships*						
23 Panamax Bulk Carriers								
1	DANAE	A	\$4,900	5.00%	Dampskibsselskabet Norden A/S, Copenhagen	9-Dec-15	9-Nov-16 - 9-Mar-17	
	2001 75,106							
2	DIONE	A	\$9,250	5.00%	RWE Supply & Trading GmbH, Essen	12-Sep-14	8-Jan-16	1
			\$4,350	5.00%	Nidera S.P.A., Roma	4-Feb-16	20-Jan-17 - 4-May-17	
	2001 75,172							
3	NIREFS	A	\$7,500	5.00%	Glencore Grain B.V., Rotterdam	25-Dec-14	12-Jan-16	
			\$4,600	5.00%	Transgrain Shipping B.V., Rotterdam	15-Jan-16	15-Dec-16 - 30-Mar-17	
	2001 75,311							

4	ALCYON	A	\$7,600	5.00%	Transgrain Shipping B.V., Rotterdam	22-Aug-15	22-Apr-16 - 22-Jul-16	
	2001	75,247						
5	TRITON	A	\$6,800	5.00%	Glencore Grain B.V., Rotterdam	28-Oct-15	13-Sep-16 - 28-Dec-16	
	2001	75,336						
6	OCEANIS	A	\$7,200	5.00%	Glencore Grain B.V., Rotterdam	11-May-15	12-Mar-16	2
			\$6,750	5.00%	Bunge S.A., Geneva	12-Apr-16	12-Jun-16	3,4,5
	2001	75,211						
7	THETIS	B	\$7,000	5.00%	Dampskibsselskabet Norden A/S, Copenhagen	14-Jul-15	14-Jun-16 - 14-Sep-16	
	2004	73,583						
8	PROTEFS	B	\$6,250	5.00%	Glencore Grain B.V., Rotterdam	3-Apr-15	18-Feb-16	6
			\$4,500	5.00%	Transgrain Shipping B.V., Rotterdam	23-Feb-16	8-Feb-17 - 23-Jun-17	
	2004	73,630						
9	CALIPSO	B	\$6,000	5.00%	China Shipping Bulk Carrier Co., Ltd., Hong Kong	9-Jun-15	9-Apr-16 - 9-May-16	7
	2005	73,691						
10	CLIO	B	\$6,500	5.00%	Transgrain Shipping B.V., Rotterdam	4-Aug-15	4-May-16 - 4-Aug-16	
	2005	73,691						
11	NAIAS	B	\$6,800	4.75%	Cargill International S.A., Geneva	12-Jul-15	12-May-16 - 12-Aug-16	8
	2006	73,546						
12	ARETHUSA	B	\$7,100	5.00%	Glencore Grain B.V., Rotterdam	5-Mar-15	5-Apr-16 - 5-May-16	7
	2007	73,593						
13	ERATO	C	\$7,100	5.00%	Glencore Grain B.V., Rotterdam	9-Mar-15	26-Mar-16	
			\$4,650	5.00%		26-Mar-16	11-Feb-17 - 26-May-17	
	2004	74,444						
14	CORONIS	C	\$6,500	5.00%	Sandgate Maritime Ltd	3-Jul-15	19-Mar-16	9
			\$4,750	5.00%	Narina Maritime Ltd	19-Mar-16	19-Feb-17 - 19-May-17	
	2006	74,381						
15	MELITE	D	\$7,250	4.75%	Cargill International S.A., Geneva	13-Oct-15	13-Sep-16 - 13-Dec-16	
	2004	76,436						
16	MELIA	D	\$7,200	5.00%	Nidera S.P.A., Roma	24-Oct-15	24-Nov-16 - 24-Feb-17	
	2005	76,225						
17	ARTEMIS		\$7,500	5.00%	China Shipping Bulk Carrier Co., Ltd., Hong Kong	16-Aug-15	16-May-16 - 16-Aug-16	
	2006	76,942						
18	LETO		\$7,100	4.75%	Cargill International S.A., Geneva	19-Jun-15	4-Sep-16 - 3-Jan-17	
	2010	81,297						

19	SELINA	E	\$5,800	5.00%	Dampskibsselskabet Norden A/S, Copenhagen	24-Mar-16	15-Oct-16 - 15-Feb-17	
	2010	75,700						
20	MANZONI (tbr. MAERA)	E	-	-	-	-	- - -	10,11
	2013	75,403						
21	INFINITY 9 (tbr. ISMENE)		\$7,825	5.00%	Glencore Grain B.V., Rotterdam	21-Mar-16	24-Jun-16 - 24-Oct-16	
	2013	77,901						
22	CRYSTALIA	F	\$9,000	5.00%	Glencore Grain B.V., Rotterdam	29-Aug-15	29-Jun-16 - 29-Sep-16	
	2014	77,525						
23	ATALANDI	F	\$8,000	5.00%	Glencore Grain B.V., Rotterdam	21-May-15	21-Mar-16	
			\$5,300	5.00%		26-Mar-16	26-Nov-17 - 26-Apr-18	
	2014	77,529						
4 Kamsarmax Bulk Carriers								
24	MAIA	G	\$7,500	5.00%	RWE Supply & Trading GmbH, Essen	13-Nov-15	13-Apr-17 - 13-Jul-17	
	2009	82,193						
25	MYRSINI	G	\$8,250	4.75%	Clearlake Shipping Pte. Ltd., Singapore	18-Feb-15	9-Mar-16	12
			\$5,550	5.00%	RWE Supply & Trading GmbH, Essen	9-Mar-16	9-Mar-17 - 24-Jun-17	
	2010	82,117						
26	MEDUSA	G	\$7,450	4.75%	Clearlake Shipping Pte. Ltd., Singapore	2-Jun-15	4-Apr-16	7,12
	2010	82,194						
27	MYRTO	G	\$6,000	4.75%	Cargill International S.A., Geneva	24-Dec-15	24-Oct-16 - 8-Feb-17	
	2013	82,131						
3 Post-Panamax Bulk Carriers								
28	ALCMENE		\$6,750	5.00%	ADM International Sarl, Rolle, Switzerland	13-May-15	13-Feb-17 - 2-Jun-17	
	2010	93,193						
29	AMPHITRITE	H	\$7,700	5.00%	Bunge S.A., Geneva	15-Jul-15	30-Apr-17 - 30-Aug-17	
	2012	98,697						
30	POLYMNIA	H	\$5,650	4.75%	Cargill International S.A., Geneva	15-Dec-15	30-Nov-16 - 15-Mar-17	
	2012	98,704						
14 Capesize Bulk Carriers								
31	NORFOLK		\$10,250	4.75%	Clearlake Shipping Pte. Ltd., Singapore	4-Mar-15	28-Mar-16	12,13
			\$4,350	5.00%	SwissMarine Services S.A., Geneva	28-Mar-16	28-Dec-16 - 28-Mar-17	
	2002	164,218						
32	ALIKI		\$26,500	5.00%	Minmetals Logistics Group Co. Ltd., Beijing	1-Mar-11	16-Jan-16	14
			\$5,300	5.00%	SwissMarine Services S.A., Geneva	16-Jan-16	16-Dec-16 - 16-Mar-17	
	2005	180,235						

33	BALTIMORE		\$15,000	5.00%	RWE Supply & Trading GmbH, Essen	8-Jul-13	8-Jul-16 - 8-Jan-17	
	2005	177,243						
34	SALT LAKE CITY		BCI 4TCs AVG + 3.5%	5.00%	K Noble Hong Kong Ltd., Hong Kong	7-Feb-15	7-Nov-16 - 7-Feb-17	
	2005	171,810						
35	SIDERIS GS	I	\$6,500	5.00%	Rio Tinto Shipping (Asia) Pte., Ltd., Singapore	22-Dec-15	22-Jan-17 - 7-Jul-17	
	2006	174,186						
36	SEMIRIO	I	\$10,000	5.00%	Rio Tinto Shipping (Asia) Pte., Ltd., Singapore	20-Feb-15	6-Feb-16	15
			\$4,800	5.00%	SwissMarine Services S.A., Geneva	6-Feb-16	6-Jan-17 - 6-May-17	
	2007	174,261						
37	BOSTON	I	\$13,000	4.75%	Clearlake Shipping Pte. Ltd., Singapore	9-Aug-15	25-May-17 - 24-Oct-17	12
	2007	177,828						
38	HOUSTON	I	\$12,750	5.00%	RWE Supply & Trading GmbH, Essen	4-Jan-15	29-Jan-16	
			\$5,150	5.00%	SwissMarine Services S.A., Geneva	29-Jan-16	29-Dec-16 - 29-Mar-17	
	2009	177,729						
39	NEW YORK	I	\$12,850	4.75%	Clearlake Shipping Pte. Ltd., Singapore	17-Dec-14	3-Feb-16	12,16
			\$5,200	5.00%	Rio Tinto Shipping (Asia) Pte., Ltd., Singapore	3-Feb-16	3-Jan-17 - 18-May-17	
	2010	177,773						
40	SEATTLE	J	\$7,300	4.75%	SwissMarine Services S.A., Geneva	9-Dec-15	25-Oct-16 - 9-Feb-17	
	2011	179,362						
41	P. S. PALIOS	J	\$13,000	5.00%	RWE Supply & Trading GmbH, Essen	18-Sep-15	31-Dec-16 - 31-Mar-17	
	2013	179,134						
42	G. P. ZAFIRAKIS	K	\$25,250	5.00%	RWE Supply & Trading GmbH, Essen	23-Aug-14	14-Feb-16	
			\$6,500	5.00%		14-Feb-16	14-May-17 - 14-Aug-17	
	2014	179,492						
43	SANTA BARBARA	K	\$7,500	5.00%	RWE Supply & Trading GmbH, Essen	18-Dec-15	18-Dec-16 - 18-Mar-17	
	2015	179,426						
44	NEW ORLEANS		\$11,650	5.00%	SwissMarine Services S.A., Geneva	11-Nov-15	11-Oct-16 - 26-Feb-17	
	2015	180,960						
2 Newcastlemax Bulk Carriers								
45	LOS ANGELES	L	\$7,750	5.00%	SwissMarine Services S.A., Geneva	9-Dec-15	24-Nov-16 - 24-Mar-17	
	2012	206,104						
46	PHILADELPHIA	L	\$18,000	5.00%	EDF Trading	17-May-12	20-Jan-16	17

		\$6,450	5.00%	Limited, UK RWE Supply & Trading GmbH, Essen	20-Jan-16	20-Dec-16 - 20-Mar-17
2012	206,040					

3 Vessels Under Construction							
47	HULL No. DY6006 (tbn. PHAIDRA) 2016 82,000	-	-	-	-	- - -	18
48	HULL No. H2548 (tbn. SAN FRANCISCO) 2016 208,500	M	-	-	-	- - -	18
49	HULL No. H2549 (tbn. NEWPORT NEWS) 2016 208,500	M	-	-	-	- - -	18

* Each dry bulk carrier is a "sister ship", or closely similar, to other dry bulk carriers that have the same letter.

** Total commission percentage paid to third parties.

*** In case of newly acquired vessel with time charter attached, this date refers to the expected/actual date of delivery of the vessel to the Company.

**** Range of redelivery dates, with the actual date of redelivery being at the Charterers' option, but subject to the terms, conditions, and exceptions of the particular charterparty.

1 Vessel was on scheduled drydocking from January 8, 2016 to February 4, 2016.

2 Currently without an active charterparty.

3 Estimated delivery date to the charterers.

4 Redelivery date based on an estimated time charter trip duration of about 60 days.

5 Charter includes a one time gross ballast bonus payment of US\$175,000.

6 Glencore Grain B.V., Rotterdam has agreed to compensate the owners for the early redelivery of the vessel until the minimum agreed redelivery date, March 3, 2016.

7 Based on latest information.

8 During the first quarter of 2016, the vessel was off-hire for drydocking for approximately 24 days.

9 Sandgate Maritime Ltd has agreed to compensate the owners for the early redelivery of the vessel until the minimum agreed redelivery date, April 3, 2016.

10 Consummation of the purchase is subject to the Company obtaining satisfactory bank financing from the sellers' existing lenders.

11 Expected date of delivery to the Company by the end of April 2016.

12 Clearlake Shipping Pte. Ltd., Singapore is a member of the Gunvor Group.

13 Clearlake Shipping Pte. Ltd., Singapore has agreed to compensate the owners for the early redelivery of the vessel until the minimum agreed redelivery date, April 4, 2016.

14 Minmetals Logistics Group Co. Ltd., Beijing has agreed to compensate the owners for the early redelivery of the vessel until the minimum agreed redelivery date, February 1, 2016.

15 Rio Tinto Shipping (Asia) Pte., Ltd., Singapore has agreed to compensate the owners for the early redelivery of the vessel until the minimum agreed redelivery date, February 20, 2016.

16 Clearlake Shipping Pte. Ltd., Singapore has agreed to compensate the owners for the early redelivery of the vessel until the minimum agreed redelivery date, February 17, 2016.

17 As per relevant charterparty, EDF Trading Limited, UK has agreed to pay US\$18,000 per day until the minimum agreed redelivery date, January 17, 2016. The gross charter rate was amended to US\$8,500 per day until January 20, 2016 (approximately three days).

18 Year of delivery and dwt are based on shipbuilding contract.

Each of our vessels is owned through a separate wholly-owned subsidiary.

Management of Our Fleet

The business of Diana Shipping Inc. is the ownership of dry bulk vessels. The parent holding company wholly owns, directly or indirectly, the subsidiaries which own the vessels that comprise our fleet. The holding company sets general overall direction for the company and interfaces with various financial markets. The commercial and technical management of our fleet, as well as the provision of administrative services relating to the fleet's operations, are carried out by our wholly-owned subsidiary, Diana Shipping Services S.A., which we refer to as DSS, and Diana Wilhelmsen Management Limited, a 50/50 joint venture with Wilhelmsen Ship Management, which we refer to as DWM. In exchange for providing us with commercial and technical services, personnel and office space, we pay DSS a commission that is equal to 2% of the revenues of the managed vessels, a fixed management fee of \$15,000 per month for each vessel in operation and a fixed monthly fee of \$7,500 for vessels under construction and for laid up vessels. The administrative services of Diana Shipping Inc. are also carried out by DSS. On October 1, 2013, Diana Shipping Inc., entered into an agreement with DSS for the provision of administrative services for a fixed monthly fee of \$10,000. Such services may include budgeting, reporting, monitoring of bank accounts, compliance with banks, payroll services and any other possible service that Diana Shipping Inc. would require to perform its operations. Similarly, in exchange for providing us with commercial and technical services, we pay DWM a commission on the revenues of the managed vessels, a fixed management fee of \$20,000 per month for each vessel in operation and a fixed monthly fee of \$10,000 for laid up vessels. The amounts deriving from the agreements with DSS are considered inter-company transactions and, therefore, are eliminated from our consolidated financial statements. The management fees deriving from the agreements with DWM are included in our statement of operations as "Management fees to related party", whereas commercial fees are included in "Voyage expenses".

Until March 1, 2013, DSS also provided to Diana Containerships commercial, technical, accounting, administrative, financial reporting and other services necessary for the operation of its business, pursuant to an Administrative Services Agreement and Vessel Management Agreements. DSS received a monthly fee of \$10,000 for administrative services; a commission of 1% of the gross hire earned by the vessels and a technical management fee of \$15,000 per vessel per month for each vessel in operation. For 2010 and until January 18, 2011, such fees received by DSS, relating to the management services offered to Diana Containerships, were eliminated from our consolidated financial statements as intercompany transactions. Effective January 19, 2011, after the partial spin-off of Diana Containerships, they were recorded as other revenues.

On June 1, 2010, Diana Enterprises Inc., or Diana Enterprises, a related party controlled by our Chief Executive Officer and Chairman of the Board, Mr. Simeon Palios, was appointed to act as broker to assist in providing services to us. Brokerage fees are included in "General and Administrative expenses" in our statement of operations. The terms of this relationship are currently governed by a Brokerage Services Agreement dated April 1, 2015.

Our Customers

Our customers include national, regional and international companies, such as Cargill International S.A., EDF Trading Ltd, RWE Supply and Trading GmbH, Clearlake Shipping Pte Ltd. During 2015, four of our charterers accounted for 66% of our revenues: EDF Trading (10%), Glencore (20%), RWE Supply (24%) and Clearlake (12%). During 2014, four of our charterers accounted for 55% of our revenues: EDF Trading (15%), Cargill International S.A. (18%), RWE Supply (10%) and Clearlake (12%). During 2013, four of our charterers accounted for 58% of our revenues: EDF Trading (19%), Cargill International S.A. (17%), Shagang Shipping Co. (11%) and Nippon Yusen Kaisha, Tokyo (11%).

We charter our dry bulk carriers to customers primarily pursuant to time charters. Under our time charters, the charterer typically pays us a fixed daily charter hire rate and bears all voyage expenses, including the cost of bunkers (fuel oil) and canal and port charges. We remain responsible for paying the chartered vessel's operating expenses, including the cost of crewing, insuring, repairing and maintaining the vessel. In 2015, we paid commissions that ranged from 3.75% to 5.0% of the total daily charter hire rate of each charter to unaffiliated ship brokers and to in-house brokers associated with the charterer, depending on the number of brokers involved with arranging the charter.

We strategically monitor developments in the dry bulk shipping industry on a regular basis and, subject to market demand, seek to adjust the charter hire periods for our vessels according to prevailing market conditions. In order to take advantage of relatively stable cash flow and high utilization rates, we fix some of our vessels on long-term time charters. Currently, the majority of our vessels are employed on short-term time charters, which provides us with flexibility in responding to market developments. We continuously evaluate our balance of short- and long-term charters and extend or reduce the charter hire periods of the vessels in our fleet according to the developments in the dry bulk shipping industry.

The Dry Bulk Shipping Industry

The global dry bulk carrier fleet could be divided into seven categories based on a vessel's carrying capacity. These categories consist of:

- ***Very Large Ore Carriers (VLOC)***. Very large ore carriers have a carrying capacity of more than 200,000 dwt and are a comparatively new sector of the dry bulk carrier fleet. VLOCs are built to exploit economies of scale on long-haul iron ore routes.
- ***Capesize***. Capesize vessels have a carrying capacity of 110,000-199,999 dwt. Only the largest ports around the world possess the infrastructure to accommodate vessels of this size. Capesize vessels are primarily used to transport iron ore or coal and, to a much lesser extent, grains, primarily on long-haul routes.
- ***Post-Panamax***. Post-Panamax vessels have a carrying capacity of 80,000-109,999 dwt. These vessels tend to have a shallower draft and larger beam than a standard Panamax vessel with a higher cargo capacity. These vessels have been designed specifically for loading high cubic cargoes from draught restricted ports, although they cannot transit the Panama Canal.
- ***Panamax***. Panamax vessels have a carrying capacity of 60,000-79,999 dwt. These vessels carry coal, iron ore, grains, and, to a lesser extent, minor bulks, including steel products, cement and fertilizers. Panamax vessels are able to pass through the Panama Canal, making them more versatile than larger vessels with regard to accessing different trade routes. Most Panamax and Post-Panamax vessels are "gearless," and therefore must be served by shore-based cargo handling equipment. However, there are a small number of geared vessels with onboard cranes, a feature that enhances trading flexibility and enables operation in ports which have poor infrastructure in terms of loading and unloading facilities.
- ***Handymax/Supramax***. Handymax vessels have a carrying capacity of 40,000-59,999 dwt. These vessels operate in a large number of geographically dispersed global trade routes, carrying primarily grains and minor bulks. Within the Handymax category there is also a sub-sector known as Supramax. Supramax bulk carriers are ships between 50,000 to 59,999 dwt, normally offering cargo loading and unloading flexibility with on-board cranes, or "gear," while at the same time possessing the cargo carrying capability approaching conventional Panamax bulk carriers.
- ***Handysize***. Handysize vessels have a carrying capacity of up to 39,999 dwt. These vessels are primarily involved in carrying minor bulk cargoes. Increasingly, ships of this type operate within regional trading routes, and may serve as trans-shipment feeders for larger vessels. Handysize vessels are well suited for small ports with length and draft restrictions. Their cargo gear enables them to service ports lacking the infrastructure for cargo loading and unloading.

Other size categories occur in regional trade, such as Kamsarmax, with a maximum length of 229 meters, the maximum length that can load in the port of Kamsar in the Republic of Guinea. Other terms such as Seawaymax, Setouchmax, Dunkirkmax, and Newcastlemax also appear in regional trade.

The supply of dry bulk carriers is dependent on the delivery of new vessels and the removal of vessels from the global fleet, either through scrapping or loss. The level of scrapping activity is generally a function of scrapping prices in relation to current and prospective charter market conditions, as well as operating, repair and survey costs. The average age at which a vessel is scrapped dropped to 25 years in 2015 from 27 years in 2014 and 28 years in 2013.

The demand for dry bulk carrier capacity is determined by the underlying demand for commodities transported in dry bulk carriers, which in turn is influenced by trends in the global economy. Demand for dry bulk carrier capacity is also affected by the operating efficiency of the global fleet, along with port congestion, which has been a feature of the market since 2004, absorbing tonnage and therefore leading to a tighter balance between supply and demand. In evaluating demand factors for dry bulk carrier capacity, the Company believes that dry bulk carriers can be the most versatile element of the global shipping fleets in terms of employment alternatives.

Charter Hire Rates

Charter hire rates fluctuate by varying degrees among dry bulk carrier size categories. The volume and pattern of trade in a small number of commodities (major bulks) affect demand for larger vessels. Therefore, charter rates and vessel values of larger vessels often show greater volatility. Conversely, trade in a greater number of commodities (minor bulks) drives demand for smaller dry bulk carriers. Accordingly, charter rates and vessel values for those vessels are usually subject to less volatility.

Charter hire rates paid for dry bulk carriers are primarily a function of the underlying balance between vessel supply and demand, although at times other factors may play a role. Furthermore, the pattern seen in charter rates is broadly mirrored across the different charter types and the different dry bulk carrier categories. In the time charter market, rates vary depending on the length of the charter period and vessel-specific factors such as age, speed and fuel consumption.

In the voyage charter market, rates are, among other things, influenced by cargo size, commodity, port dues and canal transit fees, as well as commencement and termination regions. In general, a larger cargo size is quoted at a lower rate per ton than a smaller cargo size. Routes with costly ports or canals generally command higher rates than routes with low port dues and no canals to transit. Voyages with a load port within a region that includes ports where vessels usually discharge cargo or a discharge port within a region with ports where vessels load cargo also are generally quoted at lower rates, because such voyages generally increase vessel utilization by reducing the unloaded portion (or ballast leg) that is included in the calculation of the return charter to a loading area.

Within the dry bulk shipping industry, the charter hire rate references most likely to be monitored are the freight rate indices issued by the Baltic Exchange. These references are based on actual charter hire rates under charters entered into by market participants as well as daily assessments provided to the Baltic Exchange by a panel of major shipbrokers. The Baltic Panamax Index is the index with the longest history. The Baltic Capesize Index and Baltic Handymax Index are of more recent origin.

The Baltic Dry Index, or BDI, a daily average of charter rates in 20 shipping routes measured on a time charter and voyage basis and covering Capesize, Panamax, Supramax, and Handysize dry bulk carriers declined from a high of 11,793 in May 2008 to a low of 663 in December 2008. In 2013, the BDI ranged from a low of 698 in January to a high of 2,337 in December. In 2014, the BDI ranged from a high of 2,113 in January to a low of 723 in July. In 2015, the BDI ranged from a high of 1,222 in August to a low of 471 in December. The BDI recorded a record low of 290 in February 2016.

Vessel Prices

As of the end of 2015, dry bulk vessel values decreased as compared to 2014. Consistent with these trends, the market value of our dry bulk carriers had also decreased. As charter rates and vessel values remain at low levels, there can be no assurance as to how long charter rates and vessel values will remain at their current levels or whether they will decrease or improve to any significant degree in the near future.

Competition

Our business fluctuates in line with the main patterns of trade of the major dry bulk cargoes and varies according to changes in the supply and demand for these items. We operate in markets that are highly competitive and based primarily on supply and demand. We compete for charters on the basis of price, vessel location, size, age and condition of the vessel, as well as on our reputation as an owner and operator. We compete with other owners of dry bulk carriers in the Panamax, Post-Panamax and smaller class sectors and with owners of Capesize and Newcastlemax dry bulk carriers. Ownership of dry bulk carriers is highly fragmented.

We believe that we possess a number of strengths that provide us with a competitive advantage in the dry bulk shipping industry:

- *We own a modern, high quality fleet of dry bulk carriers.* We believe that owning a modern, high quality fleet reduces operating costs, improves safety and provides us with a competitive advantage in securing favorable time charters. We maintain the quality of our vessels by carrying out regular inspections, both while in port and at sea, and adopting a comprehensive maintenance program for each vessel.
- *Our fleet includes twelve groups of sister ships including our vessels under construction.* We believe that maintaining a fleet that includes sister ships enhances the revenue generating potential of our fleet by providing us with operational and scheduling flexibility. The uniform nature of sister ships also improves our operating efficiency by allowing our fleet manager to apply the technical knowledge of one vessel to all vessels of the same series and creates economies of scale that enable us to realize cost savings when maintaining, supplying and crewing our vessels.
- *We have an experienced management team.* Our management team consists of experienced executives who have, on average, more than 30 years of operating experience in the shipping industry and has demonstrated ability in managing the commercial, technical and financial areas of our business. Our management team is led by Mr. Simeon Palios, a qualified naval architect and engineer who has more than 40 years of experience in the shipping industry.
- We benefit from the experience and reputation of Diana Shipping Services S.A. and the relationship with Wilhelmsen Ship Management through the Diana Wilhelmsen Management Limited joint venture.
- *We benefit from strong relationships with members of the shipping and financial industries.* We have developed strong relationships with major international charterers, shipbuilders and financial institutions that we believe are the result of the quality of our operations, the strength of our management team and our reputation for dependability.
- *We have a strong balance sheet and a relatively low level of indebtedness.* We believe that our strong balance sheet and relatively low level of indebtedness provide us with the flexibility to increase the amount of funds that we may draw under our loan facilities in connection with future acquisitions and enable us to use cash flow that would otherwise be dedicated to debt service for other purposes.

Permits and Authorizations

We are required by various governmental and quasi-governmental agencies to obtain certain permits, licenses and certificates with respect to our vessels. The kinds of permits, licenses and certificates required depend upon several factors, including the commodity transported, the waters in which the vessel operates the nationality of the vessel's crew and the age of a vessel. We have been able to obtain all permits, licenses and certificates currently required to permit our vessels to operate. Additional laws and regulations, environmental or otherwise, may be adopted which could limit our ability to do business or increase the cost of us doing business.

Disclosure Pursuant to Section 219 of the Iran Threat Reduction And Syrian Human Rights Act

Section 219 of the U.S. Iran Threat Reduction and Syria Human Rights Act of 2012, or the ITRA, added new Section 13(r) to the U.S. Securities Exchange Act of 1934, as amended, or the Exchange Act, requiring each SEC reporting issuer to disclose in its annual and, if applicable, quarterly reports whether it or any of its affiliates have knowingly engaged in certain activities, transactions or dealings relating to Iran or with the Government of Iran or certain designated natural persons or entities involved in terrorism or the proliferation of weapons of mass destruction during the period covered by the report.

Pursuant to Section 13(r) of the Exchange Act, we note that for the period covered by this annual report, the vessels *Amphitrite* and *Clio* made five port calls to Iran in 2015 for a combined length of 60 days. The vessel *Amphitrite* made calls to the port of Bandar Imam Khomeini on December 29, 2014 (discharging corn), April 29, 2015 (discharging soya beans), September 6, 2015 (discharging corn) and November 28, 2015 (discharging maize), and remained in the port of Bandar Imam Khomeini during 2015 for 50 days in the aggregate. The vessel *Clio* made a call to the port of Bandar Imam Khomeini on October 27, 2015, discharging corn, and remained in the port of Bandar Imam Khomeini for 10 days. During this time the *Amphitrite* was on time charter to Bunge S.A. at a gross rate of \$11,300 per day and the *Clio* was on time charter to Transgrain Shipping B.V at a gross rate of \$6,500 per day. Our aggregate gross revenue attributable to these 60 days of port calls was approximately \$3.2 million, less 5% commissions paid to third parties. As we do not attribute profits to specific voyages under a time charter, we have not attributed any profits to the voyages which included these port calls. Our charter party agreements for the *Amphitrite* and *Clio* restrict the charterers from calling in Iran in violation of U.S. sanctions, or carrying any cargo to Iran which is subject to U.S. sanctions. However, there can be no assurance that the *Amphitrite*, *Clio* or another of our vessels will not, from time to time in the future on charterer's instructions, perform voyages which would require disclosure pursuant to Exchange Act Section 13(r).

Environmental and Other Regulations

Government regulation significantly affects the ownership and operation of our vessels. We are subject to international conventions and treaties, national, state and local laws and regulations in force in the countries in which our vessels may operate or are registered relating to safety and health and environmental protection including the storage, handling, emission, transportation and discharge of hazardous and non-hazardous materials, and the remediation of contamination and liability for damage to natural resources. Compliance with such laws, regulations and other requirements entails significant expense, including vessel modifications and implementation of certain operating procedures.

A variety of government and private entities subject our vessels to both scheduled and unscheduled inspections. These entities include the local port authorities (such as the U.S. Coast Guard, harbor master or equivalent), classification societies; flag state administrations (countries of registry) and charterers, particularly terminal operators. Certain of these entities require us to obtain permits, licenses, certificates or approvals for the operation of our vessels. Failure to maintain necessary permits, licenses, certificates or approvals could require us to incur substantial costs or temporarily suspend the operation of one or more of our vessels.

We believe that the heightened level of environmental and quality concerns among insurance underwriters, regulators and charterers is leading to greater inspection and safety requirements on all vessels and may accelerate the scrapping of older vessels throughout the dry bulk shipping industry. Increasing environmental concerns have created a demand for vessels that conform to the stricter environmental standards. We are required to maintain operating standards for all of our vessels that emphasize operational safety, quality maintenance, continuous training of our officers and crews and compliance with United States and international regulations. We believe that the operation of our vessels is in substantial compliance with applicable environmental laws and regulations and that our vessels have all material permits, licenses, certificates or other approvals necessary for the conduct of our operations. However, because such laws and regulations are frequently changed and may impose increasingly strict requirements, we cannot predict the ultimate cost of complying with these requirements, or the impact of these requirements on the resale value or useful lives of our vessels. In addition, a future serious marine incident, such as the 2010 Deepwater Horizon oil spill, that results in significant oil pollution, release of hazardous substances, loss of life, or otherwise causes significant adverse environmental impact could result in additional legislation, regulation, or other requirements that could negatively affect our profitability.

The laws and regulations discussed below may not constitute a comprehensive list of all such laws and regulations that are applicable to the operation of our vessels.

International Maritime Organization

The IMO has adopted the International Convention for the Prevention of Pollution from Ships of 1973, as modified by the Protocol of 1978 relating thereto (collectively referred to as MARPOL 73/78 and herein as "MARPOL"). MARPOL entered into force on October 2, 1983. It has been adopted by over 150 nations, including many of the jurisdictions in which our vessels operate. MARPOL sets forth pollution-prevention requirements applicable to drybulk carriers, among other vessels, and is broken into six Annexes, each of which regulates a different source of pollution. Annex I relates to oil leakage or spilling; Annexes II and III relate to harmful substances carried, in bulk, in liquid or packaged form, respectively; Annexes IV and V relate to sewage and garbage management, respectively; and Annex VI, lastly, relates to air emissions. Annex VI, separately adopted by the IMO in September of 1997, related to air emissions, which entered into force on 19 May 2005.

In 2013, the MEPC adopted by resolution amendments to the MARPOL Annex I Conditional Assessment Scheme, or CAS. The amendments, which are expected to become effective on October 1, 2014, pertain to revising references to the inspections of bulk carriers and tankers after the 2011 ESP Code, which enhances the programs of inspections, becomes mandatory.

Air Emissions

In September of 1997, the IMO adopted Annex VI to MARPOL to address air pollution. Effective May 2005, Annex VI sets limits on nitrogen oxide emissions from ships whose diesel engines were constructed (or underwent major conversions) on or after January 1, 2000. It also prohibits "deliberate emissions" of "ozone depleting substances," defined to include certain halons and chlorofluorocarbons. "Deliberate emissions" are not limited to times when the ship is at sea; they can for example include discharges occurring in the course of the ship's repair and maintenance. Emissions of "volatile organic compounds" from the shipboard incineration (from incinerators installed after January 1, 2000) of certain substances (such as polychlorinated biphenyls (PCBs)) are also prohibited. Annex VI also includes a global cap on the sulfur content of fuel oil and allows for special areas to be established with more stringent controls on sulfur emissions, known as ECAs, (see below).

The IMO's Marine Environment Protection Committee, or MEPC, adopted amendments to Annex VI on October 10, 2008, which amendments were entered into force on July 1, 2010. The amended Annex VI seeks to further reduce air pollution by, among other things, implementing a progressive reduction of the amount of sulphur contained in any fuel oil used on board ships. As of January 1, 2012, the amended Annex VI required that fuel oil contain no more than 3.50% sulfur. By January 1, 2020, sulfur content must not exceed 0.50%, subject to a feasibility review to be completed no later than 2018.

Sulfur content standards are even stricter within certain "Emission Control Areas", or ECAs. As of July 1, 2010, ships operating within an ECA were not permitted to use fuel with sulfur content in excess of 1.0%, which has been further reduced to 0.10% on January 1, 2015. Amended Annex VI establishes procedures for designating new ECAs. Currently, the Baltic Sea, the North Sea and certain coastal areas of North America have been so designated. Furthermore as of January 1, 2014 the applicable areas of the United States Caribbean Sea adjacent to Puerto Rico and the U.S. Virgin Islands were designated ECAs. Ocean-going vessels in these areas will be subject to stringent emissions controls and may cause us to incur additional costs. If other ECAs are approved by the IMO or other new or more stringent requirements relating to emissions from marine diesel engines or port operations by vessels are adopted by the EPA or the states where we operate, compliance with these regulations could entail significant capital expenditures, operational changes, or otherwise increase the costs of our operations.

As of January 1, 2013, MARPOL made mandatory certain measures relating to energy efficiency for ships in part to address greenhouse gas emissions IMO's Marine Environment Protection Committee (MEPC) has given extensive consideration to control of GHG emissions from ships and finalized in July 2009 a package of specific technical and operational reduction measures. In March 2010 MEPC started the consideration of making the technical and operational measures mandatory for all ships irrespective of flag and ownership. This work was completed in July 2011 with the breakthrough adoption of technical measures for new ships and operational reduction measures for all ships, which are, consequently, the first ever mandatory global GHG reduction regime for an entire industry sector. The adopted measures add to MARPOL Annex VI a new Chapter 4 entitled "Regulations on energy efficiency for ships", making mandatory the Energy Efficiency Design Index (EEDI) for new ships and the Ship Energy Efficiency Plan (SEEMP) for all ships. The regulations apply to all ships over 400 gross tonnage and above and entered into force through the tacit acceptance procedure on 1 January 2013.

Amended Annex VI also establishes new tiers of stringent nitrogen oxide emissions standards for new marine engines, depending on their date of installation with a "Tier II" emission limit for engines installed on or after January 1, 2011; then with a more stringent "Tier III" emission limit for engines installed on or after January 1, 2016 operating in ECAs. Marine diesel engines installed on or after January 1, 1990 but prior to January 1, 2000 are required to comply with "Tier I" emission limits.

The U.S. Environmental Protection Agency promulgated equivalent (and in some senses stricter) emissions standards in late 2009.

Safety Management System Requirements

The IMO also adopted the International Convention for the Safety of Life at Sea, or the SOLAS Convention, and the International Convention on Load Lines, or the LL Convention, which impose a variety of standards that regulate the design and operational features of ships. The IMO periodically revises the SOLAS and LL Convention standards. May 2012 SOLAS Convention amendments entered into force as of January 1, 2014. The Convention on Limitation of Liability for Maritime Claims (LLMC) was recently amended and the amendments went into effect on June 8, 2015. The amendments alter the limits of liability for loss of life or personal injury claims and property claims against ship-owners.

The operation of our ships is also affected by the requirements set forth in Chapter IX of the SOLAS Convention, which sets forth the IMO's International Management Code for the Safe Operation of Ships and Pollution Prevention, or the ISM Code. The ISM Code requires ship owners and bareboat charterers to develop and maintain an extensive "Safety Management System" that includes the adoption of a safety and environmental protection policy setting forth instructions and procedures for safe operation and describing procedures for dealing with emergencies. The failure of a ship owner or bareboat charterer to comply with the ISM Code may subject such party to increased liability, may decrease available insurance coverage for the affected vessels and may result in a denial of access to, or detention in, certain ports.

The ISM Code requires that vessel operators obtain a safety management certificate, or SMC, for each vessel they operate. This certificate evidences compliance by a vessel's operators with the ISM Code requirements for a safety management system, or SMS. No vessel can obtain an SMC under the ISM Code unless its manager has been awarded a document of compliance, or DOC, issued in most instances by the vessel's flag state. Our appointed ship managers have obtained documents of compliance for their offices and safety management certificates for all of our vessels for which the certificates are required by the IMO. The document of compliance, or the DOC, and ship management certificate, or the SMC, are renewed as required.

International Labor Organization

The International Labour Organization (ILO) is a specialized agency of the UN with headquarters in Geneva, Switzerland. The ILO has adopted the Maritime Labor Convention 2006 (MLC 2006). A Maritime Labor Certificate and a Declaration of Maritime Labor Compliance will be required to ensure compliance with the MLC 2006 for all ships above 500 gross tons in international trade. The MLC 2006 entered into force on August 20, 2013. The MLC 2006 requires us to develop new procedures to ensure full compliance.

Pollution Control and Liability Requirements

The IMO has negotiated international conventions that impose liability for pollution in international waters and the territorial waters of the signatories to such conventions. IMO adopted the International Convention for the Control and Management of Ships' Ballast Water and Sediments, or the BWM Convention, in February 2004. The BWM Convention will not become effective until 12 months after it has been adopted by 30 states, the combined merchant fleets of which represent not less than 35% of the gross tonnage of the world's merchant shipping. To date, the BWM Convention has not yet been ratified but proposals regarding implementation have recently been submitted to the IMO. Many of the implementation dates originally written in the BWM Convention have already passed, so that once the BWM Convention enters into force, the period for installation of mandatory ballast water exchange requirements would be extremely short, with several thousand ships a year needing to install ballast water management systems (BWMS). For this reason, on December 4, 2013, the IMO Assembly passed a resolution revising the application dates of BWM Convention so that they are triggered by the entry into force date and not the adoption dates in the BWM Convention. This in effect makes all vessels constructed before the entry into force date 'existing' vessels, and allows for the installation of a BWMS on such vessels at the first renewal survey following entry into force of the Convention. Furthermore, in October 2014 the MEPC met and adopted additional resolutions concerning the BWM Convention's implementation. Once mid-ocean ballast exchange or ballast water treatment requirements become mandatory, the cost of compliance could increase for ocean carriers and the costs of ballast water treatments may be material. However, many countries already regulate the discharge of ballast water carried by vessels from country to country to prevent the introduction of invasive and harmful species via such discharges. The United States for example, requires vessels entering its waters from another country to conduct mid-ocean ballast exchange, or undertake some alternate measure, and to comply with certain reporting requirements. Although we do not believe that the costs of such compliance would be material, it is difficult to predict the overall impact of such a requirement on our operations.

The IMO adopted the International Convention on Civil Liability for Bunker Oil Pollution Damage, or the Bunker Convention, to impose strict liability on ship owners for pollution damage in jurisdictional waters of ratifying states caused by discharges of bunker fuel. The Bunker Convention requires registered owners of ships over 1,000 gross tons to maintain insurance for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime (but not exceeding the amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims of 1976, as amended). With respect to non-ratifying states, liability for spills or releases of oil carried as fuel in ship's bunkers typically is determined by the national or other domestic laws in the jurisdiction where the events or damages occur.

In March 2006, the IMO amended Annex I to MARPOL, including a new regulation relating to oil fuel tank protection, which became effective August 1, 2007. The new regulation applies to various ships delivered on or after August 1, 2010. It includes requirements for the protected location of the fuel tanks, performance standards for accidental oil fuel outflow, a tank capacity limit and certain other maintenance, inspection and engineering standards.

Noncompliance with the ISM Code or other IMO regulations may subject the ship owner or bareboat charterer to increased liability, lead to decreases in available insurance coverage for affected vessels or result in the denial of access to, or detention in, some ports.

The IMO continues to review and introduce new regulations. It is impossible to predict what additional regulations, if any, may be passed by the IMO and what effect, if any, such regulations might have on our operations.

The U.S. Oil Pollution Act of 1990 and Comprehensive Environmental Response, Compensation and Liability Act

OPA established an extensive regulatory and liability regime for the protection and cleanup of the environment from oil spills. OPA affects all "owners and operators" whose vessels trade with the United States, its territories and possessions or whose vessels operate in United States waters, which includes the United States' territorial sea and its 200 nautical mile exclusive economic zone around the United States. The United States has also enacted the Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA, which applies to the discharge of hazardous substances other than oil, whether on land or at sea. OPA and CERCLA both define "owner and operator" "in the case of a vessel, as any person owning, operating or chartering by demise, the vessel."

Under OPA, vessel owners and operators are "responsible parties" and are jointly, severally and strictly liable (unless the spill results solely from the act or omission of a third party, an act of God or an act of war) for all containment and clean-up costs and other damages arising from discharges or threatened discharges of oil from their vessels. OPA defines these other damages broadly to include:

- (i) injury to, destruction or loss of, or loss of use of, natural resources and related assessment costs;
- (ii) injury to, or economic losses resulting from, the destruction of real and personal property;
- (iii) net loss of taxes, royalties, rents, fees or net profit revenues resulting from injury, destruction or loss of real or personal property, or natural resources;
- (iv) loss of subsistence use of natural resources that are injured, destroyed or lost;
- (v) lost profits or impairment of earning capacity due to injury, destruction or loss of real or personal property or natural resources; and

(vi) net cost of increased or additional public services necessitated by removal activities following a discharge of oil, such as protection from fire, safety or health hazards, and loss of subsistence use of natural resources.

OPA contains statutory caps on liability and damages; such caps do not apply to direct cleanup costs. Effective December 21, 2015, the U.S. Coast Guard adjusted the limits of OPA liability for non-tank vessels (e.g. drybulk) to the greater of \$1,100 per gross ton or \$939,800 (subject to periodic adjustment for inflation). These limits of liability do not apply if an incident was proximately caused by the violation of an applicable U.S. federal safety, construction or operating regulation by a responsible party (or its agent, employee or a person acting pursuant to a contractual relationship), or a responsible party's gross negligence or willful misconduct. The limitation on liability similarly does not apply if the responsible party fails or refuses to (i) report the incident where the responsibility party knows or has reason to know of the incident; (ii) reasonably cooperate and assist as requested in connection with oil removal activities; or (iii) without sufficient cause, comply with an order issued under the Federal Water Pollution Act (Section 311 (c), (e)) or the Intervention on the High Seas Act.

CERCLA contains a similar liability regime whereby owners and operators of vessels are liable for cleanup, removal and remedial costs, as well as damage for injury to, or destruction or loss of, natural resources, including the reasonable costs associated with assessing same, and health assessments or health effects studies. There is no liability if the discharge of a hazardous substance results solely from the act or omission of a third party, an act of God or an act of war. Liability under CERCLA is limited to the greater of \$300 per gross ton or \$5.0 million for vessels carrying a hazardous substance as cargo and the greater of \$300 per gross ton or \$500,000 for any other vessel. These limits do not apply (rendering the responsible person liable for the total cost of response and damages) if the release or threat of release of a hazardous substance resulted from willful misconduct or negligence, or the primary cause of the release was a violation of applicable safety, construction or operating standards or regulations. The limitation on liability also does not apply if the responsible person fails or refused to provide all reasonable cooperation and assistance as requested in connection with response activities where the vessel is subject to OPA.

OPA and CERCLA each preserve the right to recover damages under existing law, including maritime tort law.

OPA and CERCLA both require owners and operators of vessels to establish and maintain with the U.S. Coast Guard evidence of financial responsibility sufficient to meet the maximum amount of liability to which the particular responsible person may be subject. Vessel owners and operators may satisfy their financial responsibility obligations by providing a proof of insurance, a surety bond, qualification as a self-insurer or a guarantee.

The 2010 *Deepwater Horizon* oil spill in the Gulf of Mexico may also result in additional regulatory initiatives or statutes, including the raising of liability caps under OPA. Compliance with any new requirements of OPA may substantially impact our cost of operations or require us to incur additional expenses to comply with any new regulatory initiatives or statutes. For example, on August 15, 2012, the U.S. Bureau of Safety and Environmental Enforcement, or BSEE, implemented a final drilling safety rule for offshore oil and gas operations that strengthens the requirements for safety equipment, well control systems, and blowout prevention practices. A new rule issued by the U.S. Bureau of Ocean Energy Management, or BOEM, that increased the limits of liability of damages for offshore facilities under OPA based on inflation took effect in January 2015. In April 2015, it was announced that new regulations are expected to be imposed in the United States regarding offshore oil and gas drilling. In December 2015, the BSEE announced a new pilot inspection program for offshore facilities. Compliance with any new requirements of OPA may substantially impact our cost of operations or require us to incur additional expenses to comply with any new regulatory initiatives or statutes. Additional legislation, regulations, or other requirements applicable to the operation of our vessels that may be implemented in the future could adversely affect our business.

We currently maintain pollution liability coverage insurance in the amount of \$1 billion per incident for each of our vessels. If the damages from a catastrophic spill were to exceed our insurance coverage it could have an adverse effect on our business and results of operation.

OPA specifically permits individual states to impose their own liability regimes with regard to oil pollution incidents occurring within their boundaries, provided they accept, at a minimum, the levels of liability established under OPA and some states have enacted legislation providing for unlimited liability for oil spills. In some cases, states which have enacted such legislation have not yet issued implementing regulations defining vessel owners' responsibilities under these laws.

Other Environmental Initiatives

The U.S. Clean Water Act, or CWA, prohibits the discharge of oil, hazardous substances and ballast water in U.S. navigable waters unless authorized by a duly-issued permit or exemption, and imposes strict liability in the form of penalties for any unauthorized discharges. The CWA also imposes substantial liability for the costs of removal, remediation and damages and complements the remedies available under OPA and CERCLA. Furthermore, many U.S. states that border a navigable waterway have enacted environmental pollution laws that impose strict liability on a person for removal costs and damages resulting from a discharge of oil or a release of a hazardous substance. These laws may be more stringent than U.S. federal law.

The EPA regulates the discharge of ballast and bilge water and other substances in U.S. waters under the CWA. EPA regulations require vessels 79 feet in length or longer (other than commercial fishing and recreational vessels) to comply with a Vessel General Permit, or VGP, authorizing ballast and bilge water discharges and other discharges incidental to the operation of vessels. The VGP imposes technology and water-quality based effluent limits for certain types of discharges and establishes specific inspection, monitoring, recordkeeping and reporting requirements to ensure the effluent limits are met. On March 28, 2013, the EPA re-issued the VGP for another five years; this VGP took effect of December 19, 2013. The new VGP focuses on authorizing discharges incidental to operations of commercial vessels. The VGP also contains numeric ballast water discharge limits for most vessels to reduce the risk of invasive species in US waters, more stringent requirements for exhaust gas scrubbers and the use of environmentally acceptable lubricants.

U.S. Coast Guard regulations adopted under the U.S. National Invasive Species Act, or NISA, also impose mandatory ballast water management practices for all vessels equipped with ballast water tanks entering or operating in U.S. waters. As of June 21, 2012, the U.S. Coast Guard implemented revised regulations on ballast water management by establishing standards on the allowable concentration of living organisms in ballast water discharged from ships in U.S. waters. The revised ballast water standards are consistent with those adopted by the IMO in 2004. Compliance with the EPA and the U.S. Coast Guard regulations could require the installation of certain engineering equipment and water treatment systems to treat ballast water before it is discharged or the implementation of other port facility disposal arrangements or procedures at potentially substantial cost, or may otherwise restrict our vessels from entering U.S. waters.

As of January 1, 2014, vessels are technically subject to the phasing-in of these standards. As a result, the USCG has provided waivers to vessels which cannot install the as-yet unapproved technology. The EPA, on the other hand, has taken a different approach to enforcing ballast discharge standards under the VGP. On December 27, 2013, the EPA issued an enforcement response policy in connection with the new VGP in which the EPA indicated that it would take into account the reasons why vessels do not have the requisite technology installed, but will not grant any waivers.

It should also be noted that in October 2015, the Second Circuit Court of Appeals issued a ruling that directed the EPA to redraft the sections of the 2013 VGP that address ballast water. However, the Second Circuit stated that 2013 VGP will remain in effect until the EPA issues a new VGP. It presently remains unclear how the ballast water requirements set forth by the EPA, the USCG, and IMO BWM Convention, some of which are in effect and some which are pending, will co-exist.

The USCG's revised ballast water standards are consistent with requirements under the BWM Convention. Compliance with the EPA and the USCG regulations could require the installation of equipment on our vessels to treat ballast water before it is discharged or the implementation of other port facility disposal arrangements or procedures at potentially substantial cost, or may otherwise restrict our vessels from entering U.S. waters. In addition, certain states have enacted more stringent discharge standards as conditions to their required certification of the VGP.

The U.S. Clean Air Act of 1970 (including its amendments of 1977 and 1990), or the CAA, requires the EPA to promulgate standards applicable to emissions of volatile organic compounds and other air contaminants. The CAA also requires states to draft State Implementation Plans, or SIPs, designed to attain national health-based air quality standards in each state. Although state-specific, SIPs may include regulations concerning emissions resulting from vessel loading and unloading operations by requiring the installation of vapor control equipment.

European Union Regulations

In October 2009, the European Union amended a directive to impose criminal sanctions for illicit ship-source discharges of polluting substances, including minor discharges, if committed with intent, recklessly or with serious negligence and the discharges individually or in the aggregate result in deterioration of the quality of water. Aiding and abetting the discharge of a polluting substance may also lead to criminal penalties. Member States were required to enact laws or regulations to comply with the directive by the end of 2010. Criminal liability for pollution may result in substantial penalties or fines and increased civil liability claims. The directive applies to all types of vessels, irrespective of their flag, but certain exceptions apply to warships or where human safety or that of the ship is in danger.

The European Union has adopted several regulations and directives requiring, among other things, more frequent inspections of high-risk ships, as determined by type, age, and flag as well as the number of times the ship has been detained. The European Union also adopted and then extended a ban on substandard ships and enacted a minimum ban period and a definitive ban for repeated offenses. The regulation also provided the European Union with greater authority and control over classification societies, by imposing more requirements on classification societies and providing for fines or penalty payments for organizations that failed to comply.

With effect from January 1, 2010, the Directive 2005/33/EC of the European Parliament and of the Council of July 6, 2005, amending Directive 1999/32/EC came into force. The objective of the directive is to reduce emission of sulfur dioxide and particulate matter caused by the combustion of certain petroleum derived fuels. The directive imposes limits on the sulfur content of such fuels as a condition of their use within a Member State territory. The maximum sulfur content for marine fuels used by inland waterway vessels and ships at berth in ports in EU countries after January 1, 2010, is 0.10% by mass. As of January 1, 2015, all vessels operating within ECAs worldwide must comply with 0.10% sulfur requirements. Effective July 1, 2010, the reduction of applicable sulfur content limits in the North Sea, the Baltic Sea and the English Channel Sulfur Emission Control Areas was 1%. On July 15, 2011, the European Commission also adopted a proposal for an amendment to Directive 1999/32/EC which would align requirements with those imposed by the revised MARPOL Annex VI which introduced stricter sulphur limits.

Greenhouse Gas Regulation

Currently, the emissions of greenhouse gases from international shipping are not subject to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, which entered into force in 2005 and pursuant to which adopting countries have been required to implement national programs to reduce greenhouse gas emissions. The 2015 United Nations Convention on Climate Change Conference in Paris did not result in an agreement that directly limited greenhouse gas emissions from ships.

As of January 1, 2013, all new ships must comply with two new sets of mandatory requirements, which were adopted by MEPC in July 2011, to address greenhouse gas emissions from ships. Currently operating ships will be required to develop SEEMPs, and minimum energy efficiency levels per capacity mile, outlined in the Energy Efficiency Design Index, will apply to new ships. The IMO is also planning to implement market-based mechanisms to reduce greenhouse gas emissions from ships at an upcoming MEPC session. The European Union has indicated that it intends to propose an expansion of the existing European Union emissions trading scheme to include emissions of greenhouse gases from marine vessels, and in January 2012 the European Commission launched a public consultation on possible measures to reduce greenhouse gas emissions from ships.

In April 2013, the European Parliament rejected proposed changes to the European Union Emissions Law regarding carbon trading. In June 2013 the European Commission developed a strategy to integrate maritime emissions into the overall European Union Strategy to reduced greenhouse gas emissions. In April 2015, a regulation was adopted requiring that large ships (over 5,000 gross tons) calling at European Union ports from January 2018 collect and publish data on carbon dioxide emissions and other information.

In December 2013 the European Union environmental ministers discussed draft rules to implement monitoring and reporting of carbon dioxide emissions from ships. In the United States, the EPA has issued a finding that greenhouse gases endanger the public health and safety and has adopted regulations to limit greenhouse gas emissions from certain mobile sources and large stationary sources. Although the mobile source emissions regulations do not apply to greenhouse gas emissions from vessels, such regulation of vessels is foreseeable, and the EPA has in recent years received petitions from the California Attorney General and various environmental groups seeking such regulation. Any passage of climate control legislation or other regulatory initiatives by the IMO, European Union, the U.S. or other countries where we operate, or any treaty adopted at the international level to succeed the Kyoto Protocol, that restrict emissions of greenhouse gases could require us to make significant financial expenditures, including capital expenditures to upgrade our vessels, which we cannot predict with certainty at this time.

Vessel Security Regulations

Since the terrorist attacks of September 11, 2001 in the United States, there have been a variety of initiatives intended to enhance vessel security such as the Maritime Transportation Security Act of 2002, or MTSA. To implement certain portions of the MTSA, in July 2003, the U.S. Coast Guard issued regulations requiring the implementation of certain security requirements aboard vessels operating in waters subject to the jurisdiction of the United States. The regulations also impose requirements on certain ports and facilities, some of which are regulated by the U.S. Environmental Protection Agency (EPA).

Similarly, in December 2002, amendments to the SOLAS Convention created a new chapter of the convention dealing specifically with maritime security. The new Chapter XI-2 became effective in July 2004 and imposes various detailed security obligations on vessels and port authorities, and mandates compliance with the International Ship and Port Facilities Security Code, or the ISPS Code. The ISPS Code is designed to enhance the security of ports and ships against terrorism. To trade internationally, a vessel must attain an International Ship Security Certificate, or ISSC, from a recognized security organization approved by the vessel's flag state. Among the various requirements are:

- on-board installation of automatic identification systems to provide a means for the automatic transmission of safety-related information from among similarly equipped ships and shore stations, including information on a ship's identity, position, course, speed and navigational status;

- on-board installation of ship security alert systems, which do not sound on the vessel but only alert the authorities on shore;
- the development of vessel security plans;
- ship identification number to be permanently marked on a vessel's hull;
- a continuous synopsis record kept onboard showing a vessel's history including the name of the ship, the state whose flag the ship is entitled to fly, the date on which the ship was registered with that state, the ship's identification number, the port at which the ship is registered and the name of the registered owner(s) and their registered address; and
- compliance with flag state security certification requirements.

Ships operating without a valid certificate may be detained at port until it obtains an ISSC, or it may be expelled from port, or refused entry at port.

The U.S. Coast Guard regulations, intended to be aligned with international maritime security standards, exempt non-U.S. vessels from MTSA vessel security measures, provided such vessels have on board a valid ISSC that attests to the vessel's compliance with the SOLAS Convention security requirements and the ISPS Code.

Inspection by Classification Societies

Every oceangoing vessel must be "classed" by a classification society. The classification society certifies that the vessel is "in class," signifying that the vessel has been built and maintained in accordance with the rules of the classification society and complies with applicable rules and regulations of the vessel's country of registry and the international conventions of which that country is a member. In addition, where surveys are required by international conventions and corresponding laws and ordinances of a flag state, the classification society will undertake them on application or by official order, acting on behalf of the authorities concerned.

The classification society also undertakes on request other surveys and checks that are required by regulations and requirements of the flag state. These surveys are subject to agreements made in each individual case and/or to the regulations of the country concerned.

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

- **Annual Surveys:** For seagoing ships, annual surveys are conducted for the hull and the machinery, including the electrical plant, and where applicable for special equipment classed, within three months before or after each anniversary date of the date of commencement of the class period indicated in the certificate.
- **Intermediate Surveys:** Extended annual surveys are referred to as intermediate surveys and typically are conducted two and one-half years after commissioning and each class renewal. Intermediate surveys are to be carried out at or between the occasion of the second or third annual survey.

Class Renewal Surveys: Class renewal surveys, also known as special surveys, are carried out for the ship's hull, machinery, including the electrical plant, and for any special equipment classed, at the intervals indicated by the character of classification for the hull. At the special survey, the vessel is thoroughly examined, including audio-gauging to determine the thickness of the steel structures. Should the thickness be found to be less than class requirements, the classification society would prescribe steel renewals. The classification society may grant a one-year grace period for completion of the special survey. Substantial amounts of money may have to be spent for steel renewals to pass a special survey if the vessel experiences excessive wear and tear. In lieu of the special survey every four or five years, depending on whether a grace period was granted, a shipowner has the option of arranging with the classification society for the vessel's hull or machinery to be on a continuous survey cycle, in which every part of the vessel would be surveyed within a five-year cycle. Upon a shipowner's request, the surveys required for class renewal may be split according to an agreed schedule to extend over the entire period of class. This process is referred to as continuous class renewal.

All areas subject to survey as defined by the classification society are required to be surveyed at least once per class period, unless shorter intervals between surveys are prescribed elsewhere. The period between two subsequent surveys of each area must not exceed five years.

Most vessels are also dry-docked for inspection of the underwater parts and for repairs related to inspections. If any defects are found, the classification surveyor will issue a recommendation which must be rectified by the ship owner within prescribed time limits.

All insurance underwriters make it a condition for insurance coverage that a vessel be certified as "in class" by a classification society which is a member of the International Association of Classification Societies, or IACS. All our vessels are certified as being "in class" either by Lloyd's Register of Shipping, American Bureau of Shipping, DNV-GL, or Bureau Veritas, or Class NK. All new and second hand vessels that we purchase must be certified prior to their delivery under our standard purchase contracts and memorandum of agreement. For the second hand vessels same is verified by a Class Maintenance Certificate issued within 72 hours prior to delivery, including full certification delivered at the time of closing. If the vessel is not certified on the date of closing, we have the option to cancel the agreement due to Seller's default and not take delivery of the vessel.

Risk of Loss and Liability Insurance

General

The operation of any dry bulk vessel includes risks such as mechanical failure, collision, property loss, cargo loss or damage, and business interruption due to political circumstances in foreign countries, hostilities and labor strikes. In addition, there is always an inherent possibility of marine disaster, including oil spills and other environmental mishaps, and the liabilities arising from owning and operating vessels in international trade. OPA, which imposes virtually unlimited liability upon owners, operators and demise charterers of vessels trading in the United States exclusive economic zone for certain oil pollution accidents in the United States, has made liability insurance more expensive for ship owners and operators trading in the United States market.

While we maintain hull and machinery insurance, war risks insurance, protection and indemnity cover and freight, demurrage and defense cover for our operating fleet in amounts that we believe to be prudent to cover normal risks in our operations, we may not be able to achieve or maintain this level of coverage throughout a vessel's useful life. Furthermore, while we believe that our present insurance coverage is adequate, not all risks can be insured, and there can be no guarantee that any specific claim will be paid, or that we will always be able to obtain adequate insurance coverage at reasonable rates.

Hull & Machinery and War Risks Insurance

We maintain marine hull and machinery and war risks insurance, which cover, among other marine risks, the risk of actual or constructive total loss, for all of our vessels. Our vessels are each covered up to at least fair market value with deductibles ranging to a maximum of \$100,000 per vessel per incident for Panamax, Kamsarmax and Post-Panamax vessels and \$150,000 per vessel per incident for Capesize and Newcastlemax vessels.

Protection and Indemnity Insurance

Protection and indemnity insurance is provided by mutual protection and indemnity associations, or P&I Associations, which insure our third party liabilities in connection with our shipping activities. This includes third-party liability and other related expenses resulting from the injury or death of crew, passengers and other third parties, the loss or damage to cargo, claims arising from collisions with other vessels, damage to other third-party property, pollution arising from oil or other substances and salvage, towing and other related costs, including wreck removal. Protection and indemnity insurance is a form of mutual indemnity insurance, extended by protection and indemnity mutual associations, or "clubs."

Our current protection and indemnity insurance coverage for pollution is \$1 billion per vessel per incident. The 13 P&I Associations that comprise the International Group insure approximately 90% of the world's commercial tonnage and have entered into a pooling agreement to reinsure each association's liabilities. As a member of a P&I Association, which is a member of the International Group, we are subject to calls payable to the associations based on the group's claim records as well as the claim records of all other members of the individual associations and members of the pool of P&I Associations comprising the International Group. Our vessels may be subject to supplemental calls which are based on estimates of premium income and anticipated and paid claims. Such estimates are adjusted each year by the Board of Directors of the P&I Association until the closing of the relevant policy year, which generally occurs within three years from the end of the policy year. Supplemental calls, if any, are expensed when they are announced and according to the period they relate to. We are not aware of any supplemental calls in respect of any policy year that have not been recorded in our consolidated financial statements.

C. Organizational structure

Diana Shipping Inc. is the sole owner of all of the issued and outstanding shares of the subsidiaries listed in Note 1 "Basis of Presentation and General Information" of our consolidated financial statements under Item 18 and in exhibit 8.1 to this annual report.

D. Property, plants and equipment

Since October 8, 2010, DSS owns the land and the building where we have our principal offices in Athens, Greece and in December 2014, DSS acquired a plot of land jointly with two other related entities from unrelated individuals. Other than this interest in real property, our only material properties are the vessels in our fleet.

Item 4A.

Unresolved Staff Comments

None.

Item 5.

Operating and Financial Review and Prospects

The following management's discussion and analysis should be read in conjunction with our historical consolidated financial statements and their notes included elsewhere in this annual report. This discussion contains forward-looking statements that reflect our current views with respect to future events and financial performance. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, such as those set forth in the section entitled "Risk Factors" and elsewhere in this annual report.

A. Operating results

We charter our vessels to customers primarily pursuant to short-term and long-term time charters. Currently, the majority of our vessels are employed on short-term time charters. Under our time charters, the charterer typically pays us a fixed daily charter hire rate and bears all voyage expenses, including the cost of bunkers (fuel oil) and port and canal charges. However, our voyage results may be affected by differences in bunker prices. We remain responsible for paying the chartered vessel's operating expenses, including the cost of crewing, insuring, repairing and maintaining the vessel, the costs of spares and consumable stores, tonnage taxes and other miscellaneous expenses, and we also pay commissions to one or more unaffiliated ship brokers and to in-house brokers associated with the charterer for the arrangement of the relevant charter.

Factors Affecting Our Results of Operations

We believe that the important measures for analyzing trends in our results of operations consist of the following:

- *Ownership days.* We define ownership days as the aggregate number of days in a period during which each vessel in our fleet has been owned by us. Ownership days are an indicator of the size of our fleet over a period and affect both the amount of revenues and the amount of expenses that we record during a period.
- *Available days.* We define available days as the number of our ownership days less the aggregate number of days that our vessels are off-hire due to scheduled repairs or repairs under guarantee, vessel upgrades or special surveys and the aggregate amount of time that we spend positioning our vessels for such events. The shipping industry uses available days to measure the number of days in a period during which vessels should be capable of generating revenues.
- *Operating days.* We define operating days as the number of our available days in a period less the aggregate number of days that our vessels are off-hire due to any reason, including unforeseen circumstances. The shipping industry uses operating days to measure the aggregate number of days in a period during which vessels actually generate revenues.
- *Fleet utilization.* We calculate fleet utilization by dividing the number of our operating days during a period by the number of our available days during the period. The shipping industry uses fleet utilization to measure a company's efficiency in finding suitable employment for its vessels and minimizing the amount of days that its vessels are off-hire for reasons other than scheduled repairs or repairs under guarantee, vessel upgrades, special surveys or vessel positioning for such events.
- *TCE rates.* We define Time Charter Equivalent, or TCE rates as our time charter revenues less voyage expenses during a period divided by the number of our available days during the period, which is consistent with industry standards. TCE rate is a non-GAAP measure and is a standard shipping industry performance measure used primarily to compare daily earnings generated by vessels on time charters with daily earnings generated by vessels on voyage charters, because charter hire rates for vessels on voyage charters are generally not expressed in per day amounts while charter hire rates for vessels on time charters generally are expressed in such amounts.

The following table reflects our ownership days, available days, operating days, fleet utilization and TCE rates for the periods indicated.

	Year Ended December 31,		
	2015	2014	2013
Ownership days	14,900	13,822	12,049
Available days	14,600	13,650	12,029
Operating days	14,492	13,564	11,944
Fleet utilization	99.3%	99.4%	99.3%
Time charter equivalent (TCE) rate (1)	\$ 9,739	\$ 12,081	\$ 12,959

(1) Please see Item 3.A for a reconciliation of TCE to GAAP measures.

Time Charter Revenues

Our revenues are driven primarily by the number of vessels in our fleet, the number of days during which our vessels operate and the amount of daily charter hire rates that our vessels earn under charters, which, in turn, are affected by a number of factors, including:

- the duration of our charters;
- our decisions relating to vessel acquisitions and disposals;
- the amount of time that we spend positioning our vessels;
- the amount of time that our vessels spend in drydock undergoing repairs;
- maintenance and upgrade work;
- the age, condition and specifications of our vessels;
- levels of supply and demand in the dry bulk shipping industry; and
- other factors affecting spot market charter rates for dry bulk carriers.

Vessels operating on time charters for a certain period of time provide more predictable cash flows over that period of time, but can yield lower profit margins than vessels operating in the spot charter market during periods characterized by favorable market conditions. Vessels operating in the spot charter market generate revenues that are less predictable but may enable their owners to capture increased profit margins during periods of improvements in charter rates although their owners would be exposed to the risk of declining charter rates, which may have a materially adverse impact on financial performance. As we employ vessels on period charters, future spot charter rates may be higher or lower than the rates at which we have employed our vessels on period charters. Our time charter agreements subject us to counterparty risk. In depressed market conditions, charterers may seek to renegotiate the terms of their existing charter parties or avoid their obligations under those contracts. Should a counterparty fail to honor their obligations under agreements with us, we could sustain significant losses which could have a material adverse effect on our business, financial condition, results of operations and cash flows. Since 2010, our revenues have decreased due to the decrease in the charter rates. In 2014, although charter rates continued to decline, revenue increased due to the enlargement of our fleet. For 2016, we expect our revenues to remain at current levels, or decrease due to further decreases in charter rates.

Voyage Expenses

We incur voyage expenses that mainly include commissions because all of our vessels are employed under time charters that require the charterer to bear voyage expenses such as bunkers (fuel oil), port and canal charges. Although the charterer bears the cost of bunkers, we also have bunker expenses or income deriving from the price differences of bunkers. When a vessel is delivered to a charterer, bunkers are purchased by the charterer and sold back to us on the redelivery of the vessel. Bunker expenses, or income, result when a vessel is redelivered by her charterer and delivered to the next charterer at different bunker prices, or quantities.

We currently pay commissions ranging from 4.75% to 6.00% of the total daily charter hire rate of each charter to unaffiliated ship brokers, in-house brokers associated with the charterers, depending on the number of brokers involved with arranging the charter and to DWM for certain vessels. In addition we pay to DSS a commission that is equal to 2% of the revenues of those vessels for which it provides technical and commercial management services and this commission is eliminated from our consolidated financial statements as an intercompany transaction. During 2010 and until January 18, 2011, Diana Containerships also paid our fleet manager a commission of 1%, which was eliminated from our consolidated financial statements as an intercompany transaction. After its partial spin-off in January 2011 and until March 1, 2013 when the management agreements between DSS and Diana Containerships were terminated, the 1% commission paid by Diana Containerships constituted revenue of DSS. For 2016, we expect our voyage expenses to decrease, in line with our expectation for our time charter revenues and also because we expect less bunker expenses due to vessels being redelivered at increased bunker prices.

Vessel Operating Expenses

Vessel operating expenses include crew wages and related costs, the cost of insurance, expenses relating to repairs and maintenance, the cost of spares and consumable stores, tonnage taxes, environmental plan costs and other operating expenses. Our vessel operating expenses, which generally represent fixed costs, have historically increased as a result of the enlargement of our fleet. Similarly, for 2016, we expect our operating expenses to increase as a result of the enlargement of our fleet. There may also be other factors beyond our control, some of which may affect the shipping industry in general, including, for instance, developments relating to market prices for insurance, crew wages and exchange rates that may cause these expenses to increase.

Vessel Depreciation

The cost of our vessels is depreciated on a straight-line basis over the estimated useful life of each vessel. Depreciation is based on the cost of the vessel less its estimated salvage value. We estimate the useful life of our dry bulk vessels to be 25 years from the date of initial delivery from the shipyard, which we believe is common in the dry bulk shipping industry. Furthermore, we estimate the salvage values of our vessels based on historical average prices of the cost of the light-weight ton of vessels being scrapped. The salvage value of all of our vessels is \$250 per lightweight ton. Our depreciation charges have increased in recent periods due to the enlargement of our fleet. For 2016, we expect depreciation expense to increase as a result of the enlargement of our fleet.

General and Administrative Expenses

We incur general and administrative expenses which include our onshore related expenses such as payroll expenses of employees, executive officers, directors and consultants, compensation cost of restricted stock awarded to senior management and non-executive directors, traveling, promotional and other expenses of the public company, such as legal and professional expenses and other general expenses. For 2016, we expect our general and administrative expenses to remain at current levels.

Interest and Finance Costs

We have historically incurred interest expense and financing costs in connection with vessel-specific debt and since May 2015 in connection with our Notes. Currently, our debt amounts to \$596.9 million, including our Notes issued in May 2015 at a fixed rate of 8.5%, and we expect to incur additional debt in 2016. We expect to manage any exposure in interest rates through our regular operating and financing activities and, when deemed appropriate, through the use of derivative financial instruments. For 2016, we expect interest and finance expenses to increase as a result of increased indebtedness and increased interest rates.

Lack of Historical Operating Data for Vessels before Their Acquisition

Although vessels are generally acquired free of charter, we have acquired (and may in the future acquire) some vessels with time charters. Where a vessel has been under a voyage charter, the vessel is usually delivered to the buyer free of charter. It is rare in the shipping industry for the last charterer of the vessel in the hands of the seller to continue as the first charterer of the vessel in the hands of the buyer. In most cases, when a vessel is under time charter and the buyer wishes to assume that charter, the vessel cannot be acquired without the charterer's consent and the buyer entering into a separate direct agreement (called a "novation agreement") with the charterer to assume the charter. The purchase of a vessel itself does not transfer the charter because it is a separate service agreement between the vessel owner and the charterer.

Where we identify any intangible assets or liabilities associated with the acquisition of a vessel, we record all identified assets or liabilities at fair value. Fair value is determined by reference to market data. We value any asset or liability arising from the market value of the time charters assumed when a vessel is acquired. The amount to be recorded as an asset or liability at the date of vessel delivery is based on the difference between the current fair market value of the charter and the net present value of future contractual cash flows. When the present value of the time charter assumed is greater than the current fair market value of such charter, the difference is recorded as prepaid charter revenue. When the opposite situation occurs, any difference, capped to the vessel's fair value on a charter-free basis, is recorded as deferred revenue. Such assets and liabilities, respectively, are amortized as a reduction of, or an increase in, revenue over the period of the time charter assumed.

When we purchase a vessel and assume or renegotiate a related time charter, among others, we must take the following steps before the vessel will be ready to commence operations:

- obtain the charterer's consent to us as the new owner;
- obtain the charterer's consent to a new technical manager;
- in some cases, obtain the charterer's consent to a new flag for the vessel;
- arrange for a new crew for the vessel, and where the vessel is on charter, in some cases, the crew must be approved by the charterer;
- replace all hired equipment on board, such as gas cylinders and communication equipment;
- negotiate and enter into new insurance contracts for the vessel through our own insurance brokers;
- register the vessel under a flag state and perform the related inspections in order to obtain new trading certificates from the flag state;

- implement a new planned maintenance program for the vessel; and
- ensure that the new technical manager obtains new certificates for compliance with the safety and vessel security regulations of the flag state.

When we charter a vessel pursuant to a long-term time charter agreement with varying rates, we recognize revenue on a straight line basis, equal to the average revenue during the term of the charter.

The following discussion is intended to help you understand how acquisitions of vessels affect our business and results of operations.

Our business is mainly comprised of the following elements:

- employment and operation of our vessels; and
- management of the financial, general and administrative elements involved in the conduct of our business and ownership of our vessels.

The employment and operation of our vessels mainly require the following components:

- vessel maintenance and repair;
- crew selection and training;
- vessel spares and stores supply;
- contingency response planning;
- onboard safety procedures auditing;
- accounting;
- vessel insurance arrangement;
- vessel chartering;
- vessel security training and security response plans (ISPS);
- obtaining of ISM certification and audit for each vessel within the six months of taking over a vessel;
- vessel hiring management;
- vessel surveying; and
- vessel performance monitoring.

The management of financial, general and administrative elements involved in the conduct of our business and ownership of our vessels mainly requires the following components:

- management of our financial resources, including banking relationships, i.e., administration of bank loans and bank accounts;
- management of our accounting system and records and financial reporting;
- administration of the legal and regulatory requirements affecting our business and assets; and
- management of the relationships with our service providers and customers.

The principal factors that affect our profitability, cash flows and shareholders' return on investment include:

- rates and periods of charter hire;
- levels of vessel operating expenses;
- depreciation expenses;
- financing costs; and
- fluctuations in foreign exchange rates.

Our Fleet – Illustrative Comparison of Possible Excess of Carrying Value Over Estimated Charter-Free Market Value of Certain Vessels

In "Critical Accounting Policies – Impairment of long-lived assets," we discuss our policy for impairing the carrying values of our vessels. Historically, the market values of vessels have experienced volatility, which from time to time may be substantial. As a result, the charter-free market value of certain of our vessels may have declined below those vessels' carrying value, even though we would not impair those vessels' carrying value under our accounting impairment policy.

Based on: (i) the carrying value of each of our vessels as of December 31, 2015 and 2014, consisting of the net book value of the vessels and the unamortized value of deferred dry-dock and special surveys cost and (ii) what we believe the charter-free market value of each of our vessels was as of December 31, 2015 and 2014, the aggregate carrying value of 42 and 27 of the vessels in our fleet as of December 31, 2015 and 2014, respectively, exceeded their aggregate charter-free market value by approximately \$762 million and \$504 million, respectively, as noted in the table below. This aggregate difference represents the approximate analysis of the amount by which we believe we would have to increase our loss or reduce our net income if we sold all of such vessels at December 31, 2015 and 2014, on a charter-free basis, on industry standard terms, in cash transactions, and to a willing buyer where we were not under any compulsion to sell, and where the buyer was not under any compulsion to buy. For purposes of this calculation, we have assumed that these 42 and 27 vessels would be sold at a price that reflects our estimate of their charter-free market values as of December 31, 2015 and 2014, respectively. As of December 31, 2015 and as of the date of this annual report, we were not and are not holding any of our vessels for sale.

Our estimates of charter-free market value assume that our vessels were all in good and seaworthy condition without need for repair and if inspected would be certified in class without notations of any kind. Our estimates are based on information available from various industry sources, including:

- reports by industry analysts and data providers that focus on our industry and related dynamics affecting vessel values;
- news and industry reports of similar vessel sales;
- news and industry reports of sales of vessels that are not similar to our vessels where we have made certain adjustments in an attempt to derive information that can be used as part of our estimates;
- approximate market values for our vessels or similar vessels that we have received from shipbrokers, whether solicited or unsolicited, or that shipbrokers have generally disseminated;
- offers that we may have received from potential purchasers of our vessels; and
- vessel sale prices and values of which we are aware through both formal and informal communications with shipowners, shipbrokers, industry analysts and various other shipping industry participants and observers.

As we obtain information from various industry and other sources, our estimates of charter-free market value are inherently uncertain. In addition, vessel values are highly volatile; as such, our estimates may not be indicative of the current or future charter-free market value of our vessels or prices that we could achieve if we were to sell them. We also refer you to the risk factors entitled "*The market values of our vessels have decreased, which could limit the amount of funds that we can borrow under our loan facilities*", "*A decrease in the market values of our vessels could cause us to breach covenants in our loan facilities and adversely affect our operating results*" and the discussion herein under the heading "Item 4.B. Business overview – Vessel Prices".

Vessel		Dwt	Year Built	Carrying Value (in millions of US dollars)	
				2014	2015
1	Alcmene	93,193	2010	34.5*	33.3*
2	Alcyon	75,247	2001	10.3	9.9*
3	Alik	180,235	2005	75.1*	70.3*
4	Amphitrite	98,697	2012	23.0	22.2*
5	Arethusa	73,593	2007	25.4*	24.5*
6	Artemis	76,942	2006	19.1*	18.4*
7	Atalandi	77,529	2014	30.6*	29.5*
8	Baltimore	177,243	2005	26.4	24.8*
9	Boston	177,828	2007	80.1*	76.0*
10	Calipso	73,691	2005	13.7	13.3*
11	Clio	73,691	2005	14.1	13.3*
12	Coronis	74,381	2006	27.9*	26.6*
13	Crystalia	77,525	2014	30.3*	29.1*
14	Danae	75,106	2001	12.0*	11.6*
15	Dione	75,172	2001	11.8*	11.0*
16	Erato	74,444	2004	25.4*	23.7*
17	G. P. Zafirakis	179,492	2014	57.6*	55.5*
18	Houston	177,729	2009	51.3*	48.8*
19	Leto	81,297	2010	28.6*	27.5*
20	Los Angeles	206,104	2012	53.7*	51.6*

21	Maia	82,193	2009	19.3	18.4*
22	Medusa	82,194	2010		17.7*
23	Melia	76,225	2005	18.1*	17.3*
24	Melite	76,436	2004	26.8*	25.4*
25	Myrsini	82,117	2010	21.8	21.1*
26	Myrto	82,131	2013	24.9	23.9*
27	Naias	73,546	2006	27.0*	25.6*
28	New Orleans	180,960	2015		43.1*
29	New York	177,773	2010	52.3*	49.8*
30	Nirefs	75,311	2001	10.3	9.9*
31	Norfolk	164,218	2002	89.9*	83.1*
32	Oceanis	75,211	2001	10.5	9.9*
33	Philadelphia	206,040	2012	54.5*	52.4*
34	Polymnia	98,704	2012	22.9	22.1*
35	Protefs	73,630	2004	13.8*	12.9*
36	P. S. Palios	179,134	2013	50.1*	48.2*
37	Salt Lake City	171,810	2005	115.6*	109.1*
38	Santa Barbara	179,426	2015		48.5*
39	Seattle	179,362	2011		29.0
40	Semirio	174,261	2007	69.8*	66.2*
41	Sideris GS	174,186	2006	63.0*	59.6*
42	Thetis	73,583	2004	25.1*	23.5*
43	Triton	75,336	2001	10.5	10.1*
Total		5,012,926		1,377.1	1,447.7

*Indicates dry bulk vessels for which we believe, as of December 31, 2015 and 2014, the charter-free market value was lower than the vessel's carrying value. We believe that the aggregate carrying value of these vessels exceeded their aggregate charter-free market value by approximately \$762 million and \$504 million, respectively.

Critical Accounting Policies

The discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with U.S. GAAP. The preparation of those financial statements requires us to make estimates and judgments that affect the reported amounts of assets and liabilities, revenues and expenses and related disclosure of contingent assets and liabilities at the date of our financial statements. Actual results may differ from these estimates under different assumptions and conditions.

Critical accounting policies are those that reflect significant judgments of uncertainties and potentially result in materially different results under different assumptions and conditions. We have described below what we believe are our most critical accounting policies, because they generally involve a comparatively higher degree of judgment in their application. For a description of all our significant accounting policies, see Note 2 to our consolidated financial statements included in this annual report.

Accounts Receivable, Trade

Accounts receivable, trade, at each balance sheet date, include receivables from charterers for hire, ballast bonus billings, if any, hold cleanings and extra voyage insurance, net of a provision for doubtful accounts. At each balance sheet date, all potentially uncollectible accounts are assessed individually for purposes of determining the appropriate provision for doubtful accounts.

Accounting for Revenues and Expenses

Revenues are generated from time charter agreements and are usually paid 15 days in advance. Time charter agreements with the same charterer are accounted for as separate agreements according to the terms and conditions of each agreement. Time charter revenues are recorded over the term of the charter as service is provided when they become fixed and determinable. Revenues from time charter agreements providing for varying annual rates over their term are accounted for on a straight line basis. Income representing ballast bonus payments and compensation paid by the charterer due to earlier than agreed redelivery of the vessel to the owner are recognized in the period earned. Deferred revenue includes cash received prior to the balance sheet date for which all criteria for recognition as revenue have not been met. Deferred revenue may also include deferred revenue resulting from charter agreements providing for varying annual rates, which are accounted for on a straight line basis, or the unamortized balance of the liability associated with the acquisition of second-hand vessels with time charters attached which were acquired at values below fair market value at the date the acquisition agreement is consummated.

Voyage expenses, primarily consisting of commissions, are deferred over the related voyage charter period to the extent revenue has been deferred since commissions are due as the Company's revenues are earned. All vessel operating expenses are expensed as incurred.

Prepaid Charter Revenue

The Company records identified assets associated with the acquisition of a vessel at fair value, determined by reference to market data. The Company values any asset arising from the market value of the time charters assumed when a vessel is acquired. The amount to be recorded as an asset at the date of vessel delivery is based on the difference between the current fair market value of the charter and the net present value of future contractual cash flows. When the present value of the contractual cash flows of the time charter assumed is greater than its current fair value, the difference, capped to the vessel's fair value on a charter-free basis, is recorded as prepaid charter revenue. When the opposite situation occurs, any difference, capped to the vessel's fair value on a charter-free basis, is recorded as deferred revenue. Such assets and liabilities, respectively, are amortized as a reduction of, or an increase in, revenue over the period of the time charter assumed. We test such assets for recoverability whenever events or changes in circumstances indicate that their carrying amount may not be recoverable.

Vessel Depreciation

We record the value of our vessels at their cost less accumulated depreciation. We depreciate our dry bulk vessels on a straight-line basis over their estimated useful lives, estimated to be 25 years from the date of initial delivery from the shipyard which we believe is common in the dry bulk shipping industry. Second hand vessels are depreciated from the date of their acquisition through their remaining estimated useful life. Depreciation is based on cost less the estimated salvage value. Each vessel's salvage value is equal to the product of its lightweight tonnage and estimated scrap rate. Furthermore, we estimate the salvage values of our vessels based on historical average prices, which we believe is common in the dry bulk shipping industry. In 2013, we identified that the estimated scrap rate used for the determination of annual depreciation was not in line with the current average historical rate and as such, the estimated scrap rate was revised from \$150 per lightweight ton to \$250 per lightweight ton. A decrease in the useful life of a vessel or in its salvage value would have the effect of increasing the annual depreciation charge. When regulations place limitations on the ability of a vessel to trade on a worldwide basis, the vessel's useful life is adjusted at the date such regulations are adopted.

Deferred Drydock Cost

Our vessels are required to be drydocked approximately every 30 to 36 months for major repairs and maintenance that cannot be performed while the vessels are operating. We defer the costs associated with drydockings as they occur and amortize these costs on a straight-line basis over the period through the date the next dry-docking is scheduled to become due. Unamortized drydocking costs of vessels that are sold are written off and included in the calculation of the resulting gain or loss in the year of the vessel's sale. Costs deferred as part of the drydocking include actual costs incurred at the yard and parts used in the drydocking.

Equity method investments

Investments in common stock in entities over which the Company exercises significant influence, but does not exercise control are accounted for by the equity method of accounting. Under this method, we record such an investment at cost and adjust the carrying amount for our share of the earnings or losses of the entity subsequent to the date of investment and report the recognized earnings or losses in income. Dividends received reduce the carrying amount of the investment. When our share of losses in an entity accounted for by the equity method equals or exceeds our interest in the entity, we do not recognize further losses, unless we have made advances, incurred obligations and made payments on behalf of the entity. Equity method investments are evaluated to determine if a loss in value that is other than temporary should be recognized. Evidence of a loss in value might include absence of an ability to recover the carrying amount of the investment, inability of the investee to sustain an earnings capacity that would justify the carrying amount of the investment, or other investors ceasing to provide support or reduce their financial commitment to the investee. As of December 31, 2015 the fair value of our investment in Diana Containerships, based on the quoted price of Diana Containerships' share of common stock (NASDAQ: DCIX) of \$0.80, was \$15.4 million. We assessed that the decline in the fair value of our investment in Diana Containerships did not constitute other than temporary impairment. In our assessment, we considered the financial position of Diana Containerships, the expected growth of the world seaborne containership demand and trade over the period of the next three years based on the public reports of international organizations and independent brokers, the current order book and deployment relevant to the size of containerships owned by Diana Containerships and the efforts of Diana Containerships management to modernize its fleet throughout the containerships cycle. As of December 31, 2015 and the date of this report, we have the intent and ability to retain our investment in Diana Containerships for a period of time sufficient to allow for the anticipated recovery of its market value, as discussed above.

Impairment of Long-lived Assets

Long-lived assets (vessels, land, and building) held and used by an entity are reviewed for impairment whenever events or changes in circumstances (such as market conditions, obsolesce or damage to the asset, potential sales and other business plans) indicate that the carrying amount of the assets may not be recoverable or that their useful lives require modification. When the estimate of undiscounted projected net operating cash flows, excluding interest charges, expected to be generated by the use of the asset over its remaining useful life and its eventual disposition is less than its carrying amount, we should evaluate the asset for an impairment loss. Measurement of the impairment loss is based on the fair value of the asset. We determine the fair value of our assets based on management estimates and assumptions and by making use of available market data and taking into consideration third party valuations.

With respect to the vessels, the current conditions in the dry bulk market with decreased charter rates and decreased vessel market values are conditions that the Company considers indicators of a potential impairment. We determine undiscounted projected net operating cash flows for each vessel and compare it to the vessel's carrying value. The projected net operating cash flows are determined by considering the historical and estimated vessels' performance and utilization, assuming (i) future revenues calculated for the fixed days, using the fixed charter rate of each vessel from existing time charters and for the unfixed days, the most recent 10 year average historical 1 year time charter rates available for each type of vessel over the remaining estimated life of each vessel, net of brokerage commissions; (ii) expected outflows for scheduled vessels' maintenance; (iii) vessel operating expenses increasing annually by an annual inflation rate of 3%; (iv) effective fleet utilization of 98% taking into account the period each vessel is expected to remain off hire for scheduled maintenance (dry docking and special surveys) and 1% off hire days (other than for dry docking and special surveys) each year. Historical ten-year blended average one-year time charter rates used in our impairment test exercise are in line with our overall chartering strategy, especially in periods/years of depressed charter rates; they reflect the full operating history of vessels of the same type and particulars with our operating fleet (Panamax/Post-Panamax/Kamsarmax and Capesize/Newcastlemax vessels) and they cover at least a full business cycle. The average annual inflation rate applied on vessels' maintenance and operating costs approximates current projections for global inflation rate for the remaining useful life of our vessels. Effective fleet utilization assumed is in line with the Company's historical performance and our expectations for future fleet utilization under our current fleet deployment strategy.

A comparison of the average estimated daily time charter equivalent rate used in our impairment analysis with the average "break even rate" for each major class of vessels is presented below:

	Average estimated daily time charter equivalent rate used	Average break even rate
Panamax/Kamsarmax/Post-Panamax	\$22,681	\$11,571
Capesize/Newcastlemax	\$40,815	\$18,073

Our impairment test exercise is sensitive to variances in the time charter rates and fleet effective utilization. Our current analysis, which also involved a sensitivity analysis by assigning possible alternative values to these two significant inputs, indicated a reduction of approximately 29% in the time charter rates or 24% of off hire days (other than for dry docking and special surveys) to result to an impairment of individual long lived assets. However, there can be no assurance as to how long charter rates and vessel values will remain at their currently low levels or whether they will improve by any significant degree. Charter rates may remain at depressed levels for some time which could adversely affect our revenue and profitability, and future assessments of vessel impairment.

For the purpose of presenting our investors with additional information to determine how the Company's future results of operations may be impacted in the event that daily time charter rates do not improve from their current levels in future periods, we set forth below an analysis that shows the 1-year, 3-year and 5-year average blended rates and the effect of the use of each of these rates would have on the Company's impairment analysis.

	1-year (period)	Impairment charge (in USD million)	3-year (period)	Impairment charge (in USD million)	5-year (period)	Impairment charge (in USD million)
Panamax/Kamsarmax/Post-Panamax	\$7,492	234	\$9,873	234	\$10,798	218
Capesize/Newcastlemax	\$10,049	527	\$15,862	482	\$15,642	482

Results of Operations

Year ended December 31, 2015 compared to the year ended December 31, 2014

Time Charter Revenues. Time charter revenues decreased by \$17.9 million, or 10%, to \$157.7 million in 2015, compared to \$175.6 million in 2014. The decrease was due to decreased time charter rates which resulted in a 19% decrease of our average charter rates from \$12,081 in 2014 to \$9,739 in 2015 and was also due to increased drydock days during the year for which our vessels did not earn revenue as they were not available for charter. This decrease was partly offset by increased revenues due to an 8% increase of our ownership days resulting from the delivery of the *Crystalia*, in February 2014; the *Atalandi*, in May 2014; the *G. P. Zafirakis* in August 2014; the *Santa Barbara* in January 2015; the *Medusa* in June 2015; and the *New Orleans* and the *Seattle* in November 2015. In 2015 we had total operating days of 14,492 and fleet utilization of 99.3%, compared to 13,564 total operating days and a fleet utilization of 99.4% in 2014.

Voyage Expenses. Voyage expenses increased by \$4.8 million, or 45%, to \$15.5 million in 2015 compared to \$10.7 million in 2014. This increase in voyage expenses is primarily attributable to the increase in loss from bunkers which amounted to \$7.5 million in 2015, compared to a loss of \$2.0 million in 2014. This was the result of the different prices of the bunkers purchased at redelivery and sold to the new charterers for those vessels that entered into new charters during the year. This increase was partly offset by decreased commissions due to the decrease in revenues.

Vessel Operating Expenses. Vessel operating expenses increased by \$1.4 million, or 2%, to \$88.3 million in 2015 compared to \$86.9 million in 2014. The increase in operating expenses is primarily attributable to the 8% increase in ownership days resulting from the delivery of the new vessels to our fleet in 2015. The increase was also due to increased repairs and maintenance, other operating expenses and environmental expenses and was partly offset by decreases in crew costs, insurances, stores and spares and taxes. Daily operating expenses were \$5,924 in 2015 compared to \$6,289 in 2014, representing a 6% decrease.

Depreciation and Amortization of Deferred Charges. Depreciation and amortization of deferred charges increased by \$5.8 million, or 8%, to \$76.3 million in 2015, compared to \$70.5 million 2014. This increase was due to the enlargement of our fleet. Additionally, the increase in depreciation and amortization was due to increased amortization of deferred drydocking costs, mainly due to additional vessels which went under drydock surveys compared to 2014.

General and Administrative Expenses. General and Administrative Expenses decreased by \$0.9 million, or 3%, to \$25.3 million in 2015 compared to \$26.2 million in 2014. The decrease is mainly attributable to decreased salaries and the exchange rate between the U.S. dollar and the Euro and was partly offset by increased board of directors fees, legal and other professional fees.

Management fees to related party. Management fees to a related party amounted to \$0.4 million and represent management fees paid to DWM for the technical management of six vessels of our fleet gradually transferred to DWM from DSS during the year.

Interest and Finance Costs. Interest and finance costs increased by \$7.2 million, or 86%, to \$15.6 million in 2015 compared to \$8.4 million in 2014. The increase is primarily attributable to higher average interest rates, especially after the issuance of our Notes in May 2015 at a fixed rate of 8.5% and on increased average long term debt outstanding during 2015 compared to 2014. Interest expense in 2015 amounted to \$13.9 million compared to \$7.8 million 2014.

Interest and Other Income. Interest and other income decreased by \$0.4 million, or 11%, to \$3.2 million in 2015 compared to \$3.6 million in 2014. The decrease is attributable to decreased interest income which derived from our loan agreement with Diana Containerships, dated May 20, 2013 and as amended on September 9, 2015, as since September 9, 2015, the outstanding balance of the loan is being reduced by an amount of \$5.0 million per annum, the margin was reduced to 3% from 5% and the accrued, up to the date of the amendment, back end fee was paid in full and seized from being accrued.

Income / (loss) from Equity Method Investments. Loss from our investment in Diana Containerships amounted to \$5.0 million in 2015 and was due to loss incurred by Diana Containerships and our dilution from the decrease in our share ownership from 26.34% as at December 31, 2014 to 26.08% as at December 31, 2015. This compared to a gain of \$12.7 million in 2014. Additionally, loss from equity method investments included \$0.2 million loss from DWM, our 50% owned joint venture established in 2015 that as of December 31, 2015 provided management services to six vessels of our fleet.

Year ended December 31, 2014 compared to the year ended December 31, 2013

Time Charter Revenues. Time charter revenues increased by \$11.6 million, or 7%, to \$175.6 million in 2014, compared to \$164.0 million in 2013. The increase was due to a 15% increase of our ownership days resulting from the delivery of the *Myrto*, at the end of January 2013; the *Maia*, in February 2013; the *Baltimore*, in June 2013; the *Artemis*, in August 2013; the *Myrsini*, in October 2013; the *P. S. Palios*, in December 2013, the *Crystalia*, in February 2014; the *Atalandi*, in May 2014 and the *G. P. Zafirakis* in August 2014. In 2014 we had total operating days of 13,564 and fleet utilization of 99.4%, compared to 11,944 total operating days and a fleet utilization of 99.3% in 2013. The increase was partly off-set by decreased revenues due to increased drydock days during the year for which our vessels did not earn revenue as they were not available for charter and by decreased time charter rates which resulted to a 7% decrease of our average charter rates from \$12,959 in 2013 to \$12,081 in 2014.

Voyage Expenses. Voyage expenses increased by \$2.6 million, or 32%, to \$10.7 million in 2014 compared to \$8.1 million in 2013. This increase in voyage expenses is primarily attributable to the increase in commissions paid to unaffiliated ship brokers and in-house ship brokers associated with charterers. As commissions are a percentage of time charter revenues, they follow the same trend with time charter revenues. Also, voyage expenses increased due to a loss from bunkers which amounted to \$2.0 million in 2014, compared to a gain of \$0.1 million in 2013, which was the result of the different bunker prices at redelivery of our vessels that entered into new charters during the year.

Vessel Operating Expenses. Vessel operating expenses increased by \$9.7 million, or 13%, to \$86.9 million in 2014 compared to \$77.2 million in 2013. The increase in operating expenses is primarily attributable to the 15% increase in ownership days resulting from the delivery of the new vessels to our fleet in 2014. The increase was also due to increased repairs and maintenance, taxes and environmental expenses and was partly offset by decreases in crew costs, insurances and other operating expenses. Daily operating expenses were \$6,289 in 2014 compared to \$6,408 in 2013, representing a 2% decrease.

Depreciation and Amortization of Deferred Charges. Depreciation and amortization of deferred charges increased by \$5.8 million, or 9%, to \$70.5 million in 2014, compared to \$64.7 million 2013. This increase was due to the enlargement of our fleet. Additionally, the increase in depreciation and amortization was partly offset by decreased amortization of deferred drydocking costs, mainly due to the termination of the amortization period for several vessels during 2013 that did not exist in 2014.

General and Administrative Expenses. General and Administrative Expenses increased by \$2.5 million, or 11%, to \$26.2 million in 2014 compared to \$23.7 million in 2013. The increase is mainly attributable to increased salaries due to the increase of office personnel.

Interest and Finance Costs. Interest and finance costs increased by \$0.3 million, or 4%, to \$8.4 million in 2014 compared to \$8.1 million in 2013. The increase is primarily attributable to higher average interest rates on increased average long term debt outstanding during 2014 compared to 2013. Interest expense in 2014 amounted to \$7.8 million compared to \$7.6 million in 2013.

Interest and Other Income. Interest and other income increased by \$1.8 million, or 100%, to \$3.6 million in 2014 compared to \$1.8 million in 2013. The increase is attributable to interest income and fees of \$3.2 million in 2014 compared to \$1.2 million in 2013, which derived from our loan agreement with Diana Containerships, dated May 20, 2013, pursuant to which \$50.0 million was drawn by Diana Containerships on August 20, 2013. This increase was partly offset by decreased interest income on our cash at banks during 2014 mainly due to decreased levels of cash compared to last year.

Income / (loss) from Derivative Instruments. Income from derivative instruments was \$0.1 million in 2014 compared to a loss of \$0.1 million in 2013. The change was due to the decrease of realized loss in 2014 amounting to \$0.3 million compared to \$0.7 million in 2013 due to its maturity in May 2014. The unrealized gain was \$0.4 million in 2014 compared to \$0.6 million in 2013.

Income / (loss) from Investment in Diana Containerships Inc. Income from our investment in Diana Containerships Inc. amounted to \$12.7 million in 2014 and was mainly due to the increase of our share ownership in Diana Containerships from 9.51% as at December 31, 2013 to 26.34% as at December 31, 2014, following our participation in a private offering in which we acquired additional shares for \$40.0 million. This compared to a loss of \$6.1 million in 2013, mainly due to impairment charges recorded by Diana Containerships during the previous year.

Inflation

Inflation does not have a material effect on our expenses given current economic conditions. In the event that significant global inflationary pressures appear, these pressures would increase our operating, voyage, administrative and financing costs.

B. Liquidity and Capital Resources

We have historically financed our capital requirements with cash flow from operations, equity contributions from shareholders, long-term bank debt and since May 2015 with our Notes. Our main uses of funds have been capital expenditures for the acquisition and construction of new vessels, expenditures incurred in connection with ensuring that our vessels comply with international and regulatory standards and repayments of bank loans. We will require capital to fund ongoing operations, the construction and acquisition of our new vessels, debt service and the payment of our preferred dividends. As at December 31, 2015 and 2014, working capital, which is current assets minus current liabilities, including the current portion of long-term debt, amounted to \$156.1 million and \$140.1 million, respectively.

We expect to fund the operations of our fleet, our working capital requirements, our payment of preferred dividends, the cost of vessels under construction and the vessels we have agreed to acquire with internally generated cash flow and with additional debt or equity.

Cash Flow

Cash and cash equivalents were \$193.2 million as at December 31, 2015 compared to \$218.9 million as at December 31, 2014. We consider highly liquid investments such as time deposits and certificates of deposit with an original maturity of three months or less to be cash equivalents. Cash and cash equivalents are primarily held in U.S. dollars. Cash and cash equivalents may also include compensating cash balances kept against the Company's loan facilities that are not deemed to be sufficiently material to require segregation on the balance sheet. As at December 31, 2015 and 2014, cash and cash equivalents also include \$21.5 million and \$19.5 million, respectively, of such compensating cash balances not deemed to be sufficiently material to require segregation on the balance sheet.

Net Cash Provided By Operating Activities

Net cash provided by operating activities decreased by \$21.0 million, or 47%, to \$23.9 million in 2015 compared to \$44.9 million in 2014. The decrease was primarily attributable to the decrease in charter rates during the year, the increase in drydock and off-hire days during which our vessels could not earn revenue and the increase in expenses due to the enlargement of the fleet.

Net cash provided by operating activities decreased by \$22.5 million, or 33%, to \$44.9 million in 2014 compared to \$67.4 million in 2013. The decrease was primarily attributable to the decrease in charter rates during the year, the increase in drydock days during which our vessels could not earn revenue and the increase in expenses due to the enlargement of our fleet.

Net Cash Used In Investing Activities

Net cash used in investing activities was \$155.6 million for 2015, which consists of \$155.3 million paid for predelivery installments for our three vessels under construction, the balance price for the acquisition of the *Santa Barbara*, delivered in January 2015 and the acquisition of three vessels during the year; \$0.2 million of dividends received from Diana Containerships during the year; a \$0.3 million investment in DWM; and \$0.2 million relating to the acquisition of property and equipment.

Net cash used in investing activities was \$152.5 million for 2014, which consists of \$111.7 million paid for predelivery installments for our three vessels under construction and the *Crystalia* and *Atalandi*, which were delivered in 2014, the acquisition of the *G. P. Zafirakis* during the year, and the advance for the acquisition of the *Santa Barbara*, delivered in January 2015; \$40.0 million for the acquisition of additional interest in Diana Containerships in a private offering; \$0.8 million of dividends received from Diana Containerships during the year; and \$1.6 million relating to the acquisition of property and equipment.

Net cash used in investing activities was \$245.2 million for 2013, which consists of \$198.6 million paid for predelivery installments for four vessels under construction, the acquisition of five vessels during the year, and the delivery installment for the acquisition of the *Myrto*, delivered in January 2013; \$50.0 million paid to Diana Containerships, pursuant to the respective loan agreement; \$4.0 million of dividends received from Diana Containerships during the year; and \$0.6 million relating to building improvements and purchases of furniture and equipment.

Net Cash Used In / Provided By Financing Activities

Net cash provided by financing activities was \$106.0 million for 2015, which consists of \$441.2 million of proceeds drawn under new loan facilities and our Notes; \$321.2 million of indebtedness that we repaid; and \$5.5 million of financing costs we paid relating to our new loan agreements and our Notes; \$5.8 million of dividends paid on our Series B Preferred Shares; and \$2.7 million of payments to repurchase common stock.

Net cash provided by financing activities was \$85.9 million for 2014, which consists of \$101.5 million of proceeds drawn under new loan facilities; \$48.6 million of indebtedness that we repaid; and \$0.5 million of financing costs we paid relating to our new loan agreements; \$62.7 million of proceeds from issuance of preferred stock, net of expenses; \$3.9 million of dividends paid on our Series B Preferred Shares; and \$25.3 million of payments to repurchase common stock.

Net cash used in financing activities was \$28.2 million for 2013, which consists of \$18.0 million of proceeds drawn under our loan facility with Deutsche Bank AG for the vessels *Maia* and *Myrto*; \$45.8 million of indebtedness that we repaid; and \$0.5 million of financing costs we paid relating to our new loan agreements.

Loan Facilities and Senior Unsecured Notes

As at December 31, 2015, we had \$605.9 million of long term debt outstanding under our facilities and Notes, which as of the date of this annual report decreased to \$596.9 million, and consists of the agreements described below.

Revolving credit facility

In February 2005, we entered into a \$230.0 million secured revolving credit facility with the Royal Bank of Scotland, which was amended on May 24, 2006, to increase the facility amount to \$300.0 million. The \$300.0 million revolving credit facility was available in full until May 24, 2012. Since that date the available amount was reduced in semi-annual amounts of \$15.0 million with a final reduction of \$165.0 million together with the last semi-annual reduction on May 24, 2016. The credit facility bore interest ranging from 0.75% to 0.85% per annum over LIBOR. On July 24, 2015, the outstanding balance of the revolving credit facility amounting to \$195.0 million was voluntarily prepaid in full and the related agreement was then terminated.

Secured Term Loans:

On October 8, 2009, our wholly-owned subsidiary Bikini Shipping Company Inc. ("Bikini"), entered into a \$40.0 million loan agreement with Deutsche Bank to partly finance the acquisition cost of the *New York*. The loan was repaid in full on March 10, 2015.

On October 22, 2009, our wholly-owned subsidiary Gala Properties Inc., entered into a \$40.0 million loan agreement with Bremer Landesbank ("Bremer") to partly finance the acquisition cost of the *Houston*. The loan is repayable in 40 quarterly installments of \$0.9 million plus one balloon installment of \$4.0 million to be paid together with the last installment on November 19, 2019. The loan bears interest at LIBOR plus a margin of 2.15% per annum.

On October 2, 2010, our wholly-owned subsidiaries Lae Shipping Company Inc. ("Lae") and Namu Shipping Company Inc., ("Namu") entered into a loan agreement with Export-Import Bank of China ("CEXIM") and DnB NOR Bank ASA ("DnB") to finance part of the construction cost of the *Los Angeles*, and the *Philadelphia*, for an amount of up to \$82.6 million, of which \$72.1 million was drawn being 70% of the vessels' market value on delivery. The Lae advance is repayable in 40 quarterly installments of approximately \$0.6 million and a balloon of \$12.3 million payable together with the last installment on February 15, 2022. The Namu advance is repayable in 40 quarterly installments of approximately \$0.6 million and a balloon of \$11.4 million payable together with the last installment on May 18, 2022. Each Bank has the right to demand repayment of the outstanding balance of any advance 72 months after the respective advance drawdown. Such demand shall be subject to written notification to be made no earlier than 54 months and not later than 60 months after the respective drawdown date for that advance. The loan bears interest at LIBOR plus a margin of 2.50% per annum.

On September 13, 2011, our wholly-owned subsidiary Bikar Shipping Company Inc. ("Bikar") entered into a loan agreement with Emporiki Bank of Greece S.A. ("Emporiki") for a loan of up to \$15.0 million to refinance part of the acquisition cost of the *Arethusa*. On December 13, 2012, Bikar, the Company, DSS and Credit Agricole Corporate and Investment Bank ("Credit Agricole"), entered into a supplemental loan agreement to transfer the outstanding loan balance, the ISDA master swap agreement and the existing security documents from Emporiki to Credit Agricole. The loan is repayable in 20 equal semiannual installments of \$0.5 million each and a balloon payment of \$5.0 million to be paid together with the last installment on September 15, 2021. The loan bears interest at LIBOR plus a margin of 2.5% per annum, or 1% for such loan amount that is equivalently secured by cash pledge in favor of the bank.

On February 7, 2012, our wholly-owned subsidiary Jemo Shipping Company Inc., ("Jemo") entered into an agreement with Nordea Bank Finland Plc, which in December 2014 was replaced by Nordea Bank AB, London Branch, or Nordea, for a loan facility of \$16.1 million drawn down in February 2012, to partly finance the acquisition cost of the *Leto*. On June 21, 2012, the agreement between Jemo and Nordea Bank Finland Plc, was restated and amended by a supplemental agreement in order to include Mandaringina Inc as a new borrower and increase the loan amount to up to \$26.5 million for the purpose of financing part of the acquisition cost of the *Melia*. On March 19, 2015, we prepaid in full all outstanding indebtedness under the loan facility, which was refinanced with a new agreement mentioned below.

On December 20, 2012, our wholly-owned subsidiaries Palau Shipping Company Inc. ("Palau") and Guam Shipping Company Inc. ("Guam") entered into a loan agreement with Nordea Bank Finland Plc, replaced in December 2014 by Nordea, for an amount of \$20.0 million, drawn down on December 21, 2012, to finance part of the acquisition cost of the *Amphitrite* and the *Polymnia*. On March 19, 2015, we prepaid in full all outstanding indebtedness under the loan facility, which was refinanced with a new agreement mentioned below.

On May 24, 2013, our wholly-owned subsidiaries Erikub Shipping Company Inc. ("Erikub") and Wotho Shipping Company Inc. ("Wotho"), entered into a loan agreement with CEXIM and DnB to finance part of the construction cost of *Crystalia* and *Atalandi* for an amount of up to \$15.0 million for each vessel, drawn on May 22, 2014. Each advance is repayable in 19 quarterly installments of \$250,000 and a balloon of \$10.3 million payable together with the last installment on February 22, 2019. The loan bears interest at LIBOR plus a margin of 3.0% per annum.

On June 18, 2013, our wholly-owned subsidiaries Tuvalu Shipping Company Inc. ("Tuvalu"), and Jabat Shipping Company Inc. ("Jabat"), entered into a loan agreement with Deutsche Bank for a loan facility of up to \$18.0 million to finance part of the acquisition cost of the *Maia* and the *Myrto* which were cross-collateralized with the *New York*. The loan was prepaid in full on March 20, 2015.

On January 9, 2014, our wholly-owned subsidiaries Taka Shipping Company Inc. ("Taka") and Fayo Shipping Company Inc. ("Fayo"), entered into a loan agreement with Commonwealth Bank of Australia, London Branch ("CBA"), for a loan facility of up to \$18.0 million to finance part of the acquisition cost of the *Melite* and *Artemis*. The loan bears interest at LIBOR plus a margin of 2.25%. The loan was drawn in two tranches, one of \$8.5 million assigned to *Melite* and one of \$9.5 million assigned to *Artemis*. Tranche A is repayable in 24 equal consecutive quarterly installments of \$195,833 each; and a balloon of \$3.8 million payable January 13, 2020. Tranche B is repayable in 32 equal consecutive quarterly installments of \$156,250 each and a balloon of \$4.5 million payable on January 13, 2022.

On December 18, 2014, our wholly-owned subsidiaries Weno Shipping Company Inc. ("Weno") and Pulap Shipping Company Inc. ("Pulap"), entered into a loan agreement with BNP Paribas ("BNP"), for a loan facility of up to \$55.0 million to finance part of the acquisition cost of the *G. P. Zafirakis* and the *P. S. Palios*, of which \$53.5 million was drawn. The loan bears interest at LIBOR plus a margin of 2%, and is repayable in 14 equal semi-annual installments of approximately \$1.6 million and a balloon of \$31.5 million, payable on November 30, 2021.

On March 17, 2015, eight of our wholly-owned subsidiaries, entered into a loan facility with Nordea to refinance the existing agreements with the bank, described above, and to add additional vessels. On March 19, 2015, after repaying in full all outstanding indebtedness under the previous loan facilities with the bank, mentioned above, we drew down the amount of \$93.1 million. The loan is repayable in 24 equal consecutive quarterly installments of approximately \$1.9 million and a balloon of \$48.4 million payable together with the last installment on March 19, 2021. The loan bears interest plus a margin of 2.1% of LIBOR.

On March 26, 2015, three of our wholly-owned subsidiaries entered into a loan agreement with ABN AMRO Bank N.V. for a secured term loan facility of up to \$53.0 million, to refinance part of the acquisition cost of the vessels *New York*, *Myrto* and *Maia* of which \$50.2 million was drawn on March 30, 2015. The loan is repayable in 24 equal consecutive quarterly installments of about \$1.0 million and a balloon of \$26.3 million payable together with the last installment on March 30, 2021. The loan bears interest at LIBOR plus a margin of 2.0%.

On April 29, 2015, our wholly-owned subsidiary Lelu Shipping Company Inc ("Lelu"), entered into a term loan agreement with Danish Ship Finance for a loan facility of \$30.0 million, drawn on April 30, 2015 to partly finance the acquisition cost of the *Santa Barbara*, which was delivered in January 2015. The loan is repayable in 28 equal consecutive quarterly installments of \$0.5 million each and a balloon of \$16.0 million payable together with the last installment on April 30, 2022. The loan bears interest at LIBOR plus a margin of 2.15%.

On July 22, 2015, we entered into a term loan agreement with BNP Paribas for a loan of \$165.0 million drawn on July 24, 2015. The loan is repayable in 20 consecutive quarterly installments, the first eight installments in an amount of \$2.5 million, followed by four installments in an amount of \$5.0 million; eight installments in an amount of \$7.0 million; and a balloon installment of \$69.0 million payable together with the last installment on July 24, 2020. The loan bears interest at LIBOR plus a margin of 2.35% per annum for the first two years; 2.3% per annum for the third year and 2.25% per annum until the final maturity of the loan.

On September 30, 2015, our wholly-owned subsidiaries, Ujae Shipping Company Inc. ("Ujae") and Rairok Shipping Company Inc. ("Rairok"), entered into a term loan agreement with ING Bank N.V. for a loan of up to \$39.7 million, available in two advances to finance part of the acquisition cost of the *New Orleans* and the *Medusa*. Advance A of about \$28.0 million was drawn on November 19, 2015 and is repayable in 28 consecutive quarterly installments of about \$0.5 million and a balloon installment of about \$15.0 million payable together with the last installment on November 19, 2022. Advance B of about \$11.7 million was drawn on October 6, 2015 and is repayable in 28 consecutive quarterly installments of about \$0.3 million and a balloon installment of about \$3.5 million payable together with the last installment on October 6, 2022. The loan bears interest at LIBOR plus a margin of 1.65%.

On January 7, 2016, our three wholly-owned subsidiaries with vessels under construction, entered into a secured loan agreement with the CEXIM for a loan of up to \$75.7 million in order to finance part of the construction cost of the vessels. The loan will be available for drawdown until March 12, 2017, or such later date as all the lenders may in their discretion agree and will mature by March 2032 at the latest.

Under the secured term loans outstanding as of December 31, 2015, 42 vessels of the Company's fleet were mortgaged with first preferred or priority ship mortgages. Additional securities required by the banks include first priority assignment of all earnings, insurances, first assignment of time charter contracts with duration that exceeds a certain period, pledge over the shares of the borrowers, manager's undertaking and subordination and requisition compensation and either a corporate guarantee by DSI (the "Guarantor") or a guarantee by the ship owning companies (where applicable), financial covenants, as well as operating account assignments. The lenders may also require additional security in the future in the event the borrowers breach certain covenants under the loan agreements. The secured term loans generally include restrictions as to changes in management and ownership of the vessels, additional indebtedness, as well as minimum requirements regarding hull cover ratio and minimum liquidity per vessel owned by the borrowers, or the guarantor, maintained in the bank accounts of the borrowers, or the guarantor. Furthermore, certain of the secured term loans contain cross default provisions and additionally the Company is not permitted to pay any dividends from the earnings of the vessel following the occurrence of an event of default.

As of December 31, 2015 and currently, we believe we are in compliance with all covenants relating to our loan facilities other than as follows: As of December 31, 2015, we were not in compliance with the minimum required hull cover ratio of one of our term loan agreements, creating a shortfall of about \$1.4 million. The Company received a waiver by the bank, which covers the period from December 31, 2015 up to and including December 31, 2016, amending the ratio to a lower level and with the requirement to provide updated valuations by July 31, 2016.

Currently, all of our vessels, except for two, have been provided as collateral to secure our loan facilities.

Senior Notes due 2020

On May 28, 2015, we issued \$55.0 million aggregate principal amount of our 8.5% senior unsecured notes due 2020, or our Notes, in a registered public offering and on June 5, 2015, we issued an additional \$8.25 million aggregate principal amount of the Notes, pursuant to the underwriters' option to purchase additional Notes. The Notes will mature on May 15, 2020, and may be redeemed in whole or in part at any time on or after May 15, 2017 at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. Prior to May 15, 2017, we may redeem the Notes, in whole or in part, at a price equal to 100% of the principal amount plus a make-whole premium and accrued interest to, but excluding, the date of redemption. The Notes will bear interest at a rate of 8.500% per annum, payable quarterly on each February 15, May 15, August 15 and November 15, commencing on August 15, 2015. The Notes commenced trading on the NYSE on May 29, 2015 under the symbol "DSXN."

For additional information about our Notes, please see the section entitled "Description of Notes" in the final prospectus supplement related to the offering, filed with the SEC on May 22, 2015 and incorporated by reference herein.

As of December 31, 2015, 2014 and 2013 and as of the date of this annual report, we did not and have not designated any financial instruments as accounting hedging instruments.

Capital Expenditures

We make capital expenditures from time to time in connection with our vessel acquisitions and constructions, which we finance with cash from operations, debt under loan facilities that provide necessary funds at terms acceptable to us, with funds from equity issuances and, as of May 2015, our Notes. Currently, we have contractual obligations of \$13.5 million, relating to the acquisition of one vessel we agreed to acquire from a related party, which we expect to take delivery of in April 2016 and \$83.5 million, relating to the construction of two Newcastlemax dry bulk vessels and one Kamsarmax dry bulk vessel, which we expect to take delivery of in 2016. We pay dividends on our Series B Preferred Shares amounting to approximately \$5.8 million annually. We incur additional capital expenditures when our vessels undergo surveys. This process of recertification may require us to reposition these vessels from a discharging port to shipyard facilities, which will reduce our operating days during the period. The loss of earnings associated with the decrease in operating days together with the capital needs for repairs and upgrades result in increased cash flow needs.

We expect to cover our capital expenditures and cash flow needs with cash from operations and additional indebtedness. Currently, we have a secured loan agreement with the Export-Import Bank of China for a loan of up to \$75.7 million to finance part of the acquisition cost of our vessels under construction. We have also signed a commitment letter for a loan of \$25.8 million to finance two of the three vessels we have agreed to acquire from a related party and we expect to incur additional indebtedness to finance the acquisition cost of the third vessel. Additionally it is our intention to incur additional indebtedness for one vessel in our fleet that is not mortgaged.

C. Research and development, patents and licenses

We incur from time to time expenditures relating to inspections for acquiring new vessels that meet our standards. Such expenditures are insignificant and they are expensed as they incur.

D. Trend information

Our results of operations depend primarily on the charter hire rates that we are able to realize, and the demand for dry bulk vessel services. The Baltic Dry Index, or the BDI, has long been viewed as the main benchmark to monitor the movements of the dry bulk vessel charter market and the performance of the entire dry bulk shipping market. The BDI declined 94% in 2008 from a peak of 11,793 in May 2008 to a low of 663 in December 2008 and has remained volatile since then. In 2013, the BDI ranged from a low of 698 in January to a high of 2,337 in December 2013. In 2014, the BDI ranged from a high of 2,113 in January to a low of 723 in July. In 2015, the BDI ranged from a high of 1,222 in August to a low of 471 in December. The BDI recorded a record low of 290 in February 2016.

The decline and volatility in charter rates in the dry bulk market reflects in part the fact that the supply of dry bulk vessels in the market has been increasing, and the number of newbuilding dry bulk vessels on order is high. Demand for dry bulk vessel services is influenced by global financial conditions. The recovery in China and India positively influenced the charter rates; however, global financial conditions remain volatile and demand for dry bulk services may decrease in the future. The combination of increasing dry bulk capacity (both current and expected) and decreasing demand or demand which is not offset by the increase in dry bulk capacity may result in reductions in charter hire rates and, as a consequence, adversely affect our operating results.

Additionally, we believe we have structured our capital expenditure requirements, debt commitments and liquidity resources in a way that will provide us with financial flexibility (see "Item 5. Operating and Financial Review and Prospects—B. Liquidity and Capital Resources" for more information).

E. Off-balance Sheet Arrangements

We do not have any off-balance sheet arrangements.

F. Tabular Disclosure of Contractual Obligations

The following table sets forth our contractual obligations, in thousands of U.S. dollars, and their maturity dates as of December 31, 2015, as adjusted to reflect our agreement on February 4, 2016 to acquire three secondhand vessels from a related party for \$39.8 million and the subsequent addenda dated March 4, 2016 reducing the purchase price to \$39.3 million:

Contractual Obligations	Payments due by period				
	Total Amount	Less than 1 year	2-3 years	4-5 years	More than 5 years
	(in thousands of US dollars)				
Loan Agreements and Notes (1)	\$ 605,941	\$ 42,450	\$ 99,400	\$ 266,762	\$ 197,329
Estimated Interest Payments on Loan Agreements and Notes (1)	79,400	19,178	\$ 34,688	\$ 22,438	\$ 3,096
Construction contracts	83,487	83,487	-	-	-
Acquisition of vessels (2)	39,265	39,265	-	-	-
Broker services agreement (3)	330	330	-	-	-
Preferred dividends (4)	19,230	5,769	11,538	1,923	-
Total	<u>\$ 827,653</u>	<u>\$ 190,479</u>	<u>\$ 145,626</u>	<u>\$ 291,123</u>	<u>\$ 200,425</u>

- (1) As of December 31, 2015, we had an aggregate principal amount of \$605.9 million of indebtedness outstanding under our loan facilities and our Notes. Estimated interest payments represent projected interest payments on our long term debt, which are based on the weighted average LIBOR rate in 2015 plus the margin of our loan agreements in 2015 and the fixed interest rate of our Notes.

- (2) We have agreed to acquire three vessels from a related party for an aggregate purchase price of \$39.8 million, reduced to \$39.3 million on March 4, 2016. We took delivery of two of the vessels in March 2016 for an aggregate purchase price of \$25.8 million and we expect to take delivery of the third vessel in April 2016. On March 11, 2016, we signed, through two wholly-owned subsidiaries, a commitment letter with ABN AMRO Bank N.V. for a loan of \$25.8 million to finance the acquisition cost of the two vessels delivered to us. The delivery of the third vessel is subject to obtaining bank financing from the sellers' existing lenders, for substantially all of the purchase price of the vessel.
- (3) Our agreement with Diana Enterprises dated April 1, 2015, expires on March 31, 2016.
- (4) On February 24, 2014 we completed an offering of 2,600,000 shares of Series B Perpetual Preferred Stock, at the price of \$25.0 per share, and dividends are payable at a rate equal to 8.875% per annum. At any time on or after February 14, 2019, the Series B Preferred Shares may be redeemed, in whole or in part, at a redemption price of \$25.00 per share, plus an amount equal to all accumulated and unpaid dividends thereon to the date of redemption, whether or not declared. The table above presents our obligations for dividend payments until February 14, 2019. The table above does not include the payment for the redemption, which is at our option.

G. Safe Harbor

See the section entitled "Forward-Looking Statements" at the beginning of this annual report.

Item 6. Directors, Senior Management and Employees

A. Directors and Senior Management

Set forth below are the names, ages and positions of our directors and executive officers. Effective March 4, 2015, our Board of Directors increased its size from seven to nine members and Mr. Kyriacos Riris and Mrs. Semiramis Paliou were appointed to fill the resulting vacancies. Our board of directors is elected annually on a staggered basis, and each director elected holds office for a three-year term. Officers are appointed from time to time by our board of directors and hold office until a successor is appointed or their employment is terminated.

Name	Age	Position
Simeon Palios	74	Class I Director, Chief Executive Officer and Chairman
Anastasios Margaronis	60	Class I Director and President
Ioannis Zafirakis	44	Class I Director, Chief Operating Officer and Secretary
Andreas Michalopoulos	44	Chief Financial Officer and Treasurer
Maria Dede	43	Chief Accounting Officer
William (Bill) Lawes	72	Class II Director
Konstantinos Psaltis	77	Class II Director
Kyriacos Riris	66	Class II Director
Boris Nachamkin	82	Class III Director
Apostolos Kontoyannis	67	Class III Director
Semiramis Paliou	41	Class III Director

The term of our Class I directors expires in 2018, the term of our Class II directors expires in 2019 and the term of our Class III directors expires in 2017.

The business address of each officer and director is the address of our principal executive offices, which are located at Pendelis 16, 175 64 Palaio Faliro, Athens, Greece.

Biographical information with respect to each of our directors and executive officers is set forth below.

Simeon P. Palios has served as the Chief Executive Officer and Chairman of Diana Shipping Inc. since February 21, 2005 and as a Director since March 9, 1999 and has served as the Chief Executive Officer and Chairman of Diana Containerships Inc. since January 13, 2010. Mr. Palios also serves currently as the President of Diana Shipping Services S.A., our management company. Prior to November 12, 2004, Mr. Palios was the Managing Director of Diana Shipping Agencies S.A. Since 1972, when he formed Diana Shipping Agencies S.A., Mr. Palios has had overall responsibility for its activities. Mr. Palios has experience in the shipping industry since 1969 and expertise in technical and operational issues. He has served as an ensign in the Greek Navy for the inspection of passenger boats on behalf of Ministry of Merchant Marine and is qualified as a naval architect and marine engineer. Mr. Palios is a member of various leading classification societies worldwide and he is a member of the board of directors of the United Kingdom Freight Demurrage and Defense Association Limited. He holds a bachelor's degree in Marine Engineering from Durham University.

Anastasios C. Margaronis has served as our President and as a Director since February 21, 2005 and has served as the Director and President of Diana Containerships Inc. since January 13, 2010. Mr. Margaronis also serves as a Deputy-President of Diana Shipping Services S.A. Prior to February 21, 2005, Mr. Margaronis was employed by Diana Shipping Agencies S.A. and performed on our behalf the services he now performs as President. He joined Diana Shipping Agencies S.A. in 1979 and has been responsible for overseeing our insurance matters, including hull and machinery, protection and indemnity and war risks cover. Mr. Margaronis has experience in the shipping industry, including in ship finance and insurance, since 1980. He is a member of the Greek National Committee of the American Bureau of Shipping and a member of the board of directors of the United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited. He holds a bachelor's degree in Economics from the University of Warwick and a master's of science degree in Maritime Law from the Wales Institute of Science and Technology.

Ioannis G. Zafirakis serves as our Director, Chief Operating Officer and Secretary. He also serves as Director, Chief Operating Officer and Secretary of Diana Containerships Inc. In addition, he is the Chief Operating Officer of Diana Shipping Services S.A., where he also serves as Director and Treasurer. From June 1997 to February 2005, Mr. Zafirakis was employed by Diana Shipping Agencies S.A. where he held a number of positions in its finance and accounting department. Mr. Zafirakis is also a member of the Business Advisory Committee of the MSc in International Shipping and Finance at ICMA Centre, Henley Business School, University of Reading. He holds a bachelor's degree in Business Studies from City University Business School in London and a master's degree in International Transport from the University of Wales in Cardiff.

Andreas Michalopoulos has served as our Chief Financial Officer and Treasurer since March 8, 2006 and has served in these positions with Diana Containerships Inc. since January 13, 2010. Mr. Michalopoulos started his career in 1993 when he joined Merrill Lynch Private Banking in Paris. In 1995, he became an International Corporate Auditor with Nestle SA based in Vevey, Switzerland and moved in 1998 to the position of Trade Marketing and Merchandising Manager. From 2000 to 2002, he worked for McKinsey and Company in Paris, France as an Associate Generalist Consultant before joining a major Greek Pharmaceutical Group with U.S. R&D activity as a Vice President of International Business Development and Member of the Executive Committee in 2002 where he remained until 2005. From 2005 to 2006, he joined Diana Shipping Agencies S.A. as a Project Manager. Mr. Michalopoulos graduated from Paris IX Dauphine University with Honors in 1993 obtaining an MSc in Economics and a master's degree in Management Sciences specialized in Finance. In 1995, he also obtained a master's degree in Business Administration from Imperial College, University of London. Mr. Andreas Michalopoulos is married to the youngest daughter of Mr. Simeon Palios.

Maria Dede has served as our Chief Accounting Officer since September 1, 2005 during which time she has been responsible for all financial reporting requirements. Mrs. Dede has also served as an employee of Diana Shipping Services S.A. since March 2005. In 2000 Mrs. Dede joined the Athens branch of Arthur Andersen, which merged with Ernst and Young (Hellas) in 2002, where she served as an external auditor of shipping companies until 2005. From 1996 to 2000 Mrs. Dede was employed by Venus Enterprises S.A., a ship-management company, where she held a number of positions primarily in accounting and supplies. Mrs. Dede holds a Bachelor's degree in Maritime Studies from the University of Piraeus and a Master's degree in Business Administration from the ALBA Graduate Business School.

William (Bill) Lawes has served as a Director and the Chairman of our Audit Committee since March 2005. Mr. Lawes served as a Managing Director and a member of the Regional Senior Management Board of JPMorgan Chase and its predecessor banks from 1987 until 2002. Prior to joining JPMorgan Chase, he was Global Head of Shipping Finance at Grindlays Bank. Since December 2007, he has served as an independent member of the Board of Directors and Chairman of the Audit Committee of Teekay Tankers Ltd. In January 2014, Mr. Lawes also joined the board as Chairman of the Audit Committee of Tanker Investments Ltd. Mr. Lawes is qualified as a member of the Institute of Chartered Accountants of Scotland.

Konstantinos Psaltis has served as a Director since March 2005. From 1981 to 2006, Mr. Psaltis served as Managing Director of Ormos Compania Naviera S.A., a company that specializes in operating and managing multipurpose container vessels and from 2006 until today as a President of the same company. Prior to joining Ormos Compania Naviera S.A., Mr. Psaltis simultaneously served as a technical manager in the textile manufacturing industry and as a shareholder of shipping companies managed by M.J. Lemos. From 1961 to 1964, he served as ensign in the Royal Hellenic Navy. Mr. Psaltis is a member of the Germanischer Lloyds Hellas Committee. He holds a degree in Mechanical Engineering from Technische Hochschule Reutlingen & Wuppertal and a bachelor's degree in Business Administration from Tubingen University in Germany.

Kyriacos Riris has served as a Director since March 2015. Commencing in 1998, Mr. Riris served in a series of positions in PricewaterhouseCoopers (PwC), Greece, including Senior Partner, Managing Partner of the Audit and the Advisory/Consulting Lines of Service. From 2009 to 2014, Mr. Riris served as Chairman of the Board of Directors of PricewaterhouseCoopers (PwC), Greece. Prior to its merger with PwC, Mr. Riris was employed at Grant Thornton, Greece, where in 1984 he became a Partner. From 1976 to 1982, Mr. Riris was employed at Arthur Young, Greece. Mr. Riris holds a degree from Birmingham Polytechnic (presently Birmingham City University) and completed his professional qualifications with the Association of Certified Chartered Accountants (ACCA) in the UK in 1975, becoming a Fellow of the Association of Certified Accountants in 1985.

Boris Nachamkin has served as a Director and as a member of our Compensation Committee since March 2005. Mr. Nachamkin was with Bankers Trust Company, New York, for 37 years, from 1956 to 1993 and was posted to London in 1968. Upon retirement in 1993, he acted as Managing Director and Global Head of Shipping at Bankers Trust. Mr. Nachamkin was also the UK Representative of Deutsche Bank Shipping from 1996 to 1998 and Senior Executive and Head of Shipping for Credit Agricole Indosuez, based in Paris, between 1998 and 2000. Previously, he was a Director of Mercur Tankers, a company which was listed on the Oslo Stock Exchange, and Ugland International, a shipping company. He also serves as Managing Director of Seatrust Shipping Services Ltd., a private consulting firm and as a U.K. Director of Marine Money, a U.S.-based ship finance publication.

Apostolos Kontoyannis has served as a Director and as the Chairman of our Compensation Committee and a member of our Audit Committee since March 2005. Mr. Kontoyannis has over 35 years of experience in shipping finance and currently serves as financial consultant to various shipping companies. He was employed by Chase Manhattan Bank N.A. in Frankfurt (Corporate Bank), London (Head of Shipping Finance South Western European Region) and Piraeus (Manager, Ship Finance Group) from 1975 to 1987. Mr. Kontoyannis holds a bachelor's degree in Finance and Marketing and a master's degree in business administration in Finance from Boston University.

Semiramis Paliou has served as a Director since March 2015. Mrs. Paliou has almost 19 years of experience in shipping operations, technical management and crewing. Mrs. Paliou began her career at Lloyd's Register of Shipping from 1996 to 1998 and she was then employed by Diana Shipping Agencies S.A. From 2007 to 2010 she was employed as a Director and President of Alpha Sigma Shipping Corp. From February 2010 to November 2015 she was the head of the operations, technical and crew department of Diana Shipping Services S.A. where she currently serves as Vice President. Mrs. Paliou obtained her BSc in Mechanical Engineering from Imperial College, London and her MSc in Naval Architecture from University College, London. She is the daughter of Simeon Palios, our Chief Executive Officer and Chairman, and is a member of the Greek committee of Det Norske Veritas and a member of the Greek committee of Nippon Kaiji Kyokai.

B. Compensation

Aggregate executive compensation (including amounts paid to Diana Enterprises pursuant to the Brokerage Services Agreements) for 2015 was \$3.1 million. Since June 1, 2010, Diana Enterprises, a related party, as described in "Item 7B. Related Party Transactions" has provided to us brokerage services. Under the Brokerage Services Agreements in effect during 2015, fees for 2015 amounted to \$1.3 million. We consider fees under these agreements to be part of our executive compensation due to the affiliation with Diana Enterprises. We expect such fees to increase in 2016.

Non-employee directors receive annual compensation in the amount of \$52,000 plus reimbursement of out-of-pocket expenses. In addition, each non-executive serving as chairman or member of a committee receives annual compensation of \$26,000 and \$13,000, respectively, plus reimbursement of out-of-pocket expenses. For 2015, 2014 and 2013 fees and expenses of our non-executive directors amounted to \$0.4 million, \$0.3 million and \$0.3 million, respectively.

Since 2008 and until the date of this annual report, our board of directors has awarded an aggregate amount of 8,565,241 shares of restricted common stock, of which 7,087,657 shares were awarded to senior management and 1,477,584 shares were awarded to non-employee directors. All restricted shares vest ratably over three years, except for 600,000 shares awarded in 2008 which vested ratably over a period of six years until 2014 and 1,314,000 shares awarded in 2014 which will vest ratably over a period of six years until 2022. The restricted shares are subject to forfeiture until they become vested. Unless they forfeit their shares, grantees have the right to vote, to receive and retain all dividends paid and to exercise all other rights, powers and privileges of a holder of shares.

In 2015, compensation costs relating to the aggregate amount of restricted stock awards amounted to \$8.3 million.

We do not have a retirement plan for our officers or directors.

Equity Incentive Plan

In November 2014, our board of directors approved, and the Company adopted the 2014 Equity Incentive Plan (the "2014 Plan"), for 5,000,000 common shares, of which, currently, 4,234,759 shares remain reserved for issuance.

Under the 2014 Plan, the Company's employees, officers and directors are entitled to receive options to acquire the Company's common stock. The 2014 Plan is administered by the Compensation Committee of the Company's Board of Directors or such other committee of the Board as may be designated by the Board. Under the terms of the 2014 Plan, the Company's Board of Directors is able to grant a) incentive stock options, b) non-qualified stock options, c) stock appreciation rights, d) dividend equivalent rights, e) restricted stock, f) unrestricted stock, g) restricted stock units, and h) performance shares. No options, stock appreciation rights or restricted stock units can be exercisable prior to the first anniversary or subsequent to the tenth anniversary of the date on which such award was granted. Under the 2014 Plan, the Administrator may waive or modify the application of forfeiture of awards of restricted stock and performance shares in connection with cessation of service with the Company.

C. Board Practices

We have established an Audit Committee, comprised of two board members, which is responsible for reviewing our accounting controls, recommending to the board of directors the engagement of our independent auditors, and pre-approving audit and audit-related services and fees. Each member has been determined by our board of directors to be "independent" under the rules of the NYSE and the rules and regulations of the SEC. As directed by its written charter, the Audit Committee is responsible for appointing, and overseeing the work of the independent auditors, including reviewing and approving their engagement letter and all fees paid to our auditors, reviewing the adequacy and effectiveness of the Company's accounting and internal control procedures and reading and discussing with management and the independent auditors the annual audited financial statements. The members of the Audit Committee are Mr. William Lawes (Chairman and financial expert) and Mr. Apostolos Kontoyannis (member and financial expert).

We have established a Compensation Committee comprised of two members, which, as directed by its written charter, is responsible for setting the compensation of executive officers of the Company, reviewing the Company's incentive and equity-based compensation plans, and reviewing and approving employment and severance agreements. The members of the Compensation Committee are Mr. Apostolos Kontoyannis (Chairman) and Mr. Boris Nachamkin (member).

We have established a Nominating Committee comprised of two members, which, as directed by its written charter, is responsible for identifying, evaluating and making recommendations to the board of directors concerning individuals for selections as director nominees for the next annual meeting of stockholders or to otherwise fill board of director vacancies. The members of the Nominating Committee are Mr. Konstantinos Psaltis (Chairman) and Mr. Kyriacos Riris (member).

We have established an Executive Committee comprised of the three executive directors, Mr. Simeon Palios (Chairman), Mr. Anastasios Margaronis (member) and Mr. Ioannis Zafirakis (member). The Executive Committee has, to the extent permitted by law, the powers of the Board of Directors in the management of the business and affairs of the Company.

We also maintain directors' and officers' insurance, pursuant to which we provide insurance coverage against certain liabilities to which our directors and officers may be subject, including liability incurred under U.S. securities law. Our executive directors have employment agreements, which, if terminated without cause, entitle them to continue receiving their basic salary through the date of the agreement's expiration.

D. Crewing and Shore Employees

We crew our vessels primarily with Greek officers and Filipino officers and seamen and may also employ seamen from Poland, Rumania and Ukraine. DSS and DWM are responsible for identifying the appropriate officers and seamen mainly through crewing agencies. The crewing agencies handle each seaman's training, travel and payroll. The management companies ensure that all our seamen have the qualifications and licenses required to comply with international regulations and shipping conventions. Additionally, our seafaring employees perform most commissioning work and supervise work at shipyards and drydock facilities. We typically man our vessels with more crew members than are required by the country of the vessel's flag in order to allow for the performance of routine maintenance duties.

The following table presents the number of shoreside personnel employed by DSS and the number of seafaring personnel employed by our vessel-owning subsidiaries as at December 31, 2015, 2014 and 2013.

	Year Ended December 31,		
	2015	2014	2013
Shoreside	101	94	84
Seafaring	993	973	848
Total	1,094	1,067	932

E. Share Ownership

With respect to the total amount of common shares and Series B Preferred Shares owned by all of our officers and directors, individually and as a group, see Item 7 "Major Shareholders and Related Party Transactions".

Item 7. Major Shareholders and Related Party Transactions

A. Major Shareholders

The following table sets forth information regarding ownership of our common stock of which we are aware as of March 28, 2016, for (i) beneficial owners of more than five percent of our common stock and (ii) our officers and directors, individually and as a group. All of our shareholders, including the shareholders listed in this table, are entitled to one vote for each share of common stock held.

Title of Class	Identity of Person or Group	Number of Shares Owned	Percent of Class
Common Stock, par value \$0.01	Simeon Palios (1)	18,823,331	22.2%
	Massachusetts Financial Services Company		
	(2)	4,719,789	5.6%
	Franklin Resources Inc. (3)	11,022,582	13.0%
	All officers and directors as a group (4)	21,611,429	25.5%

- (1) Currently, Mr. Simeon Palios beneficially owns 14,286,540 shares indirectly through Corozal Compania Naviera S.A. and Ironwood Trading Corp. over which Mr. Simeon Palios exercises sole voting and dispositive power. As of December 31, 2013, 2014, and 2015, Mr. Simeon Palios owned indirectly 18.4%, 19.3% and 20.6%, respectively, of our outstanding common stock.
- (2) This information is derived from a Schedule 13G/A filed with the SEC on February 10, 2016, and represents a decrease from the 8.9% ownership reported on a Schedule 13G filed with the SEC on February 6, 2015 and the 10.3% ownership reported on a Schedule 13G/A filed with the SEC on February 13, 2014.
- (3) This information is derived from a Schedule 13G filed with the SEC on January 8, 2016.
- (4) Mr. Simeon Palios is our only director or officer that beneficially owns 5% or more of our outstanding common stock. Mr. Anastasios Margaronis, our President and a member of our board of directors is indirect shareholder through ownership of stock held in Corozal Compania Naviera S.A., and Ironwood Trading Corp. Mr. Margaronis does not have dispositive or voting power with regard to shares held by Corozal Compania S.A. and Ironwood Trading Corp. and, accordingly, is not considered to be beneficial owner of our common shares held through Corozal Compania Naviera S.A. and Ironwood Trading Corp. Mr. Anastasios Margaronis also owns indirectly 2.2% of our outstanding common stock. Messrs. Lawes, Psaltis, Nachamkin and Kontoyannis, each a non-executive director of ours each owns less than 1% of our outstanding common stock. In addition, Diana Enterprises owns indirectly 140,390, or 5.4% of the outstanding Series B Preferred Shares and Mr. Anastasios Margaronis owns indirectly 28,025, or 1.1% of the outstanding Series B Preferred Shares. All officers and directors as a group own 172,775, or 6.6% of our outstanding Series B Preferred Shares.

As of March 24, 2016, we had 146 shareholders of record, 128 of which were located in the United States and held an aggregate of 63,229,230 of our common shares, representing 74.65% of our outstanding common shares. However, one of the U.S. shareholders of record is CEDE & CO., a nominee of The Depository Trust Company, which held 63,208,603 of our common shares as of March 24, 2016. Accordingly, we believe that the shares held by CEDE & CO. include common shares beneficially owned by both holders in the United States and non-U.S. beneficial owners. We are not aware of any arrangements the operation of which may at a subsequent date result in our change of control.

Holders of the Series B Preferred Shares generally have no voting rights except (1) in respect of amendments to the Articles of Incorporation which would adversely alter the preferences, powers or rights of the Series B Preferred Shares or (2) in the event that we propose to issue any parity stock if the cumulative dividends payable on outstanding Preferred Stock are in arrears or any senior stock. However, if and whenever dividends payable on the Series B Preferred Shares are in arrears for six or more quarterly periods, whether or not consecutive, holders of Series B Preferred Shares (voting together as a class with all other classes or series of parity stock upon which like voting rights have been conferred and are exercisable) will be entitled to elect one additional director to serve on our board of directors until such time as all accumulated and unpaid dividends on the Series B Preferred Shares have been paid in full.

B. Related Party Transactions

Diana Enterprises Inc.

Diana Enterprises, an affiliated entity that is controlled by our Chief Executive Officer and Chairman of the Board, Mr. Simeon Palios, provides to us brokerage services for an annual fee pursuant to a Brokerage Services Agreement. In 2015, brokerage fees amounted to \$1.3 million. The terms of this relationship are currently governed by a Brokerage Services Agreement dated April 1, 2015, due to expire on March 31, 2016.

Altair Travel Agency S.A.

Altair Travel Agency S.A., or Altair, an affiliated entity that is controlled by our Chief Executive Officer and Chairman of the Board, Mr. Simeon Palios, provides us with travel related services. Travel related expenses in 2015, amounted to \$2.7 million. We believe that the amounts that we pay to Altair Travel Agency S.A. for acquiring tickets and other travel related services are no greater than fees we would pay to an unrelated third party for comparable services.

Diana Containerships, Non-Competition Agreement

On March 1, 2013, we entered into an amended and restated non-competition agreement with Diana Containerships, where we have agreed that, as long as any of our current or continuing executive officers also serves as an executive for Diana Containerships Inc., and for six months thereafter, we will not acquire or charter any vessel, or otherwise operate in, the containership sector and Diana Containerships will not acquire or charter any vessel, or otherwise operate in, the dry bulk sector.

Diana Containerships, Loan Agreement

On May 20, 2013, we entered into a loan agreement with Eluk Shipping Company Inc., a subsidiary of Diana Containerships, to provide to it an unsecured loan of up to \$50.0 million to be used for general corporate purposes and working capital, which was drawn on August 20, 2013. The loan was approved by the Independent Committee of the Board of Directors and the Board of Directors and bore interest at LIBOR plus a margin of 5% per annum and a back-end fee equal to 1.25% per annum on the outstanding amount, receivable on the repayment date of such amount. On September 9, 2015, the agreement was amended, pursuant to which the loan maturity was extended to March 15, 2022; interest decreased to at LIBOR plus a margin of 3% per annum; the back-end fee accumulated up to and became payable on the date of the amendment; and the borrowers agreed to pay to the lender a fee of \$0.2 million on the maturity date. In addition, the outstanding principal amount of the loan is repaid in amounts totalling \$5.0 million per annum, but not to exceed \$32.5 million in the aggregate. The unsecured loan is guaranteed by Diana Containerships, and Diana Containerships and its subsidiaries may not incur additional indebtedness during the term of the loan without our prior consent. Also, the loan is subordinated to Diana Containerships' loan with the Royal Bank of Scotland.

Income from interest and fees for 2015, amounted to \$2.7 million and is included in Interest and other income in the respective consolidated statements of operations. As at December 31, 2015 and the date of this report, the loan receivable from Diana Containerships amounted to \$48.9 million and \$47.5 million, respectively.

Diana Wilhelmsen Management Limited

Diana Wilhelmsen Management Limited, or DWM, is a 50/50 joint venture which provides management services to six vessels in our fleet for a fixed monthly fee and commercial services charged as a percentage of the vessels' gross revenues. Management fees for the period from each vessel's delivery to the management of DWM to December 31, 2015, amounted to \$0.4 million, whereas commercial fees amounted to about \$43,000.

Acquisition of Three Panamax Vessels

On February 4, 2016, we entered into, through three separate wholly-owned subsidiaries, three Memoranda of Agreement to acquire from a related party three Panamax vessels for an aggregate purchase price of \$39.8 million, reduced pursuant to addendum agreements dated March 4, 2016 to \$39.3 million. One of the vessels was delivered on March 21, 2016 and the other two are expected to be delivered later in March and in April 2016. The Company has agreed to acquire the vessels from entities affiliated with Mrs. Semiramis Paliou and Mrs. Aliki Paliou, each of whom is a family member of the Company's Chief Executive Officer and Chairman of the Board. Mrs. Semiramis Paliou is also a director of the Company. The transaction was approved unanimously by a committee of the Board of Directors established for the purpose of considering the transaction and consisting of the Company's independent directors and each of its executive directors other than Mrs. Semiramis Paliou and Mr. Simeon Palios. The agreed upon purchase price of the vessels was based, among other factors, on independent third party broker valuations obtained by the Company. Consummation of the purchases is subject to the Company obtaining bank financing from the sellers' existing lenders for substantially all of the purchase price of the vessels, thereby resulting in little or no current cash outlay on the part of the Company.

On March 11, 2016, we signed, through two wholly-owned subsidiaries, a commitment letter with ABN AMRO Bank N.V. for a loan of up to \$25.8 million to finance the acquisition cost of two of the three Panamax vessels mentioned above.

C. Interests of Experts and Counsel

Not Applicable.

Item 8.

Financial information

A. Consolidated statements and other financial information

See Item 18.

Legal Proceedings

On August 8, 2013, DSS was found guilty on felony counts and on December 5, 2013 was sentenced by the United States District Court in Norfolk, Virginia to a fine of \$1.1 million and a period of probation of three years and six months, as a result of a conviction in which DSS was held vicariously liable for the actions of the chief engineer and second assistant engineer of the M/V *Thetis*, who were found guilty by the Court of violating several U.S. statutes and regulations in failing to properly handle waste oils, maintain required records and for obstruction of justice. In addition, the sentence includes a requirement for the duration of the probation period to maintain an enhanced system subject to independent audit for managing waste oils on each vessel managed by DSS. We do not expect that the implementation of the enhanced monitoring system will result in a material increase in costs during the probation period of three years and six months.

Except as described above, we have not been involved in any legal proceedings which may have, or have had, a significant effect on our business, financial position, results of operations or liquidity, nor are we aware of any proceedings that are pending or threatened which may have a significant effect on our business, financial position, results of operations or liquidity. From time to time, we may be subject to legal proceedings and claims in the ordinary course of business, principally personal injury and property casualty claims. We expect that these claims would be covered by insurance, subject to customary deductibles. Those claims, even if lacking merit, could result in the expenditure of significant financial and managerial resources.

Dividend Policy

Our board of directors reviews and amends our dividend policy from time to time in light of our plans for future growth and other factors. As of November 2008, our board of directors has suspended the payment of dividends on our common shares, with the exception of a stock dividend of 2,667,015 shares of Diana Containerships, or 80% of our interest at that date, distributed to all shareholders on a pro-rata basis as a result of the partial spin-off of Diana Containerships, effective January 19, 2011.

We believe that the suspension of dividend payments has positioned us better in a deteriorating market and enhances our flexibility by permitting cash flow that would have been devoted to dividends to be used for opportunities that may arise in the current marketplace, such as funding our operations, acquiring vessels or servicing our debt.

Marshall Islands law generally prohibits the payment of dividends other than from surplus or when a company is insolvent or if the payment of the dividend would render the company insolvent. Also, our loan facilities prohibit the payment of dividends should an event of default arise.

We believe that, under current law, any dividends that we have paid and may pay in the future from earnings and profits constitute "qualified dividend income" and as such are generally subject to a 20% United States federal income tax rate with respect to non-corporate United States shareholders. Distributions in excess of our earnings and profits will be treated first as a non-taxable return of capital to the extent of a United States shareholder's tax basis in its common stock on a dollar-for-dollar basis and thereafter as capital gain. We note that legislation was previously introduced in the United States Congress, which, if enacted in its present form, would preclude dividends received after the date of enactment from qualifying as "qualified dividend income." Please see the section of this annual report entitled "Taxation" under Item 10.E for additional information relating to the tax treatment of our dividend payments.

Dividends on our Series B Preferred Shares accrue and are cumulative from the date the Series B Preferred Shares are originally issued and are payable on each January 15, April 15, July 15 and October 15, which we refer to as Dividend Payment Dates, when, as and if declared by our board of directors or any authorized committee thereof out of legally available funds for such purpose. The dividend rate for our Series B Preferred Shares is 8.875% per annum per \$25.00 of liquidation preference per share (equal to \$2.21875 per annum per share) and is not subject to adjustment. At any time on or after February 14, 2019, we may redeem, in whole or from time to time in part, the Series B Preferred Shares at a redemption price of \$25.00 per share plus an amount equal to all accumulated and unpaid dividends thereon to the date of redemption, whether or not declared.

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

B. Significant Changes

There have been no significant changes since the date of the annual consolidated financial statements included in this annual report, other than those described in note 17 "Subsequent events" of our annual consolidated financial statements.

Item 9.

The Offer and Listing

The trading market for shares of our common stock is the New York Stock Exchange, on which our shares trade under the symbol "DSX". The following table sets forth the required disclosure with respect to the high and low closing prices for shares of our common stock, as reported by the New York Stock Exchange:

Period	2016		2015		2014		2013		2012		2011	
	High	Low	High	Low	High	Low	High	Low	High	Low	High	Low
Annual			\$ 8.11	\$ 3.58	\$13.55	\$ 6.31	\$13.64	\$ 7.47	\$ 9.87	\$ 6.31	\$12.64	\$ 6.93
1st quarter			\$ 7.24	\$ 6.12	\$13.55	\$11.61						
2nd quarter			7.75	6.02	12.26	10.68						
3rd quarter			8.11	6.08	11.13	8.94						
4th quarter			7.13	3.58	9.03	6.31						
September			\$ 6.84	\$ 6.08								
October			7.13	6.21								
November			6.45	4.75								
December			4.50	3.58								
January	\$ 4.47	\$ 2.15										
February	2.66	2.02										
March*	3.49	2.25										

* For the period from March 1, 2016 until March 28, 2016.

Our Series B Preferred Stock has been trading on the New York Stock Exchange under the symbol "DSXPRB" since February 21, 2014. The following table shows the high and low closing sales prices for our Series B Preferred Stock:

Period	2016		2015		2014*	
	High	Low	High	Low	High	Low
Annual			\$ 25.59	\$ 10.80	\$ 26.98	\$ 22.76
1st quarter			\$ 25.59	\$ 24.08	\$ 25.35	\$ 24.57
2nd quarter			25.59	24.60	26.98	25.37
3rd quarter			25.14	19.69	26.89	25.89
4th quarter			21.49	10.80	26.74	22.76
September			23.60	19.69		
October			21.37	19.98		
November			21.49	13.26		
December			14.34	10.80		
January	\$ 14.70	\$ 9.50				
February	12.83	10.33				
March**	13.19	10.95				

* Commencing on February 21, 2014.

** For the period from March 1, 2016 until March 28, 2016.

In addition, our 8.5% Senior Notes due 2020 have traded on the NYSE since May 29, 2015 under the symbol "DSXN."

Item 10.

Additional Information

A. Share Capital

Not Applicable.

B. Memorandum and Articles of Association

Our current amended and restated articles of incorporation have been filed as exhibit 1 to our Form 6-K filed with the SEC on May 29, 2008 with file number 001-32458, and our current amended and restated bylaws have been filed as exhibit 3.2 to our Form F-3 filed with the SEC on May 6, 2009 with file number 333-159016. The information contained in these exhibits is incorporated by reference herein.

Information regarding the rights, preferences and restrictions attaching to each class of our common shares is described in the section entitled "Description of Capital Stock" in our Registration Statement on Form F-1 filed with the Securities and Exchange Commission on November 23, 2005 with file number 333-129726, provided that since the date of that Registration Statement, the number of our outstanding shares of common stock has currently increased to 84,696,017. For additional information about our Series B Preferred Shares, please see the section entitled "Description of Registrant's Securities to be Registered" of our registration statement on Form 8-A filed with the SEC on February 13, 2014 and incorporated by reference herein.

Stockholders Rights Agreement

On January 15, 2016, we entered into a Stockholders Rights Agreement with Computershare Trust Company, N.A., as Rights Agent, to replace the Amended and Restated Stockholders Rights Agreement, dated October 7, 2008.

Under the Stockholders Rights Agreement, we declared a dividend payable of one preferred stock purchase right, or Right, for each share of common stock outstanding at the close of business on January 26, 2016. Each Right entitles the registered holder to purchase from us one one-thousandth of a share of Series A participating preferred stock, par value \$0.01 per share, at an exercise price of \$40.00 per share. The Rights will separate from the common stock and become exercisable only if a person or group acquires beneficial ownership of 18.5% or more of our common stock (including through entry into certain derivative positions) in a transaction not approved by our Board of Directors. In that situation, each holder of a Right (other than the acquiring person, whose Rights will become void and will not be exercisable) will have the right to purchase, upon payment of the exercise price, a number of shares of our common stock having a then-current market value equal to twice the exercise price. In addition, if the Company is acquired in a merger or other business combination after an acquiring person acquires 18.5% or more of our common stock, each holder of the Right will thereafter have the right to purchase, upon payment of the exercise price, a number of shares of common stock of the acquiring person having a then-current market value equal to twice the exercise price. The acquiring person will not be entitled to exercise these Rights. Under the Stockholders Rights Agreement's terms, it will expire on January 14, 2026. A copy of the Stockholders Rights Agreement and a summary of its terms are contained in the Form 8-A12B filed with the SEC on January 15, 2016, with file number 001-32458.

C. Material Contracts

Attached as exhibits to this annual report are the contracts we consider to be both material and not entered into in the ordinary course of business, which (i) are to be performed in whole or in part on or after the filing date of this annual report or (ii) were entered into not more than two years before the filing date of this annual report. Other than these agreements, we have no material contracts, other than contracts entered into in the ordinary course of business, to which the Company or any member of the group is a party. A description of these is included in our description of our agreements generally: we refer you to Item 5.B for a discussion of our loan facilities, and Item 7.B for a discussion of our agreements with companies controlled by our Chief Executive Officer and Chairman of the Board, Mr. Simeon Palios.

D. Exchange Controls

Under Marshall Islands, Panamanian, Cypriot and Greek law, there are currently no restrictions on the export or import of capital, including foreign exchange controls or restrictions that affect the remittance of dividends, interest or other payments to non-resident holders of our common stock.

E. Taxation

The following is a discussion of the material Marshall Islands and U.S. federal income tax considerations of the ownership and disposition by a U.S. Holder and a Non-U.S. Holder, each as defined below, with respect to the common stock. This discussion does not purport to deal with the tax consequences of owning common stock to all categories of investors, some of which, such as dealers in securities or commodities, financial institutions, insurance companies, tax-exempt organizations, U.S. expatriates, persons liable for the alternative minimum tax, persons who hold common stock as part of a straddle, hedge, conversion transaction or integrated investment, U.S. Holders whose functional currency is not the United States dollar and investors that own, actually or under applicable constructive ownership rules, 10% or more of the Company's common stock, may be subject to special rules. This discussion deals only with holders who hold the common stock as a capital asset. You are encouraged to consult your own tax advisors concerning the overall tax consequences arising in your own particular situation under U.S. federal, state, local or foreign law of the ownership of common stock.

Marshall Islands Tax Considerations

The Company is incorporated in the Marshall Islands. Under current Marshall Islands law, the company is not subject to tax on income or capital gains, and no Marshall Islands withholding tax will be imposed upon payments of dividends by us to our shareholders.

United States Federal Income Taxation

The following discussion is based upon the provisions of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), existing and proposed U.S. Treasury Department regulations, (the "Treasury Regulations"), administrative rulings, pronouncements and judicial decisions, all as of the date of this Annual Report. This discussion assumes that we do not have an office or other fixed place of business in the United States. Unless the context otherwise requires, the reference to Company below shall be meant to refer to both the Company and its vessel-owning and operating subsidiaries.

Taxation of the Company's Shipping Income

In General

The Company anticipates that it will derive substantially all of its gross income from the use and operation of vessels in international commerce and that this income will principally consist of freights from the transportation of cargoes, hire or lease from time or voyage charters and the performance of services directly related thereto, which the Company refers to as "Shipping Income."

Shipping Income that is attributable to transportation that begins or ends, but that does not both begin and end, in the United States will be considered to be 50% derived from sources within the United States. Shipping Income attributable to transportation that both begins and ends in the United States will be considered to be 100% derived from sources within the United States. The Company is not permitted by law to engage in transportation that gives rise to 100% U.S. source Shipping Income. Shipping Income attributable to transportation exclusively between non-U.S. ports will be considered to be 100% derived from sources outside the United States. Shipping Income derived from sources outside the United States will not be subject to U.S. federal income tax.

Based upon the Company's anticipated shipping operations, the Company's vessels will operate in various parts of the world, including to or from U.S. ports. Unless exempt from U.S. federal income taxation under Section 883 of the Code, the Company will be subject to U.S. federal income taxation, in the manner discussed below, to the extent its Shipping Income is considered derived from sources within the United States.

In the year ended December 31, 2015, approximately 5.3% of the Company's shipping income was attributable to the transportation of cargoes either to or from a U.S. port. Accordingly, 2.6% of the Company's shipping income would be treated as derived from U.S. sources for the year ended December 31, 2015. In the absence of exemption from U.S. federal income tax under Section 883 of the Code, the Company would have been subject to a 4% tax on its gross U.S. source Shipping Income, equal to approximately \$166,000 for the year ended December 31, 2015.

Application of Exemption under Section 883 of the Code

Under the relevant provisions of Section 883 of the Code and the final Treasury Regulations promulgated thereunder, a foreign corporation will be exempt from U.S. federal income taxation on its U.S. source Shipping Income if:

- (1) It is organized in a qualified foreign country which, as defined, is one that grants an equivalent exemption from tax to corporations organized in the United States in respect of the Shipping Income for which exemption is being claimed under Section 883 of the Code, or the "Country of Organization Requirement"; and
- (2) It can satisfy any one of the following two stock ownership requirements:
 - more than 50% of its stock, in terms of value, is beneficially owned by qualified shareholders which, as defined, includes individuals who are residents of a qualified foreign country, or the "50% Ownership Test"; or
 - its stock is "primarily and regularly" traded on an established securities market located in the United States or a qualified foreign country, or the "Publicly Traded Test".

The U.S. Treasury Department has recognized the Marshall Islands, Panama and Cyprus the countries of incorporation of each of the Company and its subsidiaries that earns Shipping Income, as a qualified foreign country. Accordingly, the Company and each of the subsidiaries satisfy the Country of Organization Requirement.

For the 2015 taxable year, the Company believes that it is unlikely that the 50% Ownership Test was satisfied. Therefore, the eligibility of the Company and each subsidiary to qualify for exemption under Section 883 of the Code is wholly dependent upon the Company's ability to satisfy the Publicly Traded Test.

Under the Treasury Regulations, stock of a foreign corporation is considered "primarily traded" on an established securities market in a country if the number of shares of each class of stock that is traded during the taxable year on all established securities markets in that country exceeds the number of shares in each such class that is traded during that year on established securities markets in any other single country. The Company's common stock, which is the sole class of issued and outstanding stock, was "primarily traded" on the New York Stock Exchange, or "NYSE", during the 2015 taxable year.

Under the Treasury Regulations, the Company's common stock will be considered to be "regularly traded" on the NYSE if: (1) more than 50% of its common stock, by voting power and total value, is listed on the NYSE, referred to as the "Listing Threshold", (2) its common stock is traded on the NYSE, other than in minimal quantities, on at least 60 days during the taxable year (or one-sixth of the days during a short taxable year), which is referred to as the "Trading Frequency Test"; and (3) the aggregate number of shares of its common stock traded on the NYSE during the taxable year is at least 10% of the average number of shares of its common stock outstanding during such taxable year (as appropriately adjusted in the case of a short taxable year), which is referred to as the "Trading Volume Test". The Trading Frequency Test and Trading Volume Test are deemed to be satisfied under the Treasury Regulations if the Company's common stock is regularly quoted by dealers making a market in the common stock.

The Company believes that its common stock has satisfied the Listing Threshold, as well as the Trading Frequency Test and Trading Volume Tests, during the 2015 taxable year.

Notwithstanding the foregoing, the Treasury Regulations provide, in pertinent part, that stock of a foreign corporation will not be considered to be "regularly traded" on an established securities market for any taxable year during which 50% or more of such stock is owned, actually or constructively under specified stock attribution rules, on more than half the days during the taxable year by persons, or "5% Shareholders", who each own 5% or more of the value of such stock, or the "5% Override Rule." For purposes of determining the persons who are 5% Shareholders, a foreign corporation may rely on Schedules 13D and 13G filings with the U.S. Securities and Exchange Commission.

Based on Schedules 13D and 13G filings, during the 2015 taxable year, less than 50% of the Company's common stock was owned by 5% Shareholders. Therefore, the Company believes that it is not subject to the 5% Override Rule and thus has satisfied the Publicly Traded Test for the 2015 taxable year. However, there can be no assurance that the Company will continue to satisfy the Publicly Traded Test in future taxable years. For example, the Company could be subject to the 5% Override Rule if another 5% Shareholder in combination with the Company's existing 5% Shareholders were to own 50% or more of the Company's common stock. In such a case, the Company would be subject to the 5% Override Rule unless it could establish that, among the shares of the common stock owned by the 5% Shareholders, sufficient shares are owned by qualified shareholders, for purposes of Section 883 of the Code, to preclude non-qualified shareholders from owning 50% or more of the Company's common stock for more than half the number of days during the taxable year. The requirements of establishing this exception to the 5% Override Rule are onerous and there is no assurance the Company will be able to satisfy them.

Based on the foregoing, the Company believes that it satisfied the Publicly Traded Test and therefore believes that it was exempt from U.S. federal income tax under Section 883 of the Code, during the 2015 taxable year, and intends to take this position on its 2015 U.S. federal income tax returns.

Taxation in Absence of Exemption Under Section 883 of the Code

To the extent the benefits of Section 883 of the Code are unavailable with respect to any item of U.S. source Shipping Income, the Company and each of its subsidiaries would be subject to a 4% tax imposed on such income by Section 887 of the Code on a gross basis, without the benefit of deductions, which is referred to as the "4% Gross Basis Tax Regime". Since under the sourcing rules described above, no more than 50% of the Company's Shipping Income would be treated as being derived from U.S. sources, the maximum effective rate of U.S. federal income tax on the Company's Shipping Income would never exceed 2% under the 4% Gross Basis Tax Regime.

Based on its U.S. source Shipping Income for the 2015 taxable year and in the absence of exemption under Section 883 of the Code, the Company would be subject to approximately \$246,000 of U.S. federal income tax under the 4% Gross Basis Tax Regime.

The 4% Gross Basis Tax Regime would not apply to U.S. source Shipping Income to the extent considered to be "effectively connected" with the conduct of a U.S. trade or business. In the absence of exemption under Section 883 of the Code, such "effectively connected" U.S. source Shipping Income, net of applicable deductions, would be subject to U.S. federal income tax currently imposed at corporate rates of up to 35%. In addition, earnings "effectively connected" with the conduct of such U.S. trade or business, as determined after allowance for certain adjustments, and certain interest paid or deemed paid attributable to the conduct of the U.S. trade or business may be subject to U.S. federal branch profits tax imposed at a rate of 30%. The Company's U.S. source Shipping Income would be considered "effectively connected" with the conduct of a U.S. trade or business only if: (1) the Company has, or is considered to have, a fixed place or business in the United States involved in the earning of Shipping Income; and (2) substantially all of the Company's U.S. source Shipping Income is attributable to regularly scheduled transportation, such as the operation of a vessel that followed a published schedule with repeated sailings at regular intervals between the same points for voyages that begin or end in the United States, or, in the case of income from the chartering of a vessel, is attributable to a fixed place of business in the United States. We do not intend to have, or permit circumstances that would result in having a vessel operating to the United States on a regularly scheduled basis. Based on the foregoing and on the expected mode of our shipping operations and other activities, we believe that none of our U.S. source Shipping Income will be effectively connected with the conduct of a U.S. trade or business.

Gain on Sale of Vessels

Regardless of whether we qualify for exemption under Section 883 of the Code, we will not be subject to U.S. federal income taxation with respect to gain realized on a sale of a vessel, provided the sale is considered to occur outside of the United States under U.S. federal income tax principles. In general, a sale of a vessel will be considered to occur outside of the United States for this purpose if title to the vessel, and risk of loss with respect to the vessel, pass to the buyer outside of the United States. It is expected that any sale of a vessel by us will be considered to occur outside of the United States.

United States Taxation of U.S. Holders

The following is a discussion of the material U.S. federal income tax considerations relevant to an investment decision by a U.S. Holder, as defined below, with respect to our common stock. This discussion does not purport to deal with the tax consequences of owning our common stock to all categories of investors, some of which may be subject to special rules. You are encouraged to consult your own tax advisors concerning the overall tax consequences arising in your own particular situation under U.S. federal, state, local or foreign law of the ownership of our common stock.

As used herein, the term "U.S. Holder" means a beneficial owner of our common stock that (i) is a U.S. citizen or resident, a U.S. corporation or other U.S. entity taxable as a corporation, an estate, the income of which is subject to U.S. federal income taxation regardless of its source, or a trust if a court within the United States is able to exercise primary jurisdiction over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust and (ii) owns the common stock as a capital asset, generally, for investment purposes.

If a partnership holds our common stock, the tax treatment of a partner will generally depend upon the status of the partner and upon the activities of the partnership. If you are a partner in a partnership holding our common stock, you are encouraged to consult your own tax advisor on this issue.

Distributions

Subject to the discussion of passive foreign investment companies below, any distributions made by the Company with respect to its common stock to a U.S. Holder will generally constitute dividends, which may be taxable as ordinary income or "qualified dividend income" as described in more detail below, to the extent of the Company's current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Distributions in excess of the Company's earnings and profits will be treated first as a non-taxable return of capital to the extent of the U.S. Holder's tax basis in his common stock on a dollar-for-dollar basis and thereafter as capital gain. Because the Company is not a U.S. corporation, U.S. Holders that are corporations will not be entitled to claim a dividends-received deduction with respect to any distributions they receive from the Company.

Dividends paid to a U.S. Holder which is an individual, trust, or estate, referred to herein as a "U.S. Non-Corporate Holder," will generally be treated as "qualified dividend income" that is taxable to Holders at preferential U.S. federal income tax rates, provided that (1) the common stock is readily tradable on an established securities market in the United States (such as the NYSE on which the common stock is listed); (2) the Company is not a passive foreign investment company for the taxable year during which the dividend is paid or the immediately preceding taxable year (which the Company does not believe it is, has been or will be); (3) the U.S. Non-Corporate Holder has owned the common stock for more than 60 days in the 121-day period beginning 60 days before the date on which the common stock becomes ex-dividend; and (4) the U.S. Non-Corporate Holder is not under an obligation (whether pursuant to a short sale or otherwise) to make payments with respect to positions in substantially similar or related property. There is no assurance that any dividends paid on our common stock will be eligible for these preferential rates in the hands of a U.S. Non-Corporate Holder. Any dividends paid by the Company which are not eligible for these preferential rates will be taxed as ordinary income to a U.S. Non-Corporate Holder. Special rules may apply to any "extraordinary dividend," generally, a dividend paid by us in an amount which is equal to or in excess of ten percent of a U.S. Holder's adjusted tax basis, or fair market value in certain circumstances, in a share of our common stock. If we pay an "extraordinary dividend" on our common stock that is treated as "qualified dividend income," then any loss derived by a U.S. Individual Holder from the sale or exchange of such common stock will be treated as long-term capital loss to the extent of such dividend.

Sale, Exchange or other Disposition of Common Stock

Subject to the discussion of the PFIC rules below, a U.S. Holder generally will recognize taxable gain or loss upon a sale, exchange or other disposition of the Company's common stock in an amount equal to the difference between the amount realized by the U.S. Holder from such sale, exchange or other disposition and the U.S. Holder's tax basis in such stock. Such gain or loss will be treated as long-term capital gain or loss if the U.S. Holder's holding period in the common stock is greater than one year at the time of the sale, exchange or other disposition. Long-term capital gain of a U.S. Non-Corporate Holder is taxable at preferential U.S. Federal income tax rates. A U.S. Holder's ability to deduct capital losses is subject to certain limitations.

PFIC Status and Significant Tax Consequences

Special U.S. federal income tax rules apply to a U.S. Holder that holds stock in a foreign corporation classified as a passive foreign investment company, or a "PFIC", for U.S. federal income tax purposes. In general, the Company will be treated as a PFIC with respect to a U.S. Holder if, for any taxable year in which such Holder held the Company's common stock, either:

- at least 75% of the Company's gross income for such taxable year consists of passive income (e.g., dividends, interest, capital gains and rents derived other than in the active conduct of a rental business), or
- at least 50% of the average value of the assets held by the corporation during such taxable year produce, or are held for the production of, such passive income.

For purposes of determining whether the Company is a PFIC, the Company will be treated as earning and owning its proportionate share of the income and assets, respectively, of any of its subsidiary corporations in which it owns at least 25% of the value of the subsidiary's stock. Income earned, or deemed earned, by the Company in connection with the performance of services would not constitute passive income. By contrast, rental income would generally constitute passive income unless the Company is treated under specific rules as deriving its rental income in the active conduct of a trade or business.

Based on the Company's current operations and future projections, the Company does not believe that it is, nor does it expect to become, a PFIC with respect to any taxable year. Although there is no legal authority directly on point, the Company's belief is based principally on the position that, for purposes of determining whether the Company is a PFIC, the gross income the Company derives or is deemed to derive from the time chartering and voyage chartering activities of its wholly-owned subsidiaries should constitute services income, rather than rental income. Correspondingly, the Company believes that such income does not constitute passive income, and the assets that the Company or its wholly-owned subsidiaries own and operate in connection with the production of such income, in particular, the vessels, do not constitute assets that produce or are held for the production of passive income for purposes of determining whether the Company is a PFIC. The Company believes there is substantial legal authority supporting its position consisting of case law and Internal Revenue Service, or the "IRS", pronouncements concerning the characterization of income derived from time charters and voyage charters as services income for other tax purposes. However, there is also authority which characterizes time charter income as rental income rather than services income for other tax purposes. It should be noted that in the absence of any legal authority specifically relating to the statutory provisions governing PFICs, the IRS or a court could disagree with this position. In addition, although the Company intends to conduct its affairs in a manner to avoid being classified as a PFIC with respect to any taxable year, there can be no assurance that the nature of its operations will not change in the future.

As discussed more fully below, if the Company were to be treated as a PFIC for any taxable year, a U.S. Holder would be subject to different U.S. federal income taxation rules depending on whether the U.S. Holder makes an election to treat the Company as a "Qualified Electing Fund," which election is referred to as a "QEF Election." As discussed below, as an alternative to making a QEF Election, a U.S. Holder should be able to make a "mark-to-market" election with respect to the common stock, which election is referred to as a "Mark-to-Market Election". If the Company were to be treated as a PFIC, a U.S. Holder would be required to file with respect to taxable years ending on or after December 31, 2013 IRS Form 8621 to report certain information regarding the Company.

Taxation of U.S. Holders Making a Timely QEF Election

If a U.S. Holder makes a timely QEF Election, which U.S. Holder is referred to as an "Electing Holder", the Electing Holder must report each year for U.S. federal income tax purposes his pro rata share of the Company's ordinary earnings and net capital gain, if any, for the Company's taxable year that ends with or within the taxable year of the Electing Holder, regardless of whether or not distributions were received by the Electing Holder from the Company. The Electing Holder's adjusted tax basis in the common stock will be increased to reflect amounts included in the Electing Holder's income. Distributions received by an Electing Holder that had been previously taxed will result in a corresponding reduction in the adjusted tax basis in the common stock and will not be taxed again once distributed. An Electing Holder would generally recognize capital gain or loss on the sale, exchange or other disposition of the common stock.

Taxation of U.S. Holders Making a Mark-to-Market Election

Alternatively, if the Company were to be treated as a PFIC for any taxable year and, as anticipated, the common stock is treated as "marketable stock," a U.S. Holder would be allowed to make a Mark-to-Market Election with respect to the Company's common stock. If that election is made, the U.S. Holder generally would include as ordinary income in each taxable year the excess, if any, of the fair market value of the common stock at the end of the taxable year over such Holder's adjusted tax basis in the common stock. The U.S. Holder would also be permitted an ordinary loss in respect of the excess, if any, of the U.S. Holder's adjusted tax basis in the common stock over its fair market value at the end of the taxable year, but only to the extent of the net amount previously included in income as a result of the Mark-to-Market Election. A U.S. Holder's tax basis in his common stock would be adjusted to reflect any such income or loss amount. Gain realized on the sale, exchange or other disposition of the common stock would be treated as ordinary income, and any loss realized on the sale, exchange or other disposition of the common stock would be treated as ordinary loss to the extent that such loss does not exceed the net mark-to-market gains previously included by the U.S. Holder.

Taxation of U.S. Holders Not Making a Timely QEF Election or Mark-to-Market Election

Finally, if the Company were to be treated as a PFIC for any taxable year, a U.S. Holder who does not make either a QEF Election or a Mark-to-Market Election for that year, whom is referred to as a "Non-Electing Holder", would be subject to special U.S. federal income tax rules with respect to (1) any excess distribution (i.e., the portion of any distributions received by the Non-Electing Holder on the common stock in a taxable year in excess of 125% of the average annual distributions received by the Non-Electing Holder in the three (3) preceding taxable years, or, if shorter, the Non-Electing Holder's holding period for the common stock), and (2) any gain realized on the sale, exchange or other disposition of the common stock. Under these special rules:

- the excess distribution or gain would be allocated ratably over the Non-Electing Holder's aggregate holding period for the common stock;

- the amount allocated to the current taxable year and any taxable years before the Company became a PFIC would be taxed as ordinary income; and
- the amount allocated to each of the other taxable years would be subject to tax at the highest rate of tax in effect for the applicable class of taxpayer for that year, and an interest charge for the deemed tax deferral benefit would be imposed with respect to the resulting tax attributable to each such other taxable year.

These penalties would not apply to a pension or profit sharing trust or other tax-exempt organization that did not borrow funds or otherwise utilize leverage in connection with its acquisition of the common stock. If a Non-Electing Holder who is an individual dies while owning the common stock, such Holder's successor generally would not receive a step-up in tax basis with respect to such stock.

U.S. Federal Income Taxation of "Non-U.S. Holders"

A beneficial owner of our common stock that is not a U.S. Holder (other than a partnership) is referred to herein as a "Non-U.S. Holder."

Dividends on Common Stock

Non-U.S. Holders generally will not be subject to U.S. federal income or withholding tax on dividends received from us with respect to our common stock, unless that income is effectively connected with the Non-U.S. Holder's conduct of a trade or business in the United States. If the Non-U.S. Holder is entitled to the benefits of a U.S. income tax treaty with respect to those dividends, that income is taxable in the United States only if attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States.

Sale, Exchange or Other Disposition of Common Stock

Non-U.S. Holders generally will not be subject to U.S. federal income or withholding tax on any gain realized upon the sale, exchange or other disposition of our common stock, unless:

- the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business in the United States. If the Non-U.S. Holder is entitled to the benefits of a U.S. income tax treaty with respect to that gain, the gain is taxable in the United States only if attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States; or
- the Non-U.S. Holder is an individual who is present in the United States for 183 days or more during the taxable year of disposition and other conditions are met.

If the Non-U.S. Holder is engaged in a U.S. trade or business for U.S. federal income tax purposes, the income from our common stock, including dividends and the gain from the sale, exchange or other disposition of the common stock, that is effectively connected with the conduct of that U.S. trade or business will generally be subject to U.S. federal income tax in the same manner as discussed in the previous section relating to the taxation of U.S. Holders. In addition, in the case of a corporate Non-U.S. Holder, such Holder's earnings and profits that are attributable to the effectively connected income, subject to certain adjustments, may be subject to an additional U.S. federal branch profits tax at a rate of 30%, or at a lower rate as may be specified by an applicable U.S. income tax treaty.

Backup Withholding and Information Reporting

In general, dividend payments, or other taxable distributions, made within the United States to a holder will be subject to U.S. federal information reporting requirements. Such payments will also be subject to U.S. federal "backup withholding" if paid to a non-corporate U.S. holder who:

- fails to provide an accurate taxpayer identification number;
- is notified by the IRS that he has failed to report all interest or dividends required to be shown on his U.S. federal income tax returns; or
- in certain circumstances, fails to comply with applicable certification requirements.

Non-U.S. Holders may be required to establish their exemption from information reporting and backup withholding by certifying their status on an applicable IRS Form W-8.

If a holder sells his common stock to or through a U.S. office of a broker, the payment of the proceeds is subject to both backup withholding and information reporting unless the holder establishes an exemption. If a holder sells his common stock through a non-U.S. office of a non-U.S. broker and the sales proceeds are paid to the holder outside the United States, then information reporting and backup withholding generally will not apply to that payment. However, information reporting requirements, but not backup withholding, will apply to a payment of sales proceeds, including a payment made to a holder outside the United States, if the holder sells his common stock through a non-U.S. office of a broker that is a U.S. person or has some other contacts with the United States.

Backup withholding is not an additional tax. Rather, a taxpayer generally may obtain a refund of any amounts withheld under backup withholding rules that exceed the taxpayer's U.S. federal income tax liability by filing a refund claim with the IRS.

U.S. Holders who are individuals (and to the extent specified in applicable Treasury Regulations, certain U.S. entities) who hold "specified foreign financial assets" (as defined in Section 6038D of the Code) are required to file IRS Form 8938 with information relating to the asset for each taxable year in which the aggregate value of all such assets exceeds \$75,000 at any time during the taxable year or \$50,000 on the last day of the taxable year (or such higher dollar amount as prescribed by applicable Treasury Regulations). Specified foreign financial assets would include, among other assets, our common stock, unless the common stock is held through an account maintained with a U.S. financial institution. Substantial penalties apply to any failure to timely file IRS Form 8938, unless the failure is shown to be due to reasonable cause and not due to willful neglect. Additionally, in the event a U.S. Holder who is an individual (and to the extent specified in applicable Treasury regulations, a U.S. entity) that is required to file IRS Form 8938 does not file such form, the statute of limitations on the assessment and collection of U.S. federal income taxes of such holder for the related tax year may not close until three (3) years after the date that the required information is filed.

F. Dividends and paying agents

Not Applicable.

G. Statement by experts

Not Applicable.

H. Documents on display

We file reports and other information with the SEC. These materials, including this annual report and the accompanying exhibits, may be inspected and copied at the public reference facilities maintained by the SEC at 100 F Street, N.E., Washington, D.C. 20549, or from the SEC's website <http://www.sec.gov>. You may obtain information on the operation of the public reference room by calling 1 (800) SEC-0330 and you may obtain copies at prescribed rates.

I. Subsidiary information

Not Applicable.

Item 11. Quantitative and Qualitative Disclosures about Market Risk

Interest Rates

We are exposed to market risks associated with changes in interest rates relating to our loan facilities, according to which we pay interest at LIBOR plus a margin; and as such increases in interest rates could affect our results of operations. An increase of 1% in the interest rates of our loan facilities bearing a variable interest rate during 2015, could have increased our interest cost (including capitalized interest and interest on our Notes) from \$14.6 million to \$19.9 million.

We will continue to have debt outstanding, which could impact our results of operations and financial condition. We expect to manage any exposure in interest rates through our regular operating and financing activities and, when deemed appropriate, through the use of derivative financial instruments.

As of December 31, 2015, 2014 and 2013 and as of the date of this annual report, we did not and have not designated any financial instruments as accounting hedging instruments. In May 2009, we entered into a five-year zero cost collar agreement, novated in March 2012, with a floor at 1% and a cap at 7.8% of a notional amount of \$100.0 million to manage our exposure to interest rate changes related to our borrowings. The collar agreement, which matured on May 27, 2014, was considered an economic hedge agreement as it did not meet the criteria for hedge accounting; therefore, the change in its fair value was recognized in our results of operations. We incurred unrealized gain of \$0.4 million and realized loss of \$0.3 million in 2014 and unrealized gain of \$0.6 million and realized loss of \$0.7 million in 2013.

Currency and Exchange Rates

We generate all of our revenues in U.S. dollars but currently incur about half of our operating expenses (around 45% in 2015 and 51% in 2014) and a significant portion of our general and administrative expenses (around 49% in 2015 and 53% in 2014) in currencies other than the U.S. dollar, primarily the Euro. For accounting purposes, including throughout this annual report, expenses incurred in Euros are converted into U.S. dollars at the exchange rate prevailing on the date of each transaction. Because a significant portion of our expenses are incurred in currencies other than the U.S. dollar, our expenses may from time to time increase relative to our revenues as a result of fluctuations in exchange rates, particularly between the U.S. dollar and the Euro, which could affect our results of operations in future periods. Currently, we do not consider the risk from exchange rate fluctuations to be material for our results of operations, as during 2015 and 2014, these non-US dollar expenses represented 33% and 32%, respectively of our revenues and therefore, we are not engaged in extensive derivative instruments to hedge a considerable part of those expenses.

While we historically have not mitigated the risk associated with exchange rate fluctuations through the use of financial derivatives, we may determine to employ such instruments from time to time in the future in order to minimize this risk. Our use of financial derivatives would involve certain risks, including the risk that losses on a hedged position could exceed the nominal amount invested in the instrument and the risk that the counterparty to the derivative transaction may be unable or unwilling to satisfy its contractual obligations, which could have an adverse effect on our results.

Item 12. Description of Securities Other than Equity Securities

Not Applicable.

PART II

Item 13.

Defaults, Dividend Arrearages and Delinquencies

None.

Item 14.

Material Modifications to the Rights of Security Holders and Use of Proceeds

Please see the section of this annual report entitled "Item 10.B—Memorandum and Articles of Association—Stockholders Rights Agreement."

Item 15.

Controls and Procedures

a) Disclosure Controls and Procedures

Management, including our Chief Executive Officer and Chief Financial Officer, has conducted an evaluation of the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this annual report. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports that it files or submits to the SEC under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms.

b) Management's Annual Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Rule 13a-15(f) of the Exchange Act. The Company's internal control over financial reporting is a process designed under the supervision of the Company's Chief Executive Officer and Chief Financial Officer to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the Company's financial statements for external reporting purposes in accordance with U.S. GAAP.

Management has conducted an assessment of the effectiveness of the Company's internal control over financial reporting based on the framework established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 Framework). Based on this assessment, management has determined that the Company's internal control over financial reporting as of December 31, 2015 is effective.

The registered public accounting firm that audited the financial statements included in this annual report containing the disclosure required by this Item 15 has issued an attestation report on management's assessment of our internal control over financial reporting.

c) Attestation Report of Independent Registered Public Accounting Firm

The attestation report on the Company's internal control over financial reporting issued by the registered public accounting firm that audited the Company's consolidated financial statements, Ernst Young (Hellas) Certified Auditors Accountants S.A., appears on page F-3 of the financial statements filed as part of this annual report.

d) Changes in Internal Control over Financial Reporting

None.

Inherent Limitations on Effectiveness of Controls

Our management, including our Chief Executive Officer and our Chief Financial Officer, does not expect that our disclosure controls or our internal control over financial reporting will prevent or detect all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of controls effectiveness to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

Item 16A.

Audit Committee Financial Expert

Our Board of Directors has determined that both the members of our Audit Committee, Mr. William Lawes and Mr. Apostolos Kontoyannis, qualify as "Audit Committee financial experts" and that they are both considered to be "independent" according to SEC rules.

Item 16B.

Code of Ethics

We have adopted a code of ethics that applies to officers, directors, employees and agents. Our code of ethics is posted on our website, <http://www.dianashippinginc.com>, under "About Us—Code of Ethics" and was filed as Exhibit 11.1 to our 2009 annual report on Form 20-F filed with the SEC on March 30, 2010 and incorporated by reference herein. Copies of our code of ethics are available in print, free of charge, upon request to Diana Shipping Inc., Pendelis 16, 175 64 Palaio Faliro, Athens, Greece. We intend to satisfy any disclosure requirements regarding any amendment to, or waiver from, a provision of this code of ethics by posting such information on our website.

Item 16C.

Principal Accountant Fees and Services

a) Audit Fees

Our principal accountants, Ernst and Young (Hellas), Certified Auditors Accountants S.A., have billed us for audit services.

Audit fees in 2015 and 2014 amounted to € 420,000 and € 420,000, or approximately \$455,704 and \$587,183, respectively, and relate to audit services provided in connection with timely SAS 100 reviews, the audit of our consolidated financial statements, the audit of internal control over financial reporting.

b) Audit-Related Fees

Audit related fees in 2015 and 2014 amounted to € 39,375 and € 45,000, or approximately \$44,553 and \$62,598, respectively, and relate to audit services provided in connection with the Company's filings with the SEC.

c) Tax Fees

None.

d) All Other Fees

During 2015, we received services for which fees amounted to \$85,000 and relate to the calculation of Earnings and Profits of the Company. There were no such fees in 2014.

e) Audit Committee's Pre-Approval Policies and Procedures

Our Audit Committee is responsible for the appointment, replacement, compensation, evaluation and oversight of the work of our independent auditors. As part of this responsibility, the Audit Committee pre-approves the audit and non-audit services performed by the independent auditors in order to assure that they do not impair the auditor's independence from the Company. The Audit Committee has adopted a policy which sets forth the procedures and the conditions pursuant to which services proposed to be performed by the independent auditors may be pre-approved.

f) Audit Work Performed by Other than Principal Accountant if Greater than 50%

Not applicable.

Item 16D.

Exemptions from the Listing Standards for Audit Committees

Our Audit Committee consists of two independent members of our Board of Directors. Otherwise, our Audit Committee conforms to each other requirement applicable to audit committees as required by the applicable listing standards of the New York Stock Exchange.

Item 16E.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

Issuer purchases of equity securities for the year ended December 31, 2015				
Period	Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Dollar Value of Shares that May Yet Be Purchased Under the Plan or Programs
Jan, 2015	413,804	\$6.46	413,804	\$71,978,289
Feb, 2015	-	-	-	\$71,978,289
Mar, 2015	-	-	-	\$71,978,289
Apr, 2015	-	-	-	\$71,978,289
May, 2015	-	-	-	\$71,978,289
Jun, 2015	-	-	-	\$71,978,289
Jul, 2015	-	-	-	\$71,978,289
Aug, 2015	-	-	-	\$71,978,289
Sep, 2015	-	-	-	\$71,978,289
Oct, 2015	-	-	-	\$71,978,289
Nov, 2015	-	-	-	\$71,978,289
Dec, 2015	-	-	-	\$71,978,289
Total	413,804	\$6.46	413,804	

On May 23, 2014, we announced that our Board of Directors authorized a share repurchase plan for up to \$100 million of the Company's common shares. The plan does not have an expiration date. In January 2015, we purchased 413,804 shares at any average price of \$6.46 per share. Since that purchase and as of the date of this report, we have not made any additional purchases under the plan.

Item 16F.

Change in Registrant's Certifying Accountant

Not applicable.

Item 16G.

Corporate Governance

Overview

Pursuant to an exception for foreign private issuers, we, as a Marshall Islands company, are not required to comply with the corporate governance practices followed by U.S. companies under the NYSE listing standards. We believe that our established practices in the area of corporate governance are in line with the spirit of the NYSE standards and provide adequate protection to our shareholders. In fact, we have voluntarily adopted NYSE required practices, such as (a) having a majority of independent directors, (b) establishing audit, compensation and nominating committees and (c) adopting a Code of Ethics. The significant differences between our corporate governance practices and the NYSE standards are set forth below.

Executive Sessions

The NYSE requires that non-management directors meet regularly in executive sessions without management. The NYSE also requires that all independent directors meet in an executive session at least once a year. As permitted under Marshall Islands law and our bylaws, our non-management directors do not regularly hold executive sessions without management and we do not expect them to do so in the future.

Audit Committee

The NYSE requires, among other things, that a company have an audit committee with a minimum of three members. Our Audit Committee consists of two independent members of our Board of Directors. Our Audit Committee conforms to every other requirement applicable to audit committees set forth in the listing standards of the NYSE.

Shareholder Approval of Equity Compensation Plans

The NYSE requires listed companies to obtain prior shareholder approval to adopt or materially revise any equity compensation plan. As permitted under Marshall Islands law and our amended and restated bylaws, we do not need prior shareholder approval to adopt or revise equity compensation plans, including our equity incentive plan.

Corporate Governance Guidelines

The NYSE requires companies to adopt and disclose corporate governance guidelines. The guidelines must address, among other things: director qualification standards, director responsibilities, director access to management and independent advisers, director compensation, director orientation and continuing education, management succession and an annual performance evaluation. We are not required to adopt such guidelines under Marshall Islands law and we have not adopted such guidelines.

Item 16H.

Mine Safety Disclosure

Not applicable.

PART III

Item 17.

Financial Statements

See Item 18.

Item 18.

Financial Statements

The financial statements required by this Item 18 are filed as a part of this annual report beginning on page F-1.

Item 19.

Exhibits

Exhibit

Number	Description
1.1	Amended and Restated Articles of Incorporation of Diana Shipping Inc. (originally known as Diana Shipping Investment Corp.) (1)
1.2	Amended and Restated By-laws of the Company (2)
2.1	Form of Common Share Certificate
2.2	Statement of Designation of the 8.875% Series B Cumulative Redeemable Perpetual Preferred Shares of the Company (3)
2.3	Certificate of Designations of the Series A Participating Preferred Stock of the Company (4)
2.4	Base Indenture, dated May 28, 2015, by and between the Company and Deutsche Bank Trust Company Americas (5)
2.5	First Supplemental Indenture to the Base Indenture, dated May 28, 2015, by and between the Company and Deutsche Bank Trust Company Americas, as trustee, relating to the Company's 8.500% Senior Notes due 2020 (6)
4.1	Stockholders Rights Agreement dated January 15, 2016 (7)
4.2	2014 Equity Incentive Plan
4.3	Form of Technical Manager Purchase Option Agreement (8)
4.4	Form of Management Agreement (9)
4.5	Loan Agreement with Bremer Landesbank dated October 22, 2009 (10)
4.6	Loan Agreement with the Export-Import Bank of China and DnB Nor Bank ASA dated October 2, 2010 (10)
4.7	First Supplemental Agreement, by and between Bikar Shipping Company Inc., Diana Shipping Inc., DSS and Emporiki Bank of Greece S.A., dated December 11, 2012
4.8	Second Supplemental Agreement, by and between Bikar Shipping Company Inc., Diana Shipping Inc., DSS and Credit Agricole Corporate and Investment Bank, dated December 13, 2012
4.9	Loan Agreement, dated May 24, 2013, by and among Erikub Shipping Company Inc., Wotho Shipping Company Inc., DNB Bank ASA, and Export-Import Bank of China (11)
4.10	Loan Agreement, dated January 9, 2014, by and among Taka Shipping Company Inc., Fayo Shipping Company Inc., and Commonwealth Bank of Australia (11)
4.11	Loan Agreement, dated May 20, 2013, by and between Diana Shipping Inc., Eluk Shipping Company Inc. and Diana Containerships Inc. (11)
4.12	First Amendment to Loan Agreement, dated May 20, 2013, by and between Diana Shipping Inc., Eluk Shipping Company Inc. and Diana Containerships Inc., dated July 28, 2014
4.13	Second Amendment to Loan Agreement, dated May 20, 2013, by and between Diana Shipping Inc., Eluk Shipping Company Inc. and Diana Containerships Inc., dated September 9, 2015
4.14	Loan Agreement, dated December 18, 2014, by and among Weno Shipping Company Inc., Pulap Shipping Company Inc., the Banks and Financial Institutions listed therein and BNP Paribas (12)

- 4.15 Loan Agreement, dated March 17, 2015, by and among Knox Shipping Company Inc., Bokak Shipping Company Inc., Jemo Shipping Company Inc., Guam Shipping Company Inc., Palau Shipping Company Inc., Makur Shipping Company Inc., Mandaringina Inc., Vesta Commercial, S.A., the Banks and Financial Institutions listed therein, Nordea Bank Finland Plc and Nordea Bank AB, London Branch (12)
- 4.16 Administrative Services Agreement, dated October 1, 2013, by and between Diana Shipping Inc. and Diana Shipping Services S.A. (11)
- 4.17 Brokerage Services Agreement, dated April 9, 2014, by and between Diana Shipping Inc. and Diana Enterprises Inc. (12)
- 4.18 Brokerage Services Agreement, dated April 1, 2015, by and between Diana Shipping Inc. and Diana Enterprises Inc.
- 4.19 Amended and Restated Non-Competition Agreement, dated as of March 1, 2013, by and between Diana Shipping Inc. and Diana Containerships Inc. (11)
- 4.20 Loan Agreement with ABN AMRO Bank N.V., dated March 26, 2015
- 4.21 Loan Agreement with Danish Ship Finance, dated April 29, 2015
- 4.22 Joint Venture and Subscription Agreement with Wilhelmsen Ship Management, dated January 16, 2015
- 4.23 Loan Agreement with BNP Paribas, dated July 22, 2015
- 4.24 Loan Agreement with ING Bank N.V., dated September 30, 2015
- 4.25 Loan Agreement with The Export-Import Bank of China, dated January 7, 2016
- 8.1 Subsidiaries of the Company
- 11.1 Code of Ethics (10)
- 12.1 Rule 13a-14(a)/15d-14(a) Certification of Principal Executive Officer
- 12.2 Rule 13a-14(a)/15d-14(a) Certification of Principal Financial Officer
- 13.1 Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 13.2 Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 15.1 Consent of Independent Registered Public Accounting Firm
- 101 The following materials from the Company's Annual Report on Form 20-F for the fiscal year ended December 31, 2015, formatted in eXtensible Business Reporting Language (XBRL): (i) Consolidated Balance Sheets as of December 31, 2014 and 2015; (ii) Consolidated Statements of Operations for the years ended December 31, 2013, 2014 and 2015; (iii) Consolidated Statements of Comprehensive Income/(Loss) for the years ended December 31, 2013, 2014 and 2015; (iv) Consolidated Statements of Stockholders' Equity for the years ended December 31, 2013, 2014 and 2015; (v) Consolidated Statements of Cash Flows for the years ended December 31, 2013, 2014 and 2015; and (v) the Notes to Consolidated Financial Statements
 - (1) Filed as Exhibit 1 to the Company's Form 6-K filed on May 29, 2008.
 - (2) Filed as Exhibit 3.1 to the Company's Form 6-K filed on February 13, 2014.
 - (3) Filed as Exhibit 3.3 to the Company's Form 8-A filed on February 13, 2014.
 - (4) Filed as Exhibit 3.1 to the Company's Form 8-A12B/A filed on January 15, 2016.
 - (5) Filed as Exhibit 4.1 to the Company's Form 6-K filed on May 28, 2015.
 - (6) Filed as Exhibit 4.2 to the Company's Form 6-K filed on May 28, 2015.
 - (7) Filed as Exhibit 4.1 to the Company's Form 8-A12B/A filed on January 15, 2016.
 - (8) Filed as an Exhibit to the Company's Registration Statement (File No. 123052) on March 1, 2005.
 - (9) Filed as an Exhibit to the Company's Amended Registration Statement (File No. 123052) on March 15, 2005.
 - (10) Filed as an Exhibit to the Company's Annual Report filed on Form 20-F on March 30, 2010.
 - (11) Filed as an Exhibit to the Company's Annual Report filed on Form 20-F on March 27, 2014.
 - (12) Filed as an Exhibit to the Company's Annual Report filed on Form 20-F on March 25, 2015.

SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and has duly caused and authorized the undersigned to sign this annual report on its behalf.

DIANA SHIPPING INC.

/s/ Andreas Michalopoulos

Andreas Michalopoulos

Chief Financial Officer

Dated: March 28, 2016

DIANA SHIPPING INC.
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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of Diana Shipping Inc.

We have audited the accompanying consolidated balance sheets of Diana Shipping Inc. as of December 31, 2015 and 2014, and the related consolidated statements of operations, comprehensive income/ (loss), stockholders' equity and cash flows for each of the three years in the period ended December 31, 2015. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Diana Shipping Inc. at December 31, 2015 and 2014, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2015, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Diana Shipping Inc.'s internal control over financial reporting as of December 31, 2015, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated March 28, 2016 expressed an unqualified opinion thereon.

/s/ Ernst & Young (Hellas) Certified Auditors-Accountants S.A.

Athens, Greece
March 28, 2016

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of Diana Shipping Inc.

We have audited Diana Shipping Inc.'s internal control over financial reporting as of December 31, 2015, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). Diana Shipping Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Diana Shipping Inc. maintained, in all material respects, effective internal control over financial reporting as of December 31, 2015, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Diana Shipping Inc. as of December 31, 2015 and 2014, and the related consolidated statements of operations, comprehensive income/ (loss), stockholders' equity and cash flows for each of the three years in the period ended December 31, 2015 of Diana Shipping Inc. and our report dated March 28, 2016, expressed an unqualified opinion thereon.

/s/ Ernst & Young (Hellas) Certified Auditors-Accountants S.A.

Athens, Greece
March 28, 2016

DIANA SHIPPING INC.**CONSOLIDATED BALANCE SHEETS**

December 31, 2015 and 2014

(Expressed in thousands of U.S. Dollars – except for share and per share data)

	2015	2014
<u>ASSETS</u>		
CURRENT ASSETS:		
Cash and cash equivalents (Note 2(e))	\$ 193,218	\$ 218,901
Accounts receivable, trade (Note 2(f))	4,512	6,383
Due from related parties (Notes 2(g) and 4(b))	5,103	57
Inventories (Note 2(h))	6,251	7,313
Prepaid expenses and other assets	5,929	5,580
Total current assets	215,013	238,234
FIXED ASSETS:		
Advances for vessels under construction and acquisitions and other vessel costs (Note 5)	44,514	29,500
Vessels (Note 6)	1,947,992	1,807,654
Accumulated depreciation (Note 6)	(507,189)	(434,521)
Vessels' net book value (Note 6)	1,440,803	1,373,133
Property and equipment, net (Note 7)	23,489	23,887
Total fixed assets	1,508,806	1,426,520
OTHER NON-CURRENT ASSETS:		
Due from related parties, non-current (Notes 2(g) and 4(b))	43,750	50,866
Equity method investments (Note 3)	62,487	67,546
Deferred charges, net	6,909	3,956
Total assets	\$ 1,836,965	\$ 1,787,122
<u>LIABILITIES AND STOCKHOLDERS' EQUITY</u>		
CURRENT LIABILITIES:		
Current portion of long-term debt, net of deferred financing costs, current (Note 9)	\$ 40,984	\$ 78,734
Accounts payable, trade and other	8,963	9,702
Due to related parties (Note 4)	64	281
Accrued liabilities	6,449	6,012
Deferred revenue	2,414	3,279
Other current liabilities	15	84
Total current liabilities	58,889	98,092
Long-term debt, net of current portion and deferred financing costs, non-current (Note 9)	559,087	405,522
Other non-current liabilities	623	1,282
Commitments and contingencies (Note 10)		
STOCKHOLDERS' EQUITY:		
Preferred stock (Note 11(a))	26	26
Common stock, \$0.01 par value; 200,000,000 shares authorized and 82,546,017 and 81,859,821 issued and outstanding at December 31, 2015 and 2014, respectively (Note 11(b))	825	819
Additional paid-in capital	976,880	971,280
Accumulated other comprehensive income/(loss)	269	(747)
Retained earnings	240,366	310,848
Total stockholders' equity	1,218,366	1,282,226
Total liabilities and stockholders' equity	\$ 1,836,965	\$ 1,787,122

The accompanying notes are an integral part of these consolidated financial statements.

DIANA SHIPPING INC.**CONSOLIDATED STATEMENTS OF OPERATIONS**

For the year ended December 31, 2015, 2014 and 2013

(Expressed in thousands of U.S. Dollars – except for share and per share data)

	2015	2014	2013
REVENUES:			
Time charter revenues	\$ 157,712	\$ 175,576	\$ 164,005
Other revenues (Note 4(b))	-	-	447
EXPENSES:			
Voyage expenses (Notes 4(d) and 12)	15,528	10,665	8,119
Vessel operating expenses (Note 12)	88,272	86,923	77,211
Depreciation and amortization of deferred charges (Notes 2(m) and 2(n))	76,333	70,503	64,741
General and administrative expenses	25,335	26,217	23,724
Management fees to related party (Notes 3(b) and 4(d))	405	-	-
Foreign currency gain	(984)	(528)	(690)
Operating loss	<u>\$ (47,177)</u>	<u>\$ (18,204)</u>	<u>\$ (8,653)</u>
OTHER INCOME / (EXPENSES):			
Interest and finance costs (Note 13)	(15,555)	(8,427)	(8,140)
Interest and other income (Note 4(b))	3,152	3,627	1,800
Income/(loss) from derivative instruments (Note 16)	-	68	(118)
Income/(loss) from equity method investments (Note 3)	(5,133)	12,668	(6,094)
Total other income / (expenses), net	<u>\$ (17,536)</u>	<u>\$ 7,936</u>	<u>\$ (12,552)</u>
Net loss	<u>\$ (64,713)</u>	<u>\$ (10,268)</u>	<u>\$ (21,205)</u>
Dividends on series B preferred shares (Notes 11(a) and 14)	(5,769)	(5,080)	-
Net loss attributed to common stockholders	<u>\$ (70,482)</u>	<u>\$ (15,348)</u>	<u>\$ (21,205)</u>
Loss per common share, basic and diluted (Note 14)	<u>\$ (0.89)</u>	<u>\$ (0.19)</u>	<u>\$ (0.26)</u>
Weighted average number of common shares, basic and diluted (Note 14)	<u>79,518,009</u>	<u>81,292,290</u>	<u>81,328,390</u>

DIANA SHIPPING INC.**CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**

For the year ended December 31, 2015, 2014 and 2013

(Expressed in thousands of U.S. Dollars)

	2015	2014	2013
Net loss	\$ (64,713)	\$ (10,268)	\$ (21,205)
Other comprehensive income / (loss) (Actuarial gain / (loss))	1,016	(911)	(30)
Comprehensive loss	<u>\$ (63,697)</u>	<u>\$ (11,179)</u>	<u>\$ (21,235)</u>

The accompanying notes are an integral part of these consolidated financial statements.

DIANA SHIPPING INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

For the year ended December 31, 2015, 2014 and 2013

(Expressed in thousands of U.S. Dollars – except for share and per share data)

	Preferred Stock		Common Stock		Additional Paid-in Capital	Other Comprehensive Income / (Loss)	Retained Earnings	Total Equity
	# of Shares	Par Value	# of Shares	Par Value				
BALANCE, December 31, 2012	-	-	82,233,424	\$ 822	\$ 918,007	\$ 194	\$ 347,401	\$1,266,424
Net loss	-	-	-	\$ -	\$ -	\$ -	\$ (21,205)	\$ (21,205)
Issuance of restricted stock and compensation cost	-	-	607,946	6	8,197	-	-	8,203
Other comprehensive loss	-	-	-	-	-	(30)	-	(30)
BALANCE, December 31, 2013	-	-	82,841,370	\$ 828	\$ 926,204	\$ 164	\$ 326,196	\$1,253,392
Net loss	-	-	-	\$ -	\$ -	\$ -	\$ (10,268)	\$ (10,268)
Issuance of series B preferred stock	2,600,000	26	-	-	62,672	-	-	62,698
Issuance of restricted stock and compensation cost	-	-	1,864,000	19	7,725	-	-	7,744
Dividends on series B preferred stock	-	-	-	-	-	-	(5,080)	(5,080)
Stock repurchased and retired	-	-	(2,845,549)	(28)	(25,321)	-	-	(25,349)
Other comprehensive loss	-	-	-	-	-	(911)	-	(911)
BALANCE, December 31, 2014	2,600,000	\$ 26	81,859,821	\$ 819	\$ 971,280	\$ (747)	\$ 310,848	\$1,282,226
Net loss	-	\$ -	-	\$ -	\$ -	\$ -	\$ (64,713)	\$ (64,713)
Issuance of restricted stock and compensation cost (Note 11(c))	-	-	1,100,000	10	8,269	-	-	8,279
Dividends on series B preferred stock (Note 11(a))	-	-	-	-	-	-	(5,769)	(5,769)
Stock repurchased and retired (Note 11(d))	-	-	(413,804)	(4)	(2,669)	-	-	(2,673)
Other comprehensive income	-	-	-	-	-	1,016	-	1,016
BALANCE, December 31, 2015	2,600,000	\$ 26	82,546,017	\$ 825	\$ 976,880	\$ 269	\$ 240,366	\$1,218,366

The accompanying notes are an integral part of these consolidated financial statements.

DIANA SHIPPING INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
For the year ended December 31, 2015, 2014 and 2013
(Expressed in thousands of U.S. Dollars)

Cash Flows from Operating Activities:	2015	2014	2013
Net loss	\$ (64,713)	\$ (10,268)	\$ (21,205)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization of deferred charges	76,333	70,503	64,741
Amortization of financing costs (Note 13)	1,364	519	473
Amortization of free lubricants benefit	(85)	(129)	(98)
Compensation cost on restricted stock (Note 11(c))	8,279	7,744	8,203
Actuarial gain / (loss)	1,016	(911)	(30)
Change in fair value of derivative instruments	-	(378)	(616)
(Income) / loss from equity method investments, net of dividends (Note 3)	5,133	(12,668)	5,094
(Increase) / Decrease in:			
Receivables	1,871	(5,682)	5,889
Due from related parties	2,070	(604)	294
Inventories	1,062	(1,354)	(684)
Prepaid expenses and other assets	(349)	(1,091)	345
Prepaid charter revenue (Notes 2(k) and 8)	-	-	5,353
Other non-current assets	-	793	(793)
Increase / (Decrease) in:			
Accounts payable	(739)	2,293	416
Due to related parties	(217)	60	(43)
Accrued liabilities, net of accrued preferred dividends	437	(11)	(479)
Deferred revenue	(865)	1	451
Other liabilities	(643)	554	135
Drydock costs	(6,009)	(4,461)	(46)
Net cash provided by Operating Activities	\$ 23,945	\$ 44,910	\$ 67,400
Cash Flows from Investing Activities:			
Payments for vessel acquisitions, improvements and construction (Notes 5 and 6)	(155,352)	(111,702)	(198,581)
Acquisition of additional interest in Diana Containerships Inc. (Note 3(a))	-	(40,000)	-
Cash dividends from investment in Diana Containerships Inc. (Note 3(a))	193	763	4,000
Loan to Diana Containerships Inc. (Note 4(b))	-	-	(50,000)
Joint venture investment (Note 3(b))	(267)	-	-
Payments for plant, property and equipment (Note 7)	(211)	(1,574)	(575)
Net cash used in Investing Activities	\$ (155,637)	\$ (152,513)	\$ (245,156)
Cash Flows from Financing Activities:			
Proceeds from long-term debt (Note 9)	441,173	101,500	18,000
Proceeds from issuance of preferred stock, net of expenses (Note 11(a))	-	62,698	-
Cash dividends on preferred stock	(5,769)	(3,862)	-
Payments for repurchase of common stock (Note 11(d))	(2,673)	(25,349)	-
Financing costs	(5,482)	(527)	(452)
Loan payments (Note 9)	(321,240)	(48,589)	(45,783)
Net cash provided by / (used in) Financing Activities	\$ 106,009	\$ 85,871	\$ (28,235)
Net decrease in cash and cash equivalents	(25,683)	(21,732)	(205,991)
Cash and cash equivalents at beginning of the year	218,901	240,633	446,624
Cash and cash equivalents at end of the year	\$ 193,218	\$ 218,901	\$ 240,633
SUPPLEMENTAL CASH FLOW INFORMATION			
Cash paid during the year for:			
Interest, net of amounts capitalized	\$ 13,048	\$ 8,180	\$ 7,169

The accompanying notes are an integral part of these consolidated financial statements.

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2015

(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

1. Basis of Presentation and General Information

The accompanying consolidated financial statements include the accounts of Diana Shipping Inc. (or "DSI") and its wholly-owned and beneficially-owned subsidiaries (collectively, the "Company"). DSI was formed on March 8, 1999 as Diana Shipping Investment Corp. under the laws of the Republic of Liberia. In February 2005, the Company's articles of incorporation were amended. Under the amended articles of incorporation, the Company was renamed Diana Shipping Inc. and was re-domiciled from the Republic of Liberia to the Republic of the Marshall Islands.

The Company is engaged in the ocean transportation of dry bulk cargoes worldwide mainly through the ownership of dry bulk carrier vessels. The Company also operates the majority of its own fleet through Diana Shipping Services S.A. (or "DSS"), a wholly-owned subsidiary and a limited number of vessels through a 50% owned joint venture (Notes 3 and 4). As at December 31, 2015, the following are wholly-owned subsidiaries with operations that are included in the consolidation:

a/a	Company	Vessel	Flag	Date Built	Date Acquired	Place of Incorporation
PANAMAX VESSELS						
1	Panama Compania Armadora SA	Oceanis	Bahamas	May 2001	May 2001	Panama
2	Husky Trading SA	Triton	Bahamas	Mar 2001	Mar 2001	Panama
3	Changame Compania Armadora SA	Thetis	Bahamas	Aug 2004	Nov 2005	Panama
4	Buenos Aires Compania Armadora SA	Alcyon	Bahamas	Feb 2001	Feb 2001	Panama
5	Skyvan Shipping Company SA	Nirefs	Bahamas	Jan 2001	Jan 2001	Panama
6	Cypres Enterprises Corp.	Protefs	Bahamas	Aug 2004	Aug 2004	Panama
7	Urbina Bay Trading SA	Erato	Bahamas	Aug 2004	Nov 2005	Panama
8	Chorrera Compania Armadora SA	Dione	Greek	Jan 2001	May 2003	Panama
9	Darien Compania Armadora SA	Calipso	Bahamas	Feb 2005	Feb 2005	Panama
10	Texford Maritime SA	Clio	Bahamas	May 2005	May 2005	Panama
11	Eaton Marine SA	Danae	Greek	Jan 2001	Jul 2003	Panama
12	Vesta Commercial SA	Coronis	Marshall Islands	Jan 2006	Jan 2006	Panama
13	Ailuk Shipping Company Inc.	Naias	Marshall Islands	Jun 2006	Aug 2006	Marshall Islands
14	Taka Shipping Company Inc.	Melite	Marshall Islands	Oct 2004	Jan 2010	Marshall Islands
15	Bikar Shipping Company Inc.	Arethusa	Greek	Jan 2007	Jul 2011	Marshall Islands
16	Mandaringina Inc.	Melia	Marshall Islands	Feb 2005	May 2012	Marshall Islands
17	Jemo Shipping Company Inc.	Leto	Marshall Islands	Feb 2010	Jan 2012	Marshall Islands
18	Fayo Shipping Company Inc.	Artemis	Marshall Islands	Sep 2006	Aug 2013	Marshall Islands
19	Erikub Shipping Company Inc. (Note 6)	Crystalia	Greek	Feb 2014	Feb 2014	Marshall Islands
20	Wotho Shipping Company Inc. (Note 6)	Atalandi	Greek	May 2014	May 2014	Marshall Islands
KAMSARMAX VESSELS						
21	Tuvalu Shipping Company Inc.	Myrto	Marshall Islands	Jan 2013	Jan 2013	Marshall Islands
22	Jabat Shipping Company Inc.	Maia	Marshall Islands	Aug 2009	Feb 2013	Marshall Islands
23	Makur Shipping Company Inc.	Myrsini	Marshall Islands	Mar 2010	Oct 2013	Marshall Islands
24	Rairok Shipping Company Inc. (Note 6)	Medusa	Marshall Islands	Apr 2010	Jun 2015	Marshall Islands
POST-PANAMAX VESSELS						
25	Majuro Shipping Company Inc.	Alcmene	Marshall Islands	Jan 2010	Nov 2010	Marshall Islands
26	Guam Shipping Company Inc	Amphitrite	Marshall Islands	Aug 2012	Aug 2012	Marshall Islands
27	Palau Shipping Company Inc.	Polymnia	Marshall Islands	Nov 2012	Nov 2012	Marshall Islands

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
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(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

a/a	Company	Vessel	Flag	Date Built	Date Acquired	Place of Incorporation
CAPE SIZE VESSELS						
28	Jaluit Shipping Company Inc.	Sideris GS	Marshall Islands	Nov 2006	Nov 2006	Marshall Islands
29	Bikini Shipping Company Inc.	New York	Marshall Islands	Mar 2010	Mar 2010	Marshall Islands
30	Gala Properties Inc.	Houston	Marshall Islands	Oct 2009	Oct 2009	Marshall Islands
31	Kili Shipping Company Inc.	Semirio	Marshall Islands	Jun 2007	Jun 2007	Marshall Islands
32	Knox Shipping Company Inc.	Alik	Marshall Islands	Mar 2005	Apr 2007	Marshall Islands
33	Lib Shipping Company Inc.	Boston	Marshall Islands	Nov 2007	Nov 2007	Marshall Islands
34	Marfort Navigation Company Ltd.	Salt Lake City	Cyprus	Sep 2005	Dec 2007	Cyprus
35	Silver Chandra Shipping Company Ltd.	Norfolk	Cyprus	Aug 2002	Feb 2008	Cyprus
36	Bokak Shipping Company Inc.	Baltimore	Marshall Islands	Mar 2005	Jun 2013	Marshall Islands
37	Pulap Shipping Company Inc.	PS Palios	Marshall Islands	Jan 2013	Dec 2013	Marshall Islands
38	Weno Shipping Company Inc. (Note 6)	GP Zafirakis	Marshall Islands	Aug 2014	Aug 2014	Marshall Islands
39	Lelu Shipping Company Inc. (Note 5)	Santa Barbara	Marshall Islands	Jan 2015	Jan 2015	Marshall Islands
40	Ujae Shipping Company Inc. (Note 6)	New Orleans	Marshall Islands	Nov 2015	Nov 2015	Marshall Islands
41	Toku Shipping Company Inc. (Notes 6)	Seattle	Marshall Islands	Apr 2011	Nov 2015	Marshall Islands
NEWCASTLEMAX VESSELS						
41	Lae Shipping Company Inc.	Los Angeles	Marshall Islands	Feb 2012	Feb 2012	Marshall Islands
42	Namu Shipping Company Inc.	Philadelphia	Marshall Islands	May 2012	May 2012	Marshall Islands
UNDER CONSTRUCTION						
43	Aster Shipping Company Inc. (Notes 5 and 10)	H2548	-	-	Expected in 2016	Marshall Islands
44	Aerik Shipping Company Inc. (Notes 5 and 10)	H2549	-	-	Expected in 2016	Marshall Islands
45	Houk Shipping Company Inc. (Notes 5 and 10)	DY6006	-	-	Expected in 2016	Marshall Islands
OTHER SUBSIDIARIES						
46	Diana Shipping Services SA	Management company				Panama
47	Bulk Carriers (USA) LLC	Company's representative in the US				Delaware - USA
48	Diana Ship Management Inc. (Note 3(b))	Intermediate holding company				Marshall Islands

Diana Shipping Services S.A., or DSS, provides the Company and its vessels with management services since November 12, 2004, pursuant to management agreements and since October 1, 2013 administrative services with regards to services related to DSI's operations and its subsidiaries. Such costs are eliminated in consolidation. Since April 2010 and until February 28, 2013, DSS provided to Diana Containerships Inc. (or "Diana Containerships") and its vessels, administrative services and since June 2010 and until February 28, 2013, technical and commercial services (Note 4(b)). Gradually from August 2015 and until December 31, 2015, DSS does not provide management services to six vessels in the Company's fleet whose management has been transferred to Diana Wilhelmsen Management Limited (Notes 3(b) and 4(d)).

During 2015, 2014 and 2013, charterers that individually accounted for 10% or more of the Company's time charter revenues were as follows:

Charterer	2015	2014	2013
A	24%	10%	
B	20%		
C	12%	12%	
D	10%	15%	19%
E		18%	17%
F			11%
G			11%

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2015

(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

2. Significant Accounting Policies

- (a) **Principles of Consolidation:** The accompanying consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles, and include the accounts of Diana Shipping Inc. and its wholly-owned subsidiaries referred to in Note 1 above. All intercompany balances and transactions have been eliminated upon consolidation.
- (b) **Use of Estimates:** The preparation of consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.
- (c) **Other Comprehensive Income / (loss):** The Company separately presents certain transactions, which are recorded directly as components of stockholders' equity. Other Comprehensive Income / (Loss) is presented in a separate statement.
- (d) **Foreign Currency Translation:** The functional currency of the Company is the U.S. dollar because the Company's vessels operate in international shipping markets, and therefore primarily transact business in U.S. dollars. The Company's accounting records are maintained in U.S. dollars. Transactions involving other currencies during the year are converted into U.S. dollars using the exchange rates in effect at the time of the transactions. At the balance sheet dates, monetary assets and liabilities which are denominated in other currencies are translated into U.S. dollars at the year-end exchange rates. Resulting gains or losses are reflected separately in the accompanying consolidated statements of operations.
- (e) **Cash and Cash Equivalents:** The Company considers highly liquid investments such as time deposits, certificates of deposit and their equivalents with an original maturity of three months or less to be cash equivalents. Cash and cash equivalents may also include compensating cash balances kept against the Company's loan facilities that are not deemed to be sufficiently material to require segregation on the balance sheet. Such balances at December 31, 2015 and 2014 amounted to \$21,500 and \$19,500 in the aggregate and consisted of minimum cash deposits required to be maintained at all times under the Company's loan facilities (Note 9).
- (f) **Accounts Receivable, Trade:** The amount shown as accounts receivable, trade, at each balance sheet date, includes receivables from charterers for hire, ballast bonus billings, if any, hold cleanings and extra voyage insurance, net of any provision for doubtful accounts. At each balance sheet date, all potentially uncollectible accounts are assessed individually for purposes of determining the appropriate provision for doubtful accounts. No provision for doubtful accounts was established as of December 31, 2015 and 2014.
- (g) **Loan Receivable from Related Parties:** The amounts shown as Due from related parties, current and non-current, in the consolidated balance sheet as at December 31, 2015 and 2014, (Note 4(b)) represent amounts receivable from Diana Containerships Inc. with respect to a loan agreement with a wholly owned subsidiary of Diana Containerships Inc., net of any provision for credit losses. Interest income and fees, deriving from the agreement are recorded in the accounts as incurred. Costs incurred for the loan documentation were expensed as incurred. At each balance sheet date, amounts due under the aforementioned loan agreement are assessed for purposes of determining the appropriate provision for credit losses. In order to estimate the allowance for credit losses, the Company assesses at each period end the ability of Diana Containerships to meet its obligations under the loan agreement by taking into consideration existing economic conditions, the current financial condition of Diana Containerships Inc. and historical losses, if any, and any other risks/factors that may affect its future financial condition and its ability to meet its obligations. No provision for credit losses was established as of December 31, 2015 and 2014, since there was no indication that Diana Containerships Inc. will not be able to meet its obligations under the loan agreement.

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2015

(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

- (h) **Inventories:** Inventories consist of lubricants and victualling which are stated at the lower of cost or market. Cost is determined by the first in, first out method. Inventories may also consist of bunkers when on the balance sheet date a vessel remains idle. Bunkers are also stated at the lower of cost or market and cost is determined by the first in, first out method.
- (i) **Vessel Cost:** Vessels are stated at cost which consists of the contract price and any material expenses incurred upon acquisition or during construction. Expenditures for conversions and major improvements are also capitalized when they appreciably extend the life, increase the earning capacity or improve the efficiency or safety of the vessels; otherwise these amounts are charged to expense as incurred. Interest cost incurred during the assets' construction periods that theoretically could have been avoided if expenditure for the assets had not been made is also capitalized. The capitalization rate, applied on accumulated expenditures for the vessel, is based on interest rates applicable to outstanding borrowings of the period.
- (j) **Property and equipment:** The Company owns the land and building where its offices are located. Land is presented in its fair value on the date of acquisition and it is not subject to depreciation. The building has an estimated useful life of 55 years with no residual value. Depreciation is calculated on a straight-line basis. Equipment consists of office furniture and equipment, computer software and hardware and vehicles which consist of motor scooters and a car. The useful life of the car is 10 years, of the office furniture, equipment and the scooters is 5 years; and of the computer software and hardware is 3 years. Depreciation is calculated on a straight-line basis.
- (k) **Prepaid Charter Revenue:** When the Company acquires a vessel with a time charter attached and the present value of the contractual cash flows of the time charter assumed is greater than its current fair value with reference to market data, the difference, capped to the vessel's fair value on a charter free basis, is recorded as prepaid charter revenue. Prepaid charter revenue is amortized to revenue over the period of the time charter assumed and is tested for recoverability whenever events or changes in circumstances indicate that its carrying amount may not be recoverable (Note 8).
- (l) **Impairment of Long-Lived Assets:** Long-lived assets (vessels, land, and building) and certain identifiable intangibles held and used by an entity are reviewed for impairment whenever events or changes in circumstances (such as market conditions, obsolescence or damage to the asset, potential sales and other business plans) indicate that the carrying amount of the assets may not be recoverable. When the estimate of undiscounted projected net operating cash flows, excluding interest charges, expected to be generated by the use of the asset over its remaining useful life and its eventual disposition is less than its carrying amount, the Company should evaluate the asset for an impairment loss. Measurement of the impairment loss is based on the fair value of the asset. The Company determines the fair value of its assets based on management estimates and assumptions and by making use of available market data and taking into consideration third party valuations.

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2015

(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

With respect to the vessels, the Company determines undiscounted projected net operating cash flows for each vessel by considering the historical and estimated vessels' performance and utilization, assuming (i) future revenues calculated for the fixed days, using the fixed charter rate of each vessel from existing time charters and for the unfixed days, the most recent 10 year average of historical 1 year time charter rates available for each type of vessel over the remaining estimated life of each vessel, net of brokerage commissions. Historical ten-year blended average one-year time charter rates are in line with the Company's overall chartering strategy, they reflect the full operating history of vessels of the same type and particulars with the Company's operating fleet and they cover at least a full business cycle; (ii) expected outflows for scheduled vessels' maintenance; (iii) vessel operating expenses increasing annually by an annual inflation rate of 3%, which approximates current projections for global inflation rate; (iv) effective fleet utilization of 98% taking into account the period each vessel is expected to remain off hire for scheduled maintenance (dry docking and special surveys) and 1% off hire days (other than for dry docking and special surveys) each year, assumptions in line with the Company's historical performance and its expectations for future fleet utilization under its current fleet deployment strategy.

The Company concluded based on this exercise that step two of the impairment analysis was not required and has not identified any facts or circumstances that would require the write down of vessel values as at December 31, 2015 or in the near future and no impairment loss has been identified or recorded for 2015, 2014 and 2013.

With respect to the land and building, the Company determines undiscounted projected net operating cash flows by considering an estimated monthly rent the Company would have to pay in order to lease a similar property, during the useful life of the building. As at December 31, 2015, 2014 and 2013, no impairment loss was identified or recorded and the Company has not identified any other facts or circumstances that would require the write down of the value of its land or building in the near future.

- (m) **Vessel Depreciation:** Depreciation is computed using the straight-line method over the estimated useful life of the vessels, after considering the estimated salvage (scrap) value. Each vessel's salvage value is equal to the product of its lightweight tonnage and estimated scrap rate. Management estimates the useful life of the Company's vessels to be 25 years from the date of initial delivery from the shipyard. Second hand vessels are depreciated from the date of their acquisition through their remaining estimated useful life. When regulations place limitations over the ability of a vessel to trade on a worldwide basis, its remaining useful life is adjusted at the date such regulations are adopted.
- (n) **Accounting for Dry-Docking Costs:** The Company follows the deferral method of accounting for dry-docking costs whereby actual costs incurred are deferred and are amortized on a straight-line basis over the period through the date the next dry-docking is scheduled to become due. Unamortized dry-docking costs of vessels that are sold are written off and included in the calculation of the resulting gain or loss in the year of the vessel's sale.
- (o) **Financing Costs:** Fees paid to lenders for obtaining new loans or refinancing existing ones are deferred and recorded as a contra to debt. Other fees paid for obtaining loan facilities not used at the balance sheet date are capitalized as deferred financing costs. Fees relating to drawn loan facilities are amortized to interest and finance costs over the life of the related debt using the effective interest method and fees incurred for loan facilities not used at the balance sheet date are amortized using the straight line method according to their availability terms. Unamortized fees relating to loans repaid or refinanced as debt extinguishment are expensed as interest and finance costs in the period the repayment or extinguishment is made. Loan commitment fees are charged to expense in the period incurred, unless they relate to loans obtained to finance vessels under construction, in which case they are capitalized to the vessels' cost.

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2015

(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

- (p) **Concentration of Credit Risk:** Financial instruments, which potentially subject the Company to significant concentrations of credit risk, consist principally of cash, trade accounts receivable and the loan receivable from a related party. The Company places its temporary cash investments, consisting mostly of deposits, with various qualified financial institutions and performs periodic evaluations of the relative credit standing of those financial institutions that are considered in the Company's investment strategy. The Company limits its credit risk with accounts receivable by performing ongoing credit evaluations of its customers' financial condition and generally does not require collateral for its accounts receivable and does not have any agreements to mitigate credit risk. The Company limits its credit risk with the loan receivable by performing ongoing credit evaluations of Diana Containerships' financial condition. The loan agreement is guaranteed by Diana Containerships but does not have any collateral and the Company has not entered into any agreement to mitigate credit risk.
- (q) **Accounting for Revenues and Expenses:** Revenues are generated from time charter agreements and are usually paid fifteen days in advance. Time charter agreements with the same charterer are accounted for as separate agreements according to the terms and conditions of each agreement. Time charter revenues are recorded over the term of the charter as service is provided. Income representing ballast bonus payments by the charterer to the vessel owner is recognized in the period earned. Revenues from time charter agreements providing for varying annual rates over their term are accounted for on a straight line basis. Compensation due to earlier redelivery than the minimum period agreed in the charter party is recognized in the period earned. Deferred revenue includes cash received prior to the balance sheet date for which all criteria to recognize as revenue have not been met. Deferred revenue may also include deferred revenue resulting from charter agreements providing for varying annual rates, which are accounted for on a straight line basis, or the unamortized balance of the liability associated with the acquisition of second-hand vessels with time charters attached which were acquired at values below fair market value at the date the acquisition agreement is consummated. Voyage expenses, primarily consisting of commissions, port, canal and bunker expenses that are unique to a particular charter, are paid for by the charterer under time charter arrangements, except for commissions, which are always paid for by the Company, regardless of charter type. All voyage and vessel operating expenses are expensed as incurred, except for commissions. Commissions are deferred over the related voyage charter period to the extent revenue has been deferred since commissions are due as the Company's revenues are earned.
- (r) **Repairs and Maintenance:** All repair and maintenance expenses including underwater inspection expenses are expensed in the year incurred. Such costs are included in vessel operating expenses in the accompanying consolidated statements of operations.
- (s) **Earnings / (loss) per Common Share:** Basic earnings / (loss) per common share are computed by dividing net income / (loss) available to common stockholders by the weighted average number of common shares outstanding during the year. Diluted earnings per common share, reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised.
- (t) **Segmental Reporting:** The Company has determined that it operates under one reportable segment, relating to its operations of the dry-bulk vessels. The Company reports financial information and evaluates the operations of the segment by charter revenues and not by the length of ship employment for its customers, i.e. spot or time charters. The Company does not use discrete financial information to evaluate the operating results for each such type of charter. Although revenue can be identified for these types of charters, management cannot and does not identify expenses, profitability or other financial information for these charters. As a result, management, including the chief operating decision maker, reviews operating results solely by revenue per day and operating results of the fleet. Furthermore, when the Company charters a vessel to a charterer, the charterer is free to trade the vessel worldwide and, as a result, the disclosure of geographic information is impracticable.

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
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- (u) **Fair Value Measurements:** The Company classifies and discloses its assets and liabilities carried at the fair value in one of the following categories:
- Level 1: Quoted market prices in active markets for identical assets or liabilities;
 - Level 2: Observable market based inputs or unobservable inputs that are corroborated by market data;
 - Level 3: Unobservable inputs that are not corroborated by market data.
- (v) **Share Based Payments:** The Company measures the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award (with limited exceptions). That cost is recognized over the period during which an employee is required to provide service in exchange for the award—the requisite service period (usually the vesting period). No compensation cost is recognized for equity instruments for which employees do not render the requisite service. Employee share purchase plans will not result in recognition of compensation cost if certain conditions are met. The Company initially measures the cost of employee services received in exchange for an award or liability instrument based on its current fair value; the fair value of that award or liability instrument is re-measured subsequently at each reporting date through the settlement date. Changes in fair value during the requisite service period are recognized as compensation cost over that period with the exception of awards granted in the form of restricted shares which are measured at their grant date fair value and are not subsequently re-measured. The grant-date fair value of employee share options and similar instruments are estimated using option-pricing models adjusted for the unique characteristics of those instruments (unless observable market prices for the same or similar instruments are available). If an equity award is modified after the grant date, incremental compensation cost will be recognized in an amount equal to the excess of the fair value of the modified award over the fair value of the original award immediately before the modification.
- (w) **Derivatives:** The Company is exposed to interest rate fluctuations associated with its variable rate borrowings and its objective is to manage the impact of such fluctuations on earnings and cash flows of its borrowings. In this respect, in May 2009, the Company entered into a five-year zero cost collar agreement, novated in March 2012, and terminated in May 2014, to manage its exposure to interest rate changes related to its borrowings. The collar agreement was considered as an economic hedge agreement as it did not meet the criteria of hedge accounting; therefore, the changes in its fair value were recognized in earnings (Note 16).
- (x) **Equity method investments:** Investments in common stock in entities over which the Company exercises significant influence, but does not exercise control are accounted for by the equity method of accounting. Under this method, the Company records such an investment at cost and adjusts the carrying amount for its share of the earnings or losses of the entity subsequent to the date of investment and reports the recognized earnings or losses in income. The Company also evaluates whether a loss in value of an investment that is other than a temporary decline should be recognized. Evidence of a loss in value might include absence of an ability to recover the carrying amount of the investment or inability of the investee to sustain an earnings capacity that would justify the carrying amount of the investment. Dividends received reduce the carrying amount of the investment. When the Company's share of losses in an entity accounted for by the equity method equals or exceeds its interest in the entity, the Company does not recognize further losses, unless the Company has made advances, incurred obligations and made payments on behalf of the entity.

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- (y) **Variable Interest Entities:** The Company evaluates financial instruments, service contracts, and other arrangements to determine if any variable interests relating to an entity exist, as the primary beneficiary would be required to include assets, liabilities, and the results of operations of the variable interest entity in its financial statements. The Company's evaluation did not result in an identification of variable interest entities as of December 31, 2015 and 2014.

Recent Accounting Pronouncements

- (a) In August 2014, the FASB issued Accounting Standards Update ("ASU" or "Update") No. 2014-15 – Presentation of Financial Statements - Going Concern. ASU 2014-15 provides guidance about management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and to provide related footnote disclosures. ASU 2014-15 requires an entity's management to evaluate at each reporting period based on the relevant conditions and events that are known at the date of financial statements are issued, whether there are conditions or events, that raise substantial doubt about the entity's ability to continue as a going concern within one year after the date that the financial statements are issued and to disclose the necessary information. ASU 2014-15 is effective for the annual period ending after December 15, 2016, and for annual periods and interim periods thereafter. Early application is permitted.
- (b) In February 2015, the FASB issued the ASU 2015-02, "Consolidation (Topic 810)—Amendments to the Consolidation Analysis", which amends the criteria for determining which entities are considered VIEs, amends the criteria for determining if a service provider possesses a variable interest in a VIE and ends the deferral granted to investment companies for application of the VIE consolidation model. The ASU is effective for interim and annual periods beginning after December 15, 2015. Early application is permitted. Management does not expect the adoption of this ASU to have a material impact on Company's results of operations, financial position or cash flows.
- (c) In July 2015, the FASB issued ASU No. 2015-11 –Inventory. ASU 2015-11 is part of FASB Simplification Initiative. Current guidance requires an entity to measure inventory at the lower of cost or market. Market could be the replacement cost, net realizable value or net realizable value less an approximately normal profit margin. Under this Update, the entities will be required to measure inventory at the lower of cost or net realizable value. Net realizable value is defined as estimate selling prices in the ordinary course of business, less reasonably predictable costs of completion, disposal and transportation. The amendments under the Update more closely align measurement of inventory in US GAAP with the measurement of inventory in IFRS. For public entities, the amendments of this Update are effective for fiscal years beginning after December 15, 2016, including interim periods within those fiscal years. The amendments of this Update should be applied prospectively with early application permitted. Management does not expect the adoption of this ASU to have a material impact on Company's results of operations, financial position or cash flows.
- (d) In February 2016, the FASB issued ASU 2016-02 Leases (Topic 842) which provides new guidance related to accounting for leases and supersedes existing U.S. GAAP on lease accounting. The ASU will require organizations that lease assets to recognize on the balance sheet the assets and liabilities for the rights and obligations created by those leases, unless the lease is a short term lease. Public business entities should apply the amendments in ASU 2016-02 for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early application is permitted for all public business entities upon issuance. Lessees (for capital and operating leases) and lessors (for sales-type, direct financing, and operating leases) must apply a modified retrospective transition approach for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. The modified retrospective approach would not require any transition accounting for leases that expired before the earliest comparative period presented. Lessees and lessors may not apply a full retrospective transition approach. Management is in the process of assessing the impact of the new standard on the Company's consolidated financial position and performance.

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- (e) In March 2016, the FASB issued ASU No. 2016-07 "Investments—Equity Method and Joint Ventures" to simplify the accounting for equity method investments. The amendments in the Update eliminate the requirement in Topic 323 that an entity retroactively adopt the equity method of accounting if an investment qualifies for use of the equity method as a result of an increase in the level of ownership or degree of influence. The amendments require that the equity method investor add the cost of acquiring the additional interest in the investee to the current basis of the investor's previously held interest and adopt the equity method of accounting as of the date the investment becomes qualified for equity method accounting. For public companies, the new standard is effective for interim and annual periods beginning after December 15, 2016. Early adoption is permitted. Management does not believe that the adoption of the new standard will have any impact on its consolidated financial position, results of operations or cash flows and relevant disclosures.

3. Equity Method Investments

- a) ***Diana Containerships Inc. ("Diana Containerships"):*** On July 29, 2014, DSI invested \$40,000 in Diana Containerships and acquired 15,936,255 additional shares increasing its ownership as at December 31, 2014 to 26.34%. As at December 31, 2015, DSI owned 26.08% of the share capital of Diana Containerships. As at December 31, 2015 and 2014, the investment in Diana Containerships amounted to \$62,376 and \$67,546, respectively, and is included in "Equity method investments" in the accompanying consolidated balance sheets. As at December 31, 2015, the market value of the investment was \$15,416 based on Diana Containerships' closing price on Nasdaq of \$0.80.

For 2015, 2014, and 2013, the investment in Diana Containerships resulted in loss of \$4,977, income of \$12,668, and loss of \$6,094, respectively, which is included in "Income/(loss) from equity method investments" in the accompanying consolidated statements of operations. Also for 2015, 2014, and 2013, DSI received dividends from Diana Containerships amounting to \$193, \$763 and \$4,000, respectively.

- b) ***Diana Wilhelmsen Management Limited ("DWM"):*** DWM is a joint venture which was established on May 7, 2015 by Diana Ship Management Inc., a wholly owned subsidiary of DSI, and Wilhelmsen Ship Management Holding Limited, an unaffiliated third party, each holding 50% of DWM. As at December 31, 2015, DWM provided management services to six vessels of the Company's fleet (Note 4(d)). The DWM office is located in Limassol, Cyprus. As at December 31, 2015, the investment in DWM amounted to \$111 and is included in "Equity method investments" in the accompanying 2015 consolidated balance sheet. From DWM's formation until December 31, 2015, loss from investment amounted to \$156 and is included in "Income/(loss) from equity method investments" in the accompanying 2015 consolidated statement of operations.

4. Transactions with Related Parties

- (a) ***Altair Travel Agency S.A. ("Altair"):*** The Company uses the services of an affiliated travel agent, Altair, which is controlled by the Company's CEO and Chairman of the Board. Travel expenses for 2015, 2014 and 2013 amounted to \$2,685, \$2,765 and \$2,640, respectively, and are mainly included in "Vessels", "Advances for vessels under construction and acquisitions and other vessel costs", "Vessel operating expenses" and "General and administrative expenses" in the accompanying consolidated financial statements. At December 31, 2015 and 2014, an amount of \$62 and \$281, respectively, was payable to Altair and is included in "Due to related parties" in the accompanying consolidated balance sheets.

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- (b) ***Diana Containerships Inc.***: Until February 28, 2013, DSS received from Diana Containerships management and administrative fees pursuant to management and administrative services agreements between Diana Containerships, its vessel owning companies, and DSS. During 2013, revenue derived from these agreements until their termination, amounted to \$447 and is separately presented as "Other revenues" in the accompanying 2013 consolidated statement of operations.

On May 20, 2013, DSI's Independent Committee of the Board of Directors and the Board of Directors approved to provide to Eluk Shipping Company Inc., a subsidiary of Diana Containerships, a five year unsecured loan of up to \$50,000 to be used for general corporate purposes and working capital, which was drawn on August 20, 2013. The loan, until the amendment discussed below, bore interest at LIBOR plus a margin of 5% and a back-end fee equal to 1.25% per annum on the outstanding amount of the loan payable by the borrower on the repayment date of the loan. On July 30, 2015, DSI's Independent Committee of the Board of Directors and the Board of Directors approved an amendment to the loan, pursuant to which as of September 9, 2015, the date of the amendment, the loan matures on March 15, 2022; bears interest at LIBOR plus a margin of 3% per annum; the back-end fee would accumulate up to and became payable on the date of the amendment; and the borrower will pay to the lender a fee of \$200 on the maturity date. In addition, the borrower agreed to repay the principal amount of the loan on the last day of each interest period in amounts totalling \$5,000 per annum, but not to exceed \$32,500 in the aggregate. The loan is subordinated to Diana Containerships' loan with the Royal Bank of Scotland.

As at December 31, 2015, there was an amount of \$5,103 due from Diana Containerships included in "Due from related parties, current" and \$43,750 due from Diana Containerships, separately presented in "Due from related parties, non-current", in the related accompanying consolidated balance sheet. As at December 31, 2014, similarly, there was an amount of \$57 and \$50,866 due from Diana Containerships current and non-current, respectively.

During 2015, 2014 and 2013 income from interest and fees amounted to \$2,745, \$3,246 and \$1,196, respectively, and is included in "Interest and other income" in the accompanying consolidated statements of operations.

- (c) ***Diana Enterprises Inc. ("Diana Enterprises")***: Diana Enterprises is a company controlled by the Company's CEO and Chairman of the Board which provides brokerage services to DSI pursuant to a Brokerage Services Agreement for a fixed fee. During 2015, 2014 and 2013 brokerage fees amounted to \$1,302, \$1,250 and \$2,481, respectively, and are included in "General and administrative expenses" in the accompanying consolidated statements of operations. As of December 31, 2015 and 2014, there was no amount due to Diana Enterprises included in the accompanying consolidated balance sheets. Until March 1, 2013, DSS had an agreement with Diana Enterprises to provide brokerage services to Diana Containerships, which was terminated when DSS ceased from being the management company of the Diana Containerships' group.
- (d) ***Diana Wilhelmsen Management Limited ("DWM")***: As of December 31, 2015, DWM provided management services to six vessels of the Company's fleet for a fixed monthly fee and commercial services charged as a percentage of the vessels' gross revenues. Management fees for the period from each vessel's delivery to the management of DWM to December 31, 2015, amounted to \$405 and are separately presented as "Management fees to related party" in the 2015 accompanying consolidated statement of operations whereas commercial fees amounted to \$43 and are included in "Voyage expenses" (Note 12). As at December 31, 2015, there was an amount of \$2 due to DWM, included in "Due to related parties" in the related accompanying consolidated balance sheet.

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5. Advances for Vessels under Construction and Acquisitions and Other Vessel Costs

In May 2013, Aster Shipping Company Inc. and Aerik Shipping Company Inc., each entered into a shipbuilding contract with unrelated third parties for the construction of a Newcastlemax dry bulk carrier for the aggregate price of \$97,400. The vessels are expected to be delivered in 2016.

In January 2014, Houk Shipping Company Inc., entered into a shipbuilding contract with unrelated third parties for the construction of a Kamsarmax dry bulk carrier for a contract price of \$28,825. The vessel is expected to be delivered in 2016.

In December 2014, Lelu Shipping Company Inc. entered into a memorandum of agreement with an unrelated third party to acquire a newbuilding Capesize dry bulk vessel, named *Santa Barbara*, for a purchase price of \$50,000. The vessel was delivered in January 2015 (Note 6).

As at December 31, 2015, the remaining contractual obligations amounted to \$83,487 (Note 10).

The amounts in the accompanying consolidated balance sheets include payments to sellers of vessels or, in the case of vessels under construction, to the shipyards and other costs capitalized in accordance with the Company's related accounting policy (Note 2(i)). The movement of the account during 2015 and 2014 was as follows:

	2015	2014
Beginning balance	\$ 29,500	\$ 38,862
- Advances for vessels under construction and other vessel costs	25,080	43,160
- Advances for vessel acquisitions and other vessel costs	40,105	10,066
- Transferred to vessel cost (Note 6)	(50,171)	(62,588)
Ending balance	<u>\$ 44,514</u>	<u>\$ 29,500</u>

6. Vessels

The amounts in the accompanying consolidated balance sheets are analyzed as follows:

	<u>Vessel Cost</u>	<u>Accumulated Depreciation</u>	<u>Net Book Value</u>
Balance, December 31, 2013	\$ 1,686,590	\$ (366,215)	\$ 1,320,375
- Transfer from advances for vessels under construction and acquisition and other vessel costs (Note 5)	62,588	-	62,588
- Acquisitions, improvements and other vessel costs	58,476	-	58,476
- Depreciation for the year	-	(68,306)	(68,306)
Balance, December 31, 2014	<u>\$ 1,807,654</u>	<u>\$ (434,521)</u>	<u>\$ 1,373,133</u>
- Transfer from advances for vessels under construction and acquisition and other vessel costs (Note 5)	50,171	-	50,171
- Acquisitions, improvements and other vessel costs	90,167	-	90,167
- Depreciation for the period	-	(72,668)	(72,668)
Balance, December 31, 2015	<u>\$ 1,947,992</u>	<u>\$ (507,189)</u>	<u>\$ 1,440,803</u>

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During 2014, the Company took delivery of "Crystalia" and "Atalandi", which until then were under construction and additionally acquired the Capesize dry bulk carrier "GP Zafirakis" for \$58,000, which was delivered in August 2014.

On April 20, 2015, Ujae Shipping Company Inc., entered into an agreement to acquire from an unrelated third party a new-building Capesize dry bulk vessel, named *New Orleans*, for a purchase price of \$43,000. The vessel was delivered on November 10, 2015.

On April 27, 2015, Rairok Shipping Company Inc. entered into a memorandum of agreement with an unrelated third party to acquire a Kamsarmax dry bulk vessel, renamed to *Medusa*, for a purchase price of \$18,050. The vessel was delivered in June 2015.

On November 2, 2015, Toku Shipping Company Inc. entered into a memorandum of agreement with an unrelated third party to acquire a Capesize dry bulk vessel, named *Seattle*, for a purchase price of \$28,500. The vessel, was delivered in November 2015.

7. Property and equipment, net

The amounts in the accompanying consolidated balance sheets are analyzed as follows:

	Property and Equipment	Accumulated Depreciation	Net Book Value
Balance, December 31, 2013	<u>\$ 24,680</u>	<u>\$ (1,854)</u>	<u>\$ 22,826</u>
- Write off of fully depreciated assets	(100)	100	-
- Additions in property and equipment	1,574	-	1,574
- Depreciation for the year	-	(513)	(513)
Balance, December 31, 2014	<u>\$ 26,154</u>	<u>\$ (2,267)</u>	<u>\$ 23,887</u>
- Additions in property and equipment	211	-	211
- Depreciation for the period	-	(609)	(609)
Balance, December 31, 2015	<u>\$ 26,365</u>	<u>\$ (2,876)</u>	<u>\$ 23,489</u>

In December 2014, DSS acquired jointly with two other related entities, from unrelated individuals, a plot of land for an aggregate purchase price of €2.0 million or \$2,489 (based on the exchange rate of the U.S. dollar to Euro as of the date of acquisition). DSS paid 1/3 of the purchase price amounting to \$886, including additional purchase costs incurred. The plot is under the common ownership of the joint purchasers.

8. Prepaid charter revenue

In May 2009, on the acquisition of the vessel "Houston", Gala Properties Inc. paid an amount in excess of the predelivery installments for the construction of the vessel, which was recognized in assets as Prepaid charter revenue. This amount had been amortized in revenues since the delivery of the vessel to the time charterers. On November 26, 2013, the charterers terminated the charter earlier than the termination date determined under the terms of the charter party and redelivered the vessel to the owners, who started arbitration proceedings against the charterers seeking to mitigate their losses as a result of the early termination. As a result of this earlier termination of the charter party, the unamortized balance of prepaid charter revenue amounting to \$5,353 was fully amortized against Time charter revenues during 2013.

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9. Long-term debt, current and non-current

The amount of long-term debt shown in the accompanying consolidated balance sheets is analyzed as follows:

	2015	2014
Revolving Credit Facility	\$ -	\$ 210,000
8.5% Senior Unsecured Notes	63,250	-
Secured Term Loans	542,691	276,008
Total debt outstanding	\$ 605,941	\$ 486,008
Less related deferred financing costs	(5,870)	(1,752)
Total debt, net of deferred financing costs	\$ 600,071	\$ 484,256
Less: Current portion of long term debt, net of deferred financing costs current	(40,984)	(78,734)
Long-term debt, net of current portion and deferred financing costs, non-current	\$ 559,087	\$ 405,522

Revolving credit facility: On February 18, 2005, the Company entered into a secured revolving credit facility with the Royal Bank of Scotland for \$230,000 which was increased to \$300,000 on May 24, 2006 with an amended agreement. On July 22, 2015 the Company entered into a term loan agreement with BNP Paribas in order to refinance the outstanding balance of the revolving credit facility. In this respect on July 24, 2015, the outstanding balance of the revolving credit facility amounting to \$195,000 was voluntarily prepaid in full and the related agreement was then terminated. Until its full prepayment, the credit facility was reducing in semi-annual amounts of \$15,000 with a final reduction of \$165,000 together with the last semi-annual reduction on May 24, 2016. The credit facility bore interest at LIBOR plus a margin ranging from 0.75% to 0.85%. The weighted average interest rate of the facility as of December 31, 2015 and 2014 was 0.90% and 0.95%, respectively.

Secured Term Loans: The Company, through its subsidiaries, has entered into various long term loan agreements with bank institutions to partly finance or, as the case may be, refinance part of the acquisition cost of certain of its fleet vessels. The loan agreements are repayable in quarterly or semi-annual installments plus one balloon installment per loan agreement to be paid together with the last installment and bear interest at LIBOR plus margin ranging from 1% to 3%. The weighted average interest rate of the Secured Term Loans as at December 31, 2015 and 2014 was 2.47% and 2.68%, respectively. Their maturities range from February 2019 to November 2022.

During 2014 and 2015, the Company entered into the following agreements:

On January 9, 2014, the Company, through two separate wholly-owned subsidiaries, entered into a loan agreement with Commonwealth Bank of Australia, London Branch, for a loan facility of up to \$18,000, drawn on January 13, 2014, to finance part of the acquisition cost of the *Melite* and *Artemis*. The loan bears interest at LIBOR plus a margin of 2.25%. The loan was drawn in Tranche A of \$8,500 and Tranche B of \$9,500. Tranche A is repayable in 24 equal consecutive quarterly installments of about \$196 each and a balloon of \$3,800 payable together with the last installment on January 13, 2020. Tranche B is repayable in 32 equal consecutive quarterly installments of about \$156 each and a balloon of \$4,500 payable together with the last installment on January 13, 2022.

On December 18, 2014, the Company, through two separate wholly-owned subsidiaries, entered into a loan agreement with BNP Paribas, for a loan facility of up to \$55,000, of which \$53,500 was drawn on December 19, 2014. The loan bears interest at LIBOR plus a margin of 2% and is repayable in 14 equal semi-annual installments of about \$1,574 and a balloon of about \$31,466 payable on November 30, 2021.

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On March 17, 2015, the Company, through eight separate wholly-owned subsidiaries, entered into a loan agreement with Nordea Bank AB, London Branch for a secured term loan facility of up to \$110,000, to refinance the existing indebtedness with the bank and for general corporate and working capital purposes. On March 19, 2015, the Company drew down \$93,080 and repaid the then existing indebtedness with the bank amounting to \$38,345. The loan is repayable in 24 equal consecutive quarterly installments of about \$1,862 and a balloon of about \$48,402 payable together with the last installment on March 19, 2021. The loan bears interest at LIBOR plus a margin of 2.1%.

On March 10, 2015, the Company repaid in full the then outstanding indebtedness with Deutsche Bank for the vessel *New York* amounting to \$28,600. In addition on March 20, 2015 the Company prepaid the then outstanding indebtedness with Deutsche Bank for the vessels *Myrto* and *Maia* amounting to \$15,750 and the agreement was terminated.

On March 26, 2015, the Company, through three wholly-owned subsidiaries, entered into a loan agreement with ABN AMRO Bank N.V. for a secured term loan facility of up to \$53,000, to refinance part of the acquisition cost of the vessels *New York*, *Myrto* and *Maia*. On March 30, 2015, the Company drew down the amount of \$50,160 under the loan facility, which is repayable in 24 equal consecutive quarterly installments of about \$994 and a balloon of \$26,310 payable together with the last installment on March 30, 2021. The loan bears interest at LIBOR plus a margin of 2.0%.

On April 29, 2015, the Company, through one wholly-owned subsidiary, entered into a term loan agreement with Danish Ship Finance A/S for a loan facility of \$30,000, drawn on April 30, 2015 to partly finance the acquisition cost of the *Santa Barbara*, which was delivered in January 2015. The loan is repayable in 28 equal consecutive quarterly installments of \$500 each and a balloon of \$16,000 payable together with the last installment on April 30, 2022. The loan bears interest at LIBOR plus a margin of 2.15%.

On July 22, 2015, the Company entered into a term loan agreement with BNP Paribas for a loan of \$165,000 drawn on July 24, 2015. The loan is repayable in 20 consecutive quarterly installments, the first eight installments in an amount of \$2,500, followed by four installments in an amount of \$5,000; eight installments in an amount of \$7,000; and a balloon installment of \$69,000 payable together with the last installment on July 24, 2020. The loan bears interest at LIBOR plus a margin of 2.35% per annum for the first two years; 2.3% per annum for the third year and 2.25% per annum until the final maturity of the loan.

On September 30, 2015, the Company, through two wholly-owned subsidiaries, entered into a term loan agreement with ING Bank N.V. for a loan of up to \$39,683, available in two advances to finance part of the acquisition cost of the *New Orleans* and the *Medusa*. Advance A of \$27,950 was drawn on November 19, 2015 and is repayable in 28 consecutive quarterly installments of about \$466 and a balloon installment of about \$14,907 payable together with the last installment on November 19, 2022. Advance B of \$11,733 was drawn on October 6, 2015 and is repayable in 28 consecutive quarterly installments of about \$293 and a balloon installment of about \$3,520 payable together with the last installment on October 6, 2022. The loan bears interest at LIBOR plus a margin of 1.65%.

Under the secured term loans outstanding as of December 31, 2015, 42 vessels of the Company's fleet are mortgaged with first preferred or priority ship mortgages, where applicable. Additional securities required by the banks include first priority assignment of all earnings, insurances, first assignment of time charter contracts that exceed a certain period, pledge over the shares of the borrowers, manager's undertaking and subordination and requisition compensation and either a corporate guarantee by DSI (the "Guarantor") or a guarantee by the ship owning companies (where applicable), financial covenants, as well as operating account assignments. The lenders may also require additional security in the future in the event the borrowers breach certain covenants under the loan agreements. The secured term loans generally include restrictions as to changes in management and ownership of the vessels, additional indebtedness, as well as minimum requirements regarding hull cover ratio and minimum liquidity per vessel owned by the borrowers, or the guarantor, maintained in the bank accounts of the borrowers, or the guarantor. Furthermore, certain of the secured term loans contain cross default provisions and additionally the Company is not permitted to pay any dividends from the earnings of the vessel following the occurrence of an event of default. As of December 31, 2015, the Company was not in compliance with the minimum required hull cover ratio of one of its term loan agreements, creating a shortfall of \$1,419. The Company received a waiver by the bank, which covers the period from December 31, 2015 up to and including December 31, 2016, amending the ratio to a lower level and with the requirement to provide updated valuations by July 31, 2016.

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Commitment Letter: The Company has accepted a commitment letter from the Export-Import Bank of China to provide a loan to the three vessels under construction expected to be delivered in 2016 (Note 5) for an amount of up to \$75,735 (Note 17).

8.5% Unsecured Senior Notes: On May 20, 2015, the Company offered \$63,250 aggregate principal amount of 8.5% Senior Notes due 2020 (the "Notes"), including an overallotment, at the price of \$25.0 per Note, pursuant to an approval obtained by a special committee of the Board of Directors. As part of the offering, the underwriters sold \$12,750 aggregate principal amount of the Notes to, or to entities affiliated with, the Company's chief executive officer, Mr. Simeon Palios, and other executive officers and certain directors of the Company at the public offering price. The proceeds, net of underwriting discount and offering expenses, amounting to \$61,180, are included in "Long-term debt, net of deferred financing costs, non-current" in the related consolidated balance sheet. As of May 29, 2015, the Notes are trading on the NYSE under the ticker symbol "DSXN".

The Notes bear interest from May 28, 2015 at a rate of 8.5% per year and will mature on May 15, 2020. Interest is payable quarterly in arrears on the 15th day of February, May, August and November of each year, commencing on August 15, 2015. The Company may redeem the Notes at its option, in whole or in part, at any time on or after May 15, 2017 at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. The Notes include financial and other covenants, including maximum net borrowings and minimum tangible net worth.

As at December 31, 2015, the Company's fleet, except for *Seattle*, having an aggregate carrying value of \$1,412,382 has been provided as collateral to secure the debt facilities.

As at December 31, 2015 and 2014, the maximum amount required by the banks as compensating cash balance amounted to \$21,500 and \$19,500, respectively.

The maturities of the Company's debt facilities described above, as at December 31, 2015, and throughout their term, are shown in the table below. The table does not include the right of lenders of a secured term loan to demand repayment of the balance of the loan outstanding within the first semester of 2018, subject however to written notification by the lender(s) to the borrower(s) no earlier than within calendar year 2016 and not later than within calendar year 2017:

Period	Principal Repayment
January 1, 2016 to December 31, 2016	\$ 42,450
January 1, 2017 to December 31, 2017	44,950
January 1, 2018 to December 31, 2018	54,450
January 1, 2019 to December 31, 2019	83,450
January 1, 2020 to December 31, 2020	183,312
January 1, 2021 and thereafter	197,329
Total	\$ 605,941

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10. Commitments and Contingencies

- a) Various claims, suits, and complaints, including those involving government regulations and product liability, arise in the ordinary course of the shipping business. In addition, losses may arise from disputes with charterers, agents, insurance and other claims with suppliers relating to the operations of the Company's vessels. The Company accrues for the cost of environmental and other liabilities when management becomes aware that a liability is probable and is able to reasonably estimate the probable exposure.

The Company's vessels are covered for pollution in the amount of \$1 billion per vessel per incident, by the P&I Association in which the Company's vessels are entered. The Company's vessels are subject to calls payable to their P&I Association and may be subject to supplemental calls which are based on estimates of premium income and anticipated and paid claims. Such estimates are adjusted each year by the Board of Directors of the P&I Association until the closing of the relevant policy year, which generally occurs within three years from the end of the policy year. Supplemental calls, if any, are expensed when they are announced and according to the period they relate to. The Company is not aware of any supplemental calls in respect of any policy year that should be recorded in its consolidated financial statements.

- b) The Company has shipbuilding contracts for the construction of two Newcastlemax dry bulk carriers and one Kamsarmax dry bulk carrier (Note 5). As at December 31, 2015, the total obligations under these contracts amounted to \$83,487.
- c) As at December 31, 2015, the minimum contractual gross charter revenues expected to be generated from fixed and non-cancelable time charter contracts existing as at December 31, 2015 and until their expiration were as follows:

Period	Amount
Year 1	\$ 69,036
Year 2	3,980
Total	\$ 73,016

11. Capital Stock and Changes in Capital Accounts

- (a) **Preferred stock:** As at December 31, 2015 and 2014, the Company's authorized preferred stock consists of 25,000,000 shares (all in registered form) of preferred stock, par value \$0.01 per share, of which 1,000,000 are designated as Series A Participating Preferred Shares; and 5,000,000 are designated as Series B Preferred Shares.

On February 24, 2014, the Company completed a public offering of 2,600,000 shares of Series B Cumulative Redeemable Perpetual Preferred Shares, par value \$0.01 per share, at \$25.0 per share and with liquidation preference at \$25.0 per share. The net proceeds from the offering (after the underwriting discount and other offering expenses payable by the Company) were \$62,698.

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
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(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

Holders of series B preferred shares have no voting rights other than the ability, subject to certain exceptions, to elect one director if dividends for six quarterly dividend periods (whether or not consecutive) are in arrears and certain other limited protective voting rights. Also, holders of series B preferred shares, rank prior to the holders of common shares with respect to dividends, distributions and payments upon liquidation. As at December 31, 2015 and 2014, the Company had 2,600,000 of Series B Preferred Shares issued and outstanding and none issued and outstanding of Series A Preferred Shares.

Dividends on the Series B preferred shares are cumulative from the date of original issue and are payable on the 15th day of January, April, July and October of each year at the dividend rate of 8.875% per annum, or \$2.21875 per share per annum. For 2015 and 2014, dividends on Series B preferred shares amounted to \$5,769 and \$5,080, respectively. At any time on or after February 14, 2019, the Company may redeem, in whole or in part, the series B preferred shares at a redemption price of \$25.00 per share plus an amount equal to all accumulated and unpaid dividends thereon to the date of redemption, whether or not declared.

- (b) **Common Stock:** The Company's authorized capital stock consists of 200,000,000 shares (all in registered form) of common stock, par value \$0.01 per share. The holders of the common shares are entitled to one vote on all matters submitted to a vote of stockholders and to receive all dividends, if any.
- (c) **Incentive plan:** In May 2011, the Company's board of directors approved to adopt the 2011 Equity Incentive Plan. Under the 2011 Equity Incentive Plan, an aggregate of 5,000,000 common shares were reserved for issuance, of which as at December 31, 2015 1,384,759 remained reserved for issuance. In November 2014, the Company's board of directors approved to adopt the 2014 Equity Incentive Plan, for 5,000,000 additional shares, all of which have been reserved for issuance.

The plans entitle the Company's employees, officers and directors to receive options to acquire the Company's common stock and is administered by the Compensation Committee of the Company's Board Directors or such other committee of the Board as may be designated by the Board to administer the Plan. Under the terms of the plans, the Company's Board of Directors is able to grant a) incentive stock options, b) non-qualified stock options, c) stock appreciation rights, d) dividend equivalent rights, e) restricted stock, f) unrestricted stock, g) restricted stock units, and h) performance shares. No options, stock appreciation rights or restricted stock units can be exercisable prior to the first anniversary or subsequent to the tenth anniversary of the date on which such award was granted.

The Company follows the provisions in ASC 718 "Compensation – Stock Compensation", for purposes of accounting for such share-based payments. All share-based compensation provided to employees is recognized in accordance with the relevant guidance, and is included in General and administrative expenses in the accompanying consolidated statements of operations.

Restricted stock during 2015, 2014 and 2013 is analysed as follows:

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	Number of Shares	Weighted Average Grant Date Price
Outstanding at December 31, 2012	1,451,625	\$ 11.90
Granted	607,946	9.06
Vested	(701,198)	12.64
Outstanding at December 31, 2013	1,358,373	\$ 10.25
Granted	1,864,000	9.38
Vested	(730,539)	11.25
Outstanding at December 31, 2014	2,491,834	\$ 9.30
Granted	1,100,000	6.91
Vested	(827,522)	9.57
Outstanding at December 31, 2015	2,764,312	\$ 8.27

The fair value of the restricted shares has been determined with reference to the closing price of the Company's stock on the date the agreements were signed. The aggregate compensation cost is being recognized ratably in the consolidated statement of operations over the respective vesting periods. For 2015, 2014 and 2013, an amount of \$8,279, \$7,744, and \$8,203, respectively, was recognized in "General and administrative expenses" presented in the accompanying consolidated statements of operations.

At December 31, 2015 and 2014, the total unrecognized cost relating to restricted share awards was \$17,021 and \$17,698, respectively. At December 31, 2015, the weighted-average period over which the total compensation cost related to non-vested awards not yet recognized is expected to be recognized is 1.70 years.

- (d) **Share Repurchase Agreement:** On May 22, 2014, the Company's Board of Directors authorized a share repurchase plan for up to \$100,000 worth of shares of the Company's common stock, under which, during 2015 and 2014, the Company repurchased and retired 413,804 shares at an aggregate cost of approximately \$2,673 and 2,845,549 shares at an aggregate cost of approximately \$25,349, respectively.

12. Voyage and Vessel Operating Expenses

The amounts in the accompanying consolidated statements of operations are analyzed as follows:

	2015	2014	2013
Voyage Expenses			
Bunkers	\$ 7,522	\$ 2,026	\$ (62)
Commissions charged by third parties	7,632	8,245	7,939
Commissions charged by a related party (Note 4(d))	43	-	-
Miscellaneous	331	394	242
Total	<u>\$ 15,528</u>	<u>\$ 10,665</u>	<u>\$ 8,119</u>
Vessel Operating Expenses			
Crew wages and related costs	\$ 50,494	\$ 50,442	\$ 45,451
Insurance	6,778	6,723	6,438
Spares and consumable stores	16,913	17,106	14,825
Repairs and maintenance	9,094	8,379	5,548
Tonnage taxes (Note 15)	2,144	2,109	1,040
Environmental costs	1,727	1,314	2
Other operating expenses	1,122	850	3,907
Total	<u>\$ 88,272</u>	<u>\$ 86,923</u>	<u>\$ 77,211</u>

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13. Interest and Finance Costs

The amounts in the accompanying consolidated statements of operations are analyzed as follows:

	2015	2014	2013
Interest expense	\$ 13,922	\$ 7,815	\$ 7,600
Amortization of financing costs	1,364	519	473
Commitment fees and other costs	269	93	67
Total	\$ 15,555	\$ 8,427	\$ 8,140

Total interest incurred on long-term debt for 2015, 2014 and 2013 amounted to \$14,622, \$8,221 and \$8,068, respectively, of which \$700, \$406 and \$468 respectively, were capitalized and included in "Vessels" and in "Advances for vessels under construction and acquisitions and other vessel costs".

14. Loss per Share

All common shares issued (including the restricted shares issued under the Company's 2011 Incentive Plan) are the Company's common stock and have equal rights to vote and participate in dividends upon their vesting. The calculation of basic earnings/(loss) per share does not treat the non-vested shares (not considered participating securities) as outstanding until the time/service-based vesting restriction has lapsed. For the purpose of calculating diluted earnings per share the weighted average number of diluted shares outstanding includes the incremental shares assumed issued determined in accordance with the treasury stock method. For 2015, 2014 and 2013, and on the basis that the Company incurred losses, the effect of incremental shares would be anti-dilutive and therefore basic and diluted loss per share was the same.

Profit or loss attributable to common equity holders is adjusted by the amount of dividends accrued on Series B Preferred Stock as follows:

	2015	2014	2013
Net loss	\$ (64,713)	\$ (10,268)	\$ (21,205)
Less dividends on series B preferred shares	\$ (5,769)	\$ (5,080)	\$ -
Net loss attributed to common stockholders	(70,482)	(15,348)	(21,205)
Weighted average number of common shares, basic and diluted	79,518,009	81,292,290	81,328,390
Loss per share, basic and diluted	\$ (0.89)	\$ (0.19)	\$ (0.26)

15. Income Taxes

Under the laws of the countries of the companies' incorporation and / or vessels' registration, the companies are not subject to tax on international shipping income; however, they are subject to registration and tonnage taxes, which are included in vessel operating expenses in the accompanying consolidated statements of operations (Note 12).

DIANA SHIPPING INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
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(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

Pursuant to the Internal Revenue Code of the United States (the "Code"), U.S. source income from the international operations of ships is generally exempt from U.S. tax if the company operating the ships meets both of the following requirements, (a) the Company is organized in a foreign country that grants an equivalent exception to corporations organized in the United States and (b) either (i) more than 50% of the value of the Company's stock is owned, directly or indirectly, by individuals who are "residents" of the Company's country of organization or of another foreign country that grants an "equivalent exemption" to corporations organized in the United States (50% Ownership Test) or (ii) the Company's stock is "primarily and regularly traded on an established securities market" in its country of organization, in another country that grants an "equivalent exemption" to United States corporations, or in the United States (Publicly-Traded Test).

Notwithstanding the foregoing, the regulations provide, in pertinent part, that each class of the Company's stock will not be considered to be "regularly traded" on an established securities market for any taxable year in which 50% or more of the vote and value of the outstanding shares of such class are owned, actually or constructively under specified stock attribution rules, on more than half the days during the taxable year by persons who each own 5% or more of the value of such class of the Company's outstanding stock, ("5 Percent Override Rule").

The Company and each of its subsidiaries expects to qualify for this statutory tax exemption for the 2015, 2014 and 2013 taxable years, and the Company takes this position for United States federal income tax return reporting purposes. However, there are factual circumstances beyond the Company's control that could cause it to lose the benefit of this tax exemption in future years and thereby become subject to United States federal income tax on its United States source income such as if, for a particular taxable year, other shareholders with a five percent or greater interest in the Company's stock were, in combination with the Company's existing 5% shareholders, to own 50% or more of the Company's outstanding shares of its stock on more than half the days during the taxable year.

The Company estimates that since no more than the 50% of its shipping income would be treated as being United States source income, the effective tax rate is expected to be 2% and accordingly it anticipates that the impact on its results of operations will not be material. The Company believes that it satisfies the Publicly-Traded Test and all of its United States source shipping income is exempt from U.S. federal income tax. Based on its U.S. source Shipping Income for 2015, 2014 and 2013, the Company would be subject to U.S. federal income tax of approximately \$166, \$246 and \$238, respectively, in the absence of an exemption under Section 883.

16. Financial Instruments

The carrying values of temporary cash investments, accounts receivable and accounts payable approximate their fair value due to the short-term nature of these financial instruments. The fair values of long-term bank loans approximate the recorded values, due to their variable interest rates. The fair value of long-term loan receivable from Diana Containerships also approximates its recorded value, due to its variable interest rate. The fair value of the Senior Unsecured Notes (Note 9) having a fixed interest rate amounted \$48,146 as of December 31, 2015, and was determined through the Level 1 input of the fair value hierarchy as defined in FASB guidance for Fair Value Measurements based on the quoted price of the instrument as of December 31, 2015 as stated under the ticker Symbol "DSXN" on the NYSE.

The Company is exposed to interest rate fluctuations associated with its variable rate borrowings and its objective is to manage the impact of such fluctuations on earnings and cash flows of its borrowings. In May 2009 the Company entered into a five-year zero cost collar agreement (novated in March 2012), with a floor at 1% and a cap at 7.8% of a notional amount of \$100,000 to manage its exposure to interest rate changes related to its borrowings. The collar agreement, which matured on May 27, 2014, was used as an economic hedge agreement and did not meet the criteria for hedge accounting; therefore, the changes in its fair value were recognized in earnings. During 2014 and 2013, the Company incurred income of \$68 and loss of \$118, respectively, separately presented as "Income/(loss) from derivative instruments" in the related accompanying consolidated statements of operations.

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(Expressed in thousands of U.S. Dollars – except share, per share data, unless otherwise stated)

17. Subsequent Events

- (a) **New loan agreement:** On January 7, 2016, the Company, through the three wholly owned subsidiaries with vessels under construction, entered into a secured loan agreement with the Export-Import Bank of China for a loan of up to \$75,735 (Note 9) in order to finance part of the construction cost of the vessels (Note 5). The loan will be available for drawdown until March 12, 2017, or such later date as all the lenders may in their discretion agree and will mature latest by March 2032.
- (b) **Series B Preferred Stock Dividends:** On January 15, 2016, the Company paid a dividend on its series B preferred stock, amounting to \$0.5546875 per share, or \$1,442, to its stockholders of record as of January 14, 2016.
- (c) **Vessels' acquisition:** On February 4, 2016, the Company, through three separate wholly-owned subsidiaries, entered into three Memoranda of Agreement to acquire from a related party three Panamax vessels for an aggregate purchase price of \$39,800, further reduced to \$39,265 on March 4, 2016. The Company has agreed to acquire the vessels from entities affiliated with Mrs. Semiramis Paliou and Mrs. Aliko Paliou, each of whom is a family member of the Company's Chief Executive Officer and Chairman of the Board. Mrs. Semiramis Paliou is also a director of the Company. The transaction was approved unanimously by a committee of the Board of Directors established for the purpose of considering the transaction and consisting of the Company's independent directors and each of its executive directors other than Mrs. Semiramis Paliou and Mr. Simeon Palios. The agreed upon purchase price of the vessels was based, among other factors, on independent third party broker valuations obtained by the Company. Consummation of the purchases is subject to the Company obtaining bank financing from the sellers' existing lenders for substantially the entire purchase price of the vessels, thereby resulting in little or no current cash outlay on the part of the Company. Two of the vessels were delivered in March 2016 and the third is expected to be delivered later in April 2016.
- (d) **Annual Incentive Bonus:** On February 23, 2016 the Company's Board of Directors approved a cash bonus of \$775 to all employees and executive management of the Company, net of taxes and other charges and 2,150,000 shares of restricted common stock awards to executive management and non-executive directors, pursuant to the Company's equity incentive plans. The fair value of the restricted shares based on the closing price on the date of the Board of Directors' approval was \$4,859 and will be recognized in income ratably over the restricted shares vesting period which will be 3 years.
- (e) **New Commitment Letter:** On March 11, 2016, the Company through two wholly-owned subsidiaries signed a commitment letter with ABN AMRO for a loan of up to \$25,755 to finance the acquisition cost of two of the vessels mentioned under (c) above.

DEAN'S UNIVERSITY, INC.
PO BOX 41000, Providence, RI 02940-3000
TEL: 401-863-1000
FAX: 401-863-1001
WWW.DU.EDU

[illegible]

COMMON SHARES
PAR VALUE \$0.01

COMMON SHARES
THIS CERTIFICATE IS TRANSFERABLE
IN CANTON, MAI, JERSEY CITY, NJ AND
CELLULOSE 210-200, TX.

Certificate
Number
ZQ00000000


DIANA SHIPPING INC.

INCORPORATED UNDER THE LAWS OF REPUBLIC OF THE MARSHALL ISLANDS

THIS CERTIFIES THAT

MR. SAMPLE & MRS. SAMPLE &
MR. SAMPLE & MRS. SAMPLE

CUSIP YZ0662 10 4
SEE REVERSE FOR COMPANY DETAILS

is the owner of

***ZERO HUNDRED THOUSAND
ZERO HUNDRED AND ZERO***

FULLY PAID AND NON-ASSESSABLE SHARES OF COMMON SHARE OF, PAR VALUE \$0.01, OF

Diana Shipping Inc. (the "Company"), transferable on the books of the Company in person or by duly authorized attorney, upon surrender of this Certificate properly endorsed. This Certificate and the shares represented hereby, are issued and shall be held subject to all of the provisions of the Articles of Incorporation, as amended, and the By-Laws, as amended, of the Company (copies of which are on file with the Company and with the Transfer Agent), to all of which each holder, by acceptance hereof, assents. This Certificate is not valid unless countersigned and registered by the Transfer Agent and Registrar.

Witness the facsimile seal of the Company and the facsimile signatures of its duly authorized officers.


President


Secretary



DATED DD-MM-YYYY
COUNTERSIGNED AND REGISTERED:
COMPUTERSHARE TRUST COMPANY P.A.
TRANSFER AGENT AND REGISTRAR.

By _____
AUTHORIZED SIGNATURE

DIANA SHIPPING INC.

THIS CERTIFICATE ALSO EVIDENCES AND ENTITLES THE HOLDER HEREOF TO CERTAIN RIGHTS AS SET FORTH IN A STOCKHOLDERS RIGHTS AGREEMENT BETWEEN DIANA SHIPPING INC. AND COMPUTERSHARE TRUST COMPANY, N.A. (OR ANY SUCCESSOR RIGHTS AGENT), AS THE RIGHTS AGENT, DATED AS OF JANUARY 15, 2016, AS MAY BE SUPPLEMENTED OR AMENDED FROM TIME TO TIME (THE "RIGHTS AGREEMENT"), THE TERMS OF WHICH ARE HEREBY INCORPORATED HEREIN BY REFERENCE AND A COPY OF WHICH IS ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF DIANA SHIPPING INC. UNDER CERTAIN CIRCUMSTANCES, AS SET FORTH IN THE RIGHTS AGREEMENT, SUCH RIGHTS WILL BE EVIDENCED BY SEPARATE CERTIFICATES AND WILL NO LONGER BE EVIDENCED BY THIS CERTIFICATE. DIANA SHIPPING INC. WILL MAIL TO THE HOLDER OF THIS CERTIFICATE A COPY OF THE RIGHTS AGREEMENT WITHOUT CHARGE AFTER RECEIPT OF A WRITTEN REQUEST THEREFOR. UNDER CERTAIN CIRCUMSTANCES SET FORTH IN THE RIGHTS AGREEMENT, RIGHTS ISSUED TO, OR HELD BY, ANY PERSON WHO IS, WAS OR BECOMES AN ACQUIRING PERSON OR ANY AFFILIATE OR ASSOCIATE THEREOF (AS SUCH TERMS ARE DEFINED IN THE RIGHTS AGREEMENT), WHETHER CURRENTLY HELD BY OR ON BEHALF OF SUCH PERSON OR BY ANY SUBSEQUENT HOLDER, MAY BECOME NULL AND VOID.

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

TEN COM - as tenants in common	UNIF GFT MINACT -	Custodian	(State)
TEN ENT - as tenants by the entirety		under Uniform Gifts to Minors Act	(State)
JT TEN - as joint tenants with right of survivorship and not as tenants in common	UNIF TRF MINACT -	Custodian (until age)	(State)
		under Uniform Transfers to Minors Act	(State)

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

For value received, _____ hereby sell, assign and to transfer unto _____

PLEASE PRINT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

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

_____ Shares
of the common stock represented by the within Certificate, and do hereby irrevocably constitute and appoint _____ Attorney
to transfer the said stock on the books of the within-named Company with full power of substitution in the premises.

Dated: _____ 20____

Signature: _____

Signature: _____

Notice: The signature to this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

Signature(s) Guaranteed Medallion Guarantee Stamp
THE COMPANY(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Bank, Broker/Dealer, Savings and Loan Association and Credit Unions) WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM, PURSUANT TO SEC RULE 15c2-6.

KEEP THIS CERTIFICATE IN A SAFE PLACE. IF IT IS LOST, STOLEN, OR DESTROYED THE COMPANY WILL REQUIRE A BOND OF INDEMNITY AS A CONDITION TO THE ISSUANCE OF A REPLACEMENT CERTIFICATE.

**DIANA SHIPPING INC.
2014 EQUITY INCENTIVE PLAN**

**ARTICLE I.
General**

1.1. Purpose

The Diana Shipping Inc. 2014 Equity Incentive Plan (the "Plan") is designed to provide certain Key Persons (as defined below), whose initiative and efforts are deemed to be important to the successful conduct of the business of Diana Shipping Inc. (the "Company"), with incentives to (a) enter into and remain in the service of the Company or its Affiliates (as defined below), (b) acquire a proprietary interest in the success of the Company, (c) maximize their performance and (d) enhance the long-term performance of the Company.

1.2. Administration

(a) Administration. The Plan shall be administered by the Compensation Committee of the Company's Board of Directors (the "Board") or such other committee of the Board as may be designated by the Board to administer the Plan (the "Administrator"); provided that (i) in the event the Company is subject to Section 16 of the U.S. Securities Exchange Act of 1934, as amended (the "1934 Act"), the Administrator shall be composed of two or more directors, each of whom is a "Non-Employee Director" (a "Non-Employee Director") under Rule 16b-3 (as promulgated and interpreted by the Securities and Exchange Commission (the "SEC") under the 1934 Act, or any successor rule or regulation thereto as in effect from time to time ("Rule 16b-3")), and (ii) the Administrator shall be composed solely of two or more directors who are "independent directors" under the rules of any stock exchange on which the Company's Common Stock (as defined below) is traded; provided further, however, that, (A) the requirement in the preceding clause (i) shall apply only when required to exempt an Award (as defined below) intended to qualify for an exemption under the applicable provisions referenced therein, (B) the requirement in the preceding clause (ii) shall apply only when required pursuant to the applicable rules of the applicable stock exchange and (C) if at any time the Administrator is not so composed as required by the preceding provisions of this sentence, that fact will not invalidate any grant made, or action taken, by the Administrator hereunder that otherwise satisfies the terms of the Plan. Subject to the terms of the Plan, applicable law and the applicable rules and regulations of any stock exchange on which the Common Stock is listed for trading, and in addition to other express powers and authorizations conferred on the Administrator by the Plan, the Administrator shall have the full power and authority to: (1) designate the Key Persons to receive Awards under the Plan; (2) determine the types of Awards granted to a participant under the Plan; (3) determine the number of shares to be covered by, or with respect to which payments, rights or other matters are to be calculated with respect to, Awards; (4) determine the terms and conditions of any Awards; (5) determine whether, and to what extent, and under what circumstances, Awards may be settled or exercised in cash, shares, other securities, other Awards or other property, or cancelled, forfeited

or suspended, and the methods by which Awards may be settled, exercised, cancelled, forfeited or suspended; (6) determine whether, to what extent, and under what circumstances cash, shares, other securities, other Awards, other property and other amounts payable with respect to an Award shall be deferred, either automatically or at the election of the holder thereof or the Administrator; (7) construe, interpret and implement the Plan and any Award Agreement (as defined below); (8) prescribe, amend, rescind or waive rules and regulations relating to the Plan, including rules governing its operation, and appoint such agents as it shall deem appropriate for the proper administration of the Plan; (9) correct any defect, supply any omission and reconcile any inconsistency in the Plan or any Award Agreement; and (10) make any other determination and take any other action that the Administrator deems necessary or desirable for the administration of the Plan. Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations and other decisions under or with respect to the Plan or any Award shall be within the sole discretion of the Administrator, may be made at any time and shall be final, conclusive and binding upon all Persons (as defined below).

(b) General Right of Delegation. Except to the extent prohibited by applicable law, the applicable rules of a stock exchange or any charter, by-laws or other agreement governing the Administrator, the Administrator may delegate all or any part of its responsibilities to any Person or Persons selected by it; provided, however, that in no event shall an officer of the Company be delegated the authority to grant Awards to, or amend Awards held by, the following individuals: (i) individuals who are subject to Section 16 of the 1934 Act, to the extent applicable, or (ii) officers of the Company to whom authority to grant or amend Awards has been delegated hereunder or directors of the Company; provided, further, that any delegation of administrative authority shall only be permitted to the extent it is permissible under applicable securities laws (including, without limitation, Rule 16b-3, to the extent applicable) and the rules of any applicable stock exchange. Any delegation hereunder shall be subject to the restrictions and limits that the Administrator specifies at the time of such delegation, and the Administrator may at any time rescind the authority so delegated or appoint a new delegatee. At all times, the delegatee appointed under this Section 1.2(b) shall serve in such capacity at the pleasure of the Administrator.

(c) Indemnification. No member of the Board, the Administrator or any officer or employee of the Company or an Affiliate or any of their agents (each such Person, a "Covered Person") shall be liable for any action taken or omitted to be taken or any determination made in good faith with respect to the Plan or any Award hereunder. Each Covered Person shall be indemnified and held harmless by the Company against and from (i) any loss, cost, liability or expense (including attorneys' fees) that may be imposed upon or incurred by such Covered Person in connection with or resulting from any action, suit or proceeding to which such Covered Person may be a party or in which such Covered Person may be involved by reason of any action taken or omitted to be taken under the Plan or any Award Agreement and (ii) any and all amounts paid by such Covered Person, with the Company's approval, in settlement thereof, or paid by such Covered Person in satisfaction of any judgment in any such action, suit or proceeding against such Covered Person; provided that the Company shall have the right, at its own expense, to assume and defend any such action, suit or proceeding and, once the Company gives notice of its intent to assume the defense, the Company shall have sole

control over such defense with counsel of the Company's choice. The foregoing right of indemnification shall not be available to a Covered Person to the extent that a court of competent jurisdiction in a final judgment or other final adjudication, in either case not subject to further appeal, determines that the acts or omissions of such Covered Person giving rise to the indemnification claim resulted from such Covered Person's bad faith, fraud or willful criminal act or omission or that such right of indemnification is otherwise prohibited by law or by the Company's articles of incorporation or bylaws (in each case, as amended and/or restated). The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which Covered Persons may be entitled under the Company's articles of incorporation or bylaws (in each case, as amended and/or restated), as a matter of law, or otherwise, or any other power that the Company may have to indemnify such Persons or hold them harmless.

(d) Delegation of Authority to Senior Officers. The Administrator may, in accordance with and subject to the terms of Section 1.2(b), delegate, on such terms and conditions as it determines, to one or more senior officers of the Company the authority to make grants of Awards to Key Persons who are employees of the Company and its Subsidiaries (as defined below)(including any such prospective employee) or consultants or service providers to (including Persons who are employed by or provide services to any entity that is itself a consultant or service provider to) the Company and its Subsidiaries.

(e) Awards to Non-Employee Directors. Notwithstanding anything to the contrary contained herein, the Board may, in its sole discretion, at any time and from time to time, grant Awards to Non-Employee Directors or administer the Plan with respect to such Awards. In any such case, the Board shall have all the authority and responsibility granted to the Administrator herein with respect to such Awards.

1.3. Persons Eligible for Awards

The Persons eligible to receive Awards under the Plan are those directors, officers and employees (including any prospective officer or employee) of the Company and its Subsidiaries and Affiliates and consultants and service providers to (including Persons who are employed by or provide services to any entity that is itself a consultant or service provider to) the Company and its Subsidiaries and Affiliates (collectively, "Key Persons") as the Administrator shall select.

1.4. Types of Awards

Awards may be made under the Plan in the form of (a) non-qualified stock options (i.e., stock options that are not "incentive stock options" for purposes of Sections 421 and 422 of the Code (as defined below)), (b) stock appreciation rights, (c) restricted stock, (d) restricted stock units, (e) dividend equivalents, (f) unrestricted stock and (g) other equity-based or equity-related Awards, all as more fully set forth in the Plan. The term "Award" means any of the foregoing that are granted under the Plan.

1.5. Shares Available for Awards; Adjustments for Changes in Capitalization

(a) Maximum Number. Subject to adjustment as provided in Section 1.5(c), the aggregate number of shares of common stock of the Company, par

value \$0.01("Common Stock"), with respect to which Awards may at any time be granted under the Plan shall be 5,000,000. The following shares of Common Stock shall again become available for Awards under the Plan: (i) any shares that are subject to an Award under the Plan and that remain unissued upon the cancellation or termination of such Award for any reason whatsoever; (ii) any shares of restricted stock forfeited pursuant to the Plan or the applicable Award Agreement; provided that any dividend equivalent rights with respect to such shares that have not theretofore been directly remitted to the grantee are also forfeited; and (iii) any shares in respect of which an Award is settled for cash without the delivery of shares to the grantee. Any shares tendered or withheld to satisfy the grant or exercise price or tax withholding obligation pursuant to any Award shall again become available to be delivered pursuant to Awards under the Plan.

(b) Source of Shares. Shares issued pursuant to the Plan may be authorized but unissued Common Stock or treasury shares. The Administrator may direct that any stock certificate evidencing shares issued pursuant to the Plan shall bear a legend setting forth such restrictions on transferability as may apply to such shares.

(c) Adjustments. (i) In the event that any dividend or other distribution (whether in the form of cash, Company shares, other securities or other property), stock split, reverse stock split, reorganization, merger, consolidation, split-up, combination, repurchase or exchange of Company shares or other securities of the Company, issuance of warrants or other rights to purchase Company shares or other securities of the Company, or other similar corporate transaction or event, other than an Equity Restructuring (as defined below), affects the Company shares such that an adjustment is determined by the Administrator to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan or with respect to an Award, then the Administrator shall, in such manner as it may deem equitable, adjust any or all of the number of shares or other securities of the Company (or number and kind of other securities or property) with respect to which Awards may be granted under the Plan.

(ii) The Administrator is authorized to make adjustments in the terms and conditions of, and the criteria included in, Awards in recognition of unusual or nonrecurring events (including the events described in Section 1.5(c)(i) or the occurrence of a Change in Control (as defined below), other than an Equity Restructuring) affecting the Company, any Affiliate, or the financial statements of the Company or any Affiliate, or of changes in applicable rules, rulings, regulations or other requirements of any governmental body or securities exchange, accounting principles or law, whenever the Administrator determines that such adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan or with respect to an Award, including providing for (A) adjustment to (1) the number of shares or other securities of the Company (or number and kind of other securities or property) subject to outstanding Awards or to which outstanding Awards relate and (2) the Exercise Price (as defined below) with respect to any Award and (B) a substitution or assumption of Awards, accelerating the exercisability or vesting of, or lapse of restrictions on, Awards, or accelerating the termination of Awards by providing for a period of time for exercise prior to the occurrence of such event, or, if deemed appropriate or desirable, providing for a cash payment to the holder of an

outstanding Award in consideration for the cancellation of such Award (it being understood that, in such event, any option or stock appreciation right having a per share Exercise Price equal to, or in excess of, the Fair Market Value (as defined below) of a share subject to such option or stock appreciation right may be cancelled and terminated without any payment or consideration therefor); provided, however, that with respect to options and stock appreciation rights, unless otherwise determined by the Administrator, such adjustment shall be made in accordance with the provisions of Section 424(h) of the Code.

(iii) In the event of (A) a dissolution or liquidation of the Company, (B) a sale of all or substantially all the Company's assets or (C) a merger, reorganization or consolidation involving the Company or one of its Subsidiaries, the Administrator shall have the power to:

(1) provide that outstanding options, stock appreciation rights, restricted stock units (including any related dividend equivalent right) and/or other Awards granted under the Plan shall either continue in effect, be assumed or an equivalent award shall be substituted therefor by the successor entity or a parent entity or subsidiary entity;

(2) cancel, effective immediately prior to the occurrence of such event, options, stock appreciation rights, restricted stock units (including each dividend equivalent right related thereto) and/or other Awards granted under the Plan outstanding immediately prior to such event (whether or not then exercisable) and, in full consideration of such cancellation, pay to the holder of such Award a cash payment in an amount equal to the excess, if any, of the Fair Market Value (as of a date specified by the Administrator) of the shares subject to such Award (or the value of such Award, as determined by the Administrator, if not based on the Fair Market Value of shares) over the aggregate Exercise Price of such Award (or the grant price of such Award, if any, if applicable)(it being understood that, in such event, any option or stock appreciation right having a per share Exercise Price equal to, or in excess of, the Fair Market Value of a share subject to such option or stock appreciation right may be cancelled and terminated without any payment or consideration therefor); or

(3) notify the holder of an option or stock appreciation right in writing or electronically that each option and stock appreciation right shall be fully vested and exercisable for a period of 30 days from the date of such notice, or such shorter period as the Administrator may determine to be reasonable, and the option or stock appreciation right shall terminate upon the expiration of such period (which period shall expire no later than immediately prior to the consummation of the corporate transaction).

(iv) In connection with the occurrence of any Equity Restructuring, and notwithstanding anything to the contrary in this Section 1.5(c):

- (A) The number and type of securities or other property subject to each outstanding Award and the Exercise Price or grant price thereof, if applicable, shall be equitably adjusted; and
- (B) The Administrator shall make such equitable adjustments, if any, as the Administrator may deem appropriate to reflect such Equity

Restructuring with respect to the aggregate number and kind of shares that may be issued under the Plan (including, but not limited to, adjustment of the limitation set forth in Section 1.5(a)). The adjustments provided under this Section 1.5(c)(iv) shall be nondiscretionary and shall be final and binding on the affected participant and the Company.

1.6. Definitions of Certain Terms

(a) "Affiliate" shall mean (i) any entity that, directly or indirectly, is controlled by, controls or is under common control with, the Company and (ii) any entity in which the Company has a significant equity interest, in either case as determined by the Administrator.

(b) Unless otherwise set forth in the applicable Award Agreement, in connection with a termination of employment or consultancy/service relationship or a dismissal from Board membership, for purposes of the Plan, the term "for Cause" shall be defined as follows:

(i) if there is an employment, severance, consulting, service, change in control or other agreement governing the relationship between the grantee, on the one hand, and the Company or an Affiliate, on the other hand, that contains a definition of "cause" (or similar phrase), for purposes of the Plan, the term "for Cause" shall mean those acts or omissions that would constitute "cause" under such agreement; or

(ii) if the preceding clause (i) is not applicable to the grantee, for purposes of the Plan, the term "for Cause" shall mean any of the following:

- (A) any failure by the grantee substantially to perform the grantee's employment or consulting/service or Board membership duties;
- (B) any excessive unauthorized absenteeism by the grantee;
- (C) any refusal by the grantee to obey the lawful orders of the Board or any other Person to whom the grantee reports;
- (D) any act or omission by the grantee that is or may be injurious to the Company or any Affiliate, whether monetarily, reputationally or otherwise;
- (E) any act by the grantee that is inconsistent with the best interests of the Company or any Affiliate;
- (F) the grantee's gross negligence that is injurious to the Company or any Affiliate, whether monetarily, reputationally or otherwise;
- (G) the grantee's material violation of any of the policies of the Company or any Affiliate, as applicable, including, without limitation, those policies relating to discrimination or sexual harassment;

- (H) the grantee's material breach of his or her employment or service contract with the Company or any Affiliate;
- (I) the grantee's unauthorized (1) removal from the premises of the Company or any Affiliate of any document (in any medium or form) relating to the Company or any Affiliate or the customers or clients of the Company or any Affiliate or (2) disclosure to any Person of any of the Company's, or any Affiliate's, confidential or proprietary information;
- (J) the grantee's being convicted of, or entering a plea of guilty or nolo contendere to, any crime that constitutes a felony or involves moral turpitude; and
- (K) the grantee's commission of any act involving dishonesty or fraud.

Any rights the Company or any Affiliate may have under the Plan in respect of the events giving rise to a termination or dismissal "for Cause" shall be in addition to any other rights the Company or any Affiliate may have under any other agreement with a grantee or at law or in equity. Any determination of whether a grantee's employment or consultancy/service relationship is (or is deemed to have been) terminated "for Cause" shall be made by the Administrator. If, subsequent to a grantee's voluntary termination of employment or consultancy/service relationship or involuntary termination of employment or consultancy/service relationship without Cause, it is discovered that the grantee's employment or consultancy/service relationship could have been terminated "for Cause", the Administrator may deem such grantee's employment or consultancy/service relationship to have been terminated "for Cause" upon such discovery and determination by the Administrator.

(c) "Code" shall mean the Internal Revenue Code of 1986, as amended.

(d) Unless otherwise set forth in the applicable Award Agreement, "Disability" shall mean the grantee's being unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or the grantee's, by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than three months under an accident and health plan covering employees of the grantee's employer. The existence of a Disability shall be determined by the Administrator.

(e) "Equity Restructuring" shall mean a non-reciprocal transaction between the Company and its stockholders, such as a stock dividend, stock split, spin-off, rights offering or recapitalization through a large, nonrecurring cash dividend, that affects the shares of Common Stock (or other securities of the Company) or the share price thereof and causes a change in the per share value of the shares underlying outstanding Awards.

(f) "Exercise Price" shall mean (i) in the case of options, the price specified in the applicable Award Agreement as the price-per-share at which such share can be purchased pursuant to the option or (ii) in the case of stock appreciation rights, the price

specified in the applicable Award Agreement as the reference price-per-share used to calculate the amount payable to the grantee.

(g) The "Fair Market Value" of a share of Common Stock on any day shall be the closing price on the New York Stock Exchange, or such other primary stock exchange upon which such shares are then listed, as reported for such day in The Wall Street Journal (or, if not reported in The Wall Street Journal, such other reliable source as the Administrator may determine), or, if no such price is reported for such day, the average of the high bid and low asked price of Common Stock as reported for such day. If no quotation is made for the applicable day, the Fair Market Value of a share of Common Stock on such day shall be determined in the manner set forth in the preceding sentence for the next preceding trading day. Notwithstanding the foregoing, if there is no reported closing price or high bid/low asked price that satisfies the preceding sentences, or if otherwise deemed necessary or appropriate by the Administrator, the Fair Market Value of a share of Common Stock on any day shall be determined by such methods and procedures as shall be established from time to time by the Administrator. The "Fair Market Value" of any property other than Common Stock shall be the fair market value of such property determined by such methods and procedures as shall be established from time to time by the Administrator.

(h) "Person" shall mean any individual, firm, corporation, partnership, limited liability company, trust, incorporated or unincorporated association, joint venture, joint stock company, governmental body or other entity of any kind.

(i) "Repricing" shall mean (i) lowering the Exercise Price of an option or a stock appreciation right after it has been granted, (ii) the cancellation of an option or a stock appreciation right in exchange for cash or another Award when the Exercise Price exceeds the Fair Market Value of the underlying shares subject to the Award and (iii) any other action with respect to an option or a stock appreciation right that is treated as a repricing under (A) generally accepted accounting principles or (B) any applicable stock exchange rules.

(j) "Subsidiary" shall mean any entity in which the Company, directly or indirectly, has a 50% or more equity interest.

ARTICLE II.

Awards Under The Plan

2.1. Agreements Evidencing Awards

Each Award granted under the Plan shall be evidenced by a written certificate ("Award Agreement"), which shall contain such provisions as the Administrator may deem necessary or desirable and which may, but need not, require execution or acknowledgment by a grantee. The Award shall be subject to all of the terms and provisions of the Plan and the applicable Award Agreement.

2.2. Grant of Stock Options and Stock Appreciation Rights

(a) Stock Option Grants. The Administrator may grant non-qualified stock options ("options") to purchase shares of Common Stock from the Company to such Key Persons, and in such amounts and subject to such vesting and forfeiture provisions and other terms and conditions, as the Administrator shall determine, subject to the provisions of the Plan. No option will be treated as an "incentive stock option" for purposes of the Code. It shall be the intent of the Administrator to not grant an Award in the form of stock options to any Key Person who is then subject to the requirements of Section 409A of the Code with respect to such Award if the Common Stock underlying such Award does not then qualify as "service recipient stock" for purposes of Section 409A. Furthermore, it shall be the intent of the Administrator, in granting options to Key Persons who are subject to Section 409A and/or 457 of the Code, to structure such options so as to comply with the requirements of Section 409A and/or 457 of the Code, as applicable.

(b) Stock Appreciation Right Grants; Types of Stock Appreciation Rights. The Administrator may grant stock appreciation rights to such Key Persons, and in such amounts and subject to such vesting and forfeiture provisions and other terms and conditions, as the Administrator shall determine, subject to the provisions of the Plan. The terms of a stock appreciation right may provide that it shall be automatically exercised for a payment upon the happening of a specified event that is outside the control of the grantee and that it shall not be otherwise exercisable. Stock appreciation rights may be granted in connection with all or any part of, or independently of, any option granted under the Plan. It shall be the intent of the Administrator to not grant an Award in the form of stock appreciation rights to any Key Person (i) who is then subject to the requirements of Section 409A of the Code with respect to such Award if the Common Stock underlying such Award does not then qualify as "service recipient stock" for purposes of Section 409A or (ii) if such Award would create adverse tax consequences for such Key Person under Section 457A of the Code. Furthermore, it shall be the intent of the Administrator, in granting stock appreciation rights to Key Persons who are subject to Section 409A and/or Section 457A of the Code, to structure such stock appreciation rights so as to comply with the requirements of Section 409A and/or Section 457A of the Code, to the extent applicable.

(c) Nature of Stock Appreciation Rights. The grantee of a stock appreciation right shall have the right, subject to the terms of the Plan and the applicable Award Agreement, to receive from the Company an amount equal to (i) the excess of the Fair Market Value of a share of Common Stock on the date of exercise of the stock appreciation right over the Exercise Price of the stock appreciation right, multiplied by (ii) the number of shares with respect to which the stock appreciation right is exercised. Each Award Agreement with respect to a stock appreciation right shall set forth the Exercise Price of such Award and, unless otherwise specifically provided in the Award Agreement, the Exercise Price of a stock appreciation right shall equal the Fair Market Value of a share of Common Stock on the date of grant; provided that in no event may such Exercise Price be less than the greater of (A) the Fair Market Value of a share of Common Stock on the date of grant and (B) the par value of a share of Common Stock. Payment upon exercise of a stock appreciation right shall be in cash or in shares of Common Stock (valued at their Fair Market Value on the date of exercise of the stock

appreciation right) or any combination of both, all as the Administrator shall determine. Repricing of stock appreciation rights granted under the Plan shall not be permitted (1) to the extent such action could cause adverse tax consequences to the grantee under Sections 409A or 457A of the Code or (2) without prior shareholder approval, to the extent such approval would be required to be obtained by the Company pursuant to the applicable rules of any applicable stock exchange on which the Common Stock is then listed, and any action that would be deemed to result in a Repricing of a stock appreciation right shall be deemed null and void if it would cause such adverse tax consequences or if any requisite shareholder approval related thereto is not obtained prior to the effective time of such action. Upon the exercise of a stock appreciation right granted in connection with an option, the number of shares subject to the option shall be reduced by the number of shares with respect to which the stock appreciation right is exercised. Upon the exercise of an option in connection with which a stock appreciation right has been granted, the number of shares subject to the stock appreciation right shall be reduced by the number of shares with respect to which the option is exercised.

(d) Option Exercise Price. Each Award Agreement with respect to an option shall set forth the Exercise Price of such Award and, unless otherwise specifically provided in the Award Agreement, the Exercise Price of an option shall equal the Fair Market Value of a share of Common Stock on the date of grant; provided that in no event may such Exercise Price be less than the greater of (i) the Fair Market Value of a share of Common Stock on the date of grant and (ii) the par value of a share of Common Stock. Repricing of options granted under the Plan shall not be permitted (1) to the extent such action could cause adverse tax consequences to the grantee under Sections 409A or 457A of the Code or (2) without prior shareholder approval, to the extent such approval would be required to be obtained by the Company pursuant to the applicable rules of any applicable stock exchange on which the Common Stock is then listed, and any action that would be deemed to result in a Repricing of an option shall be deemed null and void if it would cause such adverse tax consequences or if any requisite shareholder approval related thereto is not obtained prior to the effective time of such action.

2.3. Exercise of Options and Stock Appreciation Rights

Subject to the other provisions of this Article II and the Plan, each option and stock appreciation right granted under the Plan shall be exercisable as follows:

(a) Timing and Extent of Exercise. Options and stock appreciation rights shall be exercisable at such times and under such conditions as determined by the Administrator and set forth in the corresponding Award Agreement, but in no event shall any portion of such Award be exercisable subsequent to the tenth anniversary of the date on which such Award was granted. Unless the applicable Award Agreement otherwise provides, an option or stock appreciation right may be exercised from time to time as to all or part of the shares as to which such Award is then exercisable.

(b) Notice of Exercise. An option or stock appreciation right shall be exercised by the filing of a written notice with the Company or the Company's designated exchange agent (the "Exchange Agent"), on such form and in such manner as the Administrator shall prescribe.

(c) Payment of Exercise Price. Any written notice of exercise of an option shall be accompanied by payment for the shares being purchased. Such payment shall be made: (i) by certified or official bank check (or the equivalent thereof acceptable to the Company or its Exchange Agent) for the full option Exercise Price; (ii) with the consent of the Administrator, which consent shall be given or withheld in the sole discretion of the Administrator, by delivery of shares of Common Stock having a Fair Market Value (determined as of the exercise date) equal to all or part of the option Exercise Price and a certified or official bank check (or the equivalent thereof acceptable to the Company or its Exchange Agent) for any remaining portion of the full option Exercise Price; or (iii) at the sole discretion of the Administrator and to the extent permitted by law, by such other provision, consistent with the terms of the Plan, as the Administrator may from time to time prescribe (whether directly or indirectly through the Exchange Agent), or by any combination of the foregoing payment methods.

(d) Delivery of Certificates Upon Exercise. Subject to Sections 3.2, 3.4 and 3.13, promptly after receiving payment of the full option Exercise Price, or after receiving notice of the exercise of a stock appreciation right for which the Administrator determines payment will be made partly or entirely in shares, the Company or its Exchange Agent shall (i) deliver to the grantee, or to such other Person as may then have the right to exercise the Award, a certificate or certificates for the shares of Common Stock for which the Award has been exercised or, in the case of stock appreciation rights, for which the Administrator determines will be made in shares or (ii) establish an account evidencing ownership of the stock in uncertificated form. If the method of payment employed upon an option exercise so requires, and if applicable law permits, an optionee may direct the Company or its Exchange Agent, as the case may be, to deliver the stock certificate(s) to the optionee's stockbroker.

(e) No Stockholder Rights. No grantee of an option or stock appreciation right (or other Person having the right to exercise such Award) shall have any of the rights of a stockholder of the Company with respect to shares subject to such Award until the issuance of a stock certificate to such Person for such shares or an account in the name of the grantee evidences ownership of stock in uncertificated form. Except as otherwise provided in Section 1.5(c), no adjustment shall be made for dividends, distributions or other rights (whether ordinary or extraordinary, and whether in cash, securities or other property) for which the record date is prior to the date such stock certificate is issued or the date an account evidencing ownership of the stock in uncertificated form notes receipt of such stock.

2.4. Termination of Employment/Service; Death Subsequent to a Termination of Employment/Service

(a) General Rule. Except to the extent otherwise provided in paragraphs (b), (c), (d), (e) or (f) of this Section 2.4 or Section 3.5(b)(iii), a grantee who incurs a termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates may exercise any outstanding option or stock appreciation right on the following terms and conditions: (i) exercise may be made only to the extent that the grantee was entitled to exercise the Award on the date of termination of employment or consultancy/service relationship, as applicable; and (ii) exercise must occur within three months after termination of employment or consultancy/service

relationship but in no event after the original expiration date of the Award; it being understood that then outstanding options and stock appreciation rights shall not be affected by a change of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates so long as the grantee continues to be a director, officer or employee of, or a consultant or service provider to (or a Person employed by or providing services to any entity that that is itself a consultant or service provider to), the Company or any of its Subsidiaries or Affiliates.

(b) Dismissal "for Cause". If a grantee incurs a termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates "for Cause", all options and stock appreciation rights not theretofore exercised shall immediately terminate upon such termination of employment or consultancy/service relationship.

(c) Retirement. If a grantee incurs a termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates as the result of his or her retirement (as defined below), then any outstanding option or stock appreciation right shall, to the extent exercisable at the time of such retirement, remain exercisable for a period of three years after such retirement; provided that in no event may such option or stock appreciation right be exercised following the original expiration date of the Award. For this purpose, unless otherwise set forth in the applicable Award Agreement, "retirement" shall mean a grantee's resignation of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates, with the Company's or its applicable Affiliate's prior consent, on or after (i) his or her 65th birthday, (ii) the date on which he or she has attained age 60 and completed at least five years of service with the Company or one or more of its Affiliates (using any method of calculation the Administrator deems appropriate) or (iii) if approved by the Administrator, on or after his or her having completed at least 20 years of service with the Company or one or more of its Affiliates (using any method of calculation the Administrator deems appropriate).

(d) Disability. If a grantee incurs a termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates by reason of a Disability, then any outstanding option or stock appreciation right shall, to the extent exercisable at the time of such termination, remain exercisable for a period of one year after such termination; provided that in no event may such option or stock appreciation right be exercised following the original expiration date of the Award.

(e) Death.

(i) Termination of Employment/Service as a Result of Grantee's Death. If a grantee incurs a termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates as the result of his or her death, then any outstanding option or stock appreciation right shall, to the extent exercisable at the time of such death, remain exercisable for a period of one year after such death; provided that in no event may such option or stock appreciation right be exercised following the original expiration date of the Award.

(ii) Restrictions on Exercise Following Death. Any such exercise of an Award following a grantee's death shall be made only by the grantee's executor or administrator or other duly appointed representative reasonably acceptable to the Administrator, unless the grantee's will specifically disposes of such Award, in which case such exercise shall be made only by the recipient of such specific disposition. If a grantee's personal representative or the recipient of a specific disposition under the grantee's will shall be entitled to exercise any Award pursuant to the preceding sentence, such representative or recipient shall be bound by all the terms and conditions of the Plan and the applicable Award Agreement which would have applied to the grantee.

(f) Administrator Discretion. The Administrator may, in writing, waive or modify the application of the foregoing provisions of this Section 2.4.

2.5. Transferability of Options and Stock Appreciation Rights

Except as otherwise specifically provided in this Plan or the applicable Award Agreement evidencing an option or stock appreciation right, during the lifetime of a grantee, each such Award granted to a grantee shall be exercisable only by the grantee, and no such Award may be sold, assigned, transferred, pledged or otherwise encumbered or disposed of other than by will or by the laws of descent and distribution. The Administrator may, in any applicable Award Agreement evidencing an option or stock appreciation right, permit a grantee to transfer all or some of the options or stock appreciation rights to (a) the grantee's spouse, children or grandchildren ("Immediate Family Members"), (b) a trust or trusts for the exclusive benefit of such Immediate Family Members or (c) other parties approved by the Administrator. Following any such transfer, any transferred options and stock appreciation rights shall continue to be subject to the same terms and conditions as were applicable immediately prior to the transfer.

2.6. Grant of Restricted Stock

(a) Restricted Stock Grants. The Administrator may grant restricted shares of Common Stock to such Key Persons, in such amounts and subject to such vesting and forfeiture provisions and other terms and conditions as the Administrator shall determine, subject to the provisions of the Plan. A grantee of a restricted stock Award shall have no rights with respect to such Award unless such grantee accepts the Award within such period as the Administrator shall specify by accepting delivery of a restricted stock Award Agreement in such form as the Administrator shall determine.

(b) Issuance of Stock Certificate. Promptly after a grantee accepts a restricted stock Award in accordance with Section 2.6(a), subject to Sections 3.2, 3.4 and 3.13, the Company or its Exchange Agent shall issue to the grantee a stock certificate or stock certificates for the shares of Common Stock covered by the Award or shall establish an account evidencing ownership of the stock in uncertificated form. Upon the issuance of such stock certificates, or establishment of such account, the grantee shall have the rights of a stockholder with respect to the restricted stock, subject to: (i) the nontransferability restrictions and forfeiture provisions described in the Plan (including paragraphs (d) and (e) of this Section 2.6); (ii) in the Administrator's sole discretion, a requirement, as set forth in the Award Agreement, that any dividends paid on such shares shall be held in escrow and, unless otherwise determined by the Administrator, shall remain forfeitable until all restrictions on such shares have lapsed; and (iii) any other restrictions and conditions contained in the applicable Award Agreement.

(c) Custody of Stock Certificate. Unless the Administrator shall otherwise determine, any stock certificates issued evidencing shares of restricted stock shall remain in the possession of the Company (or such other custodian as may be designated by the Administrator) until such shares are free of any restrictions specified in the applicable Award Agreement. The Administrator may direct that such stock certificates bear a legend setting forth the applicable restrictions on transferability.

(d) Nontransferability. Shares of restricted stock may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of prior to the lapsing of all restrictions thereon, except as otherwise specifically provided in this Plan or the applicable Award Agreement. The Administrator at the time of grant shall specify the date or dates (which may depend upon or be related to the attainment of performance goals and other conditions) on which the nontransferability of the restricted stock shall lapse.

(e) Consequence of Termination of Employment/Service. Unless otherwise set forth in the applicable Award Agreement, (i) a grantee's termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates for any reason other than death or Disability shall cause the immediate forfeiture of all shares of restricted stock that have not yet vested as of the date of such termination of employment or consultancy/service relationship and (ii) if a grantee incurs a termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates as the result of his or her death or Disability, all shares of restricted stock that have not yet vested as of the date of such termination shall immediately vest as of such date; it being understood that then outstanding restricted stock Awards shall not be affected by a change of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates so long as the grantee continues to be a director, officer or employee of, or a consultant or service provider to (or a Person employed by or providing services to any entity that that is itself a consultant or service provider to), the Company or any of its Subsidiaries or Affiliates. Unless otherwise determined by the Administrator, all dividends paid on shares forfeited under this Section 2.6(e) that have not theretofore been directly remitted to the grantee shall also be forfeited, whether by termination of any escrow arrangement under which such dividends are held or otherwise. The Administrator may, in writing, waive or modify the application of the foregoing provisions of this Section 2.6(e).

2.7. Grant of Restricted Stock Units

(a) Restricted Stock Unit Grants. The Administrator may grant restricted stock units to such Key Persons, and in such amounts and subject to such vesting and forfeiture provisions and other terms and conditions, as the Administrator shall determine, subject to the provisions of the Plan. A restricted stock unit granted under the Plan shall confer upon the grantee a right to receive from the Company, conditioned upon the occurrence of such vesting event as shall be determined by the Administrator and specified in the Award Agreement, the number of such grantee's restricted stock units that vest upon the occurrence of such vesting event multiplied by the Fair Market Value of a share of Common Stock on the date of vesting. Payment upon vesting of a restricted stock unit shall be in cash or in shares of Common Stock (valued at their Fair Market Value on the date of vesting) or both, all as the Administrator shall determine, and such payments shall be made to the grantee at such time as provided in the Award Agreement, which the Administrator shall intend to be (i) if Section 409A of the Code is applicable to the grantee, within the period required by Section 409A such that it qualifies as a "short-term deferral" pursuant to Section 409A and the Treasury Regulations issued thereunder, unless the Administrator shall provide for deferral of the Award intended to comply with Section 409A, (ii) if Section 457A of the Code is applicable to the grantee, within the period required by Section 457A(d)(3)(B) such that it qualifies for the exemption thereunder, or (iii) if Sections 409A and 457A of the Code are not applicable to the grantee, at such time as determined by the Administrator.

(b) Dividend Equivalents. The Administrator may include in any Award Agreement with respect to a restricted stock unit a dividend equivalent right entitling the grantee to receive amounts equal to the ordinary dividends that would be paid, during the time such Award is outstanding and unvested, and/or, if payment of the vested Award is deferred, during the period of such deferral following such vesting event, on the shares of Common Stock underlying such Award if such shares were then outstanding. In the event such a provision is included in a Award Agreement, the Administrator shall determine whether such payments shall be (i) paid to the holder of the Award, as specified in the Award Agreement, either (A) at the same time as the underlying dividends are paid, regardless of the fact that the restricted stock unit has not theretofore vested, (B) at the time at which the Award's vesting event occurs, conditioned upon the occurrence of the vesting event, (C) once the Award has vested, at the same time as the underlying dividends are paid, regardless of the fact that payment of the vested restricted stock unit has been deferred, and/or (D) at the time at which the corresponding vested restricted stock units are paid, (ii) made in cash, shares of Common Stock or other property and (iii) subject to such other vesting and forfeiture provisions and other terms and conditions as the Administrator shall deem appropriate and as shall be set forth in the Award Agreement.

(c) No Stockholder Rights. No grantee of a restricted stock unit shall have any of the rights of a stockholder of the Company with respect to such Award unless and until a stock certificate is issued with respect to such Award upon the vesting of such Award or an account in the name of the grantee evidences ownership of stock in uncertificated form (it being understood that the Administrator shall determine whether to pay any vested restricted stock unit in the form of cash or Company shares or both), which issuance shall be subject to Sections 3.2, 3.4 and 3.13. Except as otherwise

provided in Section 1.5(c), no adjustment to any restricted stock unit shall be made for dividends, distributions or other rights (whether ordinary or extraordinary, and whether in cash, securities or other property) for which the record date is prior to the date such stock certificate, if any, is issued or the date an account evidencing ownership of the stock in uncertificated form notes receipt of such stock.

(d) Nontransferability. No restricted stock unit granted under the Plan may be sold, assigned, transferred, pledged or otherwise encumbered or disposed of, except as otherwise specifically provided in this Plan or the applicable Award Agreement.

(e) Consequence of Termination of Employment/Service. Unless otherwise set forth in the applicable Award Agreement, (i) a grantee's termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates for any reason other than death or Disability shall cause the immediate forfeiture of all restricted stock units that have not yet vested as of the date of such termination of employment or consultancy/service relationship and (ii) if a grantee incurs a termination of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates as the result of his or her death or Disability, all restricted stock units that have not yet vested as of the date of such termination shall immediately vest as of such date; it being understood that then outstanding restricted stock units shall not be affected by a change of employment or consultancy/service relationship with the Company and its Subsidiaries and Affiliates so long as the grantee continues to be a director, officer or employee of, or a consultant or service provider to (or a Person employed by or providing services to any entity that that is itself a consultant or service provider to), the Company or any of its Subsidiaries or Affiliates. Unless otherwise determined by the Administrator, any dividend equivalent rights on any restricted stock units forfeited under this Section 2.7(e) that have not theretofore been directly remitted to the grantee shall also be forfeited, whether by termination of any escrow arrangement under which such dividends are held or otherwise. The Administrator may, in writing, waive or modify the application of the foregoing provisions of this Section 2.7(e).

2.8. Grant of Unrestricted Stock

The Administrator may grant (or sell at a purchase price at least equal to par value) shares of Common Stock free of restrictions under the Plan to such Key Persons and in such amounts and subject to such forfeiture provisions as the Administrator shall determine. Shares may be thus granted or sold in respect of past services or other valid consideration.

2.9. Other Stock-Based Awards

Subject to the provisions of the Plan (including, without limitation, Section 3.16), the Administrator shall have the sole and complete authority to grant to Key Persons other equity-based or equity-related Awards in such amounts and subject to such terms and conditions as the Administrator shall determine; provided that any such Awards must comply with applicable law and, to the extent deemed desirable by the Administrator, Rule 16b-3.

2.10. Dividend Equivalents

Subject to the provisions of the Plan (including, without limitation, Section 3.16), in the discretion of the Administrator, an Award, other than an option or stock appreciation right, may provide the Award recipient with dividends or dividend equivalents, payable in cash, shares, other securities, other Awards or other property, on a current or deferred basis, on such terms and conditions as may be determined by the Administrator, including, without limitation, payment directly to the Award recipient, withholding of such amounts by the Company subject to vesting of the Award, or reinvestment in additional shares, restricted shares or other Awards.

ARTICLE III.

Miscellaneous

3.1. Amendment of the Plan; Modification of Awards

(a) Amendment of the Plan. The Board may from time to time suspend, discontinue, revise or amend the Plan in any respect whatsoever, except that no such amendment shall materially impair any rights or materially increase any obligations under any Award theretofore made under the Plan without the consent of the grantee (or, upon the grantee's death, the Person having the rights to the Award). For purposes of this Section 3.1, any action of the Board or the Administrator that in any way alters or affects the tax treatment of any Award shall not be considered to materially impair any rights of any grantee.

(b) Stockholder Approval Requirement. If required by applicable rules or regulations of a national securities exchange or the SEC, the Company shall obtain stockholder approval with respect to any amendment to the Plan that (i) expands the types of Awards available under the Plan, (ii) materially increases the aggregate number of shares which may be issued under the Plan, except as permitted pursuant to Section 1.5(c), (iii) materially increases the benefits to participants under the Plan, including any material change to (A) permit, or that has the effect of, a Repricing of any outstanding Award, (B) reduce the price at which shares or options to purchase shares may be offered or (C) extend the duration of the Plan, or (iv) materially expands the class of Persons eligible to receive Awards under the Plan.

(c) Modification of Awards. The Administrator may cancel any Award under the Plan. The Administrator also may amend any outstanding Award Agreement, including, without limitation, by amendment which would: (i) accelerate the time or times at which the Award becomes unrestricted, vested or may be exercised; (ii) waive or amend any goals, restrictions or conditions set forth in the Award Agreement; or (iii) waive or amend the operation of Section 2.4, 2.6(e) or 2.7(c) with respect to the termination of the Award upon termination of employment or consultancy/service relationship or dismissal from the Board; provided, however, that no such amendment shall be made without shareholder approval if such approval is necessary to comply with any tax or regulatory requirement applicable to the Award. However, any such cancellation or amendment (other than an amendment pursuant to Section 1.5, 3.5 or 3.16) that materially impairs the rights or materially increases the obligations of a

grantee under an outstanding Award shall be made only with the consent of the grantee (or, upon the grantee's death, the Person having the rights to the Award). In making any modification to an Award (e.g., an amendment resulting in a direct or indirect reduction in the Exercise Price or a waiver or modification under Section 2.4(f), 2.6(e) or 2.7(c)), the Administrator may consider the implications, if any, of such modification under the Code with respect to Sections 409A and 457A of the Code in respect of Awards granted under the Plan to individuals subject to such provisions of the Code.

3.2. Consent Requirement

(a) No Plan Action Without Required Consent. If the Administrator shall at any time determine that any Consent (as defined below) is necessary or desirable as a condition of, or in connection with, the granting of any Award under the Plan, the issuance or purchase of shares or other rights thereunder, or the taking of any other action thereunder (each such action being hereinafter referred to as a "Plan Action"), then such Plan Action shall not be taken, in whole or in part, unless and until such Consent shall have been effected or obtained to the full satisfaction of the Administrator.

(b) Consent Defined. The term "Consent" as used herein with respect to any Plan Action means (i) any and all listings, registrations or qualifications in respect thereof upon any securities exchange or under any federal, state or local law, rule or regulation, (ii) any and all written agreements and representations by the grantee with respect to the disposition of shares, or with respect to any other matter, which the Administrator shall deem necessary or desirable to comply with the terms of any such listing, registration or qualification or to obtain an exemption from the requirement that any such listing, qualification or registration be made and (iii) any and all consents, clearances and approvals in respect of a Plan Action by any governmental or other regulatory bodies or any other Person.

3.3. Nonassignability

Except as provided in Sections 2.4(e), 2.5, 2.6(d) or 2.7(e), (a) no Award or right granted to any Person under the Plan or under any Award Agreement shall be assignable or transferable other than by will or by the laws of descent and distribution and (b) all rights granted under the Plan or any Award Agreement shall be exercisable during the life of the grantee only by the grantee or the grantee's legal representative or the grantee's permissible successors or assigns (as authorized and determined by the Administrator). All terms and conditions of the Plan and the applicable Award Agreements will be binding upon any permitted successors or assigns.

3.4. Taxes

(a) Withholding. A grantee or other Award holder under the Plan shall be required to pay, in cash, to the Company, and the Company and its Affiliates shall have the right and are hereby authorized to withhold from any Award, from any payment due or transfer made under any Award or under the Plan or from any compensation or other amount owing to such grantee or other Award holder, the amount of any applicable withholding taxes in respect of an Award, its grant, its exercise, its vesting, or any payment or transfer under an Award or under the Plan, and to take such other action as

may be necessary in the opinion of the Company to satisfy all obligations for payment of such taxes. Whenever shares of Common Stock are to be delivered pursuant to an Award under the Plan, with the approval of the Administrator, which the Administrator shall have sole discretion whether or not to give, the grantee may satisfy the foregoing condition by electing to have the Company withhold from delivery shares having a value equal to the amount of minimum tax required to be withheld. Such shares shall be valued at their Fair Market Value as of the date on which the amount of tax to be withheld is determined. Fractional share amounts shall be settled in cash. Such a withholding election may be made with respect to all or any portion of the shares to be delivered pursuant to an Award as may be approved by the Administrator in its sole discretion.

(b) Liability for Taxes. Grantees and holders of Awards are solely responsible and liable for the satisfaction of all taxes and penalties that may arise in connection with Awards (including, without limitation, any taxes arising under Sections 409A and 457A of the Code) and the Company shall not have any obligation to indemnify or otherwise hold any such Person harmless from any or all of such taxes. The Administrator shall have the discretion to organize any deferral program, to require deferral election forms, and to grant or, notwithstanding anything to the contrary in the Plan or any Award Agreement, to unilaterally modify any Award in a manner that (i) conforms with the requirements of Sections 409A and 457A of the Code (to the extent applicable), (ii) voids any participant election to the extent it would violate Section 409A or 457A of the Code (to the extent applicable) and (iii) for any distribution event or election that could be expected to violate Section 409A of the Code, make the distribution only upon the earliest of the first to occur of a "permissible distribution event" within the meaning of Section 409A of the Code or a distribution event that the participant elects in accordance with Section 409A of the Code. The Administrator shall have the sole discretion to interpret the requirements of the Code, including, without limitation, Sections 409A and 457A, for purposes of the Plan and all Awards.

3.5. Change in Control

(a) Change in Control Defined. Unless otherwise set forth in the applicable Award Agreement, for purposes of the Plan, "Change in Control" shall mean the occurrence of any of the following:

(i) any "person" (as defined in Section 13(d)(3) of the 1934 Act), company or other entity acquires "beneficial ownership" (as defined in Rule 13d-3 under the 1934 Act), directly or indirectly, of twenty-five percent (25%) or more of the aggregate voting power of the capital stock ordinarily entitled to elect directors of the Company; provided, however, that no Change in Control shall have occurred in the event of such an acquisition by (A) the Company, (B) any trustee or other fiduciary holding securities under an employee benefit plan of the Company or an Affiliate, (C) any company or other entity owned, directly or indirectly, by the holders of the voting stock ordinarily entitled to elect directors of the Company in substantially the same proportions as their ownership of the aggregate voting power of the capital stock ordinarily entitled to elect directors of the Company immediately prior to such acquisition or (D) Mr. Simeon Palios or any entity that he directly or indirectly "controls" (as defined in Rule 12b-2 under the 1934 Act);

(ii) the sale of all or substantially all the Company's assets in one or more related transactions to any "person" (as defined in Section 13(d)(3) of the 1934 Act), company or other entity; provided, however, that no Change in Control shall have occurred in the event of such a sale (A) to a Subsidiary which does not involve a material change in the equity holdings of the Company, (B) to an entity (the "Acquiring Entity") which has acquired all or substantially all the Company's assets if, immediately following such sale, 50% or more of the aggregate voting power of the capital stock ordinarily entitled to elect directors of the Acquiring Entity (or, if applicable, the ultimate parent entity that directly or indirectly has beneficial ownership of more than 50% of the aggregate voting power of the capital stock ordinarily entitled to elect directors of the Acquiring Entity) is beneficially owned by the holders of the voting stock ordinarily entitled to elect directors of the Company immediately prior to such sale in substantially the same proportions as the aggregate voting power of the capital stock ordinarily entitled to elect directors of the Company immediately prior to such sale or (C) to Mr. Simeon Palios or any entity that he directly or indirectly "controls" (as defined in Rule 12b-2 under the 1934 Act);

(iii) any merger, consolidation, reorganization or similar event of the Company or any Subsidiary; provided, however, that no Change in Control shall have occurred in the event 50% or more of the aggregate voting power of the capital stock ordinarily entitled to elect directors of the surviving entity (or, if applicable, the ultimate parent entity that directly or indirectly has beneficial ownership of more than 50% of the aggregate voting power of the capital stock ordinarily entitled to elect directors of the surviving entity) is beneficially owned by the holders of the voting stock ordinarily entitled to elect directors of the Company immediately prior to such event in substantially the same proportions as the aggregate voting power of the capital stock ordinarily entitled to elect directors of the Company immediately prior to such event;

(iv) the approval by the Company's stockholders of a plan of complete liquidation or dissolution of the Company; or

(v) during any period of 12 consecutive calendar months, individuals:

- (A) who were directors of the Company on the first day of such period, or
- (B) whose election or nomination for election to the Board was recommended or approved by at least a majority of the directors then still in office who were directors of the Company on the first day of such period, or whose election or nomination for election were so approved,

shall cease to constitute a majority of the Board.

Notwithstanding the foregoing, unless otherwise set forth in the applicable Award Agreement, for each Award subject to Section 409A of the Code, a Change in Control shall be deemed to have occurred under this Plan with respect to such Award only if a change in the ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company shall also be deemed to

have occurred under Section 409A of the Code, provided that such limitation shall apply to such Award only to the extent necessary to avoid adverse tax effects under Section 409A of the Code.

(b) Effect of a Change in Control. Unless the Administrator provides otherwise in an Award Agreement, upon the occurrence of a Change in Control:

(i) notwithstanding any other provision of this Plan, any Award then outstanding shall become fully vested and any forfeiture provisions thereon imposed pursuant to the Plan and the applicable Award Agreement shall lapse and any Award in the form of an option or stock appreciation right shall be immediately exercisable;

(ii) to the extent permitted by law and not otherwise limited by the terms of the Plan, the Administrator may amend any Award Agreement in such manner as it deems appropriate;

(iii) a grantee who incurs a termination of employment or consultancy/service relationship for any reason, other than a termination or dismissal "for Cause", concurrent with or within one year following the Change in Control may exercise any outstanding option or stock appreciation right, but only to the extent that the grantee was entitled to exercise the Award on the date of his or her termination of employment or consultancy/service relationship, until the earlier of (A) the original expiration date of the Award and (B) the later of (x) the date provided for under the terms of Section 2.4 without reference to this Section 3.5(b)(iii) and (y) the first anniversary of the grantee's termination of employment or consultancy/service relationship.

(c) Miscellaneous. Whenever deemed appropriate by the Administrator, any action referred to in paragraph (b)(ii) of this Section 3.5 may be made conditional upon the consummation of the applicable Change in Control transaction.

3.6. Operation and Conduct of Business

Nothing in the Plan or any Award Agreement shall be construed as limiting or preventing the Company or any Affiliate from taking any action with respect to the operation and conduct of its business that it deems appropriate or in its best interests, including any or all adjustments, recapitalizations, reorganizations, exchanges or other changes in the capital structure of the Company or any Affiliate, any merger or consolidation of the Company or any Affiliate, any issuance of Company shares or other securities or subscription rights, any issuance of bonds, debentures, preferred or prior preference stock ahead of or affecting the Common Stock or other securities or rights thereof, any dissolution or liquidation of the Company or any Affiliate, any sale or transfer of all or any part of the assets or business of the Company or any Affiliate, or any other corporate act or proceeding, whether of a similar character or otherwise.

3.7. No Rights to Awards

No Key Person or other Person shall have any claim to be granted any Award under the Plan.

3.8. Right of Discharge Reserved

Nothing in the Plan or in any Award Agreement shall confer upon any grantee the right to continue his or her employment with the Company or any Affiliate, his or her consultancy/service relationship with the Company or any Affiliate, or his or her position as a director of the Company or any Affiliate, or affect any right that the Company or any Affiliate may have to terminate such employment or consultancy/service relationship or service as a director.

3.9. Non-Uniform Determinations

The Administrator's determinations and the treatment of Key Persons and grantees and their beneficiaries under the Plan need not be uniform and may be made and determined by the Administrator selectively among Persons who receive, or who are eligible to receive, Awards under the Plan (whether or not such Persons are similarly situated). Without limiting the generality of the foregoing, the Administrator shall be entitled, among other things, to make non-uniform and selective determinations, and to enter into non-uniform and selective Award Agreements, as to (a) the Persons to receive Awards under the Plan, (b) the types of Awards granted under the Plan, (c) the number of shares to be covered by, or with respect to which payments, rights or other matters are to be calculated with respect to, Awards and (d) the terms and conditions of Awards.

3.10. Other Payments or Awards

Nothing contained in the Plan shall be deemed in any way to limit or restrict the Company from making any award or payment to any Person under any other plan, arrangement or understanding, whether now existing or hereafter in effect.

3.11. Headings

Any section, subsection, paragraph or other subdivision headings contained herein are for the purpose of convenience only and are not intended to expand, limit or otherwise define the contents of such section, subsection, paragraph or subdivision.

3.12. Effective Date and Term of Plan

(a) Adoption; Stockholder Approval. The Plan was adopted by the Board on November 12, 2014. The Board may, but need not, make the granting of any Awards under the Plan subject to the approval of the Company's stockholders.

(b) Termination of Plan. The Board may terminate the Plan at any time. All Awards made under the Plan prior to its termination shall remain in effect until such Awards have been satisfied or terminated in accordance with the terms and provisions of the Plan and the applicable Award Agreements. No Awards may be granted under the Plan following the tenth anniversary of the date on which the Plan was adopted by the Board.

3.13. Restriction on Issuance of Stock Pursuant to Awards

The Company shall not permit any shares of Common Stock to be issued pursuant to Awards granted under the Plan unless such shares of Common Stock are fully paid and non-assessable under applicable law. Notwithstanding anything to the contrary in the

Plan or any Award Agreement, at the time of the exercise of any Award, at the time of vesting of any Award, at the time of payment of shares of Common Stock in exchange for, or in cancellation of, any Award, or at the time of grant of any unrestricted shares under the Plan, the Company and the Administrator may, if either shall deem it necessary or advisable for any reason, require the holder of an Award (a) to represent in writing to the Company that it is the Award holder's then-intention to acquire the shares with respect to which the Award is granted for investment and not with a view to the distribution thereof or (b) to postpone the date of exercise until such time as the Company has available for delivery to the Award holder a prospectus meeting the requirements of all applicable securities laws; and no shares shall be issued or transferred in connection with any Award unless and until all legal requirements applicable to the issuance or transfer of such shares have been complied with to the satisfaction of the Company and the Administrator. The Company and the Administrator shall have the right to condition any issuance of shares to any Award holder hereunder on such Person's undertaking in writing to comply with such restrictions on the subsequent transfer of such shares as the Company or the Administrator shall deem necessary or advisable as a result of any applicable law, regulation or official interpretation thereof, and all share certificates delivered under the Plan shall be subject to such stop transfer orders and other restrictions as the Company or the Administrator may deem advisable under the Plan, the applicable Award Agreement or the rules, regulations and other requirements of the SEC, any stock exchange upon which such shares are listed, and any applicable securities or other laws, and certificates representing such shares may contain a legend to reflect any such restrictions. The Administrator may refuse to issue or transfer any shares or other consideration under an Award if it determines that the issuance or transfer of such shares or other consideration might violate any applicable law or regulation or entitle the Company to recover the same under Section 16(b) of the 1934 Act, and any payment tendered to the Company by a grantee or other Award holder in connection with the exercise of such Award shall be promptly refunded to the relevant grantee or other Award holder. Without limiting the generality of the foregoing, no Award granted under the Plan shall be construed as an offer to sell securities of the Company, and no such offer shall be outstanding, unless and until the Administrator has determined that any such offer, if made, would be in compliance with all applicable requirements of any applicable securities laws.

3.14. Requirement of Notification of Election Under Section 83(b) of the Code

If an Award recipient, in connection with the acquisition of Company shares under the Plan, makes an election under Section 83(b) of the Code (to include in gross income in the year of transfer the amounts specified in Section 83(b) of the Code), the grantee shall notify the Administrator of such election within ten days of filing notice of the election with the U.S. Internal Revenue Service, in addition to any filing and notification required pursuant to regulations issued under Section 83(b) of the Code.

3.15. Severability

If any provision of the Plan or any Award is or becomes or is deemed to be invalid, illegal, or unenforceable in any jurisdiction or as to any Person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Administrator, such provision shall be construed or deemed amended to conform to the

applicable laws or, if it cannot be construed or deemed amended without, in the determination of the Administrator, materially altering the intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction, Person or Award and the remainder of the Plan and any such Award shall remain in full force and effect.

3.16. Sections 409A and 457A

To the extent applicable, the Plan and Award Agreements shall be interpreted in accordance with Sections 409A and 457A of the Code and Department of Treasury regulations and other interpretive guidance issued thereunder. Notwithstanding any provision of the Plan or any applicable Award Agreement to the contrary, in the event that the Administrator determines that any Award may be subject to Section 409A or 457A of the Code, the Administrator may adopt such amendments to the Plan and the applicable Award Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Administrator determines are necessary or appropriate to (i) exempt the Plan and Award from Sections 409A and 457A of the Code and/or preserve the intended tax treatment of the benefits provided with respect to the Award, or (ii) comply with the requirements of Sections 409A and 457A of the Code and related Department of Treasury guidance and thereby avoid the application of penalty taxes under Sections 409A and 457A of the Code.

3.17. Forfeiture; Clawback

The Administrator may, in its sole discretion, specify in the applicable Award Agreement that any realized gain with respect to options or stock appreciation rights and any realized value with respect to other Awards shall be subject to forfeiture or clawback, in the event of (a) a grantee's breach of any non-competition, non-solicitation, confidentiality or other restrictive covenants with respect to the Company or any Affiliate, (b) a grantee's breach of any employment or consulting agreement with the Company or any Affiliate, (c) a grantee's termination for Cause or (d) a financial restatement that reduces the amount of compensation under the Plan previously awarded to a grantee that would have been earned had results been properly reported.

3.18. No Trust or Fund Created

Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate and an Award recipient or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Affiliate pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of the Company or its Affiliate.

3.19. No Fractional Shares

No fractional shares shall be issued or delivered pursuant to the Plan or any Award, and the Administrator shall determine whether cash, other securities, or other property shall be paid or transferred in lieu of any fractional shares or whether such fractional shares or any rights thereto shall be canceled, terminated, or otherwise eliminated.

3.20. Governing Law

The Plan will be construed and administered in accordance with the laws of the State of New York, without giving effect to principles of conflict of laws.

Dated 11 December 2012

Between

BIKAR SHIPPING COMPANY INC.,
of Majuro Marshall Islands

and

DIANA SHIPPING INC.,
of Majuro Marshall Islands

and

DIANA SHIPPING SERVICES S.A.,
of Panama

and

EMPORIKI BANK OF GREECE S.A.

FIRST SUPPLEMENTAL AGREEMENT
to the Loan Agreement dated 13 September 2011

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This First Supplemental Agreement dated 11 December 2012 is made BETWEEN:

(1) **BIKAR SHIPPING COMPANY INC.**, a company duly incorporated in the Republic of The Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands (the "**Borrower**");

(2) **DIANA SHIPPING INC.**, a company duly incorporated in the Republic of Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the "**Guarantor**"); and

(3) **DIANA SHIPPING SERVICES S.A.**, a company duly incorporated in the Republic of Panama, and whose resident agent is situated at Edificio Universal, Piso 12, Avenida Federico Boyd, Panama, Republic of Panama (the "**Manager**"); and

(4) **EMPORIKI BANK OF GREECE S.A.**, a company duly incorporated under the laws of Greece, having its registered office at 11, Sofokleous Street, Athens 105 64, Greece (the "**Bank**"),

and it is a First Supplemental Agreement to the Loan Agreement made between the Borrower and the Bank and dated 13 September 2011.

WHEREAS

(A) By a loan agreement dated 13 September 2011 (the "**Original Loan Agreement**") between the Borrower as borrower and the Bank as lender, the Bank agreed to advance, and advanced, by way of a loan to the Borrower the sum of Dollars Fifteen million (\$15,000,000) under the Guarantee of the Guarantor.

(B) The Borrower and the Guarantor hereby acknowledge and confirm that the Borrower has received from the Bank the full amount of the Loan, i.e. Dollars Fifteen million (\$15,000,000), and that the principal amount owing to the Bank on the date hereof is Dollars Fourteen Million (\$14,000,000).

(C) This Supplemental Agreement sets out the amendments which the parties have agreed to bring to the Original Loan Agreement so as to provide for applicability of English law and exclusive jurisdiction of English courts and other consequential changes. This Supplemental Agreement is an integral part of the Original Loan Agreement and all the terms of this Supplemental Agreement are amendments to and parts of the Original Loan Agreement.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.01. In this First Supplemental Agreement (unless the context otherwise requires) terms and expressions not defined herein but defined in the Original Loan Agreement shall have the meanings set out therein or, as the context may require, as such terms and expressions have been amended in this First Supplemental Agreement.

1.02. In the Original Loan Agreement reference to "this Agreement" means the Original Loan Agreement as amended by this First Supplemental Agreement and as same may hereinafter be amended or supplemented or varied.

1.03. In the Original Loan Agreement and in this First Supplemental Agreement:

"**Loan Agreement**" shall mean the Original Loan Agreement as amended by this Supplemental Agreement and as same may hereinafter be amended or supplemented or varied.

1.04. Interpretation. The provisions of Clause 1.03 of the Original Loan Agreement shall extend and apply hereto as if the same were (mutatis mutandis) expressly repeated herein *in extenso*.

2. AMENDMENTS TO THE ORIGINAL LOAN AGREEMENT

2.01. The Original Loan Agreement is amended in accordance with the following provisions (and the Original Loan Agreement (as so amended) will continue to be binding upon the Bank and the Borrower upon such terms as so amended):

(a) It is hereby agreed that the Loan Agreement shall be governed by and construed in accordance with English law.

(b) It is hereby agreed that the courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with the Loan Agreement.

(c) As a result of the above agreements of the parties in this clause 2.01, the following amendments are hereby made to the Original Loan Agreement:

(i) Clause 13.12 of the Original Loan Agreement is hereby amended to read as follows:

"13.12. (Law and Jurisdiction).

(a) *This Agreement shall be governed by and construed in accordance with English Law.*

(b) *For the purposes of enforcement in Greece, it is hereby expressly agreed that English law as the governing law of this Agreement will be proved by an affidavit of a solicitor from an English law firm to be appointed by the Agent and the said affidavit shall constitute full and conclusive evidence binding on the Borrower but the Borrower shall be allowed to rebut such evidence save for witness.*

(c) *For the exclusive benefit of the Bank, the Borrower hereby irrevocably submits to the exclusive jurisdiction of the High Court of Justice in London, England. Further, the Borrower agrees that any summons, writ or other legal process issued against it in England may be served upon Messrs NICOLAOU & CO., Chartered Accountants, currently located at 25 Heath Drive, Potters Bar, Herts, EN6 1EN, United Kingdom (Attention: Mr. Antonis Nicolaou Fax. No. +44 1707 664340, Telephone No. +44 1707 652193 Email: anicolaou1@btinternet.com) (the "**Process Agent for English Proceedings**") or their successors, who are hereby authorised to accept such service, which shall be deemed to be good service on the Borrower. Provided, however, that the Borrower further agrees that in the event that (i) the Process Agent for English Proceedings close or fail to maintain a business presence in England, or (ii) the Bank, in its sole discretion, shall determine that service of process on the said agent is not feasible or may be insufficient under the Laws of England, then any summons, writ or other legal*

process issued against it in England may be served upon the Law Debenture Corporation Ltd., currently located at Estate House, 66, Gresham Street, London EC2, or their successors, who are hereby authorised to accept such service, which shall be deemed to be good service on the Borrower. The foregoing shall not limit the right of the Bank to start proceedings in any other country or to serve process in any other manner permitted by law. The Borrower waives any objections which it may have on the grounds of inconvenient forum or otherwise to proceedings being brought in the High Court of Justice, England.

(d) The Borrower shall not commence any proceedings in any country other than England in relation to a matter which arises out of or in connection with this Agreement and/or the Security Documents.

(e) If it is decided by the Bank that any such proceedings should be commenced in any other country, then any objections as to the jurisdiction or any claim as to the inconvenience of the forum is hereby waived by the Borrower and it is agreed and undertaken by the Borrower to instruct lawyers in that country to accept service of legal process and not to contest the validity of such proceedings as far as the jurisdiction of the court or courts involved is concerned and the Borrower agrees that any judgment or order obtained in an English court shall be conclusive and binding on the Borrower and shall be enforceable without review in the courts of any other jurisdiction."

(ii) Clause 13.10 of the Original Loan Agreement is hereby amended to read as follows:

*"13.10. (Process Agent in Greece). Mr. Panagiotis Spathis, son of Athanasios, Attorney at Law, of 10, Olympias Street, Nikea, Greece is hereby appointed by the Borrower as Agent in Greece to accept service (hereinafter the "**Greek Process Agent**") upon whom any judicial process may be served and any notice, request, demand or other communication under this Agreement or any of the Security Documents. In the event that the Greek Process Agent (or any substitute process agent notified to the Agent in accordance with the foregoing) cannot be found at the address specified above (or, as the case may be, notified to the Agent), which will be conclusively proved by the affidavit of a process server to that effect, the authority of the Greek Process Agent as agent to accept service shall be deemed to have ceased and service of documents may be effected in accordance with the procedure provided by the relevant law. In case, however, that such Greek Process Agent is found at any other address, the Bank shall have the right to serve the documents either on the Greek Process Agent at such address or in accordance with the procedure provided by the relevant law."*

(iii) A new clause 13.13 is hereby inserted in the Original Loan Agreement reading as follows:

"13.13. (Third Party Rights). A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement "

(iv) The definition of "Security Value" in clause 1.02 of the Original Loan Agreement is hereby amended to read as follows:

""Security Value" Value" means the amount in Dollars which, at any relevant time, is the aggregate of (i) the Vessel's Value of the Vessel as most recently determined in accordance

with Clause 8.05(d); (ii) the free cash credit balance of the Cash Collateral Account duly pledged in favour of the Bank; and (ii) the value in Dollars of any additional security for the time being actually provided to the Bank pursuant to Clause 8.05(c) (as certified by the Bank whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Bank but the Borrower shall be allowed to rebut such evidence by any means of evidence admissible by applicable law, except witnesses.);"

(v) Clause 2.08 of the Original Loan Agreement is hereby amended to read as follows:

"2.08. (Evidence). It is hereby expressly agreed and admitted by the Borrower that abstracts or photocopies or other reproductions of the books and/or records of the Bank as well as statements of the loan account or other accounts held with the Bank under this Agreement or a certificate issued by the Bank ("**Bank's Evidence**") shall (in the absence of manifest error) be conclusive evidence binding on the Borrower as to the existence and/or the amount of the at any time Outstanding Indebtedness, of any amount due under this Agreement and/or the Master Swap Agreement, of the applicable Interest Rate or Default Rate or any other rate provided for or referred to in this Agreement, the Interest Period, the value of additional securities under Clause 8.05(c), the payment or non payment of any amount and/or the occurrence of any other Event of Default but the Borrower shall be allowed to rebut such evidence by any means of evidence admissible by applicable law, except witnesses. Notwithstanding the above provision relating to the right of the Borrower to rebut the evidence, enforcement proceedings /procedure or any other Court or out-of-court procedure can be initiated by the Bank on the basis of the above Bank's Evidence."

(vi) The first sentence of clause 3.06 of the Original Loan Agreement is hereby amended to read as follows:

"3.06. (Market Disruption). If the Bank (in its sole discretion) determines (which determination shall, in the absence of manifest error, be conclusive) prior to the commencement of any Interest Period:"

(vii) Clause 9.09 of the Original Loan Agreement is hereby amended to read as follows:

"9.09. (Proof of Default). It is agreed that (i) the non-payment of any sum of money in time will be proved conclusively by mere passage of time and (ii) the occurrence of this (non payment) and any other Event of Default shall be proved conclusively by a mere written statement of the Bank (save for manifest error) which (statement) shall be conclusive, binding and full evidence for the Borrower but the Borrower shall be allowed to rebut such evidence by any means of evidence save for witnesses."

(viii) The first sentence of clause 12.03 of the Original Loan Agreement is hereby amended to read as follows:

"12.03. (Claim for increased cost). The Bank will promptly notify the Borrower of any intention to claim indemnification pursuant to Clause 12.02 and such notification will, save for manifest error, be a conclusive and full evidence binding on the Borrower as to the amount of any increased cost or reduction and the method of calculating the same and the Borrower shall be allowed to rebut such evidence by any means of evidence save for witness."

2.02. The following two definitions are hereby added in clause 1.02 of the Original Loan Agreement:

"Cash Collateral Legislation" means Directive 2002/47/EC of the European Parliament and the Council of 6 June 2002 on financial collateral arrangements as amended and currently in force, and as implemented in the French and English national legal systems respectively;

"Enforcement Event" means in respect of the Bank and/or the Borrower "winding up proceedings" or "reorganization measures" (as these terms are defined in the Cash Collateral Legislation) or any other event (except an Event of Default) which prevents or results in preventing the Borrower from withdrawing the funds deposited to the Cash Collateral Account, whether this is by virtue of a provision of any law, regulation, statutory rule or regulatory requirement or any request or order of any central bank, monetary, regulatory or other authority or any court or otherwise;

2.03. Clause 11.04 of the Original Loan Agreement is hereby amended to read as follows:

"11.04. (Set off). (a) Express authority is hereby given by the Borrower to the Bank without prejudice to any of the rights of the Bank at law contractually or otherwise, at any time and without notice to the Borrower:

(i) to apply any credit balance standing upon any account of the Borrower with any branch of the Bank and in whatever currency in or towards satisfaction of any sum due to the Bank from the Borrower under this Agreement and/or any of the other Security Documents;

(ii) in the name of the Borrower and/or the Bank to do all such acts and execute all such documents as may be necessary or expedient to effect such application; and

(iii) to combine and/or consolidate all or any accounts in the name of the Borrower with the Bank.

For all or any of the above purposes authority is hereby given to the Bank to purchase with the monies standing to the credit of any such account or accounts such other currencies as may be necessary to effect such application. The Bank shall not be obliged to exercise any right given by this Clause.

(b) Without limiting the generality of Bank's right of set-off under sub-clause (a) above, upon the occurrence of an Enforcement Event, both any amount standing to the Cash Collateral Account (regardless of any fixed interest period) and the Loan together with any accrued interest shall become, immediately and automatically without any notice, due and payable and shall be set off and a net sum equal to any difference shall be payable by the party from whom the larger amount is due to the other party (Close Out netting).

(c) Clause 11.04(b) shall apply mutatis mutandis in respect of any amount standing to the Earnings Account."

2.04. Clause 11.06 of the Original Loan Agreement is hereby amended to read as follows:

"11.06. (Security Financial Collateral Arrangements).

(a) *For so long as any moneys are owing under this Agreement, the Borrower may freely credit the Cash Collateral Account with moneys in an amount equal to or less than the amount of the Loan but no less than Dollars Five Hundred Thousand (\$500,000).*

(b) *A first priority pledge shall be granted or (as the context may require) has been granted by the Borrower, as collateral provider, in favour of the Bank, as collateral taker, over all monies credited to the Cash Collateral Account and over all claims of the Borrower thereunder, in form and substance satisfactory to the Bank (the "**Cash Collateral Pledge**").*

(c) *Any amount owing under this Agreement and the Master Swap Agreement or any other Security Document (whether in respect of costs, interest, principal or otherwise) when due and payable in accordance with their respective terms (whether by acceleration or otherwise) shall be paid out of the monies funds deposited with the Cash Collateral Account by way of set off and the Borrower hereby expressly authorizes the Bank to so apply such funds.*

(d) *The period(s) for the moneys deposited with the Cash Collateral Account shall be so fixed as to allow the application provided in sub-paragraph (c) above.*

(e) *Notwithstanding the Cash Collateral Pledge prior to and until the occurrence of an Enforcement Event (whereupon the provisions of the Cash Collateral Pledge and sub-clause (b) of Clause 11.04 shall apply) and prior to and until the occurrence of an Event of Default, monies for the time being credited to the Cash Collateral Account shall be freely available to the Borrower and may be withdrawn from the Cash Collateral Account in accordance with its terms.*

(f) *For the avoidance of doubt, it is agreed that moneys paid or to be paid to the Earnings Account as per Clause 11.05 are not pan of the Cash Collateral Account.*

(g) *The Borrower shall not assign, transfer or suffer any Encumbrance (other than the Cash Collateral Pledge) over the whole or any part of the Cash Collateral Account.*

(h) *The provisions of this Clause 11.06 are without prejudice to any other rights of the Bank under this Agreement, the ISDA Master Agreement and/or any other Security Document or under law."*

2.05. The words "*Subject to Clause 11.06 (j)*" at the beginning of Clauses 11.05(b) and 11.05(d) of the Original Loan Agreement are hereby replaced by the words "*Subject to Clause 11.04(c)*".

2.06. Furthermore, the definition of "Banking Day" in clause 1.02 (Definitions) of the Original Loan Agreement is hereby amended to read as follows:

*""**Banking Day**" means any day on which banks and foreign exchange markets in New York, London, and Paris and in each country or place in or at which an act is required to be done under this Agreement in accordance with the usual practice of the Bank, are open for the transaction of business of the nature contemplated in this Agreement;"*

2.07. Save as amended by this Supplemental Agreement, the remaining provisions of the Original Loan Agreement shall remain in full force and effect.

3. CONDITIONS PRECEDENT - UNDERTAKINGS

3.01. (Conditions concerning corporate authorisations). The agreements of the parties under clauses 2.01 and 2.02 above are subject to the condition that the Bank shall have received prior to or on the date of this Supplemental Agreement, the following documents and evidence in form and substance satisfactory to the Bank in respect of the Borrower and the Guarantor: (i) a recent certificate of incumbency issued by the Secretary or a Director stating the officers and/or the directors and containing specimens of their signatures and confirming that there has been no change to the documents relating to their constitution, (ii) Minutes of meetings of the directors and, in respect of the Borrower only, shareholders at which there was approved the entry into, execution, delivery and performance of this Supplemental Agreement and any other documents executed or to be executed pursuant hereto or thereto to which each of them is a party, (iii) a Power of Attorney as necessary evidencing the authority of the person signing this Supplemental Agreement and (iv) a recent certificate evidencing that each of them has been properly established, continues to exist validly and to be in good standing.

The above documents shall be certified, legalised or attested in a manner acceptable to the Bank.

3.02. The Borrower undertakes to deliver to the Bank within three (3) days from the date of this Supplemental Agreement an original confirmation from any agents nominated in clause 13.12(c) of the Original Loan Agreement as amended by this Supplemental Agreement for the acceptance of any notice or service of process, that they consent to such nomination.

4. REPRESENTATIONS AND WARRANTIES

4.01. This First Supplemental Agreement is entered into by the Bank in reliance upon the representations made herein by the Borrower and the other Security Parties to the effect that all the representations and warranties in clause 6 of the Original Loan Agreement are true and correct, including to the extent that they may have been or shall be amended by this First Supplemental Agreement and are repeated herein -as if contained *in extenso* and as if made with reference to the facts and circumstances existing on the date hereof- in connection with all the Security Parties, and the Borrower and the other Security Parties covenant that the said representations and warranties shall remain true and correct so long as there is any Outstanding Indebtedness and represent that there has not occurred and/or is continuing any Event of Default or any event which would constitute an Event of Default with the passage of time or the giving of notice or both.

5. RECONFIRMATION

5.01. The Borrower hereby reconfirms its obligations under the Loan Agreement and under the other Security Documents to which it is party and its compliance with the covenants contained in clauses 8.01 to 8.11 (inclusive) of the Loan Agreement.

5.02. The Guarantor hereby reconfirms its obligations under the Guarantee and the Security Documents granted by it to which it is party and its compliance with the covenants contained therein.

5.03. Each of the Borrower, the Guarantor and the Manager acknowledges and agrees, for the avoidance of doubt, that:

(a) each of the Security Documents to which it is a party, and its obligations thereunder, shall remain in full force and effect notwithstanding the amendments made to the Original Loan Agreement by this First Supplemental Agreement; and

(b) as of the date of this First Supplemental Agreement, references to "the Agreement" or "the Loan Agreement" in any of the Security Documents to which it is a party shall henceforth be references to the Loan Agreement as amended by this First Supplemental Agreement and as from time to time hereafter amended.

6. INTEGRATION OF TERMS AND CONTINUITY OF THE SECURITY DOCUMENTS

6.01. Each of the Borrower, the Guarantor and the Manager hereby agrees that:

(a) All the terms and conditions of the Original Loan Agreement (other than those amended by this First Supplemental Agreement) remain in full force and effect and apply to this First Supplemental Agreement as well, as if repeated *in extenso* herein.

(b) The Loan Agreement and this First Supplemental Agreement constitute an integral document which is valid and binding upon its parties in accordance with its terms.

(c) The Security Documents granted pursuant to the terms of the Original Loan Agreement are and shall remain in full force and effect and binding on their respective parties in accordance with their respective terms as security for the obligations under the Original Loan Agreement as amended by this First Supplemental Agreement and the Borrower's obligations thereunder are and shall remain in full force and effect and shall not be discharged, impaired or otherwise affected by reason of the execution of this First Supplemental Agreement and/or of any of the documents contemplated thereby and the said Security Documents shall be extended to cover and secure this First Supplemental Agreement.

7. MISCELLANEOUS

7.01. Without prejudice to Clause 6 of this First Supplemental Agreement, the provisions of Clauses 13.05 (Amendments), 13.06 (Invalidity of Terms) and 13.09 (Notices) of the Original Loan Agreement apply to this First Supplemental Agreement as well as and they are deemed to be repeated as if set forth *in extenso* herein.

7.02. This First Supplemental Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

8. GOVERNING LAW AND JURISDICTION

(a) This First Supplemental Agreement shall be governed by and construed in accordance with English Law pursuant to clause 13.12(a) of the Original Loan Agreement as amended by this First Supplemental Agreement.

(b) Pursuant to clause 13.12(c) of the Original Loan Agreement as amended by this First Supplemental Agreement it is hereby agreed that the High Court of Justice in London, England, has exclusive jurisdiction to settle any dispute arising out of or in connection with

this First Supplemental Agreement (including any dispute relating to the existence, validity or termination of this Agreement).

9. THIRD PARTY RIGHTS

A person who is not a party to this First Supplemental Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this First Supplemental Agreement.

IN WITNESS whereof the parties hereto have caused this First Supplemental Agreement to be duly executed as a Deed the day and year first above written.

EXECUTED as a DEED by
Ms Margarita Veniou
for and on behalf of
the Borrower

/s/ Margarita Veniou

BIKAR SHIPPING COMPANY INC.

in the presence of

EXECUTED as a DEED by
Mr Ioannis Zafirakis
for and on behalf of
the Guarantor

/s/ Ioannis Zafirakis

DIANA SHIPPING INC.

in the presence of

EXECUTED as a DEED by
Mr Ioannis Zafirakis
for and on behalf of
the Manager

/s/ Ioannis Zafirakis

DIANA SHIPPING SERVICES S.A.

in the presence of

EXECUTED as a DEED by
Krikor Janikian

/s/ Krikor Janikian

and by Christina Margelou
for and on behalf of

/s/ Christina Margelou

EMPORIKI BANK OF GREECE S.A.

in the presence of

Dated 13 December 2012

Between

BIKAR SHIPPING COMPANY INC.,

of Majuro Marshall Islands

and

DIANA SHIPPING INC.,

of Majuro Marshall Islands

and

DIANA SHIPPING SERVICES S.A.,

of Panama

and

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK

SUPPLEMENTAL AGREEMENT

to the Loan Agreement dated 13 September 2011

as amended by the Supplemental Agreement

dated 11 December 2012

and as novated by the Novation Deed

dated 11 December 2012

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This Supplemental Agreement dated 13 December 2012 is made BETWEEN:

- (1) **BIKAR SHIPPING COMPANY INC.**, a company duly incorporated in the Republic of The Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands (the "**Borrower**");
- (2) **DIANA SHIPPING INC.**, a company duly incorporated in the Republic of Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the "**Guarantor**");
- (3) **DIANA SHIPPING SERVICES S.A.**, a company duly incorporated in the Republic of Panama, and whose resident agent is situated at Edificio Universal, Piso 12, Avenida Federico Boyd, Panama, Republic of Panama (the "**Manager**"); and
- (4) **CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK**, a French "*société anonyme*", having its registered office located at 9, Quai du Président Paul Doumer, 92920 Paris, La Défense cedex, France, registered under the no. Siren 304 187 701 at the "*Registre du Commerce et des Sociétés*" of Nanterre (the "**Bank**").

and it is a Supplemental Agreement to the Loan Agreement dated 13 September 2011 as amended and as novated.

WHEREAS

(A) By a loan agreement dated 13 September 2011 as amended by a first supplemental agreement dated 11 December 2012 (the "**Original Loan Agreement**") between the Borrower as borrower and Emporiki Bank of Greece S.A. of Athens, Greece as lender ("**Original Lender**"), the Original Lender advanced by way of loan to the Borrower, subject to the terms and conditions of the Original Loan Agreement, Dollars Fifteen million (\$15,000,000) and the principal amount of Dollars Fourteen million (\$14,000,000) (the "**Debt**") owing by the Borrower thereunder has been novated in favour of the Bank.

(B) By the deed of novation dated 11 December 2012 and made between the Original Lender as transferor, the Bank as transferee, the Borrower as borrower and the Guarantor as guarantor (the "**Novation Deed**"): (i) the Debt and all the rights, title, interest, benefit of the Original Lender under the Original Loan Agreement were transferred by novation to the Bank which was made party thereto in substitution for the Original Lender, (ii) the obligations, liabilities and duties of the Original Lender have been assumed by the Bank, (iii) the Original Lender has been released of its obligations under the Original Loan Agreement, and (iv) it has been agreed that the security documents provided for in clause 11.01 of the Original Loan Agreement be released by the Original Lender and be retaken by the Bank.

(C) This Supplemental Agreement sets out the amendments which the parties have agreed to bring to the Original Loan Agreement as novated by the Novation Deed and this Supplemental Agreement is an integral part thereof and all the terms of this Supplemental Agreement are amendments to and parts of the Original Loan Agreement as novated by the Novation Deed.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.01. In this Supplemental Agreement (unless the context otherwise requires) terms and expressions not defined herein but defined in the Original Loan Agreement and the Novation Deed shall have the meanings set out therein or, as the context may require, as such terms and expressions have been amended in this Supplemental Agreement.

1.02. In the Original Loan Agreement reference to "this Agreement" means the Original Loan Agreement as novated by the Novation Deed and as amended and restated by this Supplemental Agreement and/or as same may hereinafter be amended or supplemented or varied.

1.03. In this Supplemental Agreement:

"Loan Agreement" means the Original Loan Agreement as novated by the Novation Deed and as amended and restated by this Supplemental Agreement and as same may hereinafter be amended or supplemented or varied;

"Novation Deed" means the Novation Deed specified in recital (B).

"Effective Date" means the date on which the Novation Deed becomes effective under the terms thereof;

"New Approved Charter" means the time charter dated 20 November 2012 between the Borrower as owner and the Approved Charterer in respect of the employment of the Vessel for a period of minimum 18 months to maximum 24 months at a gross daily hire of \$7,300 as the same may hereinafter be amended and/or supplemented, all rights, title and interest in and to which will be assigned to the Bank;

"New Assignment of Charter" means the first priority specific assignment of the New Approved Charter in favour of the Bank in form and substance satisfactory to the Bank and respective notice of assignment and acknowledgement by the Approved Charterer in form and substance satisfactory to the Bank;

"New Assignment of Insurances and Earnings" means the first priority general assignment in favour of the Bank of all the Insurances and Earnings and Requisition Compensation of the Vessel in form and substance satisfactory to the Bank and respective notices of assignment;

"New Corporate Guarantee" means an irrevocable and unconditional guarantee to be given by the Corporate Guarantor in favour of the Bank in form and substance satisfactory to the New Bank;

"New DSI Assignment of Insurances" means the first priority general assignment in favour of the Bank of all the rights, title, interest and benefit which the Guarantor has in the Insurances of the Vessel in form and substance satisfactory to the Bank and respective notices of assignment;

"New Earnings Account" means the account opened or, as the context may require to be opened in the name of the Borrower with the Bank and with any branch of the Bank, as may be required by and at the discretion of the Bank, to which (inter alia) all Earnings of the Vessel are to be paid in accordance with Clauses 11.05 and 8.10(b) of the Loan Agreement and includes any sub-accounts thereof and any other account designated in

writing by the Bank to be the Earnings Account for the purposes of such Loan Agreement;

"New Earnings Account Pledge" means a first priority pledge on the New Earnings Account in favour of the Bank in form and substance satisfactory to the Bank;

"New Cash Collateral Account" means the account or the time deposit opened or, as the context may require to be opened in the name of the Borrower with the Bank and with any branch of the Bank, as may be required by and at the discretion of the Bank and maintained pursuant to Clause 11.06, in the same currency as the Loan and includes any sub-account or time deposit or any renewal thereof and/or sub-deposit thereof or new deposit and/or any other time deposit designated in writing by the Bank to be the Cash Collateral Account;

"New Cash Collateral Account Pledge" means a first priority pledge on the New Cash Collateral Account in favour of the Bank in form and substance satisfactory to the Bank;

"New Manager's Undertaking and Assignment of the Manager" means the undertaking and assignment of all the rights which the Manager may have in the Insurances and Earnings relating to the Vessel together with the respective notices, to be executed by the Manager in favour of the Bank in form and substance satisfactory to the Bank;

"New Master Agreement Security Deed" means a security deed executed or (as the context may require) to be executed by the Borrower in favour of the Bank as swap provider in relation to certain of the rights of the Borrower under the New Master Swap Agreement in the form and substance satisfactory to the Bank;

"New Master Swap Agreement" means the agreement made or (as the context may require) to be made between the Bank in its capacity as swap provider (the **"New Swap Provider"**) and the Borrower comprising a 2002 or, at the option of the New Swap Provider, a 1992 ISDA Master Agreement (Multicurrency-Crossborder) (including the schedule thereto) in form and substance satisfactory to the New Swap Provider and includes any Designated Transactions from time to time entered into and any Confirmations (as defined therein) from time to time exchanged thereunder and governed thereby;

"New Mortgage" means a first preferred Greek mortgage to be executed over the Vessel in favour of the Bank in form and substance satisfactory to the Bank;

"New Security Documents" means the New Master Swap Agreement, the New Corporate Guarantee, the New Mortgage, the New Assignment of Insurances and Earnings, the New Assignment of Charter, the New Manager's Undertaking and Assignment of the Manager, the New Master Agreement Security Deed, the New DSI Assignment of Insurances, the New Earnings Account Pledge and the New Cash Collateral Account Pledge.

"Vessel" means the Panamax bulkcarrier vessel under the name **"ARETHUSA" ex "CORONA"**, built 2007 at JIANGNAN SHIPYARD in China, DW 73,593, registered in the name of the Borrower under Greek flag, gross tonnage 40224, International Call Sign SVBJ3, IMO number 9318591, (**"ARETHUSA"**);

1.04. Interpretation. The provisions of Clause 1.03 of the Original Loan Agreement shall extend and apply hereto as if the same were (*mutatis mutandis*) expressly repeated herein *in extenso*.

2. AMENDMENTS TO THE ORIGINAL LOAN AGREEMENT

2.01. As a result of the transfer by novation under the Novation Deed, the Original Loan Agreement as novated by the Novation Deed shall, as and with effect on and from the Effective Date be and is hereby amended so as to read in accordance with the form of the amended and restated Loan Agreement set out in schedule 1 (the "**Restated Loan Agreement**") and (as so amended) will continue to be binding upon the Bank and the Borrower in accordance with its terms as so amended and restated.

2.02. With effect from the Effective Date (a) references in the Restated Loan Agreement to "this Agreement" shall be deemed to be references to the Restated Loan Agreement as it may be further amended, or supplemented, or varied; (b) references in the Restated Loan Agreement (including, but not limited to, clause 11.01 thereof) to the "Master Swap Agreement", the "Corporate Guarantee", the "Mortgage", the "Assignment of Insurances and Earnings", the "Assignment of Charter", the "Manager's Undertaking and Assignment of the Manager", the "Master Agreement Security Deed", the "Earnings Account Pledge" and the "Cash Collateral Account Pledge" shall be deemed to be references to the New Master Swap Agreement, the New Corporate Guarantee, the New Mortgage, the New Assignment of Insurances and Earnings, the New Assignment of Charter, the New Manager's Undertaking and Assignment of the Manager, the New Master Agreement Security Deed, the New Earnings Account Pledge and the New Cash Collateral Account Pledge respectively; (c) reference in the Restated Loan Agreement to the "Earnings Account" shall be deemed to be reference to the New Earnings Account; (d) reference in the Restated Loan Agreement to the "Cash Collateral Account" shall be deemed to be reference to the New Cash Collateral Account; and (e) reference in the Restated Loan Agreement to the "Swap Provider" shall be deemed to be reference to the New Swap Provider.

2.03. Save as amended by this Supplemental Agreement, the provisions of the Loan Agreement shall continue in full force and effect and the Loan Agreement and this Deed shall be read and construed as one instrument.

3. CONDITIONS PRECEDENT

3.01. The agreements of the parties under clauses 2.01 and 2.02 above are subject to the condition that the Bank shall have received on the Effective Date, the documents and evidence specified in clause 3.01 of the Novation Deed including (but not limited to) the following:

- (a) each of the New Security Documents duly executed and delivered by the Borrower, the Corporate Guarantor and the Manager, as the case may be, and, where appropriate, duly registered;
- (b) evidence that the New Earnings Account and the New Cash Collateral Account have been duly opened and all mandate forms, signature cards and authorities have been duly delivered;

- (c) written confirmations from the underwriters of the Vessel that they have been notified of the Bank as the new assignee and that they will issue to the Bank their respective standard letter of undertaking;
- (d) due authorisation in form and substance satisfactory to the Bank authorising the Bank to have access and/or obtain any copies of class records or other information at its discretion from the Classification Society of the Vessel;
- (e) evidence satisfactory to the Bank that the execution of this Supplemental Agreement, the Novation Deed and each of the New Security Documents have been duly authorised by the Borrower, the Corporate Guarantor and the Manager, as the case may be, including but not limited to: (i) a recent certificate of incumbency issued by the Secretary or a Director stating the officers and/or the directors and containing specimens of their signatures and confirming that there has been no change to the documents relating to their constitution, (ii) minutes of meetings of the directors (or, in respect of the Corporate Guarantor, the Executive Committee of the board of directors) and, with the exception of the Corporate Guarantor, shareholders at which there was approved the entry into, execution, delivery and performance of this Supplemental Agreement, the Novation Deed, the New Security Documents and any other documents executed or to be executed pursuant hereto or thereto to which each of them is a party, (iii) a Power of Attorney as necessary evidencing the authority of the person signing this Supplemental Agreement, the Novation Deed and the New Security Documents, and (iv) a recent certificate evidencing that each of them has been properly established, continues to exist validly and to be in good standing. The above documents shall be certified, legalised or attested in a manner acceptable to the Bank; and
- (f) copy, certified as true and complete, of the New Approved Charter.

4. REPRESENTATIONS AND WARRANTIES

4.01. This Supplemental Agreement is entered into by the Bank in reliance upon the representations made herein by the Borrower and the other Security Parties to the effect that all the representations and warranties in clause 6 of the Original Loan Agreement are true and correct, including to the extent that they may have been or shall be amended by this Supplemental Agreement and are repeated herein -as if contained *in extenso* and as if made with reference to the facts and circumstances existing on the date hereof- in connection with all the Security Parties, and the Borrower and the other Security Parties covenant that the said representations and warranties shall remain true and correct so long *as* there is any Outstanding Indebtedness and represent that there has not occurred and/or is continuing any Event of Default or any event which would constitute an Event of Default with the passage of time or the giving of notice or both.

5. RECONFIRMATION —UNDERTAKINGS

5.01. The Borrower hereby reconfirms its obligations under the Loan Agreement and its compliance with the covenants contained in clauses 8.01 to 8.11 (inclusive) of the Loan Agreement and undertakes to procure that each of the New Security Documents be duly executed and delivered to the Bank and registered (as appropriate) at the time specified in clause 3.01.

5.02. Each of the Guarantor and the Manager acknowledges and agrees to the novation specified in recital (**B**) and undertakes to execute and deliver to the Bank the New Corporate Guarantee and the New Manager's Undertaking and Assignment of the Manager respectively at the time specified in clause 3.01.

5.03. The Borrower undertakes to deliver to the Bank within three (3) Banking Days from the Effective Date; (i) a confirmation from the agents nominated in the Novation Deed and each of the New Security Documents for the acceptance of any notice or service of process, that they consent to such nomination; (ii) letters of undertaking of the underwriters of the Vessel; and (iii) acknowledgment and acceptance of the notice of assignment duly executed by the Approved Charterer.

6. INTEGRATION OF TERMS

6.01. Each of the Borrower, the Guarantor and the Manager hereby agrees that:

(a) All the terms and conditions of the Original Loan Agreement as novated by the Novation Deed and amended and restated by this Supplemental Agreement remain in full force and effect and apply to this Supplemental Agreement as well, as if repeated *in extenso* herein.

(b) The Original Loan Agreement as novated by the Novation Deed and as amended and restated by this Supplemental Agreement and this Supplemental Agreement constitute an integral document which is valid and binding upon the parties thereto in accordance with their terms.

7. MISCELLANEOUS

7.01 (Notices). Every notice, request, demand or other communication under this Supplemental Agreement or, unless otherwise provided therein, any of the Security Documents shall:

- a) be in writing delivered personally or by first-class prepaid letter (airmail if available), or cable or shall be served through a process server or, subject to Clause 10.07 of the Loan Agreement, by telefax;
- b) be deemed to have been received, subject as otherwise provided in the Loan Agreement and the relevant Security Document, in the case of telefax, at the time of dispatch as per transmission report (provided that if the date of despatch is not a business day in the country of the addressee it shall be deemed to have been received at the opening of business on the next such business day) and in the case of a cable 24 hours after despatch and in the case of a letter when delivered or served personally or five (5) days after it has been put into the post; and

c) be sent:

- (1) if to be sent to any Security Party, to
c/o Diana Shipping Services S.A.
Pendelis 16
Palaio Faliro
175 64 Athens
Greece

Fax no:+30 210 942 4975
Attention: Mr Andreas-Nikolaos Michalopoulos

- (2) if to be sent to the Bank, to
CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK,
9, Quai du Président Paul Doumer,
92920 Paris, La Défense cedex,
France
Fax no: +(331-41892987)
Attn: Shipping Department

or to such other person, address, telefax number as is notified by the relevant Security Party or the Bank (as the case may be) to the other parties to this Agreement and, in the case of any such change of address, telefax number notified to the Bank, the same shall not become effective until notice of such change is actually received by the Bank and a copy of the notice of such change is signed by the Bank.

7.02. This Supplemental Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

8. GOVERNING LAW AND JURISDICTION

(a) This Supplemental Agreement shall be governed by and construed in accordance with English Law pursuant to clause 13.12(a) of the Restated Loan Agreement.

(b) Pursuant to clause 13.12(c) of the Restated Loan Agreement it is hereby agreed that the High Court of Justice in London, England, has exclusive jurisdiction to settle any dispute arising out of or in connection with this Supplemental Agreement (including any dispute relating to the existence, validity or termination of this Supplemental Agreement).

9. THIRD PARTY RIGHTS

A person who is not a party to this Supplemental Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Supplemental Agreement.

IN WITNESS whereof the parties hereto have caused this Supplemental Agreement to be duly executed as a deed the day and year first above written.

Schedule 1
Amended and Restated Loan Agreement

LOAN AGREEMENT

for an up to

U.S.\$15,000,000 Loan

Provided by

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

to

BIKAR SHIPPING COMPANY INC.,

of Majuro Marshall Islands

Dated 13 September 2011

as amended by the first supplemental agreement dated 11 December 2012

and as novated, amended and restated by the deed of novation and amendment dated December 2012

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THIS AGREEMENT is dated 13 September 2011 as amended by the first supplemental agreement dated 11 December 2012 and as novated, amended and restated by the deed of novation and amendment dated ... November 2012, and is made BETWEEN:

(1) **BIKAR SHIPPING COMPANY INC.**, a company duly incorporated in the Republic of The Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands (the "**Borrower**"); and

(2) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK**, a French "*société anonyme*", having its registered office located at 9, Quai du Président Paul Doumer, 92920 Paris, La Défense cedex, France, registered under the no. Siren 304 187 701 at the "*Registre du Commerce et des Sociétés*" of Nanterre, in its capacities as lender and swap provider (the "**Bank**").

AND IT IS HEREBY AGREED as follows:

1. PURPOSE, DEFINITIONS AND INTERPRETATION

1.01. (**Purpose**). This Agreement sets out the terms and conditions upon and subject to which it is agreed that the Bank will make available to the Borrower a loan of up to Dollars Fifteen million (\$15,000,000) for the purpose of assisting the Borrower to refinance part (up to about 50%) of the Purchase Price of the Vessel.

1.02. (**Definitions**). In this Agreement, unless the context otherwise requires each term or expression defined in the recital of the parties, in this Clause 1.02, in Clauses 8.07, 11.01 and 11.06 and in Schedule 1, shall have the meaning given to it herein and therein and:

"**Account Branch of the Bank**" means CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK, at its branch located at 9, Quai du Président Paul Doumer, 92920 Paris, La Défense cedex, France (or of such other address as may last have been notified by the Bank to the Borrower) or such other branch of the Bank as may be appointed as Account Branch of the Bank by the Bank for the purposes of this Agreement and includes its successors;

"**Administration**" has the meaning contained in Clause 1.1.3 of the ISM Code;

"**Advance**" means a portion of the Commitment;

"**Agreed Rate**" means a rate agreed between the Bank and the Borrower on the basis of which (instead of LIBOR) the interest rate is determined pursuant to Clause 3.01;

"**Applicable Accounting Principles**" means the most recent and up-to-date US GAAP at any relevant time;

"**Approved Charter**" means the time charter dated 22 June 2011 between the Borrower as owner and the Approved Charterer in respect of the employment of the Vessel for a period of between about 11 to about 13 months (about means plus/minus 15 days in Approved Charterer's option) at a gross daily hire of \$13,250 as amended by addendum no.1 dated 22 June 2011;

"**Approved Charterer**" means Cargill International S.A of Geneva, Switzerland, having its registered office at Geneva, Switzerland;

"**Approved Shipbrokers**" means, together, H. Clarkson and Company Ltd of London, England, Arrow Research Ltd. of London, England, Astrup Fearnley A/S of Oslo, Norway, R.S. Platou Shipbrokers of Oslo, Norway, Braemar Seascope Ltd of London, Galbraiths Limited of London, Simpson Spence &

Young of London and any other independent firm of shipbrokers nominated by the Borrower and approved by the Bank in its sole discretion;

"Assignment of Charter" has the meaning ascribed thereto in Clause 11.01;

"Assignment of Insurances and Earnings" has the meaning ascribed thereto in Clause 11.01;

"Availability Period" means the period starting on the date hereof and ending on the earlier of:

(i) the date upon which the obligations of the Bank under this Agreement terminate or are terminated or are cancelled in full pursuant to any provision of this Agreement;

(ii) the date on which the whole Commitment has (or - in case that the Commitment has been agreed in Clause 2.03 to be advanced in more than one Advance - all Advances have) been advanced by the Bank to the Borrower; and

(iii) the 19 September 2011;

"Associated Costs" means any additional cost (expressed as a percentage rate per annum) which is necessary to compensate the Bank for the cost of complying with any existing or future reserve asset, special deposit, cash ratio, liquidity or capital adequacy requirements or any other form of banking or monetary control (whether or not having the force of law) from time to time of any central bank or any other relevant fiscal or monetary authority, including (without limitation) any such requirements of the Bank of Greece (as conclusively determined by the Bank);

"Banking Day" means any day on which banks and foreign exchange markets in New York, London, and Paris and in each country or place in or at which an act is required to be done under this Agreement in accordance with the usual practice of the Bank, are open for the transaction of business of the nature contemplated in this Agreement;

"Balloon Payment" means, in relation to the Loan, the payment referred to as the "Balloon Payment" in the relevant subparagraph of Clause 4.01;

"Bank" means the Bank as specified at the beginning of this Agreement and includes the successors, assignees and transferees of the Bank;

"Basel 2 Accord" means the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement;

"Basel 2 Approach" means either the Standardised Approach or the relevant Internal Ratings Based Approach (each as defined in the Basel 2 Accord) adopted by the Bank (or its holding company) for the purposes of implementing or complying with the Basel 2 Accord;

"Basel 2 Regulation" means (a) any law or regulation implementing the Basel 2 Accord or (b) any Basel 2 Approach adopted by the Bank;

"Borrower" means the Borrower specified in the beginning of this Agreement;

"Capital Adequacy Law" means any law or any regulation (whether or not having the force of law, but, if not having the force of law, with which the Bank or, as the case may be, its holding company habitually complies), including (without limitation) those relating to Taxation, capital adequacy, liquidity, reserve assets, cash ratio deposits and special deposits or other banking or monetary controls or requirements which affect the manner in which the Bank allocates capital resources to its obligations

hereunder (including, without limitation, those resulting from the implementation or application of or compliance with the Basel 2 Accord or any Basel 2 Regulation);

"Classification" means, in relation to the Vessel, the highest class available to a vessel of such Vessel's type with a Classification Society;

"Classification Society" means, in relation to the Vessel, American Bureau of Shipping or any classification society which is a member of the International Association of Classification Societies (IACS) (or any successor organisation thereof) or such other classification society which the Bank (in its sole opinion) shall, at the request of the Borrower, have agreed in writing;

"Cash Collateral Account" means the account or time deposit opened or, as the context may require, to be opened in the name of the Borrower with the Account Branch of the Bank or such other account with any other branch of the Bank, as may be required by and at the discretion of the Bank and maintained pursuant to and for the purposes of Clause 11.06, in the same currency as the Loan and includes any sub-account or time deposit or any renewal thereof and/or sub-deposit thereof or new deposit and/or any other time deposit designated in writing by the Bank to be the Cash Collateral Account for the purposes of this Agreement;

"Cash Collateral Account Pledge" has the meaning ascribed thereto in Clause 11.01;

"Cash Collateral Legislation" means Directive 2002/47/EC of the European Parliament and the Council of 6 June 2002 on financial collateral arrangements as amended and currently in force, and as implemented in the French and English national legal systems respectively;

"Commitment" means the amount, which the Bank agreed to lend to the Borrower under Clause 2.01 as reduced by any relevant term of this Agreement;

"Commitment Letter" means the commitment letter dated 6 July 2011 addressed by the Bank to the Borrower and the Corporate Guarantor and accepted on 18 July 2011;

"Company" has the meaning contained in Clause 1.1.2 of the ISM Code;

"Compliance Date" means 31 December in each calendar year (or such other date as of which the Corporate Guarantor prepares the consolidated financial statements which the Borrower is required to deliver pursuant to Clause 8.01 (a) of this Agreement and which the Guarantor is required to deliver pursuant to clause 5.01(a) of the Guarantee;

"Compliance Certificate" means each certificate received or (as the context may require) to be received by the Bank pursuant to clause 8.07 of this Agreement and clause 5.01 of the Corporate Guarantee in form and substance substantially as per Schedule 3;

"Compulsory Acquisition" means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of a vessel by any government or other competent authority, whether de jure or de facto, but shall exclude requisition for use or hire not involving requisition of title;

"Corporate Guarantee" means an irrevocable and unconditional guarantee given or, as the context may require, to be given by a Corporate Guarantor in form and substance satisfactory to the Bank as a security for the Outstanding Indebtedness and any and all other obligations of the Borrower under this Agreement, the Master Swap Agreement and the other Security Documents;

"Corporate Guarantor" means DIANA SHIPPING INC., and/or any other company, corporation or other corporate body acceptable to the Bank, which gave or, as the context may require, shall or may give a Corporate Guarantee;

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

"Default Rate" means that rate of interest per annum which is determined in accordance with the provisions of Clause 3.04;

"Designated Person" means the person responsible for the safe operation of the Vessel in accordance with Clause 4 of the ISM Code;

"DIANA SHIPPING INC." means DIANA SHIPPING INC., a company duly incorporated in the Republic of The Marshall Islands and has its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands;

"Document of Compliance" means a valid document of compliance issued for the Company by the Administration in accordance with Clause 13.2 of the ISM Code;

"Documentation under ISM" includes, in relation to the Vessel:

(i) the Document of Compliance (DOC) and Safety Management Certificate issued pursuant to the ISM Code in relation to the Vessel within the periods specified by the ISM Code;

(ii) all other documents and data which are relevant to the ISM Code and its implementation and verification which the Bank may require; and

(iii) any other documents which are prepared or which are otherwise relevant to establish and maintain the Vessel's compliance or the compliance of the Borrower with the ISM Code which the Bank may require.

"Dollars" and **"\$"** mean the lawful currency of the United States of America;

"Drawdown Date" means the date on which the Commitment (or, as the case may be, the relevant Advance) shall be made available to the Borrower;

"Drawdown Notice" means a notice substantially in the terms of Schedule 2;

"Document of Compliance" means a valid document of compliance issued for the Company by the Administration in accordance with Clause 13.2 of the ISM Code;

"Earnings" means all earnings of the Vessel whatsoever, both present or future, including all freight, hire and passage moneys, income arising out of pooling or sharing arrangements, compensation payable to the Borrower in the event of requisition of the Vessel for hire, remuneration for salvage and towage services, demurrage and detention moneys, contributions of any nature whatsoever in respect of general average, damages for breach (or payments for variation or termination) of any charterparty or other contract for employment of the Vessel and any other earnings whatsoever due or to become due to the Borrower in respect of the Vessel;

"Earnings Account" means the account opened or, as the context may require to be opened in the name of the Borrower with the Account Branch of the Bank or such other account with any other branch, as may be required by and at the discretion of the Bank, to which (inter alia) all Earnings of the Vessel are to be paid in accordance with Clauses 11.05 and 8.10(b) and includes any sub-accounts thereof and any other account designated in writing by the Bank to be the Earnings Account for the purposes of this Agreement;

"Earnings Account Pledge" has the meaning ascribed thereto in Clause 11.01;

"Encumbrance" means a mortgage, charge (whether fixed or floating), or pledge, lien, hypothecation, assignment, trust, security interest or other encumbrance of any kind securing any obligation of any person or any type of preferential arrangement (including without limitation title transfer and/or retention arrangements) having a similar effect;

"Enforcement Event" means in respect of the Bank and/or the Borrower "winding up proceedings" or "reorganization measures" (as these terms are defined in the Cash Collateral Legislation) or any other event (except an Event of Default) which prevents or results in preventing the Borrower from withdrawing the funds deposited to the Cash Collateral Account, whether this is by virtue of a provision of any law, regulation, statutory rule or regulatory requirement or any request or order of any central bank, monetary, regulatory or other authority or any court or otherwise;

"Environmental Affiliate" means any agent or employee of the Borrower or any other Relevant Party or any person having a contractual relationship with the Borrower or any other Relevant Party in connection with any Relevant Ship or its operation or the carriage of cargo thereon and/or passengers thereon and/or provision of goods and/or services on or from any Relevant Ship;

"Environmental Approval" means any consent, authorisation, licence or approval of any governmental or public body or authorities or courts applicable to any Relevant Ship or its operation or the carriage of cargo thereon required under any Environmental Law;

"Environmental Claim" means: any and all enforcement, clean up, removal or other governmental or regulatory actions or orders instituted or completed pursuant to any Environmental Law or any Environmental Approval together with claims made by any third party relating to damage, contribution, loss or injury, resulting from any actual or threatened emission, spill, release or discharge of a Material of Environmental Concern;

"Environmental Laws" means any law including without limitation all national, European Union international and state laws, rules, regulations, treaties and conventions pertaining to the pollution or protection of human health or the environment including, without limitation, the carriage of Materials of Environmental Concern and actual or threatened emissions, spills, releases or discharges of Materials of Environmental Concern;

"Event of Default" means any one of those events or circumstances described in Clause 9 or described as such in any other of the Security Documents;

"Expenses" means the aggregate at any time (to the extent that the same have not been received or recovered by the Bank) of:

- a) all losses, liabilities, costs, charges, expenses, damages and outgoings of whatever nature, (including, without limitation, Taxes, repair costs, registration fees and insurance premiums, crew wages, repatriation expenses and seamen's pension fund dues) suffered, incurred, charged to or paid or committed to be paid by the Bank in connection with the exercise of the powers referred to in or granted by any of the Security Documents or otherwise payable by the Borrower in accordance with the terms of any of the Security Documents;
- b) the expenses referred to in Clause 10.02 (a), (b) and (d) ; and
- c) interest on all such losses, liabilities, costs, charges, expenses, damages and outgoings from the date on which the same were suffered, incurred or paid by the Bank until the date of receipt or recovery thereof (whether before or after judgement) at a rate per annum calculated in accordance with Clause 3.04 (as conclusively certified by the Bank);

"Final Maturity Date" means the date falling ten (10) years after the Drawdown Date;

"Group" means, together the Corporate Guarantor and its Subsidiaries from time to time (including, for the avoidance of doubt, the Borrower but excluding Diana Containerships Inc. of the Republic of the Marshall Islands and its own Subsidiaries from time to time);

"Guarantee" means the Corporate Guarantee and any guarantee which may at any time secure the obligations of the Borrower to the Bank;

"Guarantor" means the Corporate Guarantor and any other person, which may at any time guarantee the obligations of the Borrower to the Bank;

"Indebtedness" means any obligation for the payment or repayment of money, whether as principal or as surety, whether present or future, actual or contingent;

"Insurances" means in respect of the Vessel all policies and contracts of insurance (including, without limitation, all entries of the Vessel in a protection and indemnity, war risks or other mutual insurance association) which are from time to time in place or taken out or entered into by or for the benefit of the Borrower (whether in the sole name of the Borrower or in the joint names of the Borrower and/or the Manager and/or the Bank) in respect thereof and its Earnings or otherwise howsoever in connection with the Vessel and all rights, benefits and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium;

"Interest Payment Date" means, in respect of the Loan or any part thereof in respect of which a separate Interest Period is fixed, the last day of the relevant Interest Period and in case of any Interest Period which overruns a three (3) month Interest Period, payment of interest will be made on the last day of such three (3) month period;

"Interest Period" means in relation to the Loan or any part thereof, each period for the calculation of interest in respect of the Loan or such part ascertained in accordance with Clauses 3.02 and 3.03;

"ISPS Code" means the International Ship and Port Facility Security Code constituted pursuant to resolution A.924(22) of the International Maritime Organization now set out in Chapter XI-2 of the International Convention for the Safety of Life at Sea 1974 (as amended) as adopted by a Diplomatic conference of the International Maritime Organisation on Maritime Security in December 2002 and includes any amendments or extensions thereto and any regulation issued pursuant thereto;

"ISSC" means, in relation to the Vessel, an International Ship Security Certificate issued in respect of the Vessel pursuant to the ISPS Code;

"ISM Code" means:

(a) "The International Management Code for the Safe Operation of Ships and for Pollution Prevention", currently known or referred to as the "ISM Code", adopted by the Assembly of the International Maritime Organisation by Resolution A.741(18) on 4 November 1993 and incorporated on 19 May 1994 into chapter IX of the International Convention for the Safety of Life at Sea 1974 (SOLAS 1974) as it may be amended; and

(b) All further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or in the future issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code, including without limitation, the 'Guidelines on implementation or administering of the International Safety Management (ISM) Code by Administrations' produced by the International Maritime Organisation pursuant to Resolution A.788(19) adopted on 25 November 1995, as the same may be amended, supplemented or replaced from time to time;

"Lending Branch" means the branch of the Bank at 9, Quai du Président Paul Doumer, 92920 Paris, La Défense cedex, France (or of such other address as may last have been notified by the Bank to the Borrower) or such other branch of the Bank as may be appointed as the Lending Branch of the Bank by the Bank for the purposes of this Agreement and includes its successors;

"LIBOR" means in relation to a particular period, the rate for deposits of Dollars for a period equivalent to such period at or about 11 a.m. (London time) on the second Banking Day before the beginning of such period as displayed on Reuters page LIBOR 01 (British Bankers' Association Interest Settlement Rates) (or such other page as may replace such page LIBOR 01 on such system or on any other system of the information vendor for the time being designated by the British Bankers' Association to calculate the BBA Interest Settlement Rate (as defined in the British Bankers' Association's Recommended Terms and Conditions ("BBAIRS" terms) applicable at the relevant time)) (rounded upward if necessary to five decimal places), provided that if on such date no such rate is so displayed LIBOR for such period shall be the rate (rounded upward if necessary to five decimal places) offered to the Bank for deposits of Dollars in an amount approximately equal to the amount in relation to which LIBOR is to be determined for a period equivalent to such period by prime banks in the London Interbank Market at or about 11:00 a.m. (London time) on the second Banking Day prior to the beginning of such period in the London Interbank Market for delivery on the first day of that period and for the number of days comprised therein;

"Loan" means the aggregate principal amount owing to the Bank under this Agreement at any time;

"Manager" means Diana Shipping Services S.A. of Edificio Universal, Piso 12, Avenida Federico Boyd, Panama, Republic of Panama which has established an office in Greece (at 16, Pendelis Str., Palaio Faliro 175 64, Athens, Greece) pursuant to Law 378/68, Law 27/75, Law 814/78 kai Law 2234/94.89/67 as amended and in force, or any other person appointed by the Owner, with the prior written consent of the Bank, as the manager of the Vessel and includes its successors in title and assignees;

"Management Agreement" means the management agreement made or (as the context may require) to be made between the Borrower and the Manager of the Vessel in form and substance acceptable to the Bank, providing for (inter alia) the Manager to carry out the technical and/or commercial management of the Vessel;

"Manager's Undertaking and Assignment of the Manager" means the undertaking and assignment of all the rights which the Manager may have in the Insurances and Earnings relating to the Vessel, to be executed by the Manager in favour of the Bank in form and substance satisfactory to the Bank;

"Margin" means (a) in relation to a part of the Loan equal to the amount standing for the relevant Interest Period to the credit of the Cash Collateral Account pledged in favour of the Bank, one per cent (1%) per annum; and (b) in relation to any other part of the Loan, two point fifty (2.50%) per cent per annum;

"Material of Environmental Concern" means and includes pollutants, contaminants toxic substances, oil as defined in the United States Oil Pollution Act of 1990 and all hazardous substances as defined in the United States Comprehensive Environmental Response, Compensation and Liability Act 1980 and/or the European conventions;

"Master Agreement Security Deed" means a security deed executed or (as the context may require) to be executed by the Borrower in favour of the Swap Provider in relation to certain of the rights of the Borrower under the Master Swap Agreement in the form and substance satisfactory to the Bank;

"Master Swap Agreement" means the agreement made or (as the context may require) to be made between the Bank and the Borrower comprising a [1992] [2002] ISDA Master Agreement (Multicurrency-Crossborder) (including the schedule thereto) in form and substance satisfactory to the Swap Provider and includes any Designated Transactions from time to time entered into and any Confirmations (as defined therein) from time to time exchanged thereunder and governed thereby;

"Memorandum of Agreement" (M.O.A.) means the agreement dated 12 May 2011 whereby the Borrower as buyer agreed and bought and Silver Sea Navigation Limited of the Marshall Islands as seller agreed and sold the Vessel in accordance with the terms and conditions contained therein;

"Material of Environmental Concern" means and includes pollutants, contaminants toxic substances, oil as defined in the United States Oil Pollution Act of 1990 and all hazardous substances as defined in the United States Comprehensive Environmental Response, Compensation and Liability Act 1980 and/or the European conventions;

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

"Mortgage" means the Mortgage on the Vessel defined in Clause 11.01;

"New Approved Charter" means the time charter dated 20 November 2012 between the Borrower as owner and the Approved Charterer in respect of the employment of the Vessel for a period of minimum 18 to maximum 24 months at a gross daily hire of \$7,300 as the same may hereinafter be amended and/or supplemented, all rights, title and interest in and to which have been or, as the context may require, will be assigned to the Bank;

"New DSI Assignment of Insurances" means the first priority general assignment in favour of the Bank of all the rights, title, interest and benefit which the Guarantor has in the Insurances of the Vessel in form and substance satisfactory to the Bank and respective notices of assignment;

"Outstanding Indebtedness" means the aggregate of the Loan and interest accrued and accruing thereon, the Expenses, and all other sums of money from time to time owing by the Borrower to the Bank and/or the Swap Provider, whether actually or contingently under this Agreement, the Master Swap Agreement and the other Security Documents and/or as a result of any breach thereof and/or by way of undue enrichment;

"Owner" means the Borrower;

"Purchase Price" means in respect of the Vessel, the purchase price payable by the Borrower to the seller referred to in the MOA relating to the purchase of the Vessel, being \$29,990,000 agreed and paid under the terms and conditions of the MOA;

"Relevant Party" means the Borrower, the Corporate Guarantor and any other member of the Group;

"Relevant Ship" means the Vessel and any other vessel owned by, managed by or chartered to any Relevant Party;

"Repayment Date" means each of the dates specified in Clause 4.01 on which the Repayment Instalments of the Loan and the Balloon Payment shall be payable by the Borrower to the Bank;

"Repayment Instalment" means each instalment of the Loan which becomes due for repayment by the Borrower to the Bank on a Repayment Date pursuant to Clause 4.01;

"Requisition Compensation" means all sums of money or other compensation from time to time payable by reason of requisition of the Vessel otherwise than by requisition for hire;

"Safety Management Certificate" means a valid certificate issued by the Administration or organisation recognised by the Administration and referred to in the ISM Code;

"Safety Management System" means a safety management system which has been developed and implemented in accordance with the ISM Code and which includes the functional requirements, duties and obligations required by the ISM Code;

"Security Documents" means this Agreement, the Master Swap Agreement, the Master Agreement Security Deed, the documents referred to in Clause 11.01 and any other documents as may have been or shall from time to time after the date of this Agreement be executed to guarantee and/or secure all or any part of the Outstanding Indebtedness from time to time owing by the Borrower or any other Security Party pursuant to this Agreement, the Master Swap Agreement or any other Security Documents (whether or not any such document also secures moneys from time to time owing pursuant to any other document or agreement);

"Security Party" means each of the Borrower, the Corporate Guarantor and any person (other than the Bank and the Manager) which is or will become a party to any of the Security Documents;

"Security Requirement" means the amount in Dollars (as certified by the Bank whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower) which is at any relevant time one hundred and twenty per cent (120%) of the Loan and the Swap Exposure;

"Security Value" means the amount in Dollars which, at any relevant time, is the aggregate of (i) the Vessel's Value of the Vessel as most recently determined in accordance with Clause 8.05(d); (ii) the free cash credit balance of the Cash Collateral Account duly pledged in favour of the Bank; and (iii) the value in Dollars of any additional security for the time being actually provided to the Bank pursuant to Clause 8.05(c) (as certified by the Bank whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Bank but the Borrower shall be allowed to rebut such evidence by any means of evidence admissible by applicable law, except witnesses);

"Seller" means the company which is a party to the MOA as seller of the Vessel;

"Subsidiary" of a person means any company or entity directly or indirectly controlled by such person, and for this purpose **"control"** means either the ownership of more than fifty per cent (50%) of the voting share capital (or equivalent rights of ownership) of such company or entity or the power to direct its policies and management whether by contract or otherwise;

"Swap Provider" means CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK, of 9, Quai du Président Paul Doumer, 92920 Paris, La Défense cedex, France, through its branch at 9, Quai du Président Paul Doumer, 92920 Paris, La Défense cedex, France (or of such other address as may last have been notified by the Bank to the Borrower) or such other branch of the Bank as may be appointed as Swap Provider by the Bank for the purposes of this Agreement and includes its successors;

"Taxes" includes all present and future taxes, levies, imposts, duties, fees or charges of whatever nature together with interest thereon and penalties in respect thereof (except taxes concerning the Bank and imposed on the net income of the Bank) and **"Taxation"** shall be construed accordingly;

"Total Loss" means (a) actual, constructive, compromised or arranged total loss of a vessel; or (b) Compulsory Acquisition of a vessel; or (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of a vessel (other than where the same amounts to the Compulsory Acquisition of a vessel) by any government entity, or by persons acting or purporting to act on behalf of any government entity, unless such vessel be released and restored to the Borrower from such hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation within sixty (60) days after the occurrence thereof;

"Vessel" means the Panamax bulkcarrier vessel under the name **"ARETHUSA"** ex **"CORONA"**, built 2007 at JIANGNAN SHIPYARD in China, DW 73,593, registered in the name of the Borrower under Greek flag, gross tonnage 40224, International Call Sign SVBJ3, IMO number 9318591, (**"ARETHUSA"**);

"Vessel's Value" means, in respect of the Vessel, the market value of such Vessel as determined in accordance with Clause 8.05(b).

1.03. **(Interpretation)**. In this Agreement:

- a) Clause headings and the table of contents are inserted for convenience of reference only and shall be ignored in the interpretation of this Agreement.
- b) Each of the terms defined in Clause 1.02 when used in plural and terms defined in plural or words used in plural (and unless in the specific clause or sentence is otherwise expressly specified) mean all of them collectively and/or each of them and/or anyone of them (even if this is not expressly so spelled out) as the context may require or permit.
- c) Subject to any specific provision of this Agreement or of any assignment and/or participation or syndication agreement of any nature whatsoever, reference to each of the parties hereto and to the other Security Documents shall be deemed to be reference to and/or to include, as appropriate, their respective successors and permitted assigns.
- d) Reference to a person shall be construed as including reference to an individual, firm, company, corporation, unincorporated body of persons or any State or any agency thereof.
- e) Where the context so admits, words in the singular include the plural and vice versa.
- f) The words "including" and "in particular" shall not be construed as limiting the generality of any foregoing words.
- g) This Agreement and all documents referred to in this Agreement include the same as varied or supplemented from time to time.
- h) Reference to this Agreement includes all the terms of this Agreement and any Schedules, Annexes or Appendices to this Agreement, which form an integral part of this Agreement.
- i) Unless otherwise stated in respect of the Master Swap Agreement, reference to Clauses, Sub-Clauses and Schedules are to Clauses, Sub-Clauses and Schedules in this Agreement.
- j) All obligations imposed on, or assumed by the Borrower and the Guarantors are joint and several even if not so expressed.

- k) Reference to the opinion of the Bank or a determination or acceptance by the Bank or to documents, acts, or persons acceptable or satisfactory to the Bank or the like shall be construed as reference to opinion, determination, acceptance or satisfaction of the Bank at the sole discretion of the Bank and such opinion, determination, acceptance or satisfaction of the Bank shall be conclusive and binding on the Borrower (even if not expressly so spelled out in the particular clause) save for manifest error in respect of which the Borrower shall have the burden of proof.

2. THE LOAN

2.01. (**Commitment to Lend**). Relying upon each of the representations and warranties in Clause 6 and in each of the other Security Documents, it is hereby agreed and undertaken by the Bank to lend the Borrower, upon and subject to the terms of this Agreement, a sum of up to Dollars Fifteen million (US\$ 15,000,000) to be used for the purpose set out in Clause 1.01.

2.02. (**Drawdown Notice and Commitment to Borrow**). Subject to the terms and conditions of this Agreement, the Commitment (or -in case that the Commitment has been agreed in Clause 2.03 to be advanced in more than one advance - each Advance) shall be advanced to the Borrower following receipt by the Bank from the Borrower of a Drawdown Notice not later than 10 a.m. (London time) on the second Banking Day before the date on which the drawdown is intended to be made. A Drawdown Notice shall be effective on actual receipt by the Bank and, once given, shall be irrevocable.

2.03. (**Number of Advances Agreed**). The Commitment shall be advanced to the Borrower in one lump sum on the Drawdown Date, subject to the terms and conditions of this Agreement and provided that the Conditions Precedent set out in Clause 7 shall have been complied with by the Borrower and the Security Documents referred to in Clause 11.01 shall have been duly executed and delivered to the Bank and, where required, registered in favour of the Bank.

2.04. (**Disbursement**). Upon receipt of the Drawdown Notice complying with the terms of this Agreement the Bank shall, subject to the provisions of Clause 7, on the date specified in the Drawdown Notice, make the Commitment (or - in case that the Commitment has been agreed in Clause 2.03 to be advanced in more than one advance - the relevant Advance) available to the Borrower.

2.05. (**Termination Date**). Any part of the Commitment undrawn and uncanceled at the end of the Availability Period shall thereupon be automatically cancelled.

2.06. (**Cancellation**). The Borrower shall be entitled to cancel any undrawn part of the Commitment under this Agreement upon giving the Bank not less than three (3) Banking Days' notice in writing to that effect, provided that no Drawdown Notice has been given to the Bank under Clause 2.02 for the full amount of the Commitment or in respect of the portion thereof in respect of which cancellation is required by the Borrower. Any such notice of cancellation, once given, shall be irrevocable. Any amount cancelled may not be drawn. Notwithstanding any such cancellation pursuant to this Clause 2.06 the Borrower shall continue to be liable for any and all amounts due to the Bank under this Agreement including without limitation any amounts due to the Bank under Clause 10.

2.07. (**Loan Account**). All sums advanced by the Bank to the Borrower under this Agreement and all interest accrued thereon and all other amounts due under this Agreement from time to time and all repayments and/or payments thereof shall be debited and credited respectively to a separate loan account maintained by the Bank in the name of the Borrower. The Bank may, however, in accordance with its usual practices or for its accounting needs, maintain more than one accounts, consolidate or separate them but all such accounts shall be considered parts of one single loan account maintained under this Agreement. In case that a ship mortgage in the form of Account Current is granted as security under this Agreement, the account(s) referred to in this Clause shall be the Account Current referred to in the mortgage.

2.08. (**Evidence**). It is hereby expressly agreed and admitted by the Borrower that abstracts or photocopies or other reproductions of the books and/or records of the Bank as well as statements of the loan account or other accounts held with the Bank under this Agreement or a certificate issued by the Bank ("**Bank's Evidence**") shall (in the absence of manifest error) be conclusive evidence binding on the Borrower as to the existence and/or the amount of the at any time Outstanding Indebtedness, of any amount due under this Agreement and/or the Master Swap Agreement, of the applicable Interest Rate or Default Rate or any other rate provided for or referred to in this Agreement, the Interest Period, the

value of additional securities under Clause 8.05(c), the payment or non payment of any amount and/or the occurrence of any other Event of Default but the Borrower shall be allowed to rebut such evidence by any means of evidence admissible by applicable law, except witnesses. Notwithstanding the above provision relating to the right of the Borrower to rebut the evidence, enforcement proceedings /procedure or any other Court or out-of-court procedure can be initiated by the Bank on the basis of the above Bank's Evidence.

3. INTEREST

3.01. **(Interest Rate).** The Borrower shall pay interest on the Loan (or as the case may be, each portion thereof to which a different Interest Period relates) in respect of each Interest Period (or part thereof) on each Interest Payment Date. The interest rate for the calculation of interest shall be the rate per annum determined by the Bank to be: (a) the aggregate of (i) the Margin, (ii) LIBOR and (iii) the Associated Costs (if any), unless there is an Agreed Rate, in which case the interest rate for the calculation of interest shall be the rate per annum determined by the Bank to be the aggregate of (i) the Margin (ii) the Agreed Rate and (iii) the Associated Costs (if any).

3.02. **(Interest Period).** The Borrower may by notice received by the Bank not later than 10 a.m. (London time) on the second Banking Day before the beginning of each Interest Period specify (subject to Clause 3.03 below) whether such Interest Period shall have a duration of one (1), three (3) or six (6) months (or such other period as may be requested by the Borrower and as the Bank, in its sole discretion, may agree).

3.03. **(Duration of Interest Period).** Every Interest Period shall, subject to market availability to be conclusively determined by the Bank, be of the duration specified by the Borrower pursuant to Clause 3.02 but so that:

- a) the initial Interest Period in respect of the Loan (or - in case that the Commitment is agreed to be advanced in more than one advance - of each Advance) will commence on the date on which the Commitment (or - as the case may be - the relevant Advance) is advanced and each subsequent Interest Period will commence forthwith upon the expiry of the previous Interest Period;
- b) in case that the Commitment is advanced by more than one advance, the initial Interest Period in respect of each Advance after the first Advance shall end on the same day as the then current Interest Period for the Loan;
- c) if any Interest Period would otherwise overrun one or more Repayment Dates, then, in the case of the last Repayment Date, such Interest Period shall end on such Repayment Date, and in the case of any other Repayment Date or Dates the Loan shall be divided into parts so that there is one part equal to the amount(s) of the Repayment Instalment(s) due (in the currency in which the same is due) on each Repayment Date falling during that Interest Period and having an Interest Period ending on the relevant Repayment Date and another part equal to the amount of the balance of the Loan having an Interest Period determined in accordance with Clause 3.02 and the other provisions of this Clause 3.03;
- d) in case of failure of the Borrower to specify the duration of an Interest Period in accordance with the provisions of Clause 3.02 and this Clause 3.03, such Interest Period shall have a duration of three (3) months unless another period shall be agreed between the Bank and the Borrower provided always that such period (whether of three (3) months or of different duration) shall comply with this Clause 3.03; and
- e) if the Bank determines that the duration of an Interest Period specified by the Borrower in accordance with Clause 3.02 is not readily available, then that Interest Period shall have such duration as the Bank, in consultation with the Borrower, may determine.

3.04. **(Default Interest).** In case of failure of the Borrower to pay any sum (including, without limitation, any sum payable pursuant to this Clause 3.04) on its due date for payment under any of the Security Documents (other than the Master Swap Agreement), the Borrower shall pay interest on such sum from the due date up to the date of actual payment (as well after as before judgment) at the rate determined by the Bank pursuant to this Clause 3.04. The period beginning on such due date and ending on such date of payment shall be divided into successive periods of not more than three (3) months as

selected by the Bank each of which (other than the first, which shall commence on such due date) shall commence on the last day of the preceding such period. The rate of interest applicable to each such period shall be the aggregate (as determined by the Bank) of (i) two point fifty per cent (2.50%) or any other higher percentage which may from time to time be permitted by the applicable legislation per annum, (ii) the Margin, (iii) LIBOR and (iv) the Associated Costs (if any). Such interest shall be due and payable on the last day of each such period as determined by the Bank and each such day shall, for the purposes of this Agreement, be treated as an Interest Payment Date. In case that a payment is made in default for any amount, the Interest Periods will be determined by the Bank at its discretion including the amounts for which there is no default, even if the Bank has not (yet) exercised its rights pursuant to Clause 9.08(b) of the Agreement. If for the reasons specified in Clause 3.06, the Bank is unable to determine a rate in accordance with the foregoing provisions of this Clause 3.04, interest on any sum not paid on its due date for payment shall be calculated at a rate determined by the Bank to be two point fifty per cent (2.50%) per annum above the aggregate of the Margin and costs of funds including the Associated Costs (if any) to the Bank as conclusively determined by the Bank save for manifest error. Any interest which is not paid on the Interest Payment Date shall be compounded on a semiannual basis.

3.05. (Notification of Interest). The Bank shall notify the Borrower promptly of the duration of each Interest Period and of each rate of interest determined by it under this Clause 3 without prejudice to the right of the Bank to make determination at its sole discretion. In the event that the Bank fails to notify the Borrower as above, such failure will not affect the validity of the determination of the Interest Period and the Interest Rate made pursuant to Clause 3.

3.06. (Market Disruption). If the Bank (in its sole discretion) determines (which determination shall, in the absence of manifest error, be conclusive) prior to the commencement of any Interest Period:

- (a) that adequate and fair means do not exist for ascertaining LIBOR (during such Interest Period) or
 - (b) that deposits in Dollars are not available to the Bank in the London Interbank Market in the ordinary course of business in sufficient amounts for any Interest Period or
 - (c) that the cost to the Bank of obtaining or matching deposits for any Interest Period would be in excess of LIBOR or
 - (d) that by reason of circumstances affecting the London Interbank Market generally it is impracticable for the Bank to advance the Commitment or any part thereof or fund or continue to fund the Loan during any Interest Period or
 - (e) that LIBOR for that Interest Period will not adequately reflect the cost of funding of the Loan for that Interest Period,
- the Bank shall give notice (the "**Determination Notice**") to the Borrower of the occurrence of such event and shall certify the duration of the Interest Period and the rate of interest determined by the Bank for such Interest Period, which shall be the rate per annum which is the aggregate of (i) the Margin, (ii) the rate which expresses as a percentage rate per annum the cost to the Bank of funding the Loan from whatever source it may reasonably select and (iii) the Associated Costs;

PROVIDED THAT if the resulting rate of interest is not acceptable to the Borrower the Bank will negotiate with the Borrower in good faith with a view to modifying this Agreement to provide a substitute basis for determining the rate of interest which is financially a substantial equivalent to the basis provided for in this Agreement. Any substitute basis agreed pursuant to the previous sub-clause shall be binding on the parties to this Agreement.

If within ten (10) days of the giving of the Determination Notice, the Borrower and the Bank fail to agree in writing on a substitute basis for determining the rate of interest, the Borrower will immediately prepay the Loan together with accrued interest thereon to the date of prepayment (calculated at the rate or rates most lately applicable to the Loan) and all other sums payable by the Borrower under the Security Documents and the Commitment shall be reduced to zero. In such case the Borrower shall also reimburse to the Bank such amount as may be determined by the Bank to be necessary to compensate it for the increased cost (if any) of maintaining the Loan during the period of negotiation referred to in this Clause 3.06 until such prepayment. In case that the circumstances provided in this Clause 3.06 arise prior to the drawdown of the Commitment or any part thereof and the Borrower do not accept the Bank's determination immediately, the undrawn Commitment or part thereof shall be reduced to zero.

3.07. (**Suspension of drawdown**). If the Bank's Determination Notice under Clause 3.06 is served before the Commitment is made, the Bank's obligation to make that the Commitment shall be suspended while the circumstances referred to in the Bank's notice continue.

4. REPAYMENT PREPAYMENT

4.01. (Repayment). The Borrower shall repay the Loan by (a) twenty (20) equal consecutive semiannual Repayment Instalments of Dollars Five hundred thousand (\$ 500,000), one such instalment to be repaid on each of the Repayment Dates; and (b) a Balloon Payment in the amount of Five million Dollars (\$5,000,000), such Balloon Payment to be repaid together with the twentieth Repayment Instalment; provided that (a)the first Repayment Instalment shall be repaid six (6) months after the Drawdown Date of the Commitment (or as the case may be-the last Advance) and each of the subsequent ones consecutively on each of the dates falling six (6) months after the immediately preceding Repayment Date relating, (b)if the last Repayment Date would otherwise fall after the Final Maturity Date, the final Repayment Date shall be the Final Maturity Date, (c)there shall be no Repayment Dates after the Final Maturity Date and (d)any and all amounts owing under this Agreement shall be paid in full together with the last Repayment Instalment. In the event that the Commitment will not be advanced in full, then the amount of each of the Repayment Instalments and the Balloon Payment shall be reduced pro-rata. Any such reduction in the amounts of the Repayment Instalments shall be conclusively certified by the Bank in writing to the Borrower.

4.02. (Voluntary Prepayment). The Borrower shall have the right, upon giving the Bank not less than ten (10) Banking Days' notice in writing, to prepay part or all of the Loan in each case together with all unpaid interest accrued thereon and all other sums of money whatsoever due and owing from the Borrower to the Bank hereunder or pursuant to the other Security Documents and all interest accrued thereon, provided that:

- (a) The giving of such notice by the Borrower will irrevocably commit the Borrower to prepay such amount as stated in such notice;
- (b) Such prepayment may take place only on the last day of an Interest Period relating to the whole of the Loan provided, however, that if the Borrower shall request consent to make such prepayment on another day and the Bank shall accede to such request (it being in the sole discretion of the Bank to decide whether or not to do so) the Borrower will pay in addition to the amount to be prepaid, any such sum as may be payable to the Bank pursuant to Clause 10.01 and any costs from unwinding of any then existing hedging transactions;
- (c) Each partial prepayment shall be equal to Dollars Five Hundred Thousand (\$500,000) or higher integral multiple thereof or the balance of the Loan;
- (d) Every notice of prepayment shall be effective only on actual receipt by the Bank, shall be irrevocable and shall oblige the Borrower to make such prepayment on the date specified;
- (e) No amount prepaid may be re-borrowed; and
- (f) The Borrower may not prepay the Loan or any part thereof save as expressly provided in this Agreement.

4.03. (Compulsory Prepayment in case of Total Loss). (a) Unless the Bank agrees to accept substitute security in form and substance satisfactory to the Bank, the Borrower shall, on the earlier of the date of receipt by the Bank of the insurance proceeds or the date falling one hundred twenty (120) days as of date of the Vessel becoming a Total Loss, prepay the Loan together with accrued interest to the date of prepayment and all other sums payable by the Borrower to the Bank pursuant to this Agreement, the Master Swap Agreement and the other Security Documents (and if any portion of the Commitment has not been drawn yet, the obligation of the Bank to advance the Commitment will cease) and for the purposes of this Clause:

(b) For the purposes of this Clause 4.03:

- (i) an actual total loss of a vessel shall be deemed to have occurred at the actual date and time when such vessel was lost but in the event of the date of the loss is unknown then the actual total loss shall be deemed to have occurred on the date on which such vessel was last reported;
- (ii) a constructive total loss shall be deemed to have occurred at the date and time notice of abandonment of a vessel is given to the insurers of such vessel;
- (iii) a compromised or arranged total loss shall be deemed to have occurred on the date on which a binding agreement as to such compromised or arranged total loss has been entered into by the insurers of a vessel provided that the Borrower are not entitled to agree any compromise or arranged total loss without the prior written consent of the Bank;
- (iv) Compulsory Acquisition of a vessel shall be deemed to have occurred on the date upon which the relevant Compulsory Acquisition occurs;
- (v) hijacking, theft, condemnation, capture, seizure, detention, arrest, or confiscation of a vessel (other than where the same amounts to Compulsory Acquisition of such vessel) by any government or governmental entity or by any person acting or purporting to act on behalf of any government or governmental entity, which deprives the Owner of the Vessel of the use of the Vessel for more than sixty (60) days, upon the expiry of the period of sixty (60) days after the date upon which the relevant hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation occurred.

4.04. (Compulsory Prepayment in case of sale of the Vessel). In case of sale or other disposal of the Vessel (always subject to the prior written consent of the Bank) or in any other case where the Borrower requests Bank's consent for the discharge of the Mortgage, the Borrower shall, prior to or simultaneously with Bank's consent to the release of the Mortgage, prepay the Loan together with accrued interest to the date of prepayment, Expenses and all other sums payable by the Borrower to the Bank pursuant to this Agreement, the Master Swap Agreement and the other Security Documents.

4.05. (Application of Prepayment). Any prepayment received under clause 4.02 of less than the whole of the Loan will be applied towards the Repayment Instalments (including the Balloon Payment) pro rata or in inverse or in on coming order of maturity at Borrower's option.

4.06. (Fees).

(a) **(Front End Fee).** The Borrower shall pay to the Bank a flat fee of Dollars Forty five thousand (\$45,000) and is due and payable on the date of this Agreement; and

(b) **(Commitment Fee).** The Borrower shall pay to the Bank a fee of zero point fifty per cent (0.50%) per annum on the Commitment or any undrawn and/or uncanceled part thereof. The Commitment fee shall be computed from the date of acceptance of the Commitment Letter on the daily undrawn and/or uncanceled amount of the Commitment and it is payable quarterly in arrears until the date on which the whole Commitment has been advanced to the Borrower or until the drawdown of the Commitment is cancelled pursuant to the terms of this Agreement, whichever is the earliest.

The fees referred to in this clause 4.06 shall be payable by the Borrower to the Bank whether or not any part of the Commitment is ever advanced and shall be, in each case, non-refundable.

5. PAYMENTS, TAXES AND COMPUTATION

5.01. (Payment).

(a) All moneys to be paid by the Borrower under the Agreement and the other Security Documents shall be paid to the Bank as follows:

(i) by not later than 11.00 a.m. (New York time) on the due date; and

(ii) in same day immediately available Dollar funds settled through the New York Clearing House Interbank Payments System (or in such other Dollar funds and/or settled in such other manner as the Bank shall specify as being customary at the time for the settlement of international transactions of the type contemplated by this Agreement); and

(iii) to the account No. 786419036 of the Bank at JP Morgan Chase Bank, New York (SWIFT CHASUS33) and shall be expressed to be for the account of the Bank (SWIFT BSUIFRPP), or to such other account with such other bank as the Bank may from time to time notify to the Borrower.

5.02. (**Payments on Banking Days**). All payments due shall be made on a Banking Day. If the due date for payment falls on a day which is not a Banking Day, the payment or payments due shall be made on the first Banking Day thereafter, provided that this falls in the same calendar month. If it does not, payments shall fall due and be made on the last Banking Day before the said due date

5.03. (**No set-off or counterclaim — No withholdings**). The Borrower acknowledges that in performing its obligations under this Agreement, the Bank will be incurring liabilities to third parties in relation to the funding of amounts to the Borrower, such liabilities matching the liabilities of the Borrower to the Bank and that it is reasonable for the Bank to be entitled to receive payments from the Borrower on the due date in order that the Bank is put in a position to perform its matching obligations to the relevant third parties. All payments to be made by the Borrower under any of the Security Documents shall be made in full, without set-off or counterclaim whatsoever, and free and clear of, and without withholding or deduction for or on account of, Taxes or withholdings and any restrictions or conditions resulting in any charge whatsoever imposed, either now or hereafter, by any sovereign state or by any political sub-division or taxing authority of any sovereign state (collectively referred to below as "**Governmental Withholdings**").

5.04. (**Gross Up**). If, notwithstanding Clause 5.03, at any time any law, regulation, regulatory requirement or requirement of any governmental authority, monetary agency, central bank or the like compels the Borrower to make payment subject to Governmental Withholdings, or any other deduction or withholding, the Borrower shall pay to the Bank such additional amounts as may be necessary to ensure that there will be received by the Bank a net amount equal to the full amount which would have been received had payment not been made subject to such Governmental Withholdings or other deduction or withholding. The Borrower shall indemnify the Bank against any losses or costs incurred by the Bank by reason of any failure of the Borrower to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment. The Borrower shall, not later than thirty (30) days after each deduction, withholding or payment of any Governmental Withholdings, forward to the Bank official receipts and any other documentary receipts and any other documentary evidence reasonably required by the Bank in respect of the payment of any Governmental Withholdings. The obligations of the Borrower under this provision shall, subject to applicable law, remain in force notwithstanding the repayment of the Loan and the payment of all interest due thereon pursuant to the provisions of this Agreement.

5.05. (**Computation**). All interest and other payments periodic or payable by reference to a rate per annum under this Agreement shall accrue from day to day and be calculated on the basis of actual number of days elapsed and a 360 day year.

6. REPRESENTATIONS AND WARRANTIES

This Agreement is entered into by the Bank in reliance upon the following representations and warranties made by the Borrower and it is hereby represented and warranted by the Borrower that the following matters are true at the date of this Agreement, and covenant that they shall remain true so long as there is any Outstanding Indebtedness.

6.01. Representations concerning the Security Parties.

- a) **(Due Incorporation/Valid Existence)** the Borrower, any other corporate Security Party and the Manager are incorporated and duly organised and validly existing and in good standing under the laws of their respective countries of incorporation and any other laws which are applicable to them, with power to own their property and assets, to carry on their business as the same is now being lawfully conducted and to purchase, own, finance and operate vessels, or manage vessels as the case may be as well as to undertake the obligations which have undertaken pursuant to the Security Documents;
- b) **(Due Authority)** the entry into and performance of this Agreement and all the other Security Documents, the New Approved Charter and the Memorandum of Agreement are within the corporate powers of the Borrower, any other corporate Security Party and the Manager and have been duly authorised by all corporate, shareholders' and other necessary action required for the authorization and do not and would not contravene or result in breach of any applicable law, regulation, rule, judgment, decree or permit or contractual restriction which does, or may, bind any one or more of them or their shareholders or their Subsidiaries, or the documents defining the respective constitutions of any of them and do not and will not result in the creation or imposition of any security interest, lien, charge, or Encumbrance on any of their assets or those of any of their Subsidiaries in favour of any party other than the Bank;
- c) **(No Default/ or litigation)** neither the Borrower nor any other Security Party or any other member of the Group is in default under this Agreement or any other agreement to which it is a party or by which it may be bound and no litigation, arbitration, tax claim or administrative proceeding is current or pending or (to its or its officers' knowledge) threatened, which, if adversely determined, would have a materially detrimental effect on the business assets or the financial condition of any of them;
- d) **(Financial Information)** all information, accounts, statements of financial position, exhibits and reports furnished by or on behalf of any Security Party to the Bank in connection with the negotiation and preparation of this Agreement and each of the other Security Documents are true and accurate in all material respects and not misleading, do not omit material facts and all reasonable enquiries have been made to verify the facts and statements contained therein; there are no other facts the omission of which would make any fact or statement therein misleading and, in the case of accounts and statements of financial position, they have been prepared in accordance with Applicable Accounting Principles which have been consistently applied;
- e) **(Financial Condition)** the financial condition of the Borrower, any other Security Party and the Manager has not suffered any material deterioration since that condition was last disclosed to the Bank;
- f) **(No Immunity)** neither the Borrower nor any other Security Party or any of their respective assets are entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceeding (which shall include, without limitation, suit, attachment prior to judgment, execution or other enforcement);

- g) **(Shipping Company)** the Borrower is and/or on the drawdown of the Commitment, will be a shipping company involved in the owning or managing of ships engaged in international voyages and earning profits in free foreign currency;
- h) **(Commercial Benefit of the Corporate Guarantor)** the giving of the Guarantee by the Corporate Guarantor is to its best commercial benefit in that the Borrower is a wholly owned direct Subsidiary of the Corporate Guarantor and in that the Corporate Guarantor belongs to the same Group of companies as the Borrower and has close financial cooperation and mutual assistance with the Borrower and by lending its support to the Borrower through such guarantee it furthers its own business interests within the scope of its constitutional documents;
- i) **(No established place of business in the United Kingdom or United States)** none of the Security Parties has, nor will any of them have during the term of the Loan, an established place of business in the United Kingdom or the United States of America;
- j) **(Acting for its own account)** the Borrower, by entering into this Agreement, the Master Swap Agreement and the Security Documents, is acting on its own behalf and for its own account;
- k) **(Information during negotiations)** all information furnished to the Bank during the negotiations of this Agreement is true and accurate;
- l) **(No money laundering)** without prejudice to the generality of Clause 1.02, in relation to the borrowing by the Borrower of the Loan, the performance and discharge of its obligations and liabilities under the Security Documents, and the transactions and other arrangements effected or contemplated by the Security Documents to which the Borrower is a party, the Borrower confirms that the foregoing will not involve or lead to contravention of any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities);
- m) **(Shareholdings)**
 - (i) the Borrower is a wholly-owned direct Subsidiary of the Corporate Guarantor;
 - (ii) all of the issued shares in the Manager are legally and beneficially owned by the Corporate Guarantor;
 - (iii) the aggregate number of shares of common stock that the Corporate Guarantor is authorised to issue is 200 million registered shares each of a par value of one cent (US\$ 0.1) and the Corporate Guarantor is authorized to issue 25 million preferred shares each of a par value of one cent (US\$ 0.1) which are publicly listed and traded permanently on the New York Stock Exchange (NYSE), out of which 82,573,508 common registered shares and nonepreferred registered shares have been issued and are fully paid up;
 - (iv) to the best of its knowledge and belief (having made due and careful enquiry), no person, or persons acting in concert (other than any financial institution acting as a passive investor), are the legal or ultimate beneficial owners of a higher percentage of the total issued share capital of the Corporate Guarantor, than the percentage of the total issued share capital of the Corporate Guarantor, beneficially owned by Mr Simeon Palios; and (iv) Mr. Simeon Palios is the Chief Executive Officer, the Chairman and a member of the board of directors of the Corporate Guarantor
- n) **(Solvency)**
 - (i) neither the Borrower nor any other Relevant Party is unable, or admits or has admitted its inability, to pay its debts or has suspended making payments on any of its debts;

- (ii) neither the Borrower nor any other Relevant Party by reason of actual or anticipated financial difficulties has commenced, or intends to commence, negotiations with one or more of its creditors with a view to rescheduling any of its Indebtedness;
- (iii) the value of the assets of the Borrower and the other Relevant Parties is not less than their respective liabilities (taking into account contingent and prospective liabilities); and
- (iv) no moratorium has been, or may, in the reasonably foreseeable future be, declared in respect of any Indebtedness of the Borrower or any other Relevant Party.

6.02. Representations concerning the Security Documents.

- a) (**Licences/Authorization**) all licences, authorizations, consents or approvals necessary for the execution, validity, enforceability or admissibility in evidence of the Security Documents and all other documents executed or to be executed in connection therewith, have been obtained and complied with by the Borrower and any other Security Party;
- b) (**Perfected Securities**) when duly executed, the Security Documents will create a perfected security interest in favour of the Bank, with the intended priority, in the assets and revenues intended to be covered, valid and enforceable against the Borrower, and any other Security Party;
- c) (**No Notarisation/Filing/Recording**) save for the registration of any mortgage in the appropriate shipping registry, it is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of this Agreement or any of the Security Documents that it or they or any other instrument be notarised, filed, recorded, registered or enrolled in any court, public office or elsewhere or that any stamp, registration or similar tax or charge be paid on or in relation to this Agreement or the Security Documents;
- d) (**No Taxes**) no Taxes are imposed by deduction, withholding or otherwise on any payment to be made by any Security Party under this Agreement and/or any other of the Security Documents or are imposed on or by virtue of the execution or delivery of this Agreement and/or any other of the Security Documents or any document or instrument to be executed or delivered hereunder or thereunder. In case that any Tax exists now or will be imposed in the future, it will be borne by the Borrower;
- e) (**Validity and Binding effect**) the Security Documents are (or upon their execution - and in the case of any mortgage upon its registration at the appropriate registry - will be) valid and binding and enforceable against the Borrower, all the other Security Parties and the Manager in accordance with their respective terms and conditions, and that there are no other agreements or arrangements which may adversely affect or conflict with the Security Documents or the security they create;
- f) (**Pari passu**) the obligations imposed on the Borrower and any other Security Party by the Security Documents do and will constitute direct general and unconditional obligations of the Borrower and rank at least pari passu with all other present and future unsecured and unsubordinated Indebtedness of the Borrower with the exception of any obligations which are mandatorily preferred by law and not by contract;
- g) (**Valid choice of Law**) the choice of law agreed to govern this Agreement and/or any other Security Document and the submission to the jurisdiction of the courts agreed in each of the Security Documents are or will be, on execution of the respective Security Documents, valid and binding on the Borrower and any other Security Party which is party thereto;
- h) (**Subordinated indebtedness**) any Indebtedness of the Borrower or the Corporate Guarantor owing to any of its respective shareholders or other members of the Group is subordinated in all respects to the Borrower's obligations under this Agreement and the Master Swap Agreement (in the case of

the Borrower) and to the Corporate Guarantor's obligations under the Corporate Guarantee (in the case of the Corporate Guarantor);

6.03. Environmental Representation.

- a) Except as may already have been disclosed by the Borrower in writing to, and acknowledged in writing by, the Bank:
 - i. The provisions of all Environmental Laws, have been complied with by the Borrower, the other Relevant Parties and (to the best knowledge and belief of the Borrower) by their respective Environmental Affiliates;
 - ii. all Environmental Approvals have been obtained and are complied with by the Borrower, the other Relevant Parties and (to the best knowledge and belief of the Borrower) by their respective Environmental Affiliates; and
 - iii. Neither the Borrower nor any other Relevant Party nor (to the best knowledge and belief of the Borrower) any of their respective Environmental Affiliates has received notice of any Environmental Claim that any Relevant Party or any such Environmental Affiliate is not in compliance with any Environmental Law or any Environmental Approval;
- b) except as may already have been disclosed by the Borrower in writing to, and acknowledged in writing by, the Bank there is no Environmental Claim pending or, (to the best knowledge and belief of the Borrower), threatened against the Borrower or the Vessel or any other Relevant Party or any other Relevant Ship or (to the best of knowledge and belief of the Borrower) any of their respective Environmental Affiliates;
- c) except as may already have been disclosed by the Borrower in writing to, and acknowledged in writing, by the Bank there has been no emission, spill, release or discharge of a material of environmental concern from the Vessel or any other Relevant Ship owned by, managed by or chartered to the Borrower (or the Corporate Guarantor) nor (to the best of knowledge and belief of the Borrower) from any other Relevant Ship owned by, managed by or chartered to, any other Relevant Party which could give rise to any Environmental Claim.

6.04. Representations concerning the Vessel.

- a) **(Ownership/ Flag/ Seaworthiness/ Class/ Insurance)** the Vessel is and on the Drawdown Date, will be:
 - i. in the absolute and (save for any mortgage in favour of the Bank) unencumbered ownership of its Owner;
 - ii. registered with a registry and under Greek flag in the name of its Owner;
 - iii. operationally seaworthy and in every way fit for service;
 - iv. classed with a Classification Society which has been approved by the Bank in writing and the Classification is and will be free of all requirements, recommendations or notations save for the notations which, at the sole discretion of the Bank, do not affect the Classification; and
 - v. insured in accordance with the provisions of this Agreement;
- b) **(No Charter)** save for the Approved Charter and unless otherwise permitted in writing by the Bank, the Vessel will on the drawdown of the Commitment (or as the case may be of each Advance) be subject to no charter or contract of affreightment nor to any agreement to enter into

any charter or contract which, if entered into after the drawdown of the Commitment (or as the case may be of any Advance) would have required the consent of the Bank under any of the Security Documents and on the drawdown of the Commitment (or as the case may be of any Advance) there will not be any agreement or arrangement whereby the Earnings of the Vessel, may be shared with any other person;

- c) **(No Encumbrances)** neither the Vessel, nor its Earnings, Requisition Compensation or Insurances nor any part thereof will, on the drawdown of the Commitment (or as the case may be of any Advance), be subject to any Encumbrances other than Encumbrances in favour of the Bank.
- d) **(DOC and SMC)** on the Drawdown Date of the Commitment, the Manager will have a DOC for itself and an SMC in respect of the Vessel; and
- e) **(ISPS Code)** on the Drawdown Date of the Commitment, the Borrower shall have a valid and current ISSC in respect of the Vessel and such Ship shall be in compliance with the ISPS Code.

6.05. Representations concerning newly purchased vessels.

- (a) (MOA Valid) the copy of the Memorandum of Agreement is true and complete copy of such document constituting valid and binding obligations of the parties thereto enforceable in accordance with its terms and no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable;
- (b) (Management Agreement Valid) the copy of the Management Agreement is true and complete copy of such document constituting valid and binding obligations of the parties thereto enforceable in accordance with their terms and no amendments thereto or variations thereof have been (or will be) agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable;
- (c) (New Approved Charter Valid) the copy of the New Approved Charter to be delivered to the Bank is or, as the context may require, will be true and complete copy of such document constituting valid and binding obligations of the parties thereto enforceable in accordance with its terms and no amendments thereto or variations thereof have been (or will be) agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable;

6.06. Representations Correct.

- (a) At the time of entering into this Agreement all above representations and warranties or any other information given by the Borrower and/or the Corporate Guarantor to the Bank are true and accurate and there has not occurred and/or is continuing any Event of Default or any event which would constitute an Event of Default with the passage of time or the giving of notice or both;
- (b) On and as of the Drawdown Date and on each Interest Payment Date, the Borrower shall (a) be deemed to repeat the representations and warranties in Clauses 6.01 - 6.05 (inclusive) as if made with reference to the facts and circumstances existing on such day and (b) be deemed to further represent and warrant to the Bank that the then latest financial statements delivered to the Bank by the Borrower under Clause 8.01 have been prepared in accordance with the Applicable Accounting Principles which have been consistently applied and present fairly and accurately the financial position of the Group respectively, for the financial period to which the same relate and as at the end of such financial period, neither the Borrower nor the Guarantor or any other member of the Group had any significant liabilities (contingent or otherwise) or any unrealised or anticipated losses which are not disclosed by, or reserved against or provided for in, such financial statements.

7. CONDITIONS PRECEDENT

7.01. **(Conditions concerning corporate authorizations).** The obligation of the Bank to make the Commitment or any part thereof available shall be subject to the condition that the Bank, shall have received, not later than two (2) Banking Days before the day on which the Drawdown Notice in respect of the Commitment (or, in case that more than one advance have been agreed in Clause 2.03, in respect of the first Advance) is given, the following documents and evidence in form and substance satisfactory to the Bank:

- a) A duly certified true copy of the Articles of Incorporation and By-Laws or the Memorandum and Articles of Association, or of any other constitutional documents, as the case may be, of each corporate Security Party and the Manager together with certified translations of the same in Greek, if so required by the Bank;
- b) A recent certificate of incumbency of each corporate Security Party and the Manager issued by the appropriate authority and/or at the discretion of the Bank signed by the secretary or a director of each of them respectively, stating the corporate body which binds every one of them, the officers and/or the directors of each of them and containing specimens of their signatures;
- c) A recent certificate as to the shareholding of the Borrower issued by an appropriate authority or, at the discretion of the Bank, signed by the secretary or a director of each of them as the case may be, stating respectively the full names and addresses of the person or persons beneficially entitled as shareholders/ stockholders of the entire issued and outstanding shares/ stock of each of them;
- d) Minutes of meetings of the directors (or of any other body which binds them, if any) of each corporate Security Party and the Manager and Minutes of meetings of the shareholders of each corporate Security Party (with the exception of the Corporate Guarantor) at which there was approved the entry into, execution, delivery and performance of this Agreement, the Master Swap Agreement and the other Security Documents and any other documents executed or to be executed pursuant hereto or thereto to which the relevant corporate Security Party and/or the Manager is a party;
- e) Evidence of the due authority of any person signing this Agreement, the Master Swap Agreement and the other Security Documents and any other documents executed or to be executed pursuant hereto or thereto on behalf of any corporate person;
- f) Evidence that all necessary licences, consents, permits and authorizations (including exchange control ones) have been obtained by any Security Party and the Manager for the execution, delivery, validity, enforceability, admissibility in evidence and the due performance of the respective obligations under or pursuant to this Agreement, the Master Swap Agreement and the other Security Documents;
- g) Any other documents or recent certificates or other evidence which would be required by the Bank in relation to any corporate Security Party and the Manager evidencing that each of the Security Parties and the Manager has been properly established, continues to exist validly and to be in good standing, which is the corporate body which binds the company, which is its present board of directors and shareholders (save for the Corporate Guarantor), that the execution and performance of the Security Documents has been duly authorized and generally that the representations in Clause 6 are correct in all respects.

7.02. **(Conditions concerning the Securities).** The obligations of the Bank to advance the Commitment or (if so provided in Clause 2.03) any part thereof is subject to the further condition that the Bank at the time of receiving a Drawdown Notice shall have received the following documents (save for the securities which, due to the requirement of their registration in public registries or due to their nature,

cannot be delivered to the Bank before the Drawdown Notice and which will be delivered to the Bank simultaneously with the drawdown):

- (a) The Earnings Account Pledge and, as the case may be, the Cash Collateral Account Pledge either duly executed and served as appropriately;
- (b) The Corporate Guarantee, the Master Swap Agreement, the Master Agreement Security Deed, the Manager's Undertaking (including therein the Assignment of the Manager) and notices of assignment, the Assignment of Charter and the notice thereof, the Mortgage, the Assignment of Insurances and Earnings and the respective notices thereof, the New DSI Assignment of Insurances and the respective notices thereof, each duly executed and where appropriate duly registered with the appropriate registry;
- (c) Evidence that the Earnings Account and, as the case may be, the Cash Collateral Account, have been duly opened and the relevant agreement for the opening of account and any addendum thereto, all mandate forms, the Bank's general terms and conditions, signature cards and authorities have been duly executed and delivered;
- (d) Evidence that all fees due and payable on the Drawdown Date have been paid to the Bank.

7.03. (Conditions concerning the Vessel). The obligation of the Bank to advance the Commitment or (if so provided in Clause 2.03) any part thereof is subject to the further condition that the Bank shall have received prior to the relevant drawdown or, where this is not possible, simultaneously with the drawdown of the Commitment or the relevant part thereof:

- (a) Valuation of the Vessel as at a date determined by the Bank but in any event not before one (1) month prior to the drawdown prepared on the basis specified in Clause 8.05(b) by an Approved Shipbroker appointed by the Bank in form and substance satisfactory to the Bank in its sole discretion;
- (b) Evidence that, prior to or simultaneously with the drawdown, the Vessel will be duly registered in the ownership of its Owner with a shipping registry and under a flag acceptable to the Bank free from any Encumbrances save for those in favour of the Bank and otherwise as contemplated herein and, save for the Approved Charter, free of any other charter;
- (c) Evidence that the Vessel has been surveyed by surveyors appointed and/or approved by the Bank and a copy of the surveyor's report in form and substance satisfactory to the Bank and/or, as the case may be, copy certified by a director of the Borrower of the underwater inspection report or any other report or class records as may be issued and/or delivered to the Borrower pursuant to the Memorandum of Agreement and payment by the Borrower of all cost, fees and expenses incurred by the Bank in connection with such survey;
- (d) Evidence in form and substance satisfactory to the Bank that the Vessel has been or will - on drawdown - be insured in accordance with the insurance requirements provided for in this Agreement and the other Security Documents to be followed by full copies of cover notes, policies, certificates of entry or other contracts of insurance and irrevocable authority is hereby given to the Bank at any time at its discretion to obtain copies of the policies, certificates of entry or other contracts of insurance from the insurers and/or obtain any information in relation to the Insurances relating to the Vessel;
- (e) Copy of the Management Agreement between the Owner and the Manager;
- (f) All necessary confirmations by insurers of the Vessel that they will issue letters of undertaking and endorse notice of assignment and loss payable clauses on the Insurances, in form and substance satisfactory to the Bank in its sole discretion and an opinion signed by an independent firm of marine insurance brokers appointed and/or approved by the Bank at the expenses of the Borrower confirming the adequacy of the Insurances maintained on the Vessel;

- (g) Evidence that the Vessel maintains its Classification with the Classification Society free from all requirements, recommendations or notations which at the sole discretion of the Bank do not affect Classification;
- (h) Evidence that the trading certificates of the Vessel are valid and in force;
- (i) Due authorisation in form and substance satisfactory to the Bank authorising the Bank to have access and/or obtain any copies of class records or other information at its discretion from the Classification Society of the Vessel;
- (j) Copies of the document of compliance (DOC) and safety management certificate (SMC) in respect of the Vessel certified as true by a Director of the Owner and the Manager together with a certificate identifying and giving the address and other communication details of the ISM designated person for the Vessel.
- (k) A copy, certified as a true and complete copy by an officer of the Borrower of the ISSC and the continuous synopsis record (as described in the ISPS Code) for the Vessel.

7.04. **(Conditions concerning newly purchased vessel).** In case that the Vessel to be financed —has been recently acquired, the obligation of the Bank to advance the Commitment or (if so provided in Clause 2.03) any part thereof is subject to the further condition that the Bank shall have received prior to or simultaneously with the drawdown of the Commitment or the relevant part thereof:

- a) A copy of the Memorandum of Agreement certified as true and complete by the legal counsel of the Borrower;
- b) Evidence to the full satisfaction of the Bank, proving the Seller's title to the Vessel free of any Encumbrances, debts or claims of any nature whatsoever and in case that the Vessel is changing Registry, that the Vessel has been deleted from the previous Registry;
- c) Duly certified copies of corporate documentation of the Seller - comparable at the discretion of the Bank to that provided in Clause 7.01 - proving the due incorporation and existence of the Seller and the due authorization of the sale of the Vessel and the execution of all documents required in connection therewith; and
- d) Duly certified copy of the Bill of Sale, the protocol of delivery and acceptance of the Vessel and the relevant invoices.

The above Conditions Precedent under (b), (c) and (d) above may be required by the Bank in any other case that the Bank at its sole discretion deems it necessary to have evidence of the title of the previous owner of the Vessel.

7.05. **(No change of circumstances).** The obligation of the Bank to advance the Commitment or (if so provided in Clause 2.03) any part thereof is subject to the further condition that at the time of the giving of a Drawdown Notice and on advancing the Commitment or (if it has been so agreed in Clause 2.03) on the making of the Advance to which such Drawdown Notice relates:

- a) The representations and warranties set out in Clause 6 and in each of the Security Documents are true and correct on and as of each such time as if each was made with respect to the facts and circumstances existing at such time;
- b) No Event of Default shall have occurred and be continuing or would result from the drawdown; and

- c) The Bank shall be satisfied that there has been no change in the ultimate ownership, management, operations or financial condition of any Security Party or any member of the Group which (change) might, in the sole opinion of the Bank, be detrimental to the interests of the Bank.

7.06. **(General Conditions)**. The obligation of the Bank to advance the Commitment or (if so provided in Clause 2.03) any part thereof is subject to the further condition that the Bank, prior to or simultaneously with the drawdown, shall have received:

- (a) Opinion(s) on such aspects of law as the Bank shall deem relevant to this Agreement and the other Security Documents and any other documents executed pursuant hereto or thereto at its sole discretion;
- (b) Confirmation from any agents nominated in this Agreement and in the other Security Documents for the acceptance of any notice or service of process, that they consent to such nomination; and
- (c) A receipt in writing in form and substance satisfactory to the Bank including an acknowledgement and admission of the Borrower and/or any other Security Party to the effect that the Commitment was drawn by the Borrower and a declaration by the Borrower that all conditions precedent have been fulfilled, that there is no Event of Default and that all the representations and warranties are true and correct.

7.07. **(Further documents)**. The Bank may from time to time request and the Borrower shall, within the period specified by the Bank, deliver to the Bank such further documents certificates and/or opinions as requested at the sole discretion of the Bank.

8. COVENANTS

It is hereby undertaken by the Borrower that, from the date of this Agreement and as long as any money is due and/or owing and/or outstanding under this Agreement or any of the other Security Documents, the Borrower will:

8.01. Information Covenants

(a) **(Annual financial Statements)** furnish the Bank, in form and substance satisfactory to the Bank, with (i) annual, audited, consolidated financial statements of the Guarantor at latest within 180 days after the end of the financial year concerned, audited by auditors acceptable to the Bank and prepared in accordance with Applicable Accounting Principles consistently applied; and (ii) semi-annual unaudited financial statements of the Guarantor within 90 days after the end of the financial year concerned. The said obligations to commence as of 31st December 2011;

(b) **(Financial Information)** provide the Bank annually and from time to time as the Bank may request and in form and substance satisfactory to the Bank with information on the financial condition, actual and projected for the following 12 month period, cash flow position, commitments and operations of the Security Parties and other members of the Group including cash flow analysis and voyage accounts of any vessel owned by any such party or member with a breakdown of income and running expenses showing net trading profit, trade payables and trade receivables, such financial details to be certified as to their correctness by one of the directors of the Borrower and countersigned by the Chief Financial Officer or two Directors of the Corporate Guarantor at the time when such information is given;

(c) **(Information on adverse change or Default)** promptly inform the Bank of any occurrence which came to the knowledge of the Borrower which might adversely affect the ability of the Borrower or any other Security Party to perform its respective obligations under this Agreement, the Master Swap Agreement and/or any of the other Security Documents and of any Default forthwith upon becoming aware thereof and will from time to time, if so requested by the Bank, confirm to the Bank in writing that, save as otherwise stated in such confirmation, no Default has occurred and is continuing;

(d) **(Financial and other Information on the developments of the Group)** promptly inform the Bank of any proposed arrangements whereby any member of the Group will have a liability in respect of Indebtedness together with the payment or repayment terms in respect of such Indebtedness including, without limitation, regarding its financial standing, commitments, operations, vessel sales or purchases, any new borrowings, any material litigation, arbitration and administrative proceedings and all major financial developments in relation to each Security Party, any other member of the Group and the Group as a whole;

(e) **(Information on the employment of the Vessel)** advise the Bank promptly and/or at any other time upon the Bank's request with information on the employment of the Vessel as well as on the terms and conditions of any charterparty, contract of affreightment, agreement or related document in respect of the employment of the Vessel such information to be certified as to their correctness by one of the directors of the Borrower and countersigned by the Chief Financial Officer or two Directors of the Corporate Guarantor at the time when such information is given and provide the Bank forthwith after its execution with a certified copy of each such charterparty, contract of affreightment, agreement or related document;

(f) **(Delivery of reports)** deliver to the Bank of every report, circular, notice or like document issued by the Borrower or any member of the Group to its respective shareholders or creditors generally, at the same time when it is issued or given;

8.02. Banking Arrangements

- (a) **(Banking operations)** ensure that all banking operations in connection with the Vessel are carried out through the Account Branch of the Bank.
- (b) **(Liquidity)** ensure that the Borrower and/or the Guarantor maintains at all times a free cash credit balance of no less than Five hundred thousand Dollars (\$500,000) in unencumbered accounts held or to be held with the Account Branch of the Bank; and
- (c) **(Know your customer information)** deliver to the Bank such documents and evidence as the Bank shall from time to time require relating to the verification of identity and knowledge of the Bank's customers and the compliance by the Bank with all necessary "know your customer" or similar checks, always on the basis of applicable laws and regulations or the Bank's own internal guidelines, in each case as such laws, regulations or internal guidelines apply from time to time.

8.03. No Further Financial Exposure

- (a) **(No further Indebtedness)** incur no further Indebtedness nor authorise or accept any capital commitments (other than that normally associated with the day to day operations of the Vessel) nor enter into any agreement for payment on deferred terms or hire agreement without the prior written consent of the Bank;
- (b) **(No Loans-No Guarantees)** not make any loans or advances to, or any investments in any person, firm, corporation, joint venture or other entity including (without limitation) any loan or advance to any officer, director, stockholder or employee or issue guarantees or indemnities or otherwise become directly or contingently liable for the obligations of any person, firm, or corporation except pursuant to the Security Documents and except for guarantees or indemnities from time to time required in the ordinary course by any protection and indemnity or war risks association with which the Vessel is entered, guarantees required to procure the release of the Vessel from any arrest, detention, attachment or levy or guarantees or undertakings required for the salvage of the Vessel;
- (c) **(Share capital and distribution)** not purchase or otherwise acquire for value any shares of the capital or declare or pay any dividends or distribute any of its present or future assets, undertakings, rights or revenues to its shareholder **Provided however** that the Borrower may declare or pay dividends to the Corporate Guarantor, if no Event of Default has occurred and is continuing at the time of declaration or payment of such dividends or would occur as a result thereof and provided further that prior to the relevant payment, the Bank is provided with a Compliance Certificate stating that there is no Event of Default and no such Event of Default will occur as a result of such payment;
- (d) **(No Payments)** except pursuant to this Agreement and the Security Documents (or as expressly permitted by the same) not pay out any funds to any company or person except in connection with the administration of the Borrower, the operation and/or repair of the Vessel;
- (e) **(No Acquisitions)** not acquire any further assets other than the Vessel and rights arising under contracts entered into by or on behalf of the Borrower in the ordinary course of its business of owning, operating and chartering the Vessel;

8.04. Maintenance of Corporate and Business Structure

- (a) **(Maintenance of Business Structure)** not change the nature, organisation and conduct of the business of the Borrower as owner/operator of the Vessel or, as the case may be, the Guarantor as holding company of the Borrower and other Subsidiaries and with its shares listed and traded permanently on the New York Stock Exchange, or carry on any business other than the business carried on at the date of this Agreement;

(b) **(Maintenance of Legal Structure)** ensure that none of the documents defining the constitution of the Borrower, the Guarantor, the Manager and any other Security Party shall be altered in any manner whatsoever without the prior written consent of the Bank (except for amendments or variations to its constitutional documents made by the Guarantor for the purposes of any follow on offering or further equity issuance, and then only such amendments or variations as are customary or necessary for such purpose and appropriate to a public company and provided that any such amendments or variations shall be notified by the Guarantor to the Bank in writing shortly i.e. within three (3) Banking Days as of the relevant amendment or variation being resolved);

(c) **(Change of management of a Ship)** appoint any person to carry out the commercial and technical management of the Vessel other than the Manager or terminate a Management Agreement or vary or amend the terms thereof;

(d) **(Control)** ensure that no change shall be made directly or indirectly in the ownership, beneficial ownership, control or management of the Borrower and the Manager or any share therein or of the Vessel without the prior written consent of the Bank;

(e) ensure that no person, or persons acting in concert (other than any financial institution acting as a passive investor), are the legal or ultimate beneficial owners of a higher percentage of the total issued share capital of the Corporate Guarantor, than the percentage of the total issued share capital of the Corporate Guarantor, beneficially owned by Mr Simeon Patios; and that he remains the Chief Executive Officer, the Chairman and a member of the board of directors of the Corporate Guarantor without the prior written consent of the Bank;

(f) **(No merger)** not merge or consolidate with any other company or person or enter into any demerger, amalgamation or corporate reconstruction or re-domiciliation of any type;

8.05. Pari passu/Subordination/Value of Security

a) (i)(Pari passu) ensure that the Indebtedness of the Borrower to the Bank under this Agreement and the Master Swap Agreement shall, without prejudice to the provisions of clauses 8.04 and 8.06 and the security intended to be created by the Security Documents, at all times rank at least pari passu with all its other present and future unsecured and unsubordinated Indebtedness with the exception of any obligations which are mandatorily preferred by law and not by contract (ii) (Subordination) ensure that the obligations (if any) of the Borrower to repay any loan advanced to it by its shareholder or any other member of the Group are at all times fully subordinated towards its obligations to the Bank under this Agreement and the other Security Documents and that any such loans or advances are and remain at all times on terms and conditions acceptable to the Bank in all respects;

(b) **(Valuation of the Vessel)** at least once every year and/or as and when the Bank at its sole discretion requests, provide the Bank, with a valuation of the Vessel from an Approved Shipbroker, at Borrower's own expense, provided that for so long as no Event of Default has occurred, the Borrower shall only be obliged to pay the fees and expenses of up to one valuation for the Vessel in any calendar year, such valuation to be made in Dollars, on the basis of sale for prompt delivery free of charter and free of Encumbrances for cash at arm's length on normal commercial terms as between a willing seller and a willing buyer and made without physical inspection, unless required by the Bank, ("**the basis of valuation**");

(c) **(Security Shortfall)** If at any time the Security Value shall be less than the Security Requirement, the Bank may give notice to the Borrower requiring that such shortfall be remedied and the Borrower shall, within fifteen (15) days as of the date of receipt of such notice:

(aa) prepay such sum in Dollars as will result in the Security Requirement (after such prepayment and taking into account any other repayment of the Loan made between the date of the notice and the date of such prepayment) being at least equal to the Security Value; or

(bb) if the Borrower requests and the Bank at its sole discretion agrees, pledge such additional amount in favour of the Bank in an account with the Bank in the name of the Borrower, as will result in the Security Value (following deposit of such additional pledged amount) being at least equal to the Security Requirement as at the date of deposit of such additional pledged amount; or

(cc) if the Borrower requests and the Bank at its sole discretion agrees, constitute other additional security (acceptable to the Bank at its discretion) which shall have such value (as determined by the Bank at its discretion) so that the Security Value as at the date of giving such additional security shall be at least equal to the Security Requirement.

Clauses 4.02(a)(e)(f) and 4.05 shall apply to prepayments under clause 8.05(c).

(d) The value of the Vessel shall be determined for the purpose of the Clause 8.05(c) as provided in Clause 8.05(b) and shall be notified by the Bank to the Borrower. In the event that by written notice to the Bank (within two (2) Banking Days) such valuation is not accepted by the Borrower, the value of the Vessel in Dollars shall be determined by the first-class shipbroker originally appointed by the Bank and two further Approved Shipbrokers, one of whom shall be appointed by the Bank and one by the Borrower each of whom will value the Vessel on the basis set out in Clause 8.05(b) and the mean of the valuations of such Approved Shipbrokers shall constitute the value of the Vessel for the purposes of Clause 8.05(c) and shall be binding upon the parties hereto, provided however that the original valuation obtained by the Bank shall constitute the value of the Vessel if (i) no shipbroker is appointed by the Borrower within two Banking Days of delivery of the original valuation or (ii) the shipbroker appointed by the Borrower fails to submit the valuation to the Bank within fifteen (15) days of delivery of the original valuation. All costs in connection with such valuations and any valuation of any additional security provided pursuant to Clause 8.05(c) shall be borne by the Borrower.

(e) Any valuation referred to in Clause 8.05 shall be addressed to the Bank.

8.06. Maintenance of Assets

- a) **(No Transfer of Assets)** not convey, assign, transfer, sell, abandon, lend or otherwise dispose of or deal with any of its undertakings, real or personal property, assets or rights, or revenues whether present or future (otherwise than by transfers, sales or disposals for full consideration in the ordinary course of trading but in any event excluding the Vessel) whether by one or a series of transactions related or not, without the prior written consent of the Bank;
- b) **(No Encumbrance of Assets)** not allow any Encumbrance to subsist, arise or be created or extended over all or any part of its undertakings, property, assets or rights or revenues, whether present or future to secure or prefer any present or future Indebtedness or other liability or obligation of any Security Party (other than the Corporate Guarantor) or any other person without the prior written consent of the Bank.

8.07. Special Financial Covenants

(a) **(Minimum Net Worth)** ensure and procure that throughout the Security Period, the Minimum Net Worth as measured as of each Compliance Date during the Security Period by reference to the Applicable Accounts will not at any time be less than \$ 150,000,000 million;

(b) (**Maximum Leverage**) ensure and procure that throughout the Security Period, the Maximum Leverage as measured as of each Compliance Date during the Security Period by reference to the Applicable Accounts shall always be less 75%;

(c) (**Minimum liquidity**) ensure and procure that the Guarantor on a consolidated basis shall at all times maintain Minimum Liquidity (free of Encumbrances) in the name of the Guarantor in an amount greater to \$ 10,000,000; and

(d) (**Same financial covenants**) ensure and procure that the same financial covenants in respect of the Group, which the Corporate Guarantor has agreed or may agree in the future with any other lenders apply at any relevant time mutatis mutandis in respect of this Agreement.

For the purposes of this clause 8.07 capitalized terms used herein shall have the following meaning, i.e.

"Adjusted Total Assets" means, as of any Compliance Date, the aggregate Vessel's Value of the Fleet Vessels determined on the basis of Clause 8.05 (b) and the market value of other assets obtained (at the cost of the Borrower) from an independent broker which the Bank has approved, or at Bank's sole discretion, has appointed for that purpose and determined on a combined basis in accordance with the Applicable Accounting Principles and as shown in the combined balance sheets of the Guarantor in the Applicable Accounts, adjusted by adding or subtracting (depending on whether the same is positive or negative) the amount by which the Vessel's Value of the Fleet Vessels and the market value of assets (other than the Fleet Vessels) at or about the Compliance Date exceeds, or is less than, the book value of the Fleet Vessels and such other assets;

"Applicable Accounts" means, in relation to a Compliance Date or an accounting period, the consolidated balance sheets and related consolidated statements of stockholders' equity, income and cash flows of the Group set out in the annual financial statements or interim financial statements of the Group prepared as of the Compliance Date or, as the case may be, the last day of the accounting period in question (and which the Borrower is obliged to deliver to the Bank pursuant to Clause 8.01 (a) of this Agreement and which the Guarantor is obliged to deliver to the Bank under Clause 5.01(a) of the Corporate Guarantee);

"Cash and Cash Equivalents" means the amount of cash in hand or at bank credited to an account in the name of any member of the Group including any form of restricted cash and to which the Guarantor is alone (or together with other members of the Group) beneficially entitled, as shown in the Applicable Accounts for the Guarantor for any accounting period to which they relate and determined in accordance with the Applicable Accounting Principles;

"Compliance Date" means 31 December in each calendar year (or such other date as of which the Corporate Guarantor prepares the consolidated financial statements which the Borrower is required to deliver pursuant to Clause 8.01 (a) of this Agreement and which the Guarantor is required to deliver pursuant to clause 5.01(a) of the Guarantee;

"Maximum Leverage" means, in respect of each period during which Applicable Accounts relate, the ratio of Total Debt to Adjusted Total Assets as shown in the Applicable Accounts for the Group for any accounting period and determined in accordance with the Applicable Accounting Principles;

"Minimum Liquidity" means, in respect of each period during which Applicable Accounts relate, Cash and Cash Equivalent which are free from any Encumbrances, as shown in the Applicable Accounts for the Group, for such accounting period and determined in accordance with the Applicable Accounting Principles;

"Minimum Net Worth" means the Adjusted Total Assets less Total Debt, as shown in the Applicable Accounts for the Group determined in accordance with Applicable Accounting Principles";

"Fleet Vessels" means any vessel (including the Vessel) from time to time wholly owned by any member of the Group (each a **"Fleet Vessel"**);

"Security Period" means the period commencing on the date of this Agreement and ending on the date on which the Bank notifies the Borrower and the other Security Parties that no amount is owing or has accrued (without yet having become due for payment) under any Security Document including the Master Swap Agreement and provided that neither the Borrower nor any other Security party has any future or contingent liability under any other provision of this Agreement or another Security Document or the Master Swap Agreement;

"Total Debt" means the aggregate (as of the date of calculation) of all the obligations of the Group then outstanding for the payment or repayment of money as shown as of each Compliance Date during the Security Period by reference to in the combined balance sheets of the Group in the Applicable Accounts including, without limitation:

- (i) any amounts payable by the Guarantor and/or any of its Subsidiaries under leases or similar arrangements over their respective periods;
- (ii) any credit to the Guarantor and/or any of its Subsidiaries from a supplier of goods or under any instalment purchase or other similar arrangement;
- (iii) the aggregate amount then outstanding of liabilities and obligations of third parties to the extent they are guaranteed by the Guarantor;
- (iv) any contingent liabilities (including any taxes or other payments under dispute or arbitration) which have been or, under Applicable Accounting Principles, should be recorded in the notes to the Guarantors Applicable Accounts; and
- (v) any deferred tax liabilities.

(e) **(Change in accounting expressions and policies)** if, by reason of a change in format or Applicable Accounting Principles or other relevant accounting policies, the expressions appearing in any financial statements referred to in Clause 8.01(a) of this Agreement alter from those in the financial statements for the year ended 31 December 2011, the relevant definitions contained in Clauses 1.02, 8.01(a) and this Clause 8.07 shall be deemed modified in such manner as the Bank shall reasonably require to take account of such different expressions but otherwise to maintain in all respects the substance of those provisions.

(f) **(Compliance Certificate)** deliver to the Bank a Compliance Certificate for the relevant period executed by a director of the Corporate Guarantor and counter-signed by the Chief Financial Officer or two Directors of the Corporate Guarantor at the time when any audited consolidated financial statements of the Group are delivered to the Bank in accordance with clause 8.1.5(a) and clause 5.1.4 of the Corporate Guarantee evidencing, inter alia, compliance with the financial undertakings in this Clause 8.07 of this Agreement (or in any other format which the Bank may approve).

8.08. Covenants concerning the Vessel

(a) **(Ownership/Management/Control)** ensure that, from the date of this Agreement or as the context may require, from the date of delivery to its Owner, the Vessel will maintain its ownership, control and ultimate beneficial ownership, its management by the Manager as well as (unless prior written consent of the Bank is given) the terms and conditions on which it is managed;

(b) **(Class)** ensure that the Classification of the Vessel remains free of recommendations, notations or average damage affecting class and provide the Bank on demand with copies of all class and trading certificates of the Vessel;

(c) **(Insurances)** maintain all Insurances of the Vessel and comply with all insurance requirements specified in this Agreement (including in particular Schedule 1) and in case of any failure by the Borrower to maintain such Insurances the Bank is hereby expressly authorised (and shall have the right but not the obligation) to effect such Insurances on behalf of the Owner (and in case that the Vessel

remains in port for an extended period) to effect port risks insurances at the cost of the Borrower which, if paid by the Bank, shall be Expenses;

(d) (**Transfer/Encumbrances**) not without the prior written consent of the Bank sell or otherwise dispose of the Vessel or any share therein or mortgage, charge or otherwise assign the Vessel or any part thereof or suffer the creation of any such mortgage, charge or assignment in favour of any person other than the Bank;

(e) (**Not imperil Flag, Ownership, Insurance**) ensure that the Vessel is maintained and trades in conformity with the laws of its flag, with all applicable laws relating to its Owner its master and crew and with the requirements of its Insurances and that nothing is done or permitted to be done which could endanger the flag of the Vessel or its free ownership or its Insurances;

(f) (**Mortgage Covenants**) always comply with all the covenants provided for in the Mortgage on the Vessel and any accompanying deed of covenants;

(g) (**Charter**) (save for the New Approved Charter) not without the prior consent of the Bank enter into a charterparty, contract of affreightment, agreement or related document in respect of the employment of the Vessel (i) for a period for more than twelve (12) months or (ii) below the market rate prevailing at the time when the Vessel is fixed in or on terms which are not in accordance with the commercial practice prevailing at the relevant time or (iii) on demise charterparty;

(h) (**Charter Assignment**) execute and deliver to the Bank within fifteen (15) days of signing of any charter, the duration of which is agreed to be for a period, directly or by extension more than twelve (12) months, (a) a specific assignment of such charter in form and substance satisfactory to the Bank and (b) a notice of any such assignment addressed to the relevant charterer and endorsed with an acknowledgment of receipt by the relevant charterer all in form and substance satisfactory to the Bank (such acknowledgment to be delivered to the Bank within fourteen (14) days after the execution of such assignment together with evidence of the authority of the relevant charterer) or (c) alternatively at the discretion of the Bank, a copy of irrevocable instructions of the Owner of the Vessel to the charterer for the payment of the hire to the Bank together with copy of the charterparty with appropriate irrevocable notation;

(i) (**Compliance with Environmental Laws**) to comply with, and procure that all Environmental Affiliates of the Borrower comply with, all Environmental Laws including without limitation, requirements relating to manning and establishment of financial responsibility and to obtain and comply with, and procure that all Environmental Affiliates of the Borrower obtain and comply with, all Environmental Approvals and to notify the Bank forthwith:

(aa) of any Environmental Claim for an amount or amounts exceeding \$500,000 made against the Vessel and/or her Owners; and (bb) upon becoming aware of any incident which may give rise to an Environmental Claim and to keep the Bank advised in writing of the Owner's response to such Environmental Claim on such regular basis and in such detail as the Bank shall require.

(j) (**Without limiting the Borrower's other obligations under this Clause**) provide the Bank with photocopies (certified as true, accurate and complete by a director or the secretary of the Borrower) of the Vessel's Safety Management Certificate and Document of Compliance of the Manager and will provide the Bank with a statement confirming the identity of the Designated Person and the Company for Vessel.

(k) (**Without limiting each Borrower's other obligations under this Clause**) that, in respect of the Vessel from the date of this Agreement, or as the context may require, from the date on which it is delivered to its Owner and for the remainder of the term of the Loan they:

- (i) will maintain Safety Management Certificates for the Vessel and Document of Compliance for the Company; and
- (ii) will notify the Bank of any actual or threatened withdrawal of the Safety Management Certificates and/or the Document of Compliance; and
- (iii) will not change the Company during the term of the Loan without prior notice to the Bank;
- (iv) will not change the identity of the Designated Person or the Company during the term of the Loan without the prior written consent of the Bank such consent not to be unreasonably withheld; and
- (v) will notify the Bank of any "accident" or "major non-conformity", as each of those terms is defined in the Guidelines on the implementation of the International Safety Management Code by Administrations (adopted by the Assembly of the International Maritime Organization pursuant to Resolution A788(19)), and of the steps being taken to remedy the situation; and
- (vi) will procure that the Vessel remains at all times subject to a Safety Management System which complies with the ISM Code; and
- (vii) it will, and will procure that the Manager will:
 - a) maintain at all times a valid and current ISSC in respect of the Vessel;
 - b) immediately notify the Bank in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC in respect of the Vessel; and
 - c) procure that the Vessel will comply at all times with the ISPS Code.
- (l) **(Compliance with ISM Code)** comply with and ensure that any other Owner or operator of the Vessel complies with the requirements of the ISM Code, including (but not limited to) the maintenance and renewal of valid certificates pursuant thereto throughout the term of this Agreement.
- (m) **(Withdrawal of DOC and SMC)** immediately inform the Bank and ensure that any Owner, the Manager or operator informs the Bank if there is any threatened or actual withdrawal of its operator's DOC or the SMC in respect of the Vessel.
- (n) **(Issuance of DOC and SMC)** procure that any operator will promptly inform the Bank upon the issue to the Borrower or any operator of a DOC and to the Vessel of an SMC or the receipt by the Borrower or any operator of notification that its application for the same has been refused.
- (o) **(Deletion Certificate)** deliver to the Bank certified copy of the deletion certificate within the time agreed with the Seller in the Memorandum of Agreement.
- (p) **(Inspection)** ensure that the Bank with surveyors or other persons appointed by it (at the expense of the Borrower) for such purpose, may board the Vessel at all reasonable times for the purpose of inspecting it and its records and be afforded all proper facilities for such inspections and for this purpose reasonable advance notice of any intended drydocking of the Vessel (whether for the purpose of classification, survey or otherwise) is given to the Bank.

8.09. Observance of other Covenants

- a) **(Use of the Loan)** use the Loan for its benefit and under its full responsibility and exclusively for the purposes specified in clauses 1.01 of this Agreement;
- b) **(Compliance with Covenants)** duly and punctually perform all obligations under this Agreement and the other Security Documents;

- c) **(Payment on Demand)** pay to the Bank on demand any sum of money which is payable by the Borrower to the Bank under this Agreement but in respect of which it is not specified in any other Clause when it is due and payable;
- d) **(Evidence of Compliance)** upon request by the Bank from time to time provide such information and evidence to the Bank as the Bank would reasonably require to demonstrate compliance with the covenants and undertakings set forth in this Agreement and any other Security Document;
- e) **(Intra-Group transactions)** ensure that any transactions, agreements or other arrangements (if any) entered into by the Borrower with any members of the Group, are entered into on an arm's length basis and for full value and consideration; and
- f) **(Consents and licences)** without prejudice to clauses 6.01 and 7, obtain or cause to be obtained, maintain in full force and effect and comply in all material respects with the conditions and restrictions (if any) imposed in, or in connection with, every consent, authorisation, licence or approval of governmental or public bodies or authorities or courts and do, or cause to be done, all other acts and things which may from time to time be necessary or desirable under applicable law for the continued due performance of all the obligations of the Security Parties under each of the Security Documents;

8.10. Validity of Securities

- a) **(Validity)** ensure and procure that all governmental or other consents required by law and/or any other steps required for the validity, enforceability and legality of this Agreement and the other Security Documents are maintained in full force and effect and/or appropriately taken;
- b) **(Earnings)** ensure and procure that, unless and until directed by the Bank otherwise (i)all the Earnings of the Vessel shall be paid to the Earnings Account and (ii)the persons from whom the Earnings are from time to time due are irrevocably instructed to pay them to the Earnings Account in accordance with the provisions hereof and of the relevant Security Documents;
- c) **(Taxes)** pay all Taxes, assessments and other governmental charges when the same fall due, except to the extent that the same are being contested in good faith by appropriate proceedings and adequate reserves have been set aside for their payment if such proceedings fail; and
- d) **(Additional Documents)** from time to time at the request of the Bank execute and deliver to the Bank or procure the execution and delivery to the Bank of all such documents as shall be deemed desirable at the sole discretion of the Bank for giving full effect to this Agreement, and for perfecting, protecting the value of or enforcing any rights or securities granted to the Bank under any one or more of this Agreement, the other Security Documents and any other documents executed pursuant hereto or thereto and in case that any Conditions Precedent have not been fulfilled prior to the Drawdown, such Conditions shall be complied with within five (5) days of Drawdown (unless the Bank agrees otherwise in writing) and failure to comply with this Covenant shall be an Event of Default.

8.11. Covenants for the Security Parties

Ensure and procure that each of the other Security Parties and the Manager will duly and punctually comply, with the covenants which are applicable to them pursuant to the Security Documents to which it is a party and that each of the other Security Parties and the Manager will, duly and punctually perform each of the obligations expressed to be assumed by them under the Security Documents;

9. EVENTS OF DEFAULT

There shall be an Event of Default whenever an event occurs described in Clauses 9.01 to 9.07:

9.01. Non Performance of Obligations

- a) Failure by the Borrower to pay any sum due from the Borrower under this Agreement and/or any of the other Security Documents when due, or, in the case of any sum payable on demand, within three (3) Banking Days of such demand; or
- b) Failure by the Borrower to observe and perform any one or more of the covenants, terms or obligations contained in this Agreement (including Schedule 1) and/or any other Security Document relating to the Insurances; or
- c) Any breach by the Borrower of or omission of the Borrower to observe any of the covenants, terms, obligations or undertakings under this Agreement and/or any of the other Security Documents (other than failure to pay any sum when due or to comply with any obligation concerning the Insurances) and, in respect of any such breach or omission which in the opinion of the Bank is capable of remedy, such action as the Bank may require shall not have been taken within seven (7) days of the Bank notifying the Borrower of such required action to remedy the breach or omission; or
- d) An Event of Default or Potential Event of Default (in each case as defined in the Master Swap Agreement) has occurred and is continuing with the Borrower as the Defaulting Party (as defined in the Master Swap Agreement) under the Master Swap Agreement or an Early Termination Date has occurred or been or become capable of being effectively designated under the Master Swap Agreement by the Bank or the Master Swap Agreement is terminated, cancelled, suspended, rescinded or revoked or otherwise ceases to remain in full force and effect for any reason; or

9.02. Events affecting the Borrower

- a) The Borrower is adjudicated or found bankrupt or insolvent or any order is made by any court in any country or territory in which the Borrower carries on business or to the jurisdiction of whose courts any part of its assets is subject, or resolution passed by the Borrower or petition presented for the winding-up or dissolution of the Borrower or for the appointment of a liquidator, trustee, administrator or conservator or compulsory manager or other similar officer of the whole or any part of the undertakings, assets, rights or revenues of the Borrower; or
- b) The Borrower becomes or is deemed to be insolvent or suspends payment of its debts or is (or is deemed to be) unable to or admits inability to pay its debts as they fall due or proposes or enters into any composition or other arrangement for the benefit of its creditors generally or proceedings are commenced in relation to the Borrower under any law, regulation or procedure relating to reconstruction or readjustment of debts; or
- c) Any corporate action, legal proceedings or other procedures or steps are taken, or negotiations commenced, by the Borrower or by any of its creditors with a view to the general readjustment or rescheduling of all or part of its indebtedness or to proposing any kind of composition, compromise or arrangement involving such person and any of its creditors; or
- d) An encumbrancer takes possession or a receiver or similar officer is appointed of the whole or any part of the undertakings, assets, rights or revenues of the Borrower or a distress, execution, sequestration or other process is levied or enforced upon or sued out against any of the undertakings, assets, rights or revenues of the Borrower and is not discharged within seven (7) days; or

- e) All or a material part of the undertakings, assets, rights or revenues of the Borrower are seized, nationalised, expropriated or compulsorily acquired by or under the authority of any government; or
- f) The Borrower suspends or ceases or threatens to suspend or cease to carry on its business; or
- g) Any event occurs or proceeding is taken with respect to the Borrower in any jurisdiction to which it is subject which has an effect equivalent or similar to any of the events mentioned in Clauses 9.02(a) to 9.02(f); or
- h) A meeting is convened by the Borrower for the purpose of passing any resolution to purchase, reduce or redeem any of its share capital; or
- i) There occurs, in the opinion of the Bank, a materially adverse change in the financial condition of the Borrower; or
- j) Any other event occurs or circumstances arise which, in the opinion of the Bank, is likely materially and adversely to affect either (i) the ability of the Borrower to perform all or any of its obligations under or otherwise to comply with the terms of this Agreement and/or any of the other Security Documents, or (ii) the security created by this Agreement and/or any of the Security Documents; or
- k) There is any change in the beneficial ownership of the shares in the Borrower and/or in the Manager; or
- l) The Vessel is arrested, confiscated, seized, taken in execution, impounded, forfeited, detained in exercise or purported exercise of any possessory lien or other claim or otherwise taken from the possession of the Borrower and the Borrower shall fail to procure the release of the Vessel within a period of twenty (20) days thereafter; or
- m) The registration of the Vessel under the laws and flag of the relevant Flag State is cancelled or terminated without the prior written consent of the Bank; or
- n) The Flag State of the Vessel becomes involved in hostilities or civil war or there is a seizure of power in the Flag State of the Vessel by unconstitutional means if, in any such case such event could in the opinion of the Bank reasonably be expected to have a material adverse effect on the security constituted by any of the Security Documents; or
- o) The Borrower ceases at any time to be a wholly-owned direct Subsidiary of the Corporate Guarantor; or
- p) There is any change in the legal and/or beneficial ownership of any of the shares of the Manager, from that existing on the date of this Agreement; or
- q) The shares of the Corporate Guarantor are de-listed or cease to trade permanently on the New York Exchange; or
- r) Any person, or persons acting in concert (other than any financial institution acting as a passive investor), become at any time the legal or ultimate beneficial owners of a higher percentage of the total issued share capital of the Corporate Guarantor, than the percentage of the total issued share capital of the Corporate Guarantor, beneficially owned by Mr Simeon Palios at that time; or
- s) Mr. Simeon Palios ceases to hold an executive position in the Corporate Guarantor.

9.03. Representations Incorrect

Any representation or warranty made or deemed to be made or repeated by or in respect of the Borrower in or pursuant to this Agreement or any of the other Security Documents or in any notice, certificate or statement referred to in or delivered under this Agreement or any of the other Security Documents is or proves to have been incorrect in any material respect.

9.04. Cross-default of the Borrower and any other member of the Group

Any Indebtedness of the Borrower or any other member of the Group is not paid when due or becomes due and payable, or any creditor of the Borrower or any other member of the Group becomes entitled to declare any such Indebtedness due and payable prior to the date when it would otherwise have become due, or any guarantee or indemnity given or any obligation or covenant undertaken or agreement made by the Borrower or any other member of the Group in respect of Indebtedness is not honoured when due.

For the avoidance of doubt for the purpose of this clause 9.04 "Indebtedness" shall exclude Indebtedness owing under this Agreement and/or the other Security Documents; or

9.05. Events affecting the Security Documents

(a) This Agreement or any of the other Security Documents shall at any time and for any reason become invalid or unenforceable or otherwise cease to remain in full force and effect, or if the validity or enforceability of any of the Security Documents shall at any time and for any reason be contested by any party thereto (other than the Bank), or if any such party shall deny that it has any, or any further, liability thereunder or it becomes impossible or unlawful for the Borrower to fulfill any of its covenants and obligations contained in this Agreement or any of the Security Documents or for the Bank to exercise the rights vested in it thereunder or otherwise; or

(b) Any consent, authorization, license or approval of, or registration with or declaration to, governmental or public bodies or authorities or courts required by the Borrower to authorize or otherwise in connection with, the execution, delivery, validity, enforceability or admissibility in evidence of this Agreement and/or any of the Security Documents or the performance by the Borrower of its obligations under this Agreement and/or any of the Security Documents is modified in a manner unacceptable to the Bank or is not granted or is revoked or terminated or expires and is not renewed or otherwise ceases to be in full force and effect; or

(c) Any Encumbrance in respect of any of the property (or part thereof) which is the subject of the Security Documents (or any of them) is enforced; or

9.06. Events concerning the Security Parties

(a) Any Security Party (other than the Borrower) fails to pay any sum due from it under this Agreement and/or any of the Security Documents when due, or, in the case of any sum payable on demand, within three (3) Banking Days of demand; or

(b) Any Security Party (other than the Borrower) fails to observe and perform any one or more of the covenants, terms or obligations contained in this Agreement (including Schedule 1) and/or the other Security Documents relating to the Insurances; or

(c) Any Security Party (other than the Borrower) commits any breach of or omits to observe any of the covenants, terms, obligations or undertakings expressed to be assumed by it under this Agreement and/or any of the Security Documents (other than failure to pay any sum when due or to observe or perform obligations relating to the Insurances) and, in respect of any such breach or omission which in the opinion of the Bank is capable of remedy, such action as the Bank may require shall not have been

taken within seven (7) days of the Bank notifying the relevant Security Party, of such required action to remedy the breach or omission; or

(d) Any representation or warranty made or deemed to be made or repeated by or in respect of any Security Party (other than the Borrower) in or pursuant to this Agreement or any of the other Security Documents or in any notice, certificate or statement referred to in or delivered under this Agreement or any of the other Security Documents is or proves to have been incorrect in any material respect; or

(e) Any of the events referred to in Clauses 9.02 to 9.05 occurs (amended as appropriate) in relation to any Security Party (other than the Borrower); or

(f) Any of the events specified in Clauses 9.02 to 9.05 occurs (amended as appropriate) with respect to any member of the Group which is not a Security Party and, in the sole opinion of the Bank, the ability of the Security Parties (or any of them) to perform all or any of their obligations under, or otherwise to comply with the terms of this Agreement and the other Security Documents may be materially and adversely affected thereby.

9.07. Environmental Events

(a) Any Security Party and/or any other Relevant Party and/or any of their respective Environmental Affiliates fails to comply with any Environmental Law or any Environmental Approval or the Vessel or any other Relevant Ship is involved in any incident which gives rise or which may give rise to any Environmental Claim, if in any such case, such non compliance or incident or the consequences thereof could (in the opinion of the Bank) reasonably be expected to have a material adverse effect on the business assets, operations, property or financial condition of the Borrower or any other Security Party or on the security created by any of the Security Documents; or

(b) any Security Party or any other person fails or omits to comply with any requirements of the protection and indemnity association or other insurer with which the Vessel is entered for insurance or insured against protection and indemnity risks (including oil pollution risks) to the effect that any cover (including without limitation, liability for Environmental Claims arising in jurisdictions where the Vessel operate or trade) is or may be liable to cancellation, qualification or exclusion at any time.

9.08. Consequences of Default

(i) The Bank may without prejudice to any other rights of the Bank, at any time after the happening of an Event of Default:

(a) by notice to the Borrower declare that the obligation of the Bank to make the Commitment available shall be terminated, whereupon the Commitment shall be reduced to zero forthwith; and/or

(b) by notice to the Borrower declare that the Loan and all interest and commitment commission accrued and all other sums payable under this Agreement and the other Security Documents have become due and payable, whereupon the same shall, immediately or in accordance with the terms of such notice, become due and payable without any further diligence, presentment, demand of payment, protest or notice which are expressly waived by the Borrower; and/or

(c) withdraw the declaration contained in the notice under sub-clauses (a) and (b) above with effect from the date specified in such notice.

(ii) **(Enforcement)**. The Bank may, at any time after the occurrence of an Event of Default put into force and exercise all or any of the rights, powers and remedies under this Agreement and/or under any other Security Documents in its own name and behalf.

9.09. **(Proof of Default)**. It is agreed that (i) the non-payment of any sum of money in time will be proved conclusively by mere passage of time and (ii) the occurrence of this (non payment) and any other Event of Default shall be proved conclusively by a mere written statement of the Bank (save for manifest error) which (statement) shall be conclusive, binding and full evidence for the Borrower but the Borrower shall be allowed to rebut such evidence by any means of evidence save for witnesses.

9.10. **(Conversion of Loan in case of Default)**. It is hereby agreed that in the event the Borrower is in default of payment of any amount to the Bank for more than six (6) months and the Bank has given or intends to give the notice under clause 9.08 (b), the Bank is entitled (but not obliged) to convert to Euros any and/or all sums owing to the Bank and/or the Swap Provider under this Agreement, the Master Swap Agreement and the other Security Documents.

10. INDEMNITIES - EXPENSES

10.01. (**Indemnity**). The Borrower shall on demand (and it is hereby expressly undertaken by the Borrower to) indemnify the Bank, without prejudice to any of the other rights of the Bank under any of the Security Documents, against any loss or expense which the Bank shall certify as sustained or incurred as a consequence of (i) any default in payment by any of the Security Parties of any sum under any of the Security Documents when due, (ii) the occurrence of any Event of Default, (iii) any prepayment of the Loan or part thereof being made under Clauses 3.06, 4.03, 8.05(c) or 12 or any other repayment of the Loan or part thereof being made otherwise than on an Interest Payment Date relating to the part of the Loan prepaid or repaid or (iv) any drawdown not being made for any reason (excluding any default by the Bank) after a Drawdown Notice has been given, including, in any such case, but not limited to, any loss or expense sustained or incurred in maintaining or funding the Loan or any part thereof or in liquidating or re-employing deposits from third parties acquired to effect or maintain the Loan or any part thereof.

It is hereby agreed, however, that in case of application of Clauses 4.02 and 4.03 hereof, the Borrower will indemnify the Bank in respect of interest breakage costs (if any) but not in respect of the interest margin on the amount prepaid for the balance of any then current interest period.

10.02. (**Expenses**). The Borrower shall (and it is hereby expressly undertaken by the Borrower) pay to the Bank on demand:

- a) (**Initial and Amendment expenses**) all expenses (including legal, printing and out-of-pocket expenses) incurred by the Bank in connection with the negotiation, preparation and execution of this Agreement and the other Security Documents and of any amendment or extension of or the granting of any waiver or consent under this Agreement and/or any of the Security Documents and/or in connection with any proposal by the Borrower to constitute additional security pursuant to Clause 8.05(c), whether any such security shall in fact be constituted or not;
- b) (**Enforcement expenses**) all expenses (including legal and out-of-pocket expenses) incurred by the Bank in contemplation of, or otherwise in connection with, the enforcement of, or preservation of any rights under, this Agreement and/or any of the other Security Documents, or otherwise in respect of the moneys owing under this Agreement and/or any of the other Security Documents or the contemplation or preparation of the above, whether they have been effected or not; and
- c) (**Other expenses**) any and all other Expenses as defined in Clause 1.02.
- d) the legal costs of the Bank's appointed lawyer, in respect of the preparation of this Agreement and the other Security Documents as well as the legal costs of the foreign lawyers (if these are available) in respect of the registration of the Security Documents or any search or opinion given to the Bank in respect of the Security Parties or the Vessel or the Security Documents. The said legal costs to be due and payable on the date of drawdown.

All expenses payable pursuant to this Clause 10.02 shall be paid together with Value Added Tax (if any) thereon.

10.03. (**Stamp duty**). The Borrower shall (and it is hereby expressly undertaken by the Borrower to) pay any and all stamp, registration and similar taxes or charges (including those payable by the Bank) imposed by governmental authorities in relation to this Agreement and any of the other Security Documents, and shall indemnify the Bank against any and all liabilities with respect to, or resulting from delay or omission on the part of the Borrower to pay such stamp taxes or charges.

10.04. (**Environmental Indemnity**). The Borrower shall indemnify the Bank on demand and hold the Bank harmless from and against all costs, expenses, payments, charges, losses, demands, liabilities,

actions, proceedings (whether civil or criminal) penalties, fines, damages, judgements, orders, sanctions or other outgoings of whatever nature which may be suffered, incurred or paid by, or made or asserted against the Bank at any time, whether before or after the repayment in full of principal and interest under this Agreement, relating to, or arising directly or indirectly in any manner or for any cause or reason out of an Environmental Claim made or asserted against the Bank.

10.05. **(Currencies)**. If any sum due from the Borrower under any of the Security Documents or any order or judgment given or made in relation hereto has to be converted from the currency (the "first currency") in which the same is payable under the relevant Security Document or under such order or judgment into another currency (the "second currency") for the purpose of (i)making or filing a claim or proof against the Borrower or any other Security Party, as the case may be, (ii)obtaining an order or judgment in any court or other tribunal or (iii)enforcing any order or judgment given or made in relation to any of the Security Documents, the Borrower shall (and it is hereby expressly undertaken by the Borrower to) indemnify and hold harmless the Bank from and against any loss suffered as a result of any difference between (a)the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (b)the rate or rates of exchange at which the Bank may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof. Any amount due from the Borrower under this Clause 10.05 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Security Documents, and the term "rate of exchange" includes any premium and costs of exchange payable in connection with the purchase of the first currency with the second currency.

10.06. **(Maintenance of the Indemnities)**. The indemnities contained in this Clause 10 shall apply irrespective of any indulgence granted to the Borrower or any other party from time to time and shall continue to be in full force and effect notwithstanding any payment in favour of the Bank and any sum due from the Borrower under this Clause 10 will be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under any one or more of this Agreement, the other Security Documents and any other documents executed pursuant hereto or thereto.

10.07. **(Communications Indemnity)**. It is hereby agreed in connection with communications that:

- a) Express authority is hereby given by the Borrower to the Bank to accept (at the sole discretion of the Bank) all tested or untested communications given by facsimile, cable or otherwise, regarding any or all of the notices, requests, instructions or other communications under this Agreement, subject to any restrictions which may be imposed by the Bank relating to such communications including, without limitation (if so required by the Bank), the obligation to confirm such communications by letter.
- b) The Borrower shall recognise any and all of the said notices, requests, instructions or other communications as legal, valid and binding, when these notices, requests, instructions or communications come from the fax number mentioned in Clause 13.09 or any other fax number usually used by it or its managing company.
- c) The Borrower hereby assumes full responsibility for the execution of the said notices, requests, instructions or communications by the Bank and promises and recognises that the Bank shall not be held responsible for any loss, liability or expense that may result from such notices, requests, instructions or other communications, except in cases of gross negligence or wilful misconduct by the Bank. It is hereby undertaken by the Borrower to indemnify in full the Bank from and against all actions, proceedings, damages, costs, claims, demands, expenses and any and all direct and/or indirect losses which the Bank or any third party may suffer, incur or sustain by reason of the Bank following such notices, requests, instructions or communications, except in cases of gross negligence or wilful misconduct by the Bank.

- d) With regard to notices, requests, instructions or communications issued by electronic and/or mechanical processes (e.g. by facsimile), the risk of equipment malfunction, including, without limitation, transmission errors, omissions and distortions is assumed fully and accepted by the Borrower, except in cases of gross negligence or wilful misconduct by the Bank.
- e) The risks of misunderstandings and errors of notices, requests, instructions or communications being given as mentioned above, are for the Borrower and the Bank will be indemnified in full pursuant to this Clause 10.
- f) The Bank shall have the right to ask the Borrower to furnish any information the Bank may require to establish the authority of any person purporting to act on behalf of the Borrower for these notices, requests, instructions or communications but it is expressly agreed that there is no obligation for the Bank to do so. The Bank shall be fully protected in, and the Bank shall incur no liability to the Borrower for acting upon the said notices, requests, instructions or communications which were believed by the Bank in good faith to have been given by the Borrower or by any of their authorised representative(s).
- g) It is undertaken by the Borrower to safeguard the function and the security of the electronic and mechanical appliance(s) such as fax(es), as well as the code word list, if any, and to take adequate precautions to protect it from loss and to prevent its terms becoming known to any persons not directly concerned with its use. The Borrower shall hold the Bank harmless and indemnified from all claims, losses, damages and expenses which the Bank may incur by reason of the failure of the Borrower to comply with the obligations under this Clause and/or this Agreement.
- h) The Bank may at any time, without disclosing to the Borrower the reason (and such discretion of the Bank is expressly admitted by the Borrower hereby) refuse to execute the notices, requests, instructions or communications of the Borrower, or any part thereof given by fax without incurring any responsibility for loss, liability or expense arising out of such refusal.

10.08. **(Central Bank or European Central Bank reserve requirements indemnity).** The Borrower shall on demand promptly indemnify the Bank against any cost incurred or loss suffered by the Bank as a result of its complying with the minimum reserve requirements of the European Central Bank and/or with respect to maintaining required reserves with the relevant national central bank to the extent that such compliance relates to the Commitment or the Loan or part thereof or deposits obtained by it to fund or maintain the whole or part of the Loan.

11. SECURITY AND SET-OFF

11.01. (**Securities**). As security for the due and punctual repayment of the Loan and payment of interest thereon as provided in this Agreement, the Master Swap Agreement and of all other Outstanding Indebtedness, the Borrower shall ensure and procure that the following Security Documents are duly executed and, where required, registered in favour of the Bank in form and substance satisfactory to the Bank at the time specified herein or otherwise as required by the Bank and ensure that such security consists of:

- a) Duly registered first priority maritime mortgage over the Vessel accompanied by deed of covenants as appropriate on the basis of the provisions of the applicable law providing the highest degree of security for the Bank (the "**Mortgage**");
- b) First priority general assignment of all the Insurances and Earnings and Requisition Compensation of the Vessel in form and substance satisfactory to the Bank and respective notices of assignment (the "**Assignment of Insurances and Earnings**");
- c) First priority specific assignment of the New Approved Charter in form and substance satisfactory to the Bank and respective notice of assignment and acknowledgement by the Approved Charterer in form and substance satisfactory to the Bank (the "**Assignment of Charter**");
- d) The Corporate Guarantee;
- e) A first priority pledge on the Earnings Account as per Clause 11.06 in form and substance satisfactory to the Bank (the "**Earnings Account Pledge**");
- f) A first priority pledge on the Cash Collateral Account as per Clause 11.06 (a) in form and substance satisfactory to the Bank (the "**Cash Collateral Account Pledge**");
- g) The Manager's Undertaking;
- h) The New DSI Assignment of Insurances.

11.02. (**Maintenance of Securities**). It is hereby undertaken by the Borrower that the Security Documents shall both at the date of execution and delivery thereof and so long as any moneys are owing and/or due under this Agreement or under the other Security Documents be valid and binding obligations of the respective Security Parties thereto and rights of the Bank enforceable in accordance with their respective terms and that they will, at the expense of the Borrower, execute, sign, perfect and do any and every such further assurance, document, act, omission or thing as in the opinion of the Bank may be necessary or desirable for perfecting the security contemplated or constituted by the Security Documents.

11.03. (**Application of funds**). All moneys received by the Bank under or pursuant to any of the Security Documents shall be applied by the Bank in the following manner:

- a) firstly in or towards payment of Expenses and all sums other than principal or interest which may be due to the Bank under this Agreement and the Security Documents or any of them at the time of application;
- b) secondly in or towards any default interest;
- c) thirdly in or towards any arrears of interest due in respect of the Loan or any part thereof;
- d) fourthly in or towards repayment of the Loan whether the same is due and payable or not;

- e) fifthly sums owing to the Bank under the Master Swap Agreement, the Master Agreement Security Deed any other documents executed or to be executed pursuant to such documents;
- f) sixthly the surplus (if any) shall be paid to the Borrower, or to whomsoever else shall be entitled thereto.

11.04. (**Set off**). (a) Express authority is hereby given by the Borrower to the Bank without prejudice to any of the rights of the Bank at law contractually or otherwise, at any time and without notice to the Borrower:

(i) to apply any credit balance standing upon any account of the Borrower with any branch of the Bank and in whatever currency in or towards satisfaction of any sum due to the Bank from the Borrower under this Agreement and/or any of the other Security Documents;

(ii) in the name of the Borrower and/or the Bank to do all such acts and execute all such documents as may be necessary or expedient to effect such application; and

(iii) to combine and/or consolidate all or any accounts in the name of the Borrower with the Bank.

For all or any of the above purposes authority is hereby given to the Bank to purchase with the monies standing to the credit of any such account or accounts such other currencies as may be necessary to effect such application. The Bank shall not be obliged to exercise any right given by this Clause.

(b) Without limiting the generality of Bank's right of set-off under sub-clause (a) above, upon the occurrence of an Enforcement Event, whether through the operation of netting or set off or otherwise, the obligations of: (i) the Account Branch of the Bank to repay to the Borrower all the funds deposited in the Cash Collateral Account (regardless of any fixed interest period); and (ii) the Borrower to pay or repay the Loan to the Bank, are automatically accelerated and become immediately due and expressed as obligations to pay and an account is taken of what is due from each party to the other in respect of such obligations and the net sum equal to the balance of the account is payable by the party from whom the larger amount is due to the other party ("**Close Out Netting**").

(c) Clause 11.04(b) shall apply mutatis mutandis in respect of any amount standing to the Earnings Account.

11.05. (**Earnings Account**).

(a) The Borrower shall procure that all moneys payable in respect of the Earnings of the Vessel shall be paid to the Earnings Account free from Encumbrances (save for Encumbrances in favour of the Bank).

(b) Subject to Clause 11.04 (c), until the occurrence of an Event of Default (whereupon the provisions of the Earnings Account Charge shall apply), subject to compliance with the payment obligations under this Agreement and the Master Swap Agreement and subject to no Event of Default having occurred, moneys for the time being credited to the Earnings Account may be available to the Borrower and (subject as aforesaid) may be withdrawn from the Earnings Account to be used for any purpose not inconsistent with the Borrower other obligations' under this Agreement. The Borrower shall not be entitled to draw from the Earnings Account if an Event of Default has occurred.

(c) The Borrower, at its own costs and expenses, undertakes with the Bank to comply with or cause to be complied with any written requirement of the Bank from time to time as to the location or re-location of the Earnings Account and will from time to time enter into such documentation as the Bank may require in order to create or maintain a security interest in the Earnings Account.

(d) Subject to Clause 11.04 (c), upon the occurrence of an Event of Default or at any time thereafter (if the Event of Default is continuing) the Bank shall be entitled to set off and apply all sums standing to the credit of the Earnings Account and accrued interest (if any) without notice to the Borrower in the

manner specified in Clause 11.03 (and express and irrevocable authority is hereby given by the Borrower to the Bank so to set off and apply the same and the Bank shall be released to the extent of such set off and application).

(e) The Borrower shall not assign, transfer or suffer any Encumbrance to arise over the whole or any part of the Earnings Account (other than pursuant to the Earnings Account Charge).

11.06. (Security Financial Collateral Arrangements).

(a) For so long as any moneys are owing under this Agreement, the Borrower may freely credit the Cash Collateral Account with moneys in an amount equal to or less than the amount of the Loan provided always that the balance shall not be less than Dollars Five Hundred Thousand (\$500,000) at any time.

(b) A first priority pledge shall be granted or (as the context may require) has been granted by the Borrower, as collateral provider, in favour of the Bank, as collateral taker, over all monies credited to the Cash Collateral Account and over all claims of the Borrower thereunder, in form and substance satisfactory to the Bank (the "Cash **Collateral Pledge**").

(c) Any amount owing under this Agreement and the Master Swap Agreement or any other Security Document (whether in respect of costs, interest, principal or otherwise) when due and payable in accordance with their respective terms (whether by acceleration or otherwise) shall be paid out of the monies funds deposited with the Cash Collateral Account by way of set off and the Borrower hereby expressly authorizes the Bank to so apply such funds.

(d) The period(s) for the moneys deposited with the Cash Collateral Account shall be so fixed as to allow the application provided in sub-paragraph (c) above.

(e) Notwithstanding the Cash Collateral Pledge prior to and until the occurrence of an Enforcement Event (whereupon the provisions of the Cash Collateral Pledge and sub-clause (b) of Clause 11.04 shall apply) and prior to and until the occurrence of an Event of Default, monies for the time being credited to the Cash Collateral Account are freely available to the Borrower and may be withdrawn from the Cash Collateral Account in accordance with its terms.

(f) For the avoidance of doubt, it is agreed that moneys paid or to be paid to the Earnings Account as per Clause 11.05 are not part of the Cash Collateral Account.

(g) The Borrower shall not assign, transfer or suffer any Encumbrance (other than the Cash Collateral Pledge) over the whole or any part of the Cash Collateral Account.

(h) The provisions of this Clause 11.06 are without prejudice to any other rights of the Bank under this Agreement, the ISDA Master Agreement and/or any other Security Document or under law.

11.07. (Variation to the Margin).

Without prejudice to the rights of the Bank under clause 12, it is agreed that, if as a result of any change in, or in the interpretation or application of, or the introduction of, any law or any regulation, request or requirement (whether or not having the force of law, but, if not having the force of law, with which the Bank habitually complies), including (without limitation) those relating to capital adequacy, liquidity, reserve assets, cash ratio deposits and special deposits, is to (a) reduce the Bank's rate of return on its overall capital by reason of a change in the manner in which it is required to allocate capital resources to the Bank's obligations under any of the Security Documents; or (b) require the Bank to make a payment or forego a return on or calculated by reference to any amount received or receivable by the Bank under any of the Security Documents; or (c) require the Bank to incur or sustain a loss (including a loss of

future profits) by reason of being obliged to deduct all or part of the Loan from its capital for regulatory purposes, then and in each such case:

(a) the Bank shall notify the Borrower in writing of such event promptly upon its becoming aware of the same; and

(b) with effect from the then immediately forthcoming Interest Period:

(i) the split Margin as provided in the definition of Margin in clause 1.02 shall cease;

(ii) the Margin to be applied to the whole of the Loan thereafter shall be two point fifty per cent (2.50%) per annum;

(iii) the definition of "Margin" shall be amended to mean two point fifty per cent (2.50%) per annum;

11.08. (Additional Provisions relating to the Master Swap Agreement).

(a) **(Swap transactions).** If, at any time during the term of the Loan, the Borrower wishes to enter into interest rate swap transactions so as to hedge all or any part of its exposure under this Agreement relating to the Loan to interest rate fluctuations, it shall advise the Bank in writing. Any such swap transaction shall be concluded with the Swap Provider under the Master Swap Agreement provided however that no such swap transaction shall be concluded unless the Bank first agrees to it in writing. For the avoidance of doubt, it is hereby agreed and acknowledged by the Borrower that the Swap Provider, by the mere execution by it of this Agreement and the Master Swap Agreement, has no obligation (express or implied) whatsoever to enter into any such derivative transaction with the Borrower and any such transactions and terms thereof would be subject to the Swap Provider's prior independent approval and agreement in writing. If and when any such swap transaction has been concluded, it shall constitute a Designated Transaction, and the Borrower shall sign a Confirmation with the Swap Provider and the following provisions will apply in addition to the terms of the Master Swap Agreement. The Borrower will not be entitled to enter into any such swap transaction with any other bank unless the Swap Provider has first declined to approve or consider entering into any such transaction.

(b) **(Security).** The obligations of the Borrower and any and all amounts to be due under the Master Swap Agreement will be secured on a pari passu basis with the obligations of the Borrower under this Agreement. Further, the Borrower hereby undertakes, at its expense, to execute, sign, perfect, do and (if required) register every such security, document, act or thing (all in form and substance satisfactory to the Swap Provider) as in the opinion of the Swap Provider may be necessary for the entering into or the continuing of a Transaction under the Master Swap Agreement.

(c) **(Reduction of the notional amounts).** The notional amount(s) under the Master Swap Agreement shall be reduced proportionally with the reduction of the Loan pursuant to the terms of this Agreement.

(d) **(Bank's rights in case of partial drawdown of the Commitment).** If for any reason the Commitment partly or wholly is not drawn down under this Agreement but nonetheless a Designated Transaction has been entered into under the Master Swap Agreement then, subject to sub-clause (f) the Swap Provider shall be entitled but not obliged to amend, supplement, cancel, net out, terminate, liquidate, transfer or assign all or any part of the rights, benefits and obligations created by the Master Swap Agreement and/or to obtain or re-establish any hedge or related trading position in any manner and with any person the Swap Provider in its sole discretion decides, and in the event of the Bank exercising any part of its entitlement aforesaid the Borrower's continuing obligations under the Master Swap Agreement shall, unless agreed otherwise by the Swap Provider, be calculated so far as the Bank considers it practicable by reference to the repayment schedule for the Loan taking into account the fact that less than the full amount of the Loan has been advanced.

(e) **(Bank's rights in case of prepayment of the Loan)**. In the case of a prepayment of all or part of the Loan then, subject to sub-clause (f), the Swap Provider shall be entitled but not obliged to amend, supplement, cancel, net out, transfer or assign all or such part of the rights, benefits and obligations created by the Master Swap Agreement which equate to the part of the Loan so prepaid and/or to obtain or re-establish any hedge or related trading position in any manner and with any person the Swap Provider in its sole discretion decides, and in the case of a partial prepayment and the Swap Provider exercising any part of its entitlement as aforesaid the Borrower's continuing obligations under the Master Swap Agreement shall, unless agreed otherwise by the Bank, be calculated so far as the Swap Provider considers it practicable by reference to the amended repayment schedule for the Loan taking account of the fact that less than the full amount of the Loan remains outstanding.

(f) **(Maintenance of a Transaction in case of prepayment or in case of no drawdown of an Advance -Additional Security)**.

(i) If less than the full amount of the Loan remains outstanding following a prepayment under this Agreement (which includes a prepayment in full of the Loan to zero) and the Bank in its sole discretion agrees, following a written request of the Borrower, that the Borrower may be permitted to maintain all or part of a Designated Transaction in any amount not wholly matched with or linked to all or part of the Loan, the Borrower shall within ten (10) days of being notified by the Swap Provider of such requirement either (i) provide the Swap Provider with, or procure the provision to the Swap Provider of, such additional security as shall in the opinion of the Swap Provider be adequate to secure the performance of such Designated Transaction, which additional security shall take such form, be constituted by such documentation, and be entered into between such parties, as the Swap Provider in its sole discretion may approve or require, and each document comprising such additional security shall constitute a Credit Support Document (as defined in the Master Swap Agreement); or (ii) reverse, offset, unwind or otherwise terminate wholly or partially the continuing Designated Transactions so that the aggregate notional amount of the continuing Designated Transactions thereafter remaining does not and will not in the future (taking into account the scheduled amortisation) exceed the amount of the Loan as reducing from time to time;

(ii) If a Designated Transaction has been entered into but no Advance, in case that the Commitment has been agreed to be drawn in Advances, is drawn down under this Agreement and the Swap Provider in its sole discretion agrees, following a written request of the Borrower, that the Borrower may be permitted to maintain all or part of a Designated Transaction, the Borrower shall within ten (10) days of being notified by the Swap Provider of such requirement either: (i) provide the Swap Provider with, or procure the provision to the Swap Provider of, such additional security as shall in the opinion of the Swap Provider be adequate to secure the performance of such Designated Transaction, which additional security shall take such form, be constituted by such documentation, and be entered into between such parties, as the Swap Provider in its absolute discretion may approve or require, and each document comprising such additional security shall constitute a Credit Support Document (as defined in the Master Swap Agreement); or (ii) reverse, offset, unwind or otherwise terminate wholly or partially the continuing Designated Transactions so that the aggregate notional amount of the continuing Designated Transactions thereafter remaining does not and will not in the future (taking into account the scheduled amortisation) exceed the amount of the Loan as reducing from time to time;

(g) **(Indemnity)**. The Borrower shall on the first written demand of the Swap Provider indemnify the Bank in respect of all losses, costs and expenses (including, without limitation, legal expenses) incurred or sustained by the Swap Provider as a consequence of or in relation to the effecting of any matters or transactions referred to in sub-clauses (c), (d) and (e).

(h) **(Payment in case of Early Termination)**. Without prejudice to or limitation of the obligation of the Borrower under sub-clause (g), in the event that the Swap Provider exercises any of its rights under sub-clauses (c) and (d) and such exercise results in all or part of a Designated Transaction being terminated, such termination shall be treated under the Master Swap Agreement in the same manner as if it were a Terminated Transaction (as defined in Section 14 of the Master Swap Agreement) effected by the Swap Provider after an Event of Default by the Borrower, and, accordingly, the Swap Provider shall be permitted to recover from the Borrower a payment for Early Termination calculated in accordance with the provisions of section 6(e)(i) of the Master Swap Agreement.

(i) **(Evidence)**. It is hereby expressly agreed and admitted by the Borrower that abstracts or photocopies or other reproductions of the books or records of the Bank as well as statements of accounts or a certificate signed by an authorised officer of the Swap Provider shall (save for manifest error) be conclusive evidence and binding on the Borrower of any amount to be due under the Master Swap Agreement, the non payment of any amount and/or the occurrence of any other Event of Default thereunder.

(j) **(Additional Events of Default)** There shall be an additional Event of Default under this Agreement whenever an Event of Default or Potential Event of Default (in each case as defined in the Master Swap Agreement) has occurred and is continuing with the Borrower as the Defaulting Party (as defined in the Master Swap Agreement) under the Master Swap Agreement or an Early Termination Date has occurred or been or become capable of being effectively designated under the Master Swap Agreement by the Swap Provider or the Master Swap Agreement is terminated, cancelled, suspended, rescinded or revoked or otherwise ceases to remain in full force and effect for any reason.

(k) **(Set off)**. Express authority is hereby given by the Borrower to the Swap Provider without prejudice to any of the rights of the Swap Provider at law, in equity or otherwise, at any time and without notice to the Borrower (a) to apply any credit balance standing upon any account of the Borrower with any branch of the Swap Provider and in whatever currency in or towards satisfaction of any sum due to the Swap Provider from the Borrower under the Master Swap Agreement. The rights conferred on the Swap Provider by this Clause shall be in addition to, and without prejudice to or limitation of, the rights of netting and set off conferred on the Swap Provider by the Master Swap Agreement. The Borrower acknowledge that the Bank shall be under no obligation to make any payment to the Borrower under or pursuant to the Master Agreement if, at the time that payment becomes due, there shall have occurred an Event of Default or a Default, or an Event of Default or Termination Event (as those terms are respectively defined in the Master Swap Agreement).

(l) **(Gross Up)** For the avoidance of doubt, clause 5.04 does not apply in respect of sums due from the Borrower to the Bank under or in connection with the Master Swap Agreement as to which sums the provisions of section 2(d) (Deduction or Withholding for Tax) of the Master Swap Agreement shall apply.

(m) **(Definitions)**. In this Agreement the following terms or expression shall have the meaning given to them hereinbelow:

"Confirmation" shall have, in relation to any continuing Designated Transaction, the meaning ascribed to it in the Master Swap Agreement;

"Designated Transaction" means a Transaction which is entered into by the Borrower pursuant to the Master Swap Agreement with the Swap Provider as contemplated by sub-clause (a) and for the purpose of hedging Borrower's exposure under this Agreement to fluctuations of **LIBOR** arising from the funding of the Loan (or any part thereof) for a period expiring no later than the Final Maturity Date for the Loan or the relevant part thereof;

"Early Termination Date" shall have, in relation to any continuing Designated Transaction, the meaning ascribed to it in the Master Swap Agreement;

"Swap Exposure" means, as at any relevant time, the amount certified by the Swap Provider to be the aggregate net amount in Dollars which would be payable by the Borrower to the Swap Provider under (and calculated in accordance with) section 6(e) (Payments on Early Termination) of the Master Swap Agreement if an Early Termination Date had occurred at the relevant time in relation to all continuing Designated Transactions;

"Transaction" has the meaning ascribed thereto in the Master Swap Agreement.

12. UNLAWFULNESS, INCREASED COSTS

12.01. (**Unlawfulness**). If any change in, or in the interpretation of, or in case of, introduction of or in case of application of any law, regulation or regulatory requirement or any request of any central bank, monetary, regulatory or other authority or any order of any court renders it unlawful or contrary to any such regulation, requirement, request or order for the Bank to advance the Commitment or any Advance as the case may be, or to maintain or fund the Loan, or give effect to its obligations or to claim or receive any amount payable to the Bank under this Agreement, then the Bank may serve written notice on the Borrower declaring its obligations under this Agreement terminated in whole or in part, whereupon the Commitment shall be reduced to zero and the Borrower shall prepay the Loan in accordance with such notice, together with accrued interest thereon to the date of prepayment and all other sums payable by the Borrower under this Agreement and/or the Master Swap Agreement.

12.02. (**Increased cost**). If as a result of (a) any change in or in the interpretation or application of any law, including (but not limited) any Capital Adequacy Law, regulation or official directive (whether or not having the force of law) by any governmental authority in any country the laws or regulations of which are applicable on the Bank including, without limitation, any central bank, the Bank International Settlements (BIS) or other competent authority or international convention, or (b) compliance by the Bank with any request from any applicable fiscal or monetary authority (whether or not having the force of law) or (c) any other set of circumstances affecting the Bank:

- (a) the cost to the Bank of making the Commitment or any part thereof or maintaining or funding the Loan is increased; or
- (b) the basis of taxation (other than the basis of taxation of the overall net income of the Bank) of payments to the Bank of principal or of interest on any amounts advanced by it is changed; or
- (c) any reserve or liquidity requirements are imposed, modified or deemed applicable against assets held by or commitments of deposits in or for the account of, or loans by or commitments of the Bank; or
- (d) any other condition is imposed upon the Bank in respect of the transactions contemplated by this Agreement and the other Security Documents; or
- (e) generally the overall cost of making the Commitment or any part thereof or maintaining or funding the Loan is increased for the Bank; then the Borrower shall pay to the Bank, from time to time, upon demand, such additional moneys as shall indemnify the Bank for any increased cost, reduction in principal or interest receivable or other foregone return whatsoever.

12.03. (**Claim for increased cost**). The Bank will promptly notify the Borrower of any intention to claim indemnification pursuant to Clause 12.02 and such notification will, save for manifest error, be a conclusive and full evidence binding on the Borrower as to the amount of any increased cost or reduction and the method of calculating the same and the Borrower shall be allowed to rebut such evidence by any means of evidence save for witness. A claim under Clause 12.02 may be made at any time and must be discharged by the Borrower within seven (7) days of demand. It shall not be a defence to a claim by the Bank under this Clause 12.02 that any increased cost or reduction could have been avoided by the Bank, except in cases of gross negligence or wilful misconduct. Any amount due from the Borrower under Clause 12.02 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of this Agreement.

12.04. (**Option to prepay**). If any additional amounts are required to be paid by the Borrower to the Bank by virtue of Clause 12.02, the Borrower shall be entitled, on giving the Bank not less than fourteen (14) days prior notice in writing, to prepay the Loan and accrued interest thereon, together with all other

Outstanding Indebtedness, on the next Repayment Date. Any such notice, once given, shall be irrevocable.

13. MISCELLANEOUS

13.01. Assignment, Participation, Change of Lending Branch

- a) **(Binding Effect)**. This Agreement shall be binding upon and inure to the benefit of the Bank and the Borrower and their respective successors and assigns.
- b) **(Assignment by the Borrower)**. The Borrower and any other parties to the Security Documents may not assign any rights and/or obligations under this Agreement or any of the other Security Documents or any documents executed pursuant to this Agreement and/or the other Security Documents without the prior written consent of the Bank.
- c) **(Assignment by the Bank)**. The Bank may at any time, assign, transfer, or offer participations to other banks or financial institutions or any other person in whole or in part, or in any manner dispose of all or any of its rights and/or obligations arising or accruing under this Agreement or any of the other Security Documents or any documents executed pursuant to this Agreement and/or the other Security Documents. The Bank may disclose to a potential assignee, transferee or participant or to any other person who may propose entering into contractual relations with the Bank in relation to this Agreement such information about the Borrower and the Security Parties as the Bank shall consider appropriate.
- d) **(Documentation)**. If the Bank assigns, transfers or in any other manner grants participation in respect of all or any part of its rights or benefits or transfers all or any of its obligations as provided in this Clause 13.01 the Borrower undertakes, immediately on being requested to do so by the Bank, to enter into and procure that each Security Party enters into such documents as may be necessary or desirable to transfer to the assignee, transferee or participant all or the relevant part of the interest of the Bank in the Security Documents and all relevant references in this Agreement to the Bank shall thereafter be construed as a reference to the Bank and/or assignee, transferee or participant of the Bank to the extent of their respective interests and, in the case of a transfer of all or part of the obligations of the Bank, the Borrower shall thereafter look only to the assignee, transferee or participant in respect of that proportion of the obligations of the Bank under this Agreement assumed by such assignee, transferee or participant. The Borrower hereby expressly consents to any subsequent transfer of the rights and obligations of the Bank and undertakes that it shall join in and execute such supplemental or substitute agreements as may be necessary to enable the Bank to assign and/or transfer and/or grant participation in respect of its rights and obligations to another branch or to one or more banks or financial institutions in a syndicate or otherwise. In case that the circumstances provided for in Clauses 5.03, 5.04, 10.01 and 12 of this Agreement arise in the relations between the Bank and any participant to which the Bank may offer participation, the Borrower shall make the relevant payments provided for in the said Clauses 5.03, 5.04, 10.01 and 12 to the Bank for onward payment to the participant.
- e) **(Change of Lending Branch)**. The Bank shall be at liberty to transfer the Loan to any branch or branches, and upon notification of any such transfer, the word "Bank" in this Agreement and in the other Security Documents shall mean the Bank, acting through such branch or branches and the terms and provisions of this Agreement and of the other Security Documents shall be construed accordingly.

13.02. **(Cumulative Remedies)**. The rights and remedies of the Bank contained in this Agreement and the other Security Documents are cumulative and not exclusive of each other nor of any other rights or remedies conferred by law.

13.03. **(Waivers)**. No delay or omission by the Bank to exercise any right, remedy or power vested in the Bank under this Agreement and/or the other Security Documents or by law shall impair such right or power, or be construed as a waiver of, or as an acquiescence in any default by the Borrower and/or any

of the Guarantors, nor shall any single or partial exercise by the Bank of any power, right or remedy preclude any other or further exercise thereof or the exercise of any other power, right or remedy. In the event of the Bank on any occasion agreeing to waive any such right, remedy or power, or consent to any departure from the strict application of the provisions of this Agreement or of any Security Document, such waiver shall not in any way prejudice or affect the powers conferred upon the Bank under this Agreement and the other Security Documents or the right of the Bank thereafter to act strictly in accordance with the terms of this Agreement and the other Security Documents. No modification or waiver by the Bank of any provision of this Agreement or of any of the other Security Documents nor any consent by the Bank to any departure therefrom by any Security Party shall be effective unless the same shall be in writing and then shall only be effective in the specific case and for the specific purpose for which given. No notice to or demand on any such party in any such case shall entitle such party to any other or further notice or demand in similar or other circumstances.

13.04. **(Integration of Terms)**. This Agreement contains the entire agreement of the parties and its provisions supersede the provisions of the Commitment Letter (save for the provisions thereof which relate to fees) and any and all other prior correspondence and oral negotiation by the parties in respect the matters regulated by this Agreement.

13.05. **(Amendments)**. This Agreement and any other Security Documents shall not be amended or varied in their respective terms by any oral agreement or representation or in any other manner other than by an instrument in writing of even date herewith or subsequent hereto executed by or on behalf of the parties hereto or thereto.

13.06. **(Invalidity of Terms)**. In the event of any provision contained in any one or more of this Agreement, the other Security Documents and any other documents executed pursuant hereto or thereto being invalid, illegal or unenforceable in any respect under any applicable law in any jurisdiction whatsoever, such provision shall be ineffective as to that jurisdiction only without affecting the remaining provisions hereof or thereof. If, however, this event becomes known to the Bank prior to the drawdown of the Commitment or of any part thereof the Bank shall be entitled to refuse drawdown until this discrepancy is remedied. As for the rest, the provisions of Article 181 of the Civil Code will be applicable, but in case that the invalidity of apart results in the invalidity of the whole agreement, it is hereby agreed that there will exist a separate obligation of the Borrower for the prompt payment to the Bank of all the Outstanding Indebtedness. Where, however, the provisions of any such applicable law may be waived, they are hereby waived by the parties hereto to the full extent permitted by that law to the intent that this Agreement, the other Security Documents and any other documents executed pursuant hereto or thereto shall be deemed to be valid binding and enforceable in accordance with their respective terms.

13.07. **(Inconsistency of Terms)**. In the event of any inconsistency between the provisions of this Agreement and the provisions of a Security Document the provisions of this Agreement shall prevail.

13.08. Language and genuineness of documents

- a) **(Language)**. All certificates, instruments and other documents to be delivered under or supplied in connection with this Agreement or any of the other Security Documents shall be in the Greek or the English language (or such other language as the Bank shall agree) or shall be accompanied by a certified Greek translation upon which the Bank shall be entitled to rely.
- b) **(Certification of documents)**. Any copies of documents delivered to the Bank shall be duly certified as true, complete and accurate copies by appropriate authorities or legal counsel practicing in Greece or otherwise as it will be acceptable to the Bank at the sole discretion of the Bank.
- c) **(Certification of signature)**. Signatures on Board or shareholder resolutions, Secretary's certificates and any other documents are, at the discretion of the Bank, to be verified for their genuineness by appropriate Consul or other competent authority.

13.09. (**Notices**). Every notice, request, demand or other communication under this Agreement or, unless otherwise provided therein, any of the Security Documents shall:

- a) be in writing delivered personally or by first-class prepaid letter (airmail if available), or cable or shall be served through a process server or subject to Clause 10.07 by fax;
- b) be deemed to have been received, subject as otherwise provided in this Agreement or the relevant Security Document, in the case of fax, at the time of dispatch as per transmission report (provided that if the date of despatch is not a business day in the country of the addressee it shall be deemed to have been received at the opening of business on the next such business day) and in the case of a cable 24 hours after despatch and in the case of a letter when delivered or served personally or five (5) days after it has been put into the post; and
- c) be sent:

- (1) if to be sent to any Security Party, to
c/o Diana Shipping Services S.A.
Pendelis 16
Palaio Faliro
175 64 Athens
Greece

Fax no: +30 210 942 4975
Attention: Mr Andreas-Nikolaos Michalopoulos

- (2) if to be sent to the Bank, to
CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK,
9, Quai du Président Paul Doumer,
92920 Paris, La Défense cedex,
France

Fax no: +(33) 141 89 29 87
Attn: Shipping Department

or to such other person, address, fax number as is notified by the relevant Security Party or the Bank (as the case may be) to the other parties to this Agreement and, in the case of any such change of address, fax number notified to the Bank, the same shall not become effective until notice of such change is actually received by the Bank and a copy of the notice of such change is signed by the Bank.

13.10. (**Process Agent**). Mr. Panagiotis Spathis, son of Athanasios, Attorney at Law, of 10, Olympias Street, Nikea, Greece is hereby appointed by the Borrower as Agent in Greece to accept service (hereinafter the "**Greek Process Agent**") upon whom any judicial process may be served and any notice, request, demand or other communication under this Agreement or any of the Security Documents. In the event that the Greek Process Agent (or any substitute process agent notified to the Agent in accordance with the foregoing) cannot be found at the address specified above (or, as the case may be, notified to the Agent), which will be conclusively proved by the affidavit of a process server to that effect, the authority of the Greek Process Agent as agent to accept service shall be deemed to have ceased and service of documents may be effected in accordance with the procedure provided by the relevant law. In case, however, that such Greek Process Agent is found at any other address, the Bank shall have the right to serve the documents either on the Greek Process Agent at such address or in accordance with the procedure provided by the relevant law.

13.11. (**Confidentiality**).

- a) Each of the parties hereto agree and undertake to keep confidential any documentation and any confidential information concerning the business, affairs, directors or employees of the other which comes into its possession during this Agreement and not to use any such documentation, information for any purpose other than for which it was provided.
- b) The Borrower acknowledges and accepts that the Bank may be required by law or that it may be appropriate for the Bank to disclose information and deliver documentation relating to the Borrower and the transactions and matters in relation to this Agreement and/or the other Security Documents to governmental or regulatory agencies and authorities.
- c) The Borrower acknowledges and accepts that in case of occurrence of any of the Events of Default the Bank may disclose information and deliver documentation relating to the Borrower and the transactions and matters in relation to this Agreement and/or the other Security Documents to third parties including in particular any technical advisors, accountants and legal advisors to the extent that this is necessary for the enforcement or the contemplation of enforcement of the Bank's rights or for any other purpose for which in the opinion of the Bank, such disclosure should be useful or appropriate for the interests of the Bank or otherwise and the Borrower expressly authorises any such disclosure and delivery.
- d) The Borrower acknowledges and accepts that the Bank may be prohibited or it may be inappropriate for the Bank to disclose information to the Borrower by reason of law or duties of confidentiality owed or to be owed to other persons.

13.12. (**Law and Jurisdiction**).

- (a) This Agreement shall be governed by and construed in accordance with English Law.
- (b) For the purposes of enforcement in Greece, it is hereby expressly agreed that English law as the governing law of this Agreement will be proved by an affidavit of a solicitor from an English law firm to be appointed by the Agent and the said affidavit shall constitute full and conclusive evidence binding on the Borrower but the Borrower shall be allowed to rebut such evidence save for witness.
- (c) For the exclusive benefit of the Bank, the Borrower hereby irrevocably submits to the exclusive jurisdiction of the High Court of Justice in London, England. Further, the Borrower agrees that any summons, writ or other legal process issued against it in England may be served upon Messrs NICOLAOU & CO., Chartered Accountants, currently located at 25 Heath Drive, Potters Bar, Herts, EN6 1EN, United Kingdom (Attention: Mr. Antonis Nicolaou Fax. No. +44 1707 664340, Telephone No. +44 1707 652193 Email: anicolaoul@btinternet.com) (the "**Process Agent for English Proceedings**") or their successors, who are hereby authorised to accept such service, which shall be deemed to be good service on the Borrower. Provided, however, that the Borrower further agrees that in the event that (i) the Process Agent for English Proceedings close or fail to maintain a business presence in England, or (ii) the Bank, in its sole discretion, shall determine that service of process on the said agent is not feasible or may be insufficient under the Laws of England, then any summons, writ or other legal process issued against it in England may be served upon the Law Debenture Corporation Ltd., currently located at Estate House, 66, Gresham Street, London EC2, or their successors, who are hereby authorised to accept such service, which shall be deemed to be good service on the Borrower. The foregoing shall not limit the right of the Bank to start proceedings in any other country or to serve process in any other manner permitted by law. The Borrower waives any objections which it may have on the grounds of inconvenient forum or otherwise to proceedings being brought in the High Court of Justice, England.

(d) The Borrower shall not commence any proceedings in any country other than England in relation to a matter which arises out of or in connection with this Agreement and/or the Security Documents.

(e) If it is decided by the Bank that any such proceedings should be commenced in any other country, then any objections as to the jurisdiction or any claim as to the inconvenience of the forum is hereby waived by the Borrower and it is agreed and undertaken by the Borrower to instruct lawyers in that country to accept service of legal process and not to contest the validity of such proceedings as far as the jurisdiction of the court or courts involved is concerned and the Borrower agrees that any judgment or order obtained in an English court shall be conclusive and binding on the Borrower and shall be enforceable without review in the courts of any other jurisdiction.

13.13. (Third Party Rights).

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement

IN WITNESS whereof the parties hereto have caused this Agreement to be duly executed the day and year first above written.

SCHEDULE 1

INSURANCE REQUIREMENTS

This Schedule is an integral part of the Agreement to which it is attached and the Security Documents.

1. DEFINITIONS

1.01. Words and expressions used in this Schedule shall have the meanings given thereto in the agreement to which this Schedule is attached and the following expressions shall have the meanings listed below:

"Approved Brokers" means such firm of insurance brokers, appointed by the Owner, as may from time to time be approved by the Bank in writing for the purposes of this Schedule;

"Excess risks" means the proportion (if any) of claims for general average, salvage and salvage charges and under the ordinary collision clause not recoverable in consequence of the value at which a vessel is assessed for the purpose of such claims exceeding its insured value;

"Insurance Requirements" means all the terms and conditions in this Schedule or any other provision concerning Insurances in any other Clause of the agreement to which this Schedule is attached and all such terms and conditions are an integral part of the agreement to which they are attached;

"Insurances" in respect of a vessel means all policies and contracts of insurance (including, without limitation, all entries of such vessel in a protection and indemnity, war risks or other mutual insurance association) which are from time to time in place or taken out or entered into by or for the benefit of its Owner (whether in the sole name of its Owner or in the joint names of its Owner and the Bank) in respect of such vessel and its earnings or otherwise howsoever in connection with such vessel and all benefits of such policies and/or contracts (including all claims of whatsoever nature and return of premiums);

"Loss Payable Clauses" means the provisions regulating the manner of payment of sums receivable under the Insurances which are to be incorporated in the relevant insurance document, such Loss Payable Clauses to be in the forms set out in paragraph 4 of this Schedule, or such other form as the Bank may from time to time agree in writing;

"Owner" means the owner of a vessel which should be insured and be maintained insured pursuant to these Insurance Requirements in accordance with any agreement to which these Insurance Requirements are attached;

"Protection and indemnity risks" means the usual risks (including oil pollution and freight, demurrage and defence cover) covered by a protection and indemnity association that is a member of the International Group of Protection and Indemnity Associations including the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation therein of clause 8 of the Institute Time Clauses (Hulls) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision);

"War risks" includes the risk covered by the standard form of English marine policy with Institute War and Strikes Clauses Hulls-Time (1/11/95) attached or similar cover.

2. INSURANCES TO BE EFFECTED AND MAINTAINED

2.01. The insurance which must be effected and maintained in accordance with the provisions of the agreement to which these Insurance Requirements are attached should be in the name of the Owner and as follows:

a. Hull and Machinery

insurance against fire and usual marine risks on an agreed value basis, on a full cover/all risks basis according to English, American [or Norwegian] Hull Clauses with a reasonable deductible and upon such terms as shall from time to time be approved in writing by the Bank; and

b. War Risks Insurance

insurance against War risks according to the London Institute War Clauses or equivalent, on an agreed value basis attaching also the so called war protection clauses including liabilities in respect of pollution and damage to cargo. In this case crew war liabilities insurance shall also have to be effected separately; and

c. Increased Value

increased value insurance (Total Loss only, including Excess Liabilities) as per the applicable English, American Institute [or Norwegian] Clauses (Disbursement/Increased Value/ Excess Liabilities) up to an amount not exceeding the Insurance Amount specified in Clause 3.03 below; and

d. Protection and Indemnity

insurance against all protection and indemnity risks including pollution for the full value and tonnage of the vessel insured (as approved in writing by the Bank) according to the relevant rules and deductibles of a club or association which is a member of the International Group of Protection and Indemnity Associations. If any risks are excluded or the deductibles as provided by the rules are altered, the prior written consent of the Bank shall be required. In case that crew liabilities (including without limitation loss of life, injury or illness) have been entirely excluded from the association cover or insured on a deductible excess basis, (always subject to the prior written consent of the Bank) such liabilities shall have to be further insured separately with other underwriters acceptable to the Bank and upon such terms as shall from time to time be approved in writing by the Bank; and

e. FD & D Insurance

Freight, Demurrage and Defence insurance as per the terms and conditions of a mutual club or association acceptable to the Bank; and

f. Pollution Liability Insurance

an extra insurance in respect of excess Oil Pollution Liability (including -if the vessel insured is a tanker- the Civil Liability Convention certificate) including full cover of pollution risks for the amount up to the maximum commercially available limit and upon such terms as shall be commercially available and accepted by the Bank; and

g. USA Pollution Risk Insurance

(in case that the vessel is scheduled to operate within or nearby USA jurisdiction) to cover and keep such vessel covered with an extra insurance in respect of oil pollution liability for an amount and upon such terms as required by international and national law regulations and shall from time to time be required by the Bank; and

h. Mortgagee's Interest Insurance

mortgagee's interest insurance which shall be effected by the Bank in the name of the Bank, but at the expenses of the Owner including (if it is so determined by the Bank) mortgagee's additional perils (pollution) coverage or other similar insurance in respect of any pollution claims against the vessel insured upon such terms as shall from time to time be determined by the Bank; and

i. Mortgagee's Additional Perils (Pollution) Insurance

(if so required by the Bank) mortgagee's additional perils (pollution) insurance or other similar insurance which shall be effected by the Bank in the name of the Bank, but at the expenses of the Owner, including insurance in respect of any pollution claims against the vessel insured upon such terms as shall from time to time be determined by the Bank; and

j. Mortgage Rights Insurance

(if so required by the Bank) mortgage rights insurance which shall be effected by the Bank in the name of the Bank, but at the expenses of the Owner, covering the legal title and rights of the Bank under the Mortgage in the flag or host country of the vessel upon such terms and in such amounts as shall from time to time be approved in writing by the Bank; and

k. Other Insurance

insurance in respect of such other matters of whatsoever nature and howsoever arising in respect of which the Bank would at any time reasonably require at its discretion the Vessel to be insured.

3. TERMS AND OBLIGATIONS FOR EFFECTING AND MAINTAINING INSURANCES

3.01. The Insurances to be effected in such currency as the Bank may approve and through the Approved Brokers (other than any mortgagee's interest insurance and, if the Bank requires, mortgagee's additional perils (pollution) insurance and/or any mortgage rights insurance which shall be effected through brokers nominated by the Bank) and with such insurance companies and/or underwriters as shall from time to time be approved in writing by the Bank, provided however that the insurances against war risks, protection and indemnity, FD & D cover or other mutual insurance risks may be effected by the entry of the vessel with such war, protection and indemnity or other mutual insurance associations as shall from time to time be approved in writing by the Bank.

3.02. The Insurances to be effected and maintained free of cost and expense to the Bank and in the sole name of the Owner or, if so required by the Bank, in the joint names of the relevant Owner and the Bank (but without liability on the part of the Bank for premiums or calls). All insurances to be in form and substance and under terms satisfactory to the Bank.

3.03. Unless otherwise agreed in writing by the Bank:

(a) The amount in respect of which the Insurances should be effected shall be an amount (the "**Insurance Amount**") which will be (aa)in respect of each of hull and machinery and War risks insurances the greater of the market value of the vessel insured for the time being and 125% of an amount (the "**Amount of Debt**") equal to the aggregate of the Loan and the Swap Exposure and (bb)in respect of mortgagee's interest insurance, (and if the Bank requests) mortgagee's additional perils (pollution) and mortgage rights insurance 120% of the Amount of Debt.

(b) In case that the Amount of Debt is secured by more than one vessels the above percentages should be covered by the aggregate of the Insurances in respect of all such vessels.

(c) In case that the vessel insured secures by its Insurances, Amounts of Debt under more than one agreements then the above percentages apply to the aggregate of all the Amounts of Debt under all the agreements.

3.04. Any person who is obliged under the agreement to which these Insurance Requirements are attached to effect and maintain the Insurances, will be obliged jointly and severally with any other person having the same obligation to (and will ensure that the Owner, if it is a different person shall):

(a) procure and ensure that the Approved Brokers and/or the managers of any club or association through whom any of the Protection and indemnity and/or War risks insurances are placed, as the case may be, shall send to the Bank a letter of undertaking in respect of the Insurances in form and substance satisfactory to the Bank and Notice of Cancellation as per Clause 4(d) below. The Approved Brokers' letter of undertaking shall be comparable to the form recommended by Lloyd's Insurance Brokers Committee, or any subsequent LIBC form. Such brokers to further undertake to give immediate notice of any insurance being subject to the Condition Survey Warranty (J.H.115) and/or Structural Conditions Warranty (J.H.722) and/or the Classification Clause (Hulls) 29/6/89 and/or other similar conditions/clauses 30 days prior to the attachment date of any insurance bearing any of these warranties.

(b) (if any of the Insurances form part of a fleet cover), procure that the Approved Brokers shall undertake to the Bank that they shall neither set off against any claims in respect of the vessel insured any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reasons of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurances, and shall undertake to issue a separate policy in respect of the vessel insured if and when so requested by the Bank;

(c) punctually pay all premiums, calls, contributions or other sums payable in respect of all Insurances and produce all relevant receipts or other evidence of payment when so required by the Bank;

(d) at least fourteen (14) days before the Insurances expire, notify the Bank of the names of the brokers and/or the war risks and protection and indemnity risks associations proposed to be employed by the relevant Owner for the purposes of the renewal of such Insurances and of the amounts in which such Insurances are proposed to be renewed and the risks to be covered and, subject to compliance with any requirements of the Bank under the Insurance Requirements, procure that appropriate instructions for the renewal of such Insurances on the terms so specified are given to the Approved Brokers and/or to the approved war risks and protection and indemnity risks associations at least ten (10) days before the relevant Insurances expire, and that the Approved Brokers and/or the approved war risks and protection and indemnity risks associations will at least seven (7) days before such expiry (or within such shorter period as the Bank may from time to time agree) confirm in writing to the Bank as and when such renewals have been effected in accordance with the instructions so given;

(e) arrange for the execution and delivery of such guarantees or indemnities as may from time to time be required by any protection and indemnity or war risks association;

(f) deposit with the Approved Brokers (or procure the deposit of) all slips, cover notes, policies, certificates of entry or other instruments of insurance from time to time issued and procure that the interest of the Bank shall be endorsed thereon by incorporation of the relevant Loss Payable Clause and by means of a notice of assignment (signed by the Owner) in the form set out in Paragraph 4 of this Schedule or in such other form as may from time to time be agreed in writing by the Bank, and

that the Bank shall be furnished with pro forma copies thereof and a letter or letters of undertaking from the Approved Brokers in such form as shall from time to time be required by the Bank;

(g) procure that any protection and indemnity and/or war risks associations and/or hull and machinery and/or any other insurance company or underwriters in which the vessel insured is for the time being entered and/or insured shall endorse the relevant Loss Payable Clause on the relevant certificate of entry or policy and shall furnish the Bank with a copy of such certificate of entry or policy and a letter or letters of undertaking in such form as shall from time to time be required by the Bank;

(h) (if so requested by the Bank, but at the cost of the Owner) furnish the Bank from time to time with a detailed report signed by an independent firm of marine insurance brokers appointed by the Bank dealing with the Insurances maintained on the vessel insured and stating the opinion of such firm as to the adequacy thereof;

(i) do all things necessary and provide all documents, evidence and information to enable the Bank to collect or recover any moneys which shall at any time become due in respect of the Insurances;

(j) ensure that the vessel insured shall not be employed otherwise than in conformity with the terms of the Insurances (including any warranties express or implied therein) without first obtaining the consent of the insurers to such employment and complying with such requirements as to extra premium or otherwise as the insurers may prescribe;

(k) apply all sums receivable under the Insurances which are paid to the Owner in accordance with the Loss Payable Clauses in repairing all damage and/or in discharging the liability in respect of which such sums shall have been received; and

(l) (in case that the vessel is scheduled to operate or operates within or nearby USA jurisdiction) make all the Protection & Indemnity Club US Voyage Quarterly Declarations for each quarter in time and send copies of same to the Bank on an annual basis

3.05. Fleet Cover is permitted only subject to the prior written approval of the Bank, to the conditions set out in 3.04(b) above and the Bank's prior express written approval of fleet aggregate deductibles.

4. LOSS PAYABLE CLAUSES AND CANCELLATION CLAUSE

A. The Loss Payable Clauses to be attached to the relevant Insurances should be substantially in the following form:

a) HULL AND MACHINERY (MARINE AND WAR RISKS)

It is noted that by an Insurance Assignment and a Mortgage granted by (the "**Owner**") in favour of CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK acting through its office at, Paris, France (the "**Mortgagee**") all the Owner's rights, title and interest in 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 including all claims of whatsoever nature and return of premia in respect of "" have been assigned and accordingly:

(a) all claims hereunder in respect of an actual or constructive or compromised or arranged total loss, and all claims in respect of a major casualty (that is to say any casualty the claim

in respect of which exceeds United States Dollars 750,000 inclusive of any deductible) shall be paid in full to the Mortgagee or to its order; and

(b) all other claims hereunder shall be paid in full to the Owner or to its order, unless and until the Mortgagee shall have notified the insurers hereunder to the contrary, whereupon all such claims shall be paid to the Mortgagee or to its order.

b) PROTECTION AND INDEMNITY RISKS

Payment of any recovery which of (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 CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK acting through its office at, Paris, France (the "**Mortgagee**") in which event all recoveries shall thereafter be paid to the Mortgagee or to its order; provided 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 clear business days from the receipt of such notice.

B. NOTICE OF CANCELLATION

The Owner to procure that an undertaking of the brokers/insurers be given to the Mortgagee along the following terms:

Notice of Cancellation of Insurances will be given to CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK acting through its office at, Paris, France (the "**Mortgagee**") in any of the following cases:

(1) immediately of any material changes which are proposed to be made in the terms of the Insurances or if the insurers cease to be insurers for any purposes connected with the Insurances;

(2) not later than fourteen (14) days prior to the expiry of any of the Insurances if instructions have not been received for the renewal thereof and, in the event of instructions being received to renew, of the details thereof;

(3) immediately of any instructions or notices received by insurers with regard to the cancellation or invalidity of any of the Insurances aforesaid; and

(4) immediately if the insurers give notice of their intention to cancel the Insurances, provided that the insurers will not exercise any rights of cancellation by reason of unpaid premiums without giving the Bank fourteen (14) days, from the receipt of which to remit the sums due.

(5) immediately if a broker institutes cancellation by way of a broker's cancellation clause.

C. NOTICE OF ASSIGNMENT

The notice of assignment shall be in the following form:

..... of the Owners of the m.v. ".....", under flag, Official Registration No,
HEREBY GIVE NOTICE that by an Insurance Assignment made theday of and entered into by us
with CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK acting through its office at, Paris,
France, there has been assigned by us to CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK acting through
its office at, Paris, France as Mortgagees of the said Vessel all rights, title and interest in and to all policies and
contracts of insurance from time to time taken out or entered into by or for the benefit of the Owners, all insurances in respect
thereof, including the insurances constituted by the Policy whereon this notice is endorsed and the Owner has authorised the
Mortgagee to have access and/or obtain any copies of the Policy(ies) and/or other information from the insurers.

Signed
For and on behalf of
Owner

Dated

SCHEDULE 2
FORM OF DRAWDOWN NOTICE
(referred to in Clause 2.02)

To:

.....

.....

US\$ Loan - Loan Agreement dated

We refer to the above Loan Agreement and hereby give you notice that we wish to draw the Commitment in the amount of \$ on, We select a first Interest Period in respect of the Loan of months. The funds should be credited to name and number of account held with the Bank.

We confirm that:

- (i) we will use the proceeds of the Loan for our benefit and under our full responsibility and exclusively for the purpose specified in the Loan Agreement;
- (ii) no event or circumstance has occurred and is continuing which constitutes a Default;
- (iii) the representations and warranties contained in Clause 6 of the Loan Agreement and the representations and warranties contained in each of the Security Documents are true and correct at the date hereof as if made with respect to the facts and circumstances existing at such date;
- (iv) the borrowing to be effected by the drawing of the Commitment will be within our corporate powers, has been validly authorised by appropriate corporate action and will not cause any limit on our borrowings (whether imposed by statute, regulation, agreement or otherwise) to be exceeded;
- (v) there has been no change in the beneficial and legal ownership, management, operations or financial condition of any of the Security Parties from that previously disclosed to the Bank in writing other than

Words and expressions defined in the Loan Agreement shall have the same meanings when used herein.

SIGNED by
for and on behalf of
the Borrower
in the presence of

SCHEDULE 3
FORM OF COMPLIANCE CERTIFICATE

To:
CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK

.....,
Paris, France,
(the "**Bank**");

From:
BIKAR SHIPPING COMPANY INC.
of the Marshall Islands; and
DIANA SHIPPING INC.
of the Marshall Islands
(the "**Corporate Guarantor**")

Date:

Dear Sirs,

Loan Agreement dated 2011 (the "**Agreement**")

We refer to the Agreement. This certificate is given pursuant to Clause 8.01 of the Agreement.

We confirm that:

(a) as of ("**Compliance Date**")

1. Total Debt was \$.....; and
2. Total Assets were \$.....;

for the period, the Minimum Net Worth was \$..... and the Maximum Leverage was%. Therefore, the covenants contained in Clause 8.07 (a) and (b) of the Agreement (have/have not) been complied with.

(b) The cash credit balance in accounts (free of Encumbrances) in the name of the Guarantor and/or its Subsidiaries in \$ Therefore, the covenant contained in Clause 8.07 (c) of the Agreement (has/has not) been complied with.

(c) We confirm that dividends have been declared and/or paid in the sum of \$.....

(d) We confirm that we aware of no Event of Default has occurred and is continuing and no such Event of Default will occur as a result of such payment

Signed for
DIANA SHIPPING INC and
BIKAR SHIPPING COMPANY INC.

Chief Financial Officer

Note: If the statement in paragraph (d) cannot be made, the certificate should identify any Event of Default that has occurred and is continuing and the steps, if any, being taken to remedy it.

Execution Page

EXECUTED as a DEED by
Mr Andreas Nikolaos Michalopoulos
for and on behalf of
the Borrower
BIKAR SHIPPING COMPANY INC.
in the presence of

/s/ Andreas Nikolaos Michalopoulos

/s/ Vasipelos Skoutenis

EXECUTED as a DEED by
Mr Anastasios Margaronis
for and on behalf of
the Guarantor
DIANA SHIPPING INC.
in the presence of

/s/ Anastasios Margaronis

/s/ Vasipelos Skoutenis

EXECUTED as a DEED by
Ms Margarita Veniou
for and on behalf of
the Manager
DIANA SHIPPING SERVICES S.A.
in the presence of

/s/ Margarita Veniou

/s/ Vasipelos Skoutenis

EXECUTED as a DEED by
and by Eltychia Srintzi
for and on behalf of
**CRÉDIT AGRICOLE CORPORATE AND
INVESTMENT BANK**
in the presence of

/s/ Eltychia Srintzi

/s/ Vasipelos Skoutenis

Witness to all above signatures

Name: Vasipelos Skoutenis

Address: 57 Notara Street, 185 55 Piraeus, Greece

Occupation: Attorney-at-Law

July 28, 2014

**FIRST AMENDMENT TO
LOAN AGREEMENT**

relating to an unsecured term loan facility
of up to US\$50,000,000 to be used for
general corporate purposes and working
capital requirements

by and between

DIANA SHIPPING INC.
as Lender

- and-

ELUK SHIPPING COMPANY INC.
as Borrower

- and-

DIANA CONTAINERSHIPS INC.
as Guarantor

This **AMENDMENT** (the "Amendment") dated July 28, 2014 to that certain loan agreement dated as of May 20, 2013 is made on July 28, 2014.

BETWEEN

- (1) DIANA SHIPPING INC., a corporation incorporated under the laws of The Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 (the "**Lender**"), as lender;
- (2) ELUK SHIPPING COMPANY INC., a corporation incorporated under the laws of The Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 and any wholly-owned subsidiary of the Guarantor that becomes an Additional Borrower pursuant to Section 12 hereof (each a "**Borrower**", collectively the "**Borrowers**"), as borrowers; and
- (3) DIANA CONTAINERSHIPS INC., a corporation incorporated under the laws of The Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 (the "**Guarantor**"), as guarantor.

Unless otherwise indicated, capitalized terms used in this Amendment are used with the meanings attributed thereto in the Loan Agreement.

WHEREAS, the parties wish to amend the Loan Agreement as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties hereto hereby agree as follows:

- (A) The definition of "Indebtedness" set forth in Section 1.1 of the Loan Agreement is deleted in its entirety and replaced with the following:

"**Indebtedness**" means, as to the Borrower, without duplication, (i) all indebtedness of the Borrower for borrowed money or for the deferred purchase price of property or services, (ii) the maximum amount available to be drawn under all letters of credit, bankers' acceptances and similar obligations issued for the account of the Borrower and all unpaid drawings in respect of such letters of credit, bankers' acceptances and similar obligations, (iii) all indebtedness of the types described in clause (i), (ii), (iv), or (v) of this definition secured by any lien on any property owned by the Borrower, whether or not such indebtedness has been assumed by the Borrower (provided that, if the Borrower has not assumed or otherwise become liable in respect of such indebtedness, such indebtedness shall be deemed to be in an amount equal to the fair market value of the property to which such lien relates as determined in good faith by the Borrower,

(iv) all contingent obligations of the Borrower for payment or repayment of money, and (v) all obligations under any hedging agreement or under any similar type of agreement, in each case where the amounts described in clauses (i) through (iv) equal or exceed one million dollars (\$1,000,000);

(B) Section 7.1 of the Loan Agreement by adding to following

For purposes of this Agreement, the term "Change of Control" shall mean the:

(i) acquisition by any individual, entity or group of beneficial ownership of thirty-five per cent (35%) or more of either (A) the then outstanding shares of common stock of the Company or (B) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors, *provided, however*, that this Clause shall not apply to an individual, entity or group that beneficially owns twenty-five percent (25%) or more as of the date the Company's common shares are approved for listing on the NASDAQ;

(ii) consummation of a reorganization, merger or consolidation of the Company or the sale or other disposition of all or substantially all of the assets of the Company and/or the Affiliates; or

(iii) approval by shareholders of the Company of a complete liquidation or dissolution of the Company.

(C) Confirmation of Agreement. Except as expressly set forth herein, the Agreement is ratified and confirmed in all respects and shall remain in full force and effect in accordance with its terms, and each reference in the Agreement to "this Agreement" shall mean the Agreement as amended by this Amendment.

(D) Counterparts; Effectiveness. This Amendment may be executed in any number of counterparts (including by facsimile) and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument. This Amendment shall become effective when each party hereto shall have received counterparts hereof signed by all of the other parties hereto.

(E) Governing Law. The laws of the State of New York shall govern the enforceability and validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties, without regard to the principles of conflicts of laws thereof.

[Signature page follows]

THIS AMENDMENT has been entered into on the date stated above

BORROWER

SIGNED by)
Margarita Veniou)
for and on behalf of)
Eluk Shipping
Company Inc.)
in the presence of:)
 /s/ Margarita Veniou
 Ioannis Zafirakis

GUARANTOR

SIGNED by)
Anastasios Margaronis)
for and on behalf of)
Diana Containerships
Inc.)
in the presence of:)
 /s/ Ioannis Zafirakis
 Ioannis Zafirakis

LENDER

SIGNED by)
Simeon Palios)
for and on behalf of)
Diana Shipping Inc.)
in the presence of:)
 /s/ Simeon Palios
 /s/ Ioannis Zafirakis
 Ioannis Zafirakis

September 9, 2015

**SECOND AMENDMENT TO
LOAN AGREEMENT**

relating to an unsecured term loan facility of up to US\$50,000,000 to be used for general corporate purposes and working capital requirements

by and between

DIANA SHIPPING INC.

as Lender

- and-

ELUK SHIPPING COMPANY INC.

as Borrower

-and-

DIANA CONTAINERSHIPS INC.

as Guarantor

This **AMENDMENT** (the "Amendment") dated September 9, 2015 to that certain loan agreement dated as of May 20, 2013 is made on September 9, 2015.

BETWEEN

- (1) DIANA SHIPPING INC., a corporation incorporated under the laws of The Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 (the "**Lender**"), as lender;
- (2) ELUK SHIPPING COMPANY INC., a corporation incorporated under the laws of The Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 and any wholly-owned subsidiary of the Guarantor that becomes an Additional Borrower pursuant to Section 12 hereof (each a "**Borrower**", collectively the "Borrowers"), as borrowers; and
- (3) DIANA CONTAINERSHIPS INC., a corporation incorporated under the laws of The Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 (the "**Guarantor**"), as guarantor.

Unless otherwise indicated, capitalized terms used in this Amendment are used with the meanings attributed thereto in the Loan Agreement.

WHEREAS, the parties wish to amend the Loan Agreement as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties hereto hereby agree as follows:

- (A) Section 10.1 of the Loan Agreement is deleted in its entirety and replaced with the following:
 - 10.1 **Back End Fee.** The Borrowers, jointly and severally, agree to pay to the Lender on the date of this Amendment a back end fee in an amount equal to one and one quarter per cent. (1.25%) per annum of the total amount of the Loan outstanding (the "Back End Fee") in respect of the period commencing on the Drawdown Date(s) and ending on the date of this Amendment.
- (B) The Loan Agreement shall be amended to add a new Section 10.2 as follows:
 - 10.2 The Borrowers, jointly and severally, agree to pay to the Lender on the Repayment Date a fee in an amount of \$200,000.

- (C) The definition of "Margin" in Section 1.1 of the Loan Agreement shall be deleted in its entirety and replaced with the following:

"**Margin**" means three per cent. (3.0%) per annum;

- (D) The Loan Agreement shall be amended to add a new Section 2.3 as follows:

2.3 **Subordination.** Each Borrower, the Guarantor and the Lender agree that the Loan shall be legally subordinated to indebtedness under a term loan with The Royal Bank of Scotland plc ("RBS") in the amount of up to \$148,000,000 (the "RBS Term Loan") and exposure under an interest rate management facility (together with the RBS Term Loan, the "RBS Facility") entered into by the Guarantor and certain of its subsidiaries pursuant to an offer letter received by the Guarantor from RBS, dated July 30, 2015.

- (E) The definition of "Repayment Date" in Section 1.1 of the Loan Agreement shall be deleted in its entirety and replaced with the following:

"**Repayment Date**" means March 15, 2022 or such earlier date on which the outstanding principal balance of the Loan is paid in full.

- (F) Section 6.2 of the Loan Agreement is deleted in its entirety and replaced with the following:

6.2 **Repayment Installments.** The Borrowers jointly and severally agree to repay the principal amount of the Loan in equal installments on the last day of each Interest Period (excluding the Repayment Date) in amounts totaling \$5,000,000 per calendar year, provided that the amount to be repaid pursuant to this Section 6.2 shall not exceed \$32,500,000 in the aggregate.

6.3 **Voluntary prepayment.** After the RBS Facility shall have been paid in full, each Borrower may prepay the whole or any part of the Loan, without penalty, at any time during the term of the Loan. No prepayment of the Loan shall be made other than in accordance with this Section 6.3.

- (G) Pursuant to Section 9.2 of the Loan Agreement, the Lender hereby consents to the entry by the Guarantor and certain of its subsidiaries into the RBS Facility.

- (H) Confirmation of Agreement. Except as expressly set forth herein, the Agreement is ratified and confirmed in all respects and shall remain in full force and effect in accordance with its terms, and each reference in the Agreement to "this Agreement" shall mean the Agreement as amended by this Amendment.

- (I) Counterparts; Effectiveness. This Amendment may be executed in any number of counterparts (including by facsimile) and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document.

All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument. This Amendment shall become effective when each party hereto shall have received counterparts hereof signed by all of the other parties hereto.

- (J) Governing Law. The laws of the State of New York shall govern the enforceability and validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties, without regard to the principles of conflicts of laws thereof.

[Signature page follows]

THIS AMENDMENT has been entered into on the date stated above

BORROWER

SIGNED by)
Margarita Veniou) /s/ Margarita Veniou
for and on behalf of)
Eluk Shipping Company Inc)
in the presence of:) /s/ Ioannis Zafirakis
Ioannis Zafirakis)

GUARANTOR)
SIGNED by)
Anastasios Margaronis) /s/ Anastasios Margaronis
for and on behalf of)
Diana Containerships Inc.)
in the presence of:) /s/ Ioannis Zafirakis
Ioannis Zafirakis)

LENDER SIGNED
by Ioannis Zafirakis /s/ Ioannis Zafirakis
for and on behalf of
Diana Shipping Inc.
in the presence of: /s/ Margarita Veniou
Margarita Veniou

DIANA ENTERPRISES INC.

THIS AGREEMENT dated this 1st day of April 2015 by and between Diana Shipping Inc., a Marshall Islands company having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the "Company") and Diana Enterprises Inc. a Marshall Islands company having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the "Broker").

BY WHICH, in consideration of the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. The Company. Diana Shipping Inc. is a leading global provider of shipping transportation services through its ownership of dry bulk vessels. The Company's vessels are employed primarily on medium to long-term time charters and transport a range of dry bulk cargoes, including such commodities as iron ore, coal, grain and other materials along worldwide shipping routes.

2. Engagement. The Company hereby engages the Broker to act as broker for the Company and for any of its affiliates as directed by the Company to assist the Company in the provision of the Services by providing to the Company or to an entity designated by the Company from time to time, brokerage services relating to the purchase, sale or chartering of vessels, brokerage services relating to the repairs and other maintenance of vessels, and any relevant consulting services permitted by Greek laws or the Broker's Law 27/1975 license (collectively the "Brokerage Services"), and the Broker hereby accepts such appointment.

3. Duration. The duration of the engagement shall be for a term of twelve (12) months commencing the 1st day of April 2015 and ending (unless terminated earlier on the basis of any other provision of this Agreement) on the 31st day of March 2016 (the said period as it may be extended being hereinafter referred to as the "Term").

4. Representations of Broker. The Broker represents that it has personnel fully qualified, without the benefit of any further training or experience and has obtained all necessary permits and licenses, to perform the Brokerage Services. The duties of the Broker shall be offered on a worldwide basis. Broker's duties and responsibilities hereunder shall always be subject to the policies and directives of the board of directors of the Company as communicated from time to time to the Broker. Subject to the above, the precise duties, responsibilities and authority of the Broker may be expanded, limited or modified, from time to time, at the discretion of the board of directors of the Company.

5. Commission. Because of their permanent relation the Company shall pay the Broker a lump sum commission in the amount of United States Dollars \$110,000 per month,

starting on the 1st day of April 2015 for the second quarter and quarterly thereafter at the beginning of every quarter, subject to required deductions and withholdings. Commissions on a percentage basis for specific deals may be agreed by separate agreements in writing.

6. Expenses. The Company shall not pay or reimburse the Broker for any out-of pocket expenses as such expenses are included in the commission paid to the Broker.

7. Termination. This Agreement, unless otherwise agreed in writing between the parties, shall be terminated as follows:

- (a) At the end of the Term, unless extended by mutual agreement in writing.
- (b) The parties, by mutual agreement, may terminate this Agreement at any time.
- (c) Either party may terminate this Agreement for any material breach by the other party of their respective obligations under this Agreement.

8. Change of Control.

(a) In the event of a "Change in Control" (as defined herein) within the duration of this Agreement, the Broker has the option to terminate this Agreement within six (6) months following such Change in Control, and shall be eligible to receive the payment specified in sub-paragraph (c), below, provided that the conditions of said paragraph are satisfied.

(b) For purposes of this Agreement, the term "Change of Control" shall mean the:

(i) acquisition by any individual, entity or group of beneficial ownership of twenty-five percent (25%) or more of either (A) the then-outstanding shares of common stock of the Company (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors; provided, however, that this Clause 8(b)(i) shall not apply to an individual, entity or group that beneficially owns twenty-five percent (25%) or more as of the date the Company's common shares are approved for listing on the NYSE.

(ii) consummation of a reorganization, merger or consolidation of the Company or the sale or other disposition of all or substantially all of the assets of the Company and/or of the Affiliates; or

(iii) approval by the shareholders of the Company of a complete liquidation or dissolution of the Company.

(c) If the Broker terminates this Agreement within six (6) months following a Change of Control, the Broker shall receive a payment equal to five (5) years' annual commission. Receipt of the foregoing shall be contingent upon the Broker's execution and non-revocation of a Release of Claims in favor of the Company and the Affiliates in a form that is reasonably satisfactory to the Company and its counsel.

9. Notices. Every notice, request, demand or other communication under this Agreement shall:

(a) be in writing delivered personally or by courier or by fax or shall be served through a process server;

(b) be deemed to have been received, subject as otherwise provided in this Agreement in the case of fax upon receipt of a successful transmission report (or —if sent after business hours— the following business day) and in the case of a letter when delivered personally or through courier or served at the address below; and

(c) be sent:

(i) Attn: Director and President

(ii) Attn: Director and President

or to such other person, address or telefax, as is notified by the relevant Party to the other Party to this Agreement and such notification shall not become effective until notice of such change is actually received by the other Party. Until such change of person or address is notified, any notification to the above addresses and fax numbers are agreed to be validly effected for the purposes of this Agreement.

10. Entire Agreement. This Agreement supersedes all prior agreements written or oral, with respect thereto.

11. Amendments. This Agreement may be amended, superseded, canceled, renewed or extended and the terms hereof may be waived, only by a written instrument signed by the parties.

12. Independent Contractor. All services provided hereunder shall be provided by the Broker as an independent contractor. No employment contract, partnership or joint venture between the Broker and the Company has been created in or by this Agreement or as a result of services provided hereunder.

13. Assignment. This Agreement, and the Broker's rights and obligations hereunder, may not be assigned by the Broker; any purported assignment in violation hereof shall be null and void. This Agreement, and the Company's rights and obligations hereunder, may not be assigned by the Company; provided, however, that in the event of any sale, transfer or other disposition of all or substantially all of the Company's assets and business, whether by merger, consolidation or otherwise, the Company shall assign this Agreement and its rights hereunder to the successor to its assets and business.

14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, heirs, executors and legal representative.

15. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original but all such counterparts together shall constitute one and the same instrument. Each counterpart may consist of two copies hereof each signed by one of the parties hereto.

16. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

17. Governing Law and Jurisdiction.

(a) This Agreement shall be governed by and construed in accordance with English Law.

(b) Any dispute arising out of or in connection with this Agreement shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this clause.

IN WITNESS WHEREOF, the parties hereto have signed their names as of the day and year first above written.
DIANA SHIPPING INC.

/s/Simeon Palios

By: Simeon Palios

Title: Director, Chief Executive Officer and
Chairman of the Board

DIANA ENTERPRISES INC.

/s/ Andreas Nikolaos Michalopoulos

By: Andreas Nikolaos Michalopoulos

Title: Director and Secretary

Dated 26 March 2015
TUVALU SHIPPING COMPANY INC.
JABAT SHIPPING COMPANY INC. and
BIKINI SHIPPING COMPANY INC.

as joint and several Borrowers
and

THE BANKS AND FINANCIAL INSTITUTIONS
listed in Schedule 1

as Lenders

and

ABN AMRO BANK N.V.

as Swap Bank

and

ABN AMRO BANK N.V.

as Agent, Arranger and Security Trustee

LOAN AGREEMENT

relating to a senior secured term loan facility of up to US\$53,000,000 to finance part
of the acquisition cost of three dry bulk carriers
named respectively "MYRTO", "MAIA" and "NEW YORK"

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THIS AGREEMENT is made on 26 March 2015

PARTIES

- (1) **TUVALU SHIPPING COMPANY INC., JABAT SHIPPING COMPANY INC. and BIKINI SHIPPING COMPANY INC.,** as joint and several **Borrowers**;
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1, as **Lenders**;
- (3) **ABN AMRO BANK N.V.,** as **Swap Bank**;
- (4) **ABN AMRO BANK N.V.,** as **Agent**;
- (5) **ABN AMRO BANK N.V.,** as **Arranger**; and
- (6) **ABN AMRO BANK N.V.,** as **Security Trustee**.

BACKGROUND

- (A) The Lenders have agreed to make available to the Borrowers a senior secured term loan facility in an amount of up to the lesser of (i) US\$53,000,000 and (ii) 66 per cent. of the aggregate market value (determined pursuant to paragraph 5 of Schedule 3, Part B) of two Kamsarmax bulk carriers named respectively "MYRTO" and "MAIA" and a Capesize bulk carrier named "NEW YORK", in a single advance, for the purpose of financing part of the aggregate acquisition cost of those ships.
- (B) The Swap Bank has agreed to enter into interest rate swap transactions with the Borrowers from time to time to hedge the Borrowers' exposure under this Agreement to interest rate fluctuations.
- (C) The Lenders and the Swap Bank have agreed to share *pari passu* in the security to be granted to the Security Trustee pursuant to this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

Subject to Clause 1.5, in this Agreement:

"Account Pledge" means, in relation to each Earnings Account, a pledge agreement creating security in respect of that Earnings Account in the Agreed Form and, in the plural, means all of them;

"Affected Lender" has the meaning given in Clause 5.7;

"Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

"Agency and Trust Agreement" means the agency and trust agreement dated the same date as this Agreement and made between the same parties;

"Agent" means ABN AMRO Bank N.V., acting in such capacity through its office at Coolingsel 93, 3012 AE Rotterdam, The Netherlands, or any successor of it appointed under clause 5 of the Agency and Trust Agreement;

"Agreed Form" means in relation to any document, that document in the form approved in writing by the Agent or as otherwise approved in accordance with any other approval procedure specified in any relevant provisions of any Finance Document;

"Annex VI" means Annex VI (Regulations for the Prevention of Air Pollution from Ships) to the International Convention for the Prevention of Pollution from Ships 1973 (as modified in 1978 and 1997);

"Approved Broker" means any of Arrow Sale & Purchase (UK) Limited, Breamar Seascope Ltd, H. Clarkson & Co. Ltd., Fearnleys AS, Maersk Brokers K/S, R.S. Platou Shipbrokers AS and Simpson Spence & Young (London) Ltd. (including their successors or assigns and such Subsidiary or other company in the same corporate group through which valuations are commonly issued by each of those brokers) or any other reputable sale and purchase broker approved and appointed by the Agent;

"Approved Flag" means the Marshall Islands flag or any other flag which the Agent may, with the authorisation of the Majority Lenders, approve as the flag on which a Ship may be registered;

"Approved Flag State" means the Republic of the Marshall Islands or any other state in which the Agent may, in its absolute discretion, at the request of the Borrowers, approve that a Ship be registered;

"Approved Manager" means, in relation to the commercial and technical management of each Ship, Diana Shipping Services S.A., a company incorporated and existing under the laws of Panama having its registered office at Edificio Universal, Piso 12, Avenida Federico Boyd, Panama, Republic of Panama and maintaining an office at 16 Pendelis Street, 175 64, Palaio Faliro, Greece or any other company which the Agent may, with the authorisation of the Majority Lenders, approve from time to time as the technical and/or commercial manager of each Ship;

"Approved Manager's Undertaking" means, in relation to each Ship, a letter of undertaking executed or to be executed by the Approved Manager in favour of the Security Trustee in the Agreed Form agreeing certain matters in relation to the management of that Ship and subordinating its rights against that Ship and the Borrower which is the owner thereof to the rights of the Creditor Parties under the Finance Documents and, in the plural, means all of them;

"Arranger" means ABN AMRO Bank N.V., acting in such capacity through its office at Coolsingel 93, 3012 AE Rotterdam, The Netherlands, or any successor;

"Availability Period" means the period commencing on the date of this Agreement and ending on:

- (a) 30 June 2015 (or such later date as the Agent may, with the authorisation of the Majority Lenders, agree with the Borrowers); or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated;

"Balloon Instalment" has the meaning given in Clause 8.1(b);

"Basel III" means:

- (a) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating

the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated; and

- (b) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III";

"Borrower" means each of Borrower A, Borrower B and Borrower C and, in the plural, means, all of them;

"Borrower A" means Tuvalu Shipping Company Inc., a corporation incorporated in the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, The Marshall Islands;

"Borrower B" means Jabat Shipping Company Inc., a corporation incorporated in the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, The Marshall Islands;

"Borrower C" means Bikini Shipping Company Inc., a corporation incorporated in the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, The Marshall Islands;

"Business Day" means a day on which banks are open in London, Athens, Rotterdam and, in respect of a day on which a payment is required to be made under a Finance Document, also in New York City;

"Change of Control" means any change in the direct legal ownership of any Borrower from that disclosed to the Agent in writing on or before the date of this Agreement;

"Charterparty" means, in relation to each Ship, any charter (in the case of Ship C, other than the Initial Charter) or other contract of employment or any consecutive voyage charter or contract of affreightment in respect of that Ship of a duration (or capable of having or exceeding a duration) of 12 months or more and, in the plural, means all of them;

"Charterparty Assignment" means, in relation to each Charterparty, a specific deed of assignment of the rights, title and interests of the Borrower who is a party to that Charterparty in respect of that Charterparty in the Agreed Form;

"Code" means the US Internal Revenue Code of 1986;

"Commitment" means, in relation to a Lender, the amount set opposite its name in Schedule 1, or, as the case may require, the amount specified in the relevant Transfer Certificate, as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and "Total Commitments" means the aggregate of the Commitments of all the Lenders);

"Compliance Certificate" means a certificate in the form set out in the Schedule to the Corporate Guarantee (or in any other form which the Agent may approve or require);

"Confidential Information" means all information relating to the Loan, any Borrower, any Security Party, any member of the Group or the Finance Documents of which the Creditor Parties becomes aware in its capacity as Creditor Party or which is received by the Creditor Parties in relation to the Finance Documents 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:

- (a) is or becomes public information other than as a direct or indirect result of any breach by a Creditor Party of Clause 31; or

- (b) is identified in writing at the time of delivery as non-confidential by any member of the Group or Security Party or any of its advisers; or
- (c) is known by the Creditor Parties before the date the information is disclosed to it or is lawfully obtained by the Creditor Parties after that date, from a source which is, as far as the Creditor Parties are aware, unconnected with the Group and which, in either case, as far as the Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality;

"Confirmation" and **"Early Termination Date"**, in relation to any continuing Designated Transaction, have the meanings given in the Master Agreement;

"Contractual Currency" has the meaning given in Clause 21.5;

"Contribution" means, in relation to a Lender, the part of the Loan which is owing to that Lender;

"Corporate Guarantee" means a corporate guarantee of the obligations of the Borrowers under this Agreement, the Master Agreement and the other Finance Documents, executed or (as the context may require) to be executed by the Corporate Guarantor in the Agreed Form;

"Corporate Guarantor" means Diana Shipping Inc., a corporation domesticated in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, The Marshall Islands;

"Corresponding Debt" means any amount which a Borrower owes to a Creditor Party under or in connection with the Finance Documents;

"CRD IV" means Directive 2013/36/EU of the European Union on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;

"CRR" means Regulation (EU) No. 575/2013 of the European Union on prudential requirements for credit institutions and investment firms;

"Creditor Party" means the Agent, the Security Trustee, the Arranger, the Swap Bank or any Lender, whether as at the date of this Agreement or at any later time;

"Designated Transaction" means a Transaction which fulfils the following requirements:

- (a) it is entered into by the Borrowers pursuant to the Master Agreement with the Swap Bank which, at the time the Transaction is entered into, is also a Lender;
- (b) its purpose is the hedging of all or part of the Borrowers' exposure under this Agreement to fluctuations in LIBOR arising from the funding of the Loan (or any part thereof) for a period expiring no later than the final Repayment Date; and
- (c) it is designated by the Borrowers, by delivery by the Borrowers to the Agent of a notice of designation in the form set out in Schedule 5, as a Designated Transaction for the purposes of the Finance Documents;

"Dollars" and **"\$"** means the lawful currency for the time being of the US;

"Drawdown Date" means the date requested by the Borrowers for the Loan to be advanced, or (as the context requires) the date on which the Loan is actually advanced;

"Drawdown Notice" means a notice in the form set out in Schedule 2 (or in any other form which the Agent approves or reasonably requires);

"Earnings" means, in relation to a Ship, all moneys whatsoever which are now, or later become, payable (actually or contingently) to the relevant Borrower owning that Ship or the Security Trustee and which arise out of the use or operation of that Ship, including (but not limited to):

- (a) except to the extent that they fall within paragraph (b);
- (i) all freight, hire and passage moneys;
- (ii) compensation payable to a Borrower or the Security Trustee in the event of requisition of a Ship for hire;
- (iii) remuneration for salvage and towage services;
- (iv) demurrage and detention moneys;
- (v) damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of a Ship; and
- (vi) all moneys which are at any time payable under any Insurances in respect of loss of hire; and
- (b) if and whenever a Ship is employed on terms whereby any moneys falling within paragraphs (a)(i) to (vi) are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Ship;

"Earnings Account" means, in relation to each Ship, an account in the name of the Borrower owning that Ship with the Agent in Rotterdam designated "*[name of relevant Borrower]*-Earnings Account", or any other account (with that or another office of the Agent or with a bank or financial institution other than the Agent) which is designated by the Agent as the Earnings Account in respect of that Ship for the purposes of this Agreement, and, in the plural, means all of them;

"Environmental Claim" means:

- (a) any claim by any governmental, judicial or regulatory authority which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law; or
- (b) any claim by any other person which relates to an Environmental Incident or to an alleged Environmental Incident,

and **"claim"** means a claim for damages, compensation, fines, penalties or any other payment of any kind whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset;

"Environmental Incident" means:

- (a) any release of Environmentally Sensitive Material from the Ship; or
- (b) any incident in which Environmentally Sensitive Material is released from a vessel other than a Ship and which involves a collision between a Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which a Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or a Ship and/or the Borrower and/or any

operator or manager of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or

- (c) any other incident in which Environmentally Sensitive Material is released otherwise than from a Ship and in connection with which a Ship is actually or potentially liable to be arrested and/or where any Borrower and/or any operator or manager of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action;

"Environmental Law" means any law relating to pollution or protection of the environment, to the carriage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material;

"Environmentally Sensitive Material" means oil, oil products and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous;

"Event of Default" means any of the events or circumstances described in Clause 19.1; **"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 IRS, the US government or any governmental or taxation authority in any other jurisdiction;

"FATCA Deduction" means a deduction or withholding from a payment under any Finance Document required by or under FATCA;

"FATCA Exempt Party" means a party to a Finance Document that is entitled under FATCA to receive payments free from any FATCA Deduction;

"Finance Documents" means:

- (a) this Agreement;
- (b) the Agency and Trust Agreement;
- (c) the Master Agreement;
- (d) the Master Agreement Assignment;
- (e) the Corporate Guarantee;
- (f) the General Assignments;
- (g) the Mortgages;
- (h) the Account Pledges;
- (i) the Shares Pledges;

- (j) the Initial Charter Assignment;
- (k) the Approved Manager's Undertakings;
- (l) any Charterparty Assignment; and
- (m) any other document (whether creating a Security Interest or not) which is executed at any time by any Borrower, the Corporate Guarantor, the Approved Manager or any other person as security for, or to establish any form of subordination or priorities arrangement in relation to, any amount payable to the Lenders and/or the Swap Bank under this Agreement or any of the other documents referred to in this definition;

"Financial Indebtedness" means, in relation to a person (the **"debtor"**), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility or dematerialised equivalent made available to the debtor;
- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person;

"Financial Year" means, in relation to the Corporate Guarantor, each period of 1 year commencing on 1 January in respect of which its annual audited accounts are or ought to be prepared;

"Fleet Vessels" means all of the vessels (including, but not limited to, the Ships) from time to time wholly owned by members of the Group (each a **"Fleet Vessel"**);

"GAAP" means, at any time, the most recent and updated generally accepted accounting principles in the US;

"General Assignment" means, in relation to each Ship, a first priority general assignment of the Earnings, the Insurances and any Requisition Compensation in relation to that Ship in the Agreed Form and, in the plural, means all of them;

"Group" means the Corporate Guarantor and all its subsidiaries (including, but not limited to, the Borrowers) from time to time during the Security Period and **"member of the Group"** shall be construed accordingly;

"Holding Company" means, in relation to a person, any other person in respect of which it is a Subsidiary;

"IACS" means the International Association of Classification Societies;

"IAPPC" means a valid international air pollution prevention certificate issued under Annex VI;

"Initial Charter" means, in respect of Ship C, the time charterparty dated 11 December 2014 (as evidenced by a recapitulation email dated 12 December 2014) made between Borrower C as owner and the Initial Charterer for a period of at least 14 months at a minimum daily charter hire of \$12,850;

"Initial Charter Assignment" means an assignment of the rights of Borrower C under the Initial Charter in favour of the Security Trustee in the Agreed Form;

"Initial Charterer" means Clearlake Shipping Pte Ltd, a company incorporated in Singapore with registered office at 12 Marina Boulevard, #35-02 Marina Bay Financial Tower 3, Singapore 018982, Singapore;

"Initial Market Value" means, in respect of a Ship, the Market Value of that Ship calculated in accordance with the valuation (or, if required by the Agent pursuant to the proviso to Clause 15.3, calculated by taking the arithmetic mean of two valuations) relative thereto referred to in paragraph 5 of Schedule 3, Part B;

"Insurances" means, in relation to a Ship:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, effected in respect of the Ship, its Earnings or otherwise in relation to the Ship whether before, on or after the date of this Agreement; and
- (b) all rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and any rights in respect of any claim whether or not the relevant policy, contract of insurance or entry has expired on or before the date of this Agreement;

"Interest Period" means a period determined in accordance with Clause 6; **"IRS"** means the US Internal Revenue Service;

"ISM Code" means the International Safety Management Code (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time (and the terms "safety management system", "Safety Management Certificate" and "Document of Compliance" have the same meanings as are given to them in the ISM Code);

"ISPS Code" means the International Ship and Port Facility Security Code as adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time;

"ISSC" means a valid and current International Ship Security Certificate issued under the ISPS Code;

"Lender" means a bank or financial institution listed in Schedule 1 and acting through its branch indicated in Schedule 1 (or through another branch notified to the Agent under Clause 26.14) or its transferee, successor or assign and, in the plural, means all of them;

"LIBOR" means, for an Interest Period:

- (a) the rate per annum equal to the offered quotation for deposits in Dollars for a period equal to, or as near as possible equal to, the relevant Interest Period which appears on the Screen Rate; or
- (b) if no rate is quoted on the Screen Rate, the rate per annum determined by the Agent to be the rate per annum notified to the Agent by the Reference Bank as the rate at which deposits in Dollars are offered to the Reference Bank by leading banks in the London Interbank Market at the Reference Bank's request at or about 11.00 a.m. (London time) on the Quotation Date for that Interest Period for a period equal to that Interest Period and for delivery on the first Business Day of it,

and, if any such rate is below zero, LIBOR shall be deemed to be zero;

"Loan" means the principal amount for the time being outstanding under this Agreement;

"Major Casualty" means, in relation to a Ship, any casualty to that Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$1,000,000 or the equivalent in any other currency;

"Majority Lenders" means:

- (a) before the Loan has been advanced, Lenders whose Commitments total 66.66 per cent. of the Total Commitments; and
- (b) after the Loan has been advanced, Lenders whose Contributions total 66.66 per cent. of the Loan;

"Mandatory Cost" means any cost calculated by the Agent pursuant to Clause 21.9; **"Margin"** means 2 per cent. per annum;

"Market Value" means, in relation to each Ship (and each other Fleet Vessel), the market value thereof determined in accordance with Clause 15.3;

"Master Agreement" means the master agreement (on the 2002 ISDA Master Agreement form) in the Agreed Form made or to be made between the Borrowers and the Swap Bank and includes all Designated Transactions from time to time entered into and Confirmations from time to time exchanged under the master agreement;

"Master Agreement Assignment" means the assignment of the Master Agreement in the Agreed Form;

"Material Adverse Effect" means in the reasonable opinion of the Majority Lenders a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or prospects of the Borrowers (or any of them) and/or any of the Security Parties and/or the Group; or
- (b) the ability of a Borrower or a Security Party to perform its obligations under the Finance Documents; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or purported to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Creditor Party under any of the Finance Documents;

"Minimum Liquidity Amount" has the meaning given in Clause 11.17;

"Mortgage" means, in relation to a Ship, the first preferred or, as the case may be, priority, ship mortgage (and, if applicable, a deed of covenant collateral thereto) on that Ship in the Agreed Form and, in the plural, means all of them;

"Negotiation Period" has the meaning given in Clause 5.10;

"Notifying Lender" has the meaning given in Clause 23.1 or Clause 24.1 as the context requires;

"Parallel Debt" means any amount which a Borrower owes to the Security Trustee under Clause 3.7;

"Participating Member State" means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union;

"PATRIOT Act" means the United States Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Improvement and Reauthorization Act of 2005 (H.R. 3199);

"Payment Currency" has the meaning given in Clause 21.5;

"Permitted Security Interests" means:

- (a) Security Interests created by the Finance Documents;
- (b) liens for unpaid master's and crew's wages in accordance with usual maritime practice;
- (c) liens for salvage;
- (d) liens arising by operation of law for not more than 2 months' prepaid hire under any charter in relation to a Ship not prohibited by this Agreement;
- (e) liens for master's disbursements incurred in the ordinary course of trading and any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of a Ship, provided such liens do not secure amounts more than 30 days overdue (unless the overdue amount is being contested by the relevant Borrower in good faith by appropriate steps) and subject, in the case of liens for repair or maintenance, to Clause 14.13(g);
- (f) any Security Interest created in favour of a plaintiff or defendant in any proceedings or arbitration as security for costs and expenses where the Borrower is actively prosecuting or defending such proceedings or arbitration in good faith;
- (g) Security Interests arising by operation of law in respect of taxes which are not overdue for payment or in respect of taxes being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made; and
- (h) a right of pledge (and set-off) under and pursuant to the general conditions of ABN AMRO Bank N.V.;

"Pertinent Document" means:

- (a) any Finance Document;

- (b) any policy or contract of insurance contemplated by or referred to in Clause 13 or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and
- (d) any document which has been or is at any time sent by or to a Servicing Bank in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraphs (b) or (c);

"Pertinent Jurisdiction", in relation to a company, means:

- (a) England and Wales;
- (b) the country under the laws of which the company is incorporated or formed;
- (c) a country in which the company has the centre of its main interests or in which the company's central management and control is or has recently been exercised;
- (d) a country in which the overall net income of the company is subject to corporation tax, income tax or any similar tax;
- (e) a country in which assets of the company (other than securities issued by, or loans to, related companies) having a substantial value are situated, in which the company maintains a branch or permanent place of business, or in which a Security Interest created by the company must or should be registered in order to ensure its validity or priority; and
- (f) a country the courts of which have jurisdiction to make a winding up, administration or similar order in relation to the company, whether as main or territorial or ancillary proceedings, or which would have such jurisdiction if their assistance were requested by the courts of a country referred to in paragraphs (b) or (c);

"Pertinent Matter" means:

- (a) any transaction or matter contemplated by, arising out of, or in connection with a Pertinent Document; or
- (b) any statement relating to a Pertinent Document or to a transaction or matter falling within paragraph (a),

and covers any such transaction, matter or statement, whether entered into, arising or made at any time before the signing of this Agreement or on or at any time after that signing;

"Potential Event of Default" means an event or circumstance which, with the giving of any notice, the lapse of time, a determination of the Majority Lenders and/or the satisfaction of any other condition, would constitute an Event of Default;

"Quotation Date" means, in relation to any Interest Period (or any other period for which an interest rate is to be determined under any provision of a Finance Document, the day which is 2 Business Days before the first day of that Interest Period or any other period, unless market practice differs in the London Interbank Market for a currency, in which case the Quotation Date will be determined by the 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 Quotation Date will be the last of those days);

"Reference Bank" means, subject to Clause 26.16, the branch of ABN AMRO Bank N.V. at Coolingsel 93, 3012 AE Rotterdam, The Netherlands or any other bank or financial institution selected by the Agent;

"Related Fund" in relation to a fund (the **"first fund"**), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund;

"Relevant Person" has the meaning given in Clause 19.9;

"Repayment Date" means a date on which a repayment is required to be made under Clause 8;

"Repayment Instalment" has the meaning given in Clause 8.1(a);

"Representative" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;

"Requisition Compensation" includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of **"Total Loss"**;

"Restricted Person" means a person that is (i) listed on, or owned or controlled by a person listed on, any Sanctions List; (ii) located in, incorporated under the laws of, or owned or controlled by, or acting on behalf of, a person located in or organised under the laws of a country or territory that is the target of country-wide Sanctions (including, without limitation, at the date of this Agreement Cuba, Iran, Myanmar (Burma), North Korea, Syria and Sudan); or (iii) otherwise a target of Sanctions;

"Sanctions" means any economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by: (i) the US government; (ii) the United Nations; (iii) the European Union or its Member States; (iv) any country to which any Borrower, the Corporate Guarantor or any other Security Party, or any other member of the Group or any Affiliate of any of them is bound; or (v) the respective governmental institutions and agencies of any of the foregoing, including without limitation, the Office of Foreign Assets Control of the US Department of Treasury (OFAC), the US Department of State and Her Majesty's Treasury (**HMT**) (together **"Sanctions Authorities"**);

"Sanctions List" means the "Specially Designated Nationals and Blocked Persons" list issued by OFAC, the "Consolidated List of Financial Sanctions Targets and Investment Ban List" issued by HMT, or any similar list issued or maintained or made public by any of the Sanctions Authorities;

"Screen Rate" means the London interbank offered rate administered by the ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for Dollars for the relevant period displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrowers and the Lenders;

"Secured Liabilities" means all liabilities which the Borrowers and the Security Parties or any of them have, at the date of this Agreement or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any

bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country;

"Security Interest" means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
- (b) the security rights of a plaintiff under an action *in rem*; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution;

"Security Party" means the Corporate Guarantor, the Approved Manager and any other person (except a Creditor Party) who, as a surety or mortgagor, as a party to any subordination or priorities arrangement, or in any similar capacity, executes a document falling within the last paragraph of the definition of **"Finance Documents"**;

"Security Period" means the period commencing on the date of this Agreement and ending on the date on which the Agent notifies the Borrowers, the Security Parties and the other Creditor Parties that:

- (a) all amounts which have become due for payment by the Borrowers or any Security Party under the Finance Documents have been paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) none of the Borrowers nor any Security Party has any future or contingent liability **under** Clauses 20, 21 or 22 or any other provision of this Agreement or another Finance Document; and
- (d) the Agent, the Security Trustee, the Arranger, the Swap Bank and the Majority Lenders do not consider that there is a significant risk that any payment or transaction under a Finance Document would be set aside, or would have to be reversed or adjusted, in any present or possible future bankruptcy of a Borrower or a Security Party or in any present or possible future proceeding relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created by a Finance Document;

"Security Trustee" means ABN AMRO Bank N.V., acting in such capacity through its office at Coolingsingel 93, 3012 AE Rotterdam, The Netherlands, or any successor of it appointed under clause 5 of the Agency and Trust Agreement;

"Servicing Bank" means the Agent or the Security Trustee;

"Shares Pledge" means, in relation to each Borrower, a deed executed by the Corporate Guarantor creating security over the share capital of that Borrower in the Agreed Form and, in the plural, means all of them;

"Ship A" means the 2013-built Kamsarmax bulk carrier vessel of approximately 43012 deadweight tonnage registered in the ownership of Borrower A under the Marshall Islands flag under IMO No. 9518086 with the name "MYRTO";

"Ship B" means the 2009-built Kamsarmax bulk carrier vessel of approximately 42930 deadweight tonnage registered in the ownership of Borrower B under the Marshall Islands flag under IMO No. 9422938 with the name "MAIA";

"Ship C" means the 2010-built Capesize bulk carrier vessel of approximately 91407 deadweight tonnage registered in the ownership of Borrower C under the Marshall Islands flag under IMO No. 9405332 with the name "NEW YORK";

"Ships" means, together, Ship A, Ship B and Ship C and, in the singular, means any of them;

"SMC" means a safety management certificate issued in respect of each Ship in accordance with Rule 13 of the ISM Code;

"Subsidiary" means a subsidiary within the meaning of section 1159 of the Companies Act 2006;

"Swap Bank" means ABN AMRO Bank N.V., acting in such capacity through its office at Gustav Mahlerlaan 10, NL-1082 PP, Amsterdam, The Netherlands, or its successor or assign;

"Swap Exposure" means, as at any relevant date, the amount certified by the Swap Bank to the Agent to be the aggregate net amount in Dollars which would be payable by the Borrowers to the Swap Bank under (and calculated in accordance with) section 6(e)(i) (Payments on Early Termination) of the Master Agreement if an Early Termination Date had occurred on the relevant date in relation to all continuing Designated Transactions;

"Total Loss" means, in relation to a Ship:

- (a) actual, constructive, compromised, agreed or arranged total loss of the Ship;
- (b) any expropriation, confiscation, requisition or acquisition of the Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority (excluding a requisition for hire for a fixed period not exceeding 1 year without any right to an extension) unless it is within 1 month redelivered to the full control of the Borrower owning that Ship;
- (c) any condemnation of the Ship by any tribunal or by any person or person claiming to be a tribunal; and
- (d) any arrest, capture, seizure or detention of the Ship (including any hijacking or theft) unless it is within 1 month redelivered to the full control of the Borrower owning the Ship;

"Total Loss Date" means, in relation to a Ship:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earliest of:
 - (i) the date on which a notice of abandonment is given to the insurers; and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower owning the Ship with the Ship's insurers in which the insurers agree to treat the Ship as a total loss; and

- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Agent that the event constituting the total loss occurred;

"Transaction" has the meaning given in the Master Agreement;

"Transfer Certificate" has the meaning given in Clause 26.2; and

"Trust Property" has the meaning given in clause 3.1 of the Agency and Trust Agreement; and

"US" means the United States of America.

1.2 Construction of certain terms

In this Agreement:

"administration notice" means a notice appointing an administrator, a notice of intended appointment and any other notice which is required by law (generally or in the case concerned) to be filed with the court or given to a person prior to, or in connection with, the appointment of an administrator;

"approved" means, for the purposes of Clause 13, approved in writing by the Agent;

"asset" includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment;

"company" includes any partnership, joint venture and unincorporated association;

"consent" includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation;

"contingent liability" means a liability which is not certain to arise and/or the amount of which remains unascertained;

"document" includes a deed; also a letter or fax;

"excess risks" means, in relation to a Ship, the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of that Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims;

"expense" means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable value added or other tax;

"law" includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

"legal or administrative action" means any legal proceeding or arbitration and any administrative or regulatory action or investigation;

"liability" includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise;

"months" shall be construed in accordance with Clause 1.3;

"obligatory insurances" means, in relation to a Ship, all insurances effected, or which the Borrower owning that Ship is obliged to effect, under Clause 13 or any other provision of this Agreement or another Finance Document;

"person" includes any company; any state, political sub-division of a state and local or municipal authority; and any international organisation;

"policy", in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms;

"protection and indemnity risks" means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02 or 1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/11/95) or clause 8 of the Institute Time Clauses (Hulls) (1/10/83) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision;

"regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

"successor" includes any person who is entitled (by assignment, novation, merger or otherwise) to any person's rights under this Agreement or any other Finance Document (or any interest in those rights) or who, as administrator, liquidator or otherwise, is entitled to exercise those rights; and in particular references to a successor include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation of it or any other person;

"tax" includes any present or future tax, duty, impost, levy or charge of any kind which is imposed by any state, any political sub-division of a state or any local or municipal authority (including any such imposed in connection with exchange controls), and any connected penalty, interest or fine; and

"war risks" includes the risk of mines, blocking and trapping, terrorism, piracy and confiscation and all other risks excluded by clause 29, 30 and 31 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24, 25 and 26 of the Institute Time Clauses (Hulls)(1/11/95) or clause 23 of the Institute Time Clauses (Hulls) (1/10/83).

1.3 Meaning of "month"

A period of one or more **"months"** ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (**"the numerically corresponding day"**), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day,

and **"month"** and **"monthly"** shall be construed accordingly.

1.4 General Interpretation

In this Agreement:

- (a) references to, or to a provision of, a Finance Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise;
- (b) references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (c) words denoting the singular number shall include the plural and vice versa;
- (d) a Potential Event of Default is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived; and
- (e) Clauses 1.1 to 1.4 apply unless the contrary intention appears.

1.5 Headings

In interpreting a Finance Document or any provision of a Finance Document, all clause, sub-clause and other headings in that and any other Finance Document shall be entirely disregarded.

2. FACILITY

2.1 Amount of facility

Subject to the other provisions of this Agreement, the Lenders shall make available to the Borrowers, in a single advance, a senior secured term loan facility in an amount of up to the lesser of (i) \$53,000,000 and (ii) 66 per cent. of the aggregate Initial Market Value of the Ships, for the purpose of financing part of the aggregate acquisition cost of the Ships.

2.2 Lenders' participations in Loan

Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

2.3 Purpose of Loan

The Borrowers undertake with each Creditor Party to use the Loan only for the purpose stated in the preamble to this Agreement.

3. POSITION OF THE LENDERS, THE SWAP BANK AND THE MAJORITY LENDERS

3.1 Interests of Lenders and Swap Bank several

The rights of the Lenders and the Swap Bank under this Agreement and the Master Agreement are several; accordingly:

- (a) each Lender shall be entitled to sue for any amount which has become due and payable by the Borrowers to it under this Agreement; and
- (b) the Swap Bank shall be entitled to sue for any amount which has become due and payable by the Borrowers to it under the Master Agreement,

without joining the Agent, the Security Trustee, any other Lender and the Swap Bank as additional parties in the proceedings.

3.2 Proceedings by individual Lender or Swap Bank

However, without the prior consent of the Majority Lenders, no Lender nor the Swap Bank may bring proceedings in respect of:

- (a) any other liability or obligation of a Borrower or a Security Party under or connected with a Finance Document; or
- (b) any misrepresentation or breach of warranty by a Borrower or a Security Party in or connected with a Finance Document.

3.3 Obligations several

The obligations of the Lenders and the Swap Bank under this Agreement and of the Swap Bank under the Master Agreement are several; and a failure of a Lender or the Swap Bank to perform its obligations under this Agreement or of the Swap Bank to perform its obligations under the Master Agreement shall not result in:

- (a) the obligations of the other Lenders or (as the case may be) the Swap Bank being increased; nor
- (b) any Borrower, any Security Party or any other Creditor Party being discharged (in whole or in part) from its obligations under any Finance Document,

and in no circumstances shall a Lender or the Swap Bank have any responsibility for a failure of another Lender or the Swap Bank to perform its obligations under this Agreement or the Master Agreement.

3.4 Parties bound by certain actions of Majority Lenders

Every Lender, the Swap Bank, each Borrower and each Security Party shall be bound by:

- (a) any determination made, or action taken, by the Majority Lenders under any provision of a Finance Document;
- (b) any instruction or authorisation given by the Majority Lenders to the Agent or the Security Trustee under or in connection with any Finance Document (subject always to Clause 27.2); and
- (c) any action taken (or in good faith purportedly taken) by the Agent or the Security Trustee in accordance with such an instruction or authorisation.

3.5 Reliance on action of Agent

However, each Borrower and each Security Party:

- (a) shall be entitled to assume that the Majority Lenders have duly given any instruction or authorisation which, under any provision of a Finance Document, is required in relation to any action which the Agent has taken or is about to take; and
- (b) shall not be entitled to require any evidence that such an instruction or authorisation has been given.

3.6 Construction

In Clauses 3.4 and 3.5 references to action taken include (without limitation) the granting of any waiver or consent, an approval of any document and an agreement to any matter.

3.7 Parallel debt

- (a) Each Borrower irrevocably and unconditionally undertakes to pay to the Security Trustee amounts equal to, and in the currency or currencies of, its Corresponding Debt.
- (b) The Parallel Debt of a Borrower:
 - (i) shall become due and payable at the same time as its Corresponding Debt;
 - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For the purposes of this Clause, the Security Trustee:
 - (i) is the independent and separate creditor of all the Parallel Debt;
 - (ii) acts in its own name and not as agent, representative or trustee of the Creditor Parties and its claims in respect of the Parallel Debt shall not be held on trust; and
 - (iii) shall have the independent and separate right to demand payment of any or all the Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).
- (d) The Parallel Debt of a Borrower shall be (a) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged and (b) increased to the extent that its Corresponding Debt has increased, and the Corresponding Debt of a Borrower shall be (x) decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged and (y) increased to the extent that its Parallel Debt has increased, in each case provided that the Parallel Debt of a Borrower shall never exceed its Corresponding Debt.
- (e) All amounts received or recovered by the Security Trustee in connection with this Clause, to the extent permitted by applicable law, shall be applied in accordance with Clause 17 (Application of receipts).

3.8 Lender incorporated or having its registered office in the Federal Republic of Germany

On any matter referred to in Clause 11.19 in respect of which the Lenders are to vote but in respect of which a Lender incorporated or having its registered office in the Federal Republic of Germany to whom Clause 11.19(d) applies shall not vote in accordance with such paragraph:

- (a) for the purposes of determining whether approval of the Majority Lenders is obtained the references in the definition of "Majority Lenders" to 66.66 per cent. of the Total Commitments and to 66.66 per cent. of the Loan shall for this purpose be construed to refer to 66.66 per cent. of the Total Commitments or, as the case may be, the Loan only taking account of the other Commitments of, or as the case may be, the participation in the Loan of, the Lenders and ignoring the Commitment of or, as the case may be, the participation in the Loan of, the Lender incorporated or having its registered office in the Federal Republic of Germany; and an action taken by the Majority Lenders as such definition is modified by this paragraph (a) shall be valid in the applicable circumstances and binding all parties; and
- (b) for the purposes of determining whether the approval of all Lenders is obtained, all Lenders shall be construed to mean the other Lenders ignoring the Lender incorporated or having its registered office in the Federal Republic of Germany and an action taken by all Lenders as modified by this paragraph (b) shall be valid in the applicable circumstances and binding on all the parties of this Agreement.

4. DRAWDOWN

4.1 Request for the Loan

Subject to the following conditions, the Borrowers may request the Loan to be advanced by ensuring that the Agent receives a completed Drawdown Notice not later than 11.00 a.m. (Rotterdam time) 3 Business Days (or such shorter period as the Agent may, in its absolute discretion, agree) prior to the intended Drawdown Date.

4.2 Availability

The conditions referred to in Clause 4.1 are that:

- (a) the Drawdown Date has to be a Business Day during the Availability Period;
- (b) the amount of the Loan shall not exceed an amount equal to the lesser of (i) \$53,000,000 and (ii) 66 per cent. of the aggregate Initial Market Value of the Ships; and
- (c) the Loan shall be applied in financing part of the aggregate acquisition cost of each Ship.

4.3 Notification to Lenders of receipt of a Drawdown Notice

The Agent shall promptly notify the Lenders that it has received a Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;
- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the first Interest Period.

4.4 Drawdown Notice irrevocable

A Drawdown Notice must be signed by a director or an authorised representative of each Borrower; and once served, a Drawdown Notice cannot be revoked without the prior consent of the Agent, acting on the authority of the Majority Lenders.

4.5 Lenders to make available Contributions

Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Agent for the account of the Borrowers the amount due from that Lender on the Drawdown Date under Clause 2.2.

4.6 Disbursement of Loan

Subject to the provisions of this Agreement, the Agent shall on the Drawdown Date pay to the Borrowers the amounts which the Agent receives from the Lenders under Clause 4.5; and that payment to the Borrowers shall be made:

- (a) to the account which the Borrowers specify in the Drawdown Notice; and
- (b) in the like funds as the Agent received the payments from the Lenders.

4.7 Disbursement of Loan to third party

The payment by the Agent under Clause 4.6 shall constitute the making of the Loan and the Borrowers shall at that time become indebted, as principal and direct obligors, to each Lender in an amount equal to that Lender's Contribution.

5. INTEREST

5.1 Payment of normal interest

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period applicable thereto shall be paid by the Borrowers on the last day of that Interest Period.

5.2 Normal rate of interest

Subject to the provisions of this Agreement, the rate of interest on the Loan in respect of an Interest Period shall be the aggregate of (i) the Margin, (ii) the Mandatory Cost (if any) and (iii) LIBOR for that Interest Period.

5.3 Payment of accrued interest

In the case of an Interest Period longer than 3 months, accrued interest shall be paid every 3 months during that Interest Period and on the last day of that Interest Period.

5.4 Notification of Interest Periods and rates of normal interest

The Agent shall notify the Borrowers and each Lender of:

- (a) each rate of interest; and
- (b) the duration of each Interest Period

as soon as reasonably practicable after each is determined.

5.5 Obligation of Reference Bank to quote

The Reference Bank which is a Lender shall use all reasonable efforts to supply the quotation required of it for the purposes of fixing a rate of interest under this Agreement.

5.6 Absence of quotations by Reference Bank

If the Reference Bank fails to supply a quotation, the relevant rate of interest shall be set in accordance with the following provisions of this Clause 5.

5.7 Market disruption

The following provisions of this Clause 5 apply if:

- (a) no screen rate is quoted in the Screen Rate and the Reference Bank does not, before 1.00 p.m. (London time) on the Quotation Date, provide quotations to the Agent in order to fix LIBOR; or
- (b) at least 1 Business Day before the start of an Interest Period, Lenders having Contributions together amounting to 50 per cent. or more of the Loan (or, if the Loan has not been made, Commitments amounting to 50 per cent. or more of the Total Commitments) notify the Agent that LIBOR fixed by the Agent would not accurately reflect the cost to those Lenders of funding their respective Contributions (or any part of them) during the Interest Period in the London Interbank Market at or about 11.00 a.m. (London time) on the Quotation Date for the Interest Period; or
- (c) at least 1 Business Day before the start of an Interest Period, the Agent is notified by a Lender (the "Affected Lender") that for any reason it is unable to obtain Dollars in the

London Interbank Market in order to fund its Contribution (or any part of it) during the Interest Period.

5.8 Notification of market disruption

The Agent shall promptly notify the Borrowers and each of the Lenders and the Swap Bank stating the circumstances falling within Clause 5.7 which have caused its notice to be given.

5.9 Suspension of drawdown

If the Agent's notice under Clause 5.8 is served before the Loan is advanced:

- (a) in a case falling within Clauses 5.7(a) or 5.7(b), the Lenders' obligations to advance the Loan; and
- (b) in a case falling within Clause 5.7(c), the Affected Lender's obligation to participate in the Loan,

shall be suspended while the circumstances referred to in the Agent's notice continue.

5.10 Negotiation of alternative rate of interest

If the Agent's notice under Clause 5.8 is served after the Loan is borrowed, the Borrowers, **the** Agent, the Lenders or (as the case may be) the Affected Lender and the Swap Bank shall use reasonable endeavours to agree, within 30 days after the date on which the Agent serves its notice under Clause 5.8 (the "**Negotiation Period**"), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.

5.11 Application of agreed alternative rate of interest

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

5.12 Alternative rate of interest in absence of agreement

If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender, set an interest period and interest rate representing the cost of funding of the Lenders or (as the case may be) the Affected Lender in Dollars or in any available currency of their or its Contribution plus the Margin and the Mandatory Cost (if any); and the procedure provided for by this Clause 5.12 shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Agent.

5.13 Notice of prepayment

If the Borrowers do not agree with an interest rate set by the Agent under Clause 5.12, the Borrowers may give the Agent not less than 15 Business Days' notice of their intention to prepay the Loan at the end of the interest period set by the Agent.

5.14 Prepayment; termination of Commitments

A notice under Clause 5.13 shall be irrevocable; the Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender of the Borrowers' notice of intended prepayment; and:

- (a) on the date on which the Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender shall be cancelled; and
- (b) on the last Business Day of the interest period set by the Agent, the Borrowers shall prepay (without premium or penalty) the Loan or, as the case may be, the Affected Lender's Contribution, together with accrued interest thereon at the applicable rate plus the Margin and the Mandatory Cost (if any).

5.15 Application of prepayment

The provisions of Clause 8 shall apply in relation to the prepayment.

6. INTEREST PERIODS

6.1 Commencement of Interest Periods

The first Interest Period applicable to the Loan shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period.

6.2 Duration of normal Interest Periods

Subject to Clauses 6.3 and 6.4, each Interest Period shall be:

- (a) 1, 3, 6 or 9 months as notified by the Borrowers to the Agent not later than 11.00 a.m. (Rotterdam time) 3 Business Days before the commencement of the Interest Period **Provided that** the Borrowers may not select a 1-month Interest Period more than 4 times per calendar year; or
- (b) 3 months, if the Borrowers fail to notify the Agent by the time specified in paragraph (a); or
- (c) such other period as the Agent may, with the authorisation of all the Lenders, agree with the Borrowers.

6.3 Duration of Interest Periods for Repayment Instalments

In respect of an amount due to be repaid under Clause 8 on a particular Repayment Date, an Interest Period shall end on that Repayment Date.

6.4 Non-availability of matching deposits for Interest Period selected

If, after the Borrowers have selected and the Lenders have agreed an Interest Period longer than 3 months, any Lender notifies the Agent by 11.00 a.m. (London time) on the third Business Day before the commencement of the Interest Period that it is not satisfied that deposits in Dollars for a period equal to the Interest Period **will** be available to it in the London Interbank Market when the Interest Period commences, the Interest Period shall be of 3 months.

7. DEFAULT INTEREST

7.1 Payment of default interest on overdue amounts

The Borrowers shall pay interest in accordance with the following provisions of this Clause 7 on any amount payable by the Borrowers under any Finance Document which the Agent, the Security Trustee or the other designated payee does not receive on or before the relevant date, that is:

- (a) the date on which the Finance Documents (or any of them) provide that such amount is due for payment; or
- (b) if a Finance Document provides that such amount is payable on demand, the date on which the demand is served; or
- (c) if such amount has become immediately due and payable under Clause 19.4, the date on which it became immediately due and payable.

7.2 Default rate of interest

Interest shall accrue on an overdue amount from (and including) the relevant date until the date of actual payment (as well after as before judgment) at the rate per annum determined by the Agent to be 2 per cent. above:

- (a) in the case of an overdue amount of principal, the higher of the rates set out at Clauses 7.3(a) and 7.3(b); or
- (b) in the case of any other overdue amount, the rate set out at Clause 7.3(b).

7.3 Calculation of default rate of interest The rates referred to in Clause 7.2 are:

- (a) the rate applicable to the overdue principal amount immediately prior to the relevant date (but only for any unexpired part of any then current Interest Period applicable to it); and
- (b) the aggregate of the Margin and the Mandatory Cost (if any) plus, in respect of successive periods of any duration (including at call) up to 3 months which the Agent may select from time to time:
 - (i) LIBOR; or
 - (ii) if the Agent (after consultation with the Reference Bank) determines that Dollar deposits for any such period are not being made available to the Reference Bank by leading banks in the London Interbank Market in the ordinary course of business, a rate from time to time determined by the Agent by reference to the cost of funds to the Reference Bank from such other sources as the Agent (after consultation with the Reference Bank) may from time to time determine.

7.4 Notification of interest periods and default rates

The Agent shall promptly notify the Lenders and the Borrowers of each interest rate determined by the Agent under Clause 7.3 and of each period selected by the Agent for the purposes of paragraph (b) of that Clause; but this shall not be taken to imply that the Borrowers are liable to pay such interest only with effect from the date of the Agent's notification.

7.5 Payment of accrued default interest

Subject to the other provisions of this Agreement, any interest due under this Clause shall be paid on the last day of the period by reference to which it was determined; and the payment shall be made to the Agent for the account of the Creditor Party to which the overdue amount is due.

7.6 Compounding of default interest

Any such interest which is not paid at the end of the period by reference to which it was determined shall thereupon be compounded.

7.7 Application to Master Agreement

For the avoidance of doubt, this Clause 7 does not apply to any amount payable under the Master Agreement in respect of any continuing Designated Transaction as to which section 2(e) (Default Interest and Compensation) of the Master Agreement shall apply.

8. REPAYMENT AND PREPAYMENT

8.1 Amount of Repayment Instalments
The Borrowers shall repay the Loan by:

- (a) 24 equal consecutive three-monthly instalments (the "**Repayment Instalments**") and each a "**Repayment Instalment**") in the amount of \$1,050,000 each; and
- (b) a balloon instalment in the amount of \$27,800,000 (the "**Balloon Instalment**")

Provided that if the maximum amount of the Loan is not drawn down hereunder each Repayment Instalment and the Balloon Instalment shall be reduced pro rata by an amount in aggregate equal to the undrawn balance.

8.2 Repayment Dates

The first Repayment Instalment shall be repaid on the date falling three months after the Drawdown Date, each subsequent Repayment Instalment shall be repaid at three-monthly intervals thereafter and the last Repayment Instalment shall be repaid, together with the Balloon Instalment, on the date falling on the earlier of (a) the sixth anniversary of the Drawdown Date and (b) 30 June 2021.

8.3 Final Repayment Date

On the final Repayment Date, the Borrowers shall additionally pay to the Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.

8.4 Voluntary prepayment

Subject to the following conditions, the Borrowers may prepay the whole or any part of the Loan on the last day of an Interest Period.

8.5 Conditions for voluntary prepayment

The conditions referred to in Clause 8.4 are that:

- (a) a partial prepayment shall be \$500,000 or a higher integral multiple of \$500,000;
- (b) the Agent has received from the Borrowers at least 5 Business Days prior written notice specifying the amount to be prepaid, the date on which the prepayment is to be made and the manner of application of such prepayment;
- (c) the Borrowers have provided evidence satisfactory to the Agent that any consent required by any Borrower or any Security Party in connection with the prepayment has been obtained

and remains in force, and that any requirement relevant to this Agreement which affects any Borrower or any Security Party has been complied with; and

- (d) the Borrowers have complied with Clause 8.12 on or prior to the date of prepayment.

8.6 Effect of notice of prepayment

A prepayment notice may not be withdrawn or amended without the consent of the Agent, given with the authorisation of the Majority Lenders, and the amount specified in the prepayment notice shall become due and payable by the Borrowers on the date for prepayment specified in the prepayment notice.

8.7 Notification of notice of prepayment

The Agent shall notify the Lenders promptly upon receiving a prepayment notice, and shall provide any Lender which so requests with a copy of any document delivered by the Borrowers under Clause 8.5(c).

8.8 Mandatory prepayment

The Borrowers shall be obliged to prepay the Relevant Amount if:

- (a) a Ship is sold or becomes a Total Loss:
 - (i) in the case of a sale, on or before the date on which the Mortgage on that Ship is released; or
 - (ii) in the case of a Total Loss, on the earlier of the date falling 180 days after the Total Loss Date and the date of receipt by the Security Trustee of the proceeds of insurance relating to such Total Loss; or
- (b) without the prior written consent of the Agent (to be given on the instructions of the Majority Lenders) there is a Change of Control, on the date on which the Change of Control occurred.

In this Clause 8.8:

"Relevant Amount" means:

- (a) in the case of the sale or Total Loss of a Ship, an amount which, after the application of the prepayment to be made pursuant to Clause 8.8(a), results in the security cover ratio set out in Clause 15.1 being at least equal to the greater of (a) 125 per cent. and (b) the percentage which applied immediately prior to the sale or Total Loss; and
- (b) in the case of a Change of Control, the Loan and all other amounts then outstanding under the Finance Documents in full.

8.9 Amounts payable on prepayment

A prepayment shall be made together with accrued interest (and any other amount payable under Clause 21 or otherwise) in respect of the amount prepaid and, if the prepayment is not made on the last day of an Interest Period together with any sums payable under Clause 21.1(b) but without premium or penalty.

8.10 Application of partial prepayment

Each partial prepayment made pursuant to:

- (a) Clause 8.4, shall be applied in the manner specified by the Borrowers in the notice referred to in Clause 8.5(b); and
- (b) Clauses 8.8, 8.12, 15.2, 23.3 or 24.5, shall be applied pro rata against the then outstanding Repayment Instalments and the Balloon Instalment.

8.11 No reborrowing

No amount prepaid or repaid may be reborrowed.

8.12 Unwinding of Designated Transactions

On or prior to any repayment or prepayment of all or any part of the Loan under this Clause 8 or any other provision of this Agreement, the Borrowers shall wholly or partially reverse, offset, unwind or otherwise terminate one or more of the continuing Designated Transactions so that the notional principal amount of the continuing Designated Transactions thereafter remaining does not and will not in the future (taking into account the scheduled amortisation) exceed the amount of the Loan as reducing from time to time thereafter pursuant to Clause 8.1.

9. CONDITIONS PRECEDENT

9.1 Documents, fees and no default

Each Lender's obligation to contribute to the Loan is subject to the following conditions precedent:

- (a) that, on or before the service of the Drawdown Notice, the Agent receives:
 - (i) the documents described in Part A of Schedule 3 in form and substance satisfactory to the Agent and its lawyers; and
 - (ii) payment of any expenses pursuant to Clause 20.2;
- (b) that, on the Drawdown Date but prior to the making of the Loan, the Agent receives or is satisfied that it will receive on the making of the Loan:
 - (i) the documents described in Part B of Schedule 3 in form and substance satisfactory to the Agent and its lawyers;
 - (ii) payment of the arrangement fee pursuant to Clause 20.1(a) and all accrued commitment fee pursuant to Clause 20.1(b); and
 - (iii) payment of any expenses pursuant to Clause 20.2;
- (c) that both at the date of the Drawdown Notice and at the Drawdown Date:
 - (i) no Event of Default or Potential Event of Default has occurred or would result from the borrowing of the Loan;
 - (ii) the representations and warranties in Clause 10.1 and those of any Borrower or any Security Party which are set out in the other Finance Documents would be true and not misleading if repeated on each of those dates with reference to the circumstances then existing;
 - (iii) none of the circumstances contemplated by Clause 5.7 has occurred and is continuing; and

- (iv) there has been no Material Adverse Effect;
- (d) that, if the ratio set out in Clause 15.1 were applied immediately following the making of the Loan, the Borrowers would not be obliged to provide additional security or prepay part of the Loan under that Clause; and
- (e) that the Agent has received, and found to be acceptable to it, any further opinions, consents, agreements and documents in connection with the Finance Documents which the Agent may, with the authorisation of the Majority Lenders, request by notice to the Borrowers prior to the Drawdown Date.

9.2 Waiver of conditions precedent

If the Majority Lenders, at their discretion, permit the Loan to be borrowed before certain of the conditions referred to in Clause 9.1 are satisfied, the Borrowers shall ensure that those conditions are satisfied within 5 Business Days after the Drawdown Date (or such longer period as the Agent may, with the authorisation of the Majority Lenders, specify).

10. REPRESENTATIONS AND WARRANTIES

10.1 General

Each Borrower represents and warrants to each Creditor Party as follows.

10.2 Status

Each Borrower is duly incorporated and validly existing and in good standing under the laws of the Marshall Islands.

10.3 Shares capital and ownership

Each Borrower is authorised to issue Five hundred (500) registered shares with par value of \$0,01 each and the legal title and beneficial ownership of all those shares is held, free of any Security Interest or other claim, by the Corporate Guarantor.

10.4 Corporate power

Each Borrower has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to carry out its business carried on or to be carried on by it and own its assets owned or to be owned by it;
- (b) to register permanently the Ship owned by it in its name under an Approved Flag;
- (c) to execute the Finance Documents to which that Borrower is a party; and
- (d) to borrow under this Agreement, to enter into Designated Transactions under the Master Agreement and to make all the payments contemplated by, and to comply with, those Finance Documents to which it is a party.

10.5 Consents in force

All the consents referred to in Clause 10.4 remain in force and nothing has occurred which makes any of them liable to revocation.

10.6 Legal validity; pari passu ranking; admissibility in evidence; effective Security Interests

The Finance Documents to which each Borrower is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration as provided for in the Finance Documents):

- (a) are in full force and effect;
- (b) rank at least pari passu with all its other present and future unsecured liabilities, except for liabilities which are mandatorily preferred by law;
- (c) constitute that Borrower's legal, valid and binding obligations enforceable against that Borrower in accordance with their respective terms; and
- (d) create legal, valid and binding Security Interests enforceable in accordance with their respective terms over all the assets to which they, by their terms, relate,

subject to any relevant insolvency laws affecting creditors' rights generally.

10.7 No third party Security Interests

Without limiting the generality of Clause 10.6, at the time of the execution and delivery of each Finance Document to which a Borrower is a party:

- (a) each Borrower which is a party to that Finance Document will have the right to create all the Security Interests which that Finance Document purports to create; and
- (b) no third party will have any Security Interest (except for Permitted Security Interests) or any other interest, right or claim over, in or in relation to any asset to which any such Security Interest, by its terms, relates.

10.8 No conflicts

The execution by each Borrower of each Finance Document to which it is a party, and the borrowing by that Borrower of the Loan, and its compliance with each Finance Document to which it is a party will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of that Borrower; or
- (c) any contractual or other obligation or restriction which is binding on that Borrower or any of its assets.

10.9 No withholding taxes; stamp duty

All payments which each Borrower is liable to make under the Finance Documents to which it is a party may be made without deduction or withholding for or on account of any tax payable under any law of any Pertinent Jurisdiction. No Finance Document is subject to any filing or stamp duty in any Pertinent Jurisdiction.

10.10 No default

No Event of Default or Potential Event of Default has occurred.

10.11 Information

All information which has been provided in writing by or on behalf of the Borrowers or any Security Party to any Creditor Party in connection with any Finance Document satisfied the requirements of Clause 11.5; all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 11.7; and there has been no Material Adverse Effect.

10.12 No litigation

No legal or administrative action involving any Borrower (including action relating to any alleged or actual breach of the ISM Code or the ISPS Code) has been commenced or taken or, to any Borrower's knowledge, is likely to be commenced or taken.

10.13 Validity and completeness of Initial Charter

The Initial Charter constitutes valid, binding and enforceable obligations of the Initial Charterer and Borrower C in accordance with its terms; and:

- (a) the copy of the Initial Charter delivered to the Agent before the date of this Agreement is a true and complete copy; and
- (b) other than those amendments and additions to the Initial Charter disclosed to the Agent before the date of this Agreement, no amendments or additions to the Initial Charter have been agreed nor has Borrower C or the Initial Charterer waived any of their respective rights under the Initial Charter.

10.14 Compliance with certain undertakings

At the date of this Agreement, the Borrowers are in compliance with Clauses 11.2, 11.4, 11.9, 11.13, 11.19, 13, 14.3 and 14.10.

10.15 Taxes paid

Each Borrower has paid all taxes applicable to, or imposed on or in relation to that Borrower, its business or the Ship owned by it.

10.16 ISM Code and ISPS Code compliance

All requirements of the ISM Code and the ISPS Code as they relate to the Borrowers, the Approved Manager and the Ships have been complied with.

10.17 No money laundering; anti-bribery

- (a) Without prejudice to the generality of Clause 2.3, in relation to the borrowing by the Borrowers of the Loan, the performance and discharge of their obligations and liabilities under the Finance Documents, and the transactions and other arrangements affected or contemplated by the Finance Documents to which a Borrower is a party, the Borrowers confirm (i) that they are acting for their own account; (ii) that they will use the proceeds of the Loan for their own benefit, under their full responsibility and exclusively for the purposes specified in this Agreement; and (iii) that the foregoing will not involve or lead to a contravention of any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council).
- (b) The Borrowers will promptly inform the Agent by written notice, if they are not or cease to be the beneficiary and will provide in writing the name and address of the beneficiary.

- (c) The Agent shall promptly notify the Lenders of any written notice it receives under this Clause 10.17.

10.18 No immunity

None of the Borrowers, nor any of their assets are entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceeding (including, without limitation, suit attachment prior to judgement, execution or other enforcement).

10.19 Title and ownership

Each Borrower has good title to each of the assets owned or purported to be owned by it.

10.20 Pali passu ranking

The obligations of each Borrower under the Finance Documents to which it is a party rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

10.21 PATRIOT Act

To the extent applicable, each Borrower is in compliance with (i) the Trading with the Enemy Act, and each of the foreign assets control regulations of the US Treasury Department (31 C.F.R., Subtitle B, Chapter V) and any other enabling legislation or executive order relating thereto and (ii) the PATRIOT Act. No part of the proceeds of the Loan will be used, directly or indirectly, for any payments to any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

10.22 Repetition

The representations and warranties set out in:

- (a) Clause 10 shall be deemed to be repeated by the Borrowers:
 - (i) on the date of service of the Drawdown Notice;
 - (ii) on the Drawdown Date; and
- (b) Clauses 10.2, 10.3, 10.4, 10.6, 10.7, 10.14, 10.17, and 10.20 on the first day of each Interest Period,

as if made with reference to the facts and circumstances existing on each such day.

11. GENERAL UNDERTAKINGS

11.1 General

Each Borrower undertakes with each Creditor Party to comply with the following provisions of this Clause 11 at all times during the Security Period except as the Agent may, with the authorisation of the Majority Lenders, otherwise permit in writing.

11.2 Title; negative pledge and pail passu ranking

Each Borrower will:

- (a) hold the legal title to, and own the entire beneficial interest in the Ship owned by it, her Insurances and her Earnings, free from all Security Interests and other interests and rights of every kind, except for those created by the Finance Documents and the effect of assignments contained in the Finance Documents and except for Permitted Security Interests;
- (b) not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future (including, but not limited to, that Borrower's rights against the Swap Bank under the Master Agreement or all or any part of that Borrower's interest in any amount payable to that Borrower by the Swap Bank under the Master Agreement); and
- (c) procure that its liabilities under the Finance Documents to which it is a party do and will rank at least pari passu with all its other present and future unsecured liabilities, except for liabilities which are mandatorily preferred by law.

11.3 No disposal of assets

No Borrower will transfer, lease or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not nor acquire any new assets other than the Ship; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation,

but paragraph (a) does not apply to any charter of a Ship as to which Clause 14.13 applies.

11.4 No other liabilities or obligations to be incurred

No Borrower will incur any Financial Indebtedness, liability or obligation (including, without limitation, to the Corporate Guarantor or any other member of the Group) except:

- (a) liabilities and obligations under the Finance Documents to which it is a party;
- (b) liabilities or obligations reasonably incurred in the ordinary course of owning, operating and chartering the Ship; and
- (c) in respect of the Designated Transactions.

11.5 Information provided to be accurate

All financial and other information which is provided in writing by or on behalf of a Borrower under or in connection with any Finance Document **will** be true and not misleading and will not omit any material fact or consideration.

11.6 Provision of financial statements

Each Borrower will send or procure that are sent to the Agent:

- (a) as soon as possible, but in no event later than 180 days after the end of each Financial Year of the Corporate Guarantor the audited annual consolidated financial statements of the Group for that Financial Year of the Corporate Guarantor (commencing with the financial statements for the year that ended on 31 December 2014);
- (b) as soon as available, but in no event later than 120 days after the end of the 6-month period ending on 30 June and 31 December in each Financial Year of the Corporate Guarantor, the unaudited semi-annual consolidated financial statements of the Group (in

the form published in the relevant press release) for that 6-month period (commencing with the financial statements for the 6-month period ending on 30 June 2015) certified as to their correctness by the chief financial officer of the Corporate Guarantor; and

- (c) promptly after each request by the Agent, such further information regarding the financial condition, business and operations of the Borrowers, the Ships, the Security Parties and the Group as the Agent may reasonably require.

11.7 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 11.6 will:

- (a) be prepared in accordance with all applicable laws and GAAP consistently applied;
- (b) give a true and fair view of the state of affairs of the Group at the date of those accounts and of its profit for the period to which those accounts relate; and
- (c) fully disclose or provide for all significant liabilities of the Group.

11.8 Shareholder and creditor notices

Each Borrower will send to the Agent, at the same time as they are despatched, copies of all communications which are despatched to that Borrower's shareholders or creditors or any class of them.

11.9 Consents and compliance with laws

Each Borrower will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Agent of, all consents required:

- (a) for that Borrower to perform its obligations under any Finance Document to which it is a party;
- (b) for the validity or enforceability of any Finance Document to which it is a party;
- (c) for that Borrower to continue to own and operate the Ship owned by it; and
- (d) (without prejudice to its other obligations under the Finance Documents), for that Borrower to comply in all respects, with all laws and regulations to which it may be subject including, without limitation, all Environmental Laws and all intellectual property laws,

and that Borrower will comply with the terms of all such consents.

11.10 Maintenance of Security Interests

Each Borrower will:

- (a) at its own cost, do all that is necessary to ensure that any Finance Document to which it is a party validly creates the obligations and the Security Interests which it purports to create; and
- (b) without limiting the generality of paragraph (a), at its own cost, promptly register, file, record or enrol any Finance Document with any court or authority in all Pertinent Jurisdictions, pay any stamp, registration or similar tax in all Pertinent Jurisdictions in respect of any Finance Document, give any notice or take any other step which, in the opinion of the Majority Lenders, is or has become necessary or desirable for any Finance Document to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

11.11 Notification of litigation

Each Borrower will provide the Agent with details of any legal or administrative action involving that Borrower, any Security Party, the Approved Manager or the Ship owned by it, the Earnings or the Insurances as soon as such action is instituted or it becomes apparent to that Borrower that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of any Finance Document.

11.12 No amendment to Master Agreement

No Borrower will agree to any amendment or supplement to, or waive or fail to enforce, the Master Agreement or any of its provisions.

11.13 Principal place of business

No Borrower will establish, or do anything as a result of which it would be deemed to have, a place of business in England or the United States of America.

11.14 Confirmation of no default

Each Borrower will, within 2 Business Days after service by the Agent of a written request, serve on the Agent a notice which is signed by an officer of that Borrower and which:

- (a) states that no Event of Default or Potential Event of Default has occurred; or
- (b) states that no Event of Default or Potential Event of Default has occurred, except for a specified event or matter, of which all material details are given.

The Agent may serve requests under this Clause 11.14 from time to time but only if asked to do so by a Lender or Lenders having Contributions exceeding 10 per cent. of the Loan or (if the Loan has not been made) Commitments exceeding 10 per cent of the Total Commitments; and this Clause 11.14 does not affect the Borrowers' obligations under Clause 11.15.

11.15 Notification of default

Each Borrower will notify the Agent as soon as that Borrower becomes aware of:

- (a) the occurrence of an Event of Default or a Potential Event of Default; or
- (b) any matter which indicates that an Event of Default or a Potential Event of Default may have occurred,

and will keep the Agent fully up to date with all developments.

11.16 Provision of further information

Each Borrower will, as soon as practicable after receiving the request, provide the Agent with any additional financial or other information relating:

- (a) to the Borrowers, the Group, the Corporate Guarantor, any other Security Party, the Ships, the other Fleet Vessels, their Insurances or their Earnings (including, but not limited to, any sales or purchases of any Fleet Vessels, the incurrence of Financial Indebtedness by members of the Group and details of the employment of the Fleet Vessels); or
- (b) to any other matter relevant to, or to any provision of, a Finance Document, which may reasonably be requested by the Agent, the Security Trustee, the Swap Bank or any Lender at any time.

11.17 Minimum liquidity

Each Borrower shall maintain in its Earnings Account as from the Drawdown Date and at all times thereafter a credit balance of not less than \$400,000 (the "**Minimum Liquidity Amount**").

11.18 Provision of copies and translation of documents

Each Borrower will supply the Agent with a sufficient number of copies of the documents referred to above to provide 1 copy for each Creditor Party; and if the Agent so requires in respect of any of those documents, the Borrowers will provide a certified English translation prepared by a translator approved by the Agent.

11.19 Sanctions and compliance with laws

(a) Compliance with laws

Each Borrower shall, and shall procure that each other Borrower, each Security Party and each other member of the Group and each Affiliate of any of them shall, comply in all respect with all Sanctions.

(b) Sanctions

- (i) Each Borrower undertakes that it, and shall procure that each other Borrower, each Security Party and any other member of the Group or any Affiliate of any of them, or any director, officer, agent, employee or person acting on behalf of the foregoing, is not a Restricted Person and does not act directly or indirectly on behalf of a Restricted Person;
- (ii) Each Borrower shall, and shall procure that each other Borrower, each Security Party and any other member of the Group and each Affiliate of any of them shall, not use any revenue or benefit derived from any activity or dealing with a Restricted Person in discharging any obligation due or owing to the Creditor Parties;
- (iii) Each Borrower shall, and shall procure that each other Borrower and each Security Party shall, procure that no proceeds from any activity or dealing with a Restricted Person are credited to any bank account held with any Creditor Party in its name or in the name of any other Borrower or any Security Party or any other member of the Group or any Affiliate of any of them;
- (iv) Each Borrower undertakes that it, and shall procure that each other Borrower and each Security Party and each other member of the Group and each Affiliate of any of them, has taken reasonable measures to ensure compliance with Sanctions;
- (v) Each Borrower shall, and shall procure that each other Borrower, each Security Party and each other member of the Group shall, to the extent permitted by law promptly upon becoming aware of them supply to the Agent details of any claim, action, suit, proceedings or investigation against it with respect to Sanctions by any Sanctions Authority; and
- (vi) Each Borrower shall not, and shall procure that no other Borrower and no Security Party shall, accept, obtain or receive any goods or services from any Restricted Person, except (without limiting Clause 11.19(a) (Compliance with laws)), to the extent relating to any warranties and/or guarantees given and/or liabilities incurred

in respect of an activity or dealing with a Restricted Person by any Security Party in accordance with this Agreement.

(c) Use of proceeds

No Borrower shall, and shall procure that no other Borrower or Security Party or member of the Group and any Affiliate of any of them shall, permit or authorise any other person to, directly or indirectly, use, lend, make payments of, contribute or otherwise make available, all or any part of the proceeds of the Loan or other transactions contemplated by this Agreement to fund or facilitate trade, business or other activities: (a) involving or for the benefit of any Restricted Person; or (b) in any other manner that could result in any Security Party or a Creditor Party being in breach of any Sanctions or becoming a Restricted Person.

- (d) Each party to this Agreement acknowledges and agrees that the Borrower does not undertake under paragraphs (a) to (c) (inclusive) above in favour of any Lender incorporated or having its registered office in the Federal Republic of Germany and no such Lender shall have any right thereunder and shall be deemed not to be a party to the provisions of this Clause 11.19.

11.20 "Know your customer" checks

If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
- (b) any change in the status of any Borrower or any Security Party after the date of this Agreement; or
- (c) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (c), any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrowers shall promptly upon the request of the Agent or the Lender concerned supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or the Lender concerned (for itself or, in the case of the event described in paragraph (c), on behalf of any prospective new Lender) in order for the Agent, the Lender concerned or, in the case of the event described in paragraph (c), any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents, including without limitation obtaining, verifying and recording certain information and documentation that will allow the Agent and each of the Lenders to identify each Borrower and any Security Party in accordance with the requirements of the PATRIOT Act.

11.21 No amendment to Initial Charter

Each Borrower will ensure that the parties to the Initial Charter will not agree to any amendment or supplement to, or waive or fault to enforce, the Initial Charter or any of its provisions.

11.22 Ownership

Each Borrower shall procure that there is no change in the legal ownership of its shares throughout the Security Period.

11.23 Notification of non-compliance with financial covenants

If prior to the delivery of a Compliance Certificate by the Corporate Guarantor to the Agent, a Borrower becomes aware that the financial covenants set out in clause 12.3 of the Corporate Guarantee will not be complied with, the Borrowers (or any of them) shall promptly notify the Agent.

12. CORPORATE UNDERTAKINGS

12.1 General

Each Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 12 at all times during the Security Period except as the Agent may, with the authorisation of the Majority Lenders, otherwise permit in writing.

12.2 Maintenance of status

Each Borrower will maintain its separate corporate existence and remain in good standing under the laws of the Republic of the Marshall Islands.

12.3 Negative undertakings

No Borrower will:

- (a) carry on any business other than the ownership, chartering and operation of the Ship owned by that Borrower; or
- (b) pay any dividend or make any other form of distribution (if an Event of Default has occurred and is continuing at the relevant time or an Event of Default would result from the payment of such dividend or the making of such distribution) or effect any form of redemption, purchase or return of share capital; or
- (c) provide any form of credit or financial assistance to:
 - (i) a person who is directly or indirectly interested in that Borrower's share or loan capital; or
 - (ii) any company in or with which such a person is directly or indirectly interested or connected,

or enter into any transaction with or involving such a person or company on terms which are, in any respect, less favourable to that Borrower than those which it could obtain in a bargain made at arms' length; or

- (d) open or maintain any account with any bank or financial institution except accounts with the Agent for the purposes of the Finance Documents; or
- (e) issue, allot or grant any person a right to any shares in its capital or repurchase or reduce its issued share capital; or
- (f) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks, or enter into any transaction in a derivative other than the Designated Transactions; or
- (g) enter into any form of amalgamation, merger or de-merger or any form of reconstruction or reorganisation; or
- (h) change its constitutional documents; or

- (i) acquire any vessel other than the Ship owned by it.

13. INSURANCE

13.1 General

Each Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 13 at all times during the Security Period except as the Agent may, with the authorisation of the Majority Lenders, otherwise permit.

13.2 Maintenance of obligatory insurances

Each Borrower shall keep the Ship owned by it insured at the expense of that Borrower against:

- (a) fire and usual marine risks (including increased value, hull and machinery and excess risks);
- (b) war risks;
- (c) protection and indemnity risks (including excess war risk P&I cover); and
- (d) any other risks against which the Security Trustee considers, having regard to practices and other circumstances prevailing at **the relevant time, it would in the** opinion of the Security Trustee be reasonable for that Borrower to insure and which are specified by the Security Trustee by notice to that Borrower.

13.3 Terms of obligatory insurances

Each Borrower shall effect such insurances:

- (a) in Dollars;
- (b) in the case of fire and usual marine risks and war risks, in an amount on an agreed value basis at least the greater of (i) an amount which when aggregated with the insured value of the other Ships then subject to a Mortgage, 120 per cent of the aggregate of the Loan and the Swap Exposure (if any) and (ii) the **Market Value** of the Ship owned by it;
- (c) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club entry and in the international marine insurance market;
- (d) in relation to protection and indemnity risks in respect of the full tonnage of the Ship;
- (e) on approved terms; and
- (f) through approved brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations.

13.4 Further protections for the Creditor Parties

In addition to the terms set out in Clause 13.3, each Borrower shall procure that the obligatory insurances effected by it shall:

- (a) subject always to paragraph (b), name that Borrower as the sole named assured unless the interest of every other named assured is limited:
- (i) in respect of any obligatory insurances for hull and machinery and war risks:

- (A) to any provable out-of-pocket expenses that it has incurred and which form part of any recoverable claim on underwriters; and
- (B) to any third party liability claims where cover for such claims is provided by the policy (and then only in respect of discharge of any claims made against it); and
- (ii) in respect of any obligatory insurances for protection and indemnity risks, to any recoveries it is entitled to make by way of reimbursement following discharge of any third party liability claims made specifically against it,

and every other named assured has undertaken in writing to the Security Trustee (in such form as it requires) that any deductible shall be apportioned between that Borrower and every other named assured in proportion to the gross claims made or paid by each of them and that it shall do all things necessary and provide all documents, evidence and information to enable the Security Trustee to collect or recover any moneys which at any time become payable in respect of the obligatory insurances;

- (b) whenever the Security Trustee requires, name (or be amended to name) the Security Trustee as additional named assured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against the Security Trustee, but without the Security Trustee thereby being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
- (c) name the Security Trustee as loss payee with such directions for payment as the Security Trustee may specify;
- (d) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Security Trustee shall be made without set-off, counterclaim or deductions or condition whatsoever;
- (e) provide that such obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Security Trustee or any other Creditor Party; and
- (f) provide that the Security Trustee may make proof of loss if that Borrower fails to do so.

13.5 Renewal of obligatory insurances

Each Borrower shall:

- (a) at least 21 days before the expiry of any obligatory insurance effected by it:
- (i) notify the Security Trustee of the brokers (or other insurers) and any protection and indemnity or war risks association through or with whom that Borrower proposes to renew that obligatory insurance and of the proposed terms of renewal; and
- (ii) obtain the Security Trustee's approval to the matters referred to in paragraph (i);
- (b) at least 14 days before the expiry of any obligatory insurance, renew that obligatory insurance in accordance with the Security Trustee's approval pursuant to paragraph (a); and
- (c) procure that the approved brokers and/or the war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Security Trustee in writing of the terms and conditions of the renewal.

13.6 Copies of policies; letters of undertaking

Each Borrower shall ensure that all approved brokers provide the Security Trustee with pro forma copies of all policies relating to the obligatory insurances which they are to effect or renew and of a letter or letters of undertaking in a form required by the Security Trustee and including undertakings by the approved brokers that:

- (a) they will have endorsed on each policy, immediately upon issue, a loss payable clause and a notice of assignment complying with the provisions of Clause 13.4;
- (b) they will hold such policies, and the benefit of such insurances, to the order of the Security Trustee in accordance with the said loss payable clause;
- (c) they will advise the Security Trustee immediately of any material change to the terms of the obligatory insurances;
- (d) they will notify the Security Trustee, not less than 14 days before the expiry of the obligatory insurances, in the event of their not having received notice of renewal instructions from that Borrower or its agents and, in the event of their receiving instructions to renew, they will promptly notify the Security Trustee of the terms of the instructions; and
- (e) they will not set off against any sum recoverable in respect of a claim relating to the Ship owned by that Borrower under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that Ship or otherwise, they waive any lien on the policies, or any sums received under them, which they might have in respect of such premiums or other amounts, and they will not cancel such obligatory insurances by reason of non-payment of such premiums or other amounts, and will arrange for a separate policy to be issued in respect of that Ship forthwith upon being so requested by the Security Trustee.

13.7 Copies of certificates of entry

Each Borrower shall ensure that any protection and indemnity and/or war risks associations in which the Ship owned by it is entered provides the Security Trustee with:

- (a) a certified copy of the certificate of entry for that Ship owned by it;
- (b) a letter or letters of undertaking in such form as may be required by the Security Trustee;
- (c) where required to be issued under the terms of insurance/indemnity provided by a Borrower's protection and indemnity association, a certified copy of each US voyage quarterly declaration (or other similar document or documents) made by that Borrower in accordance with the requirements of such protections and indemnity association; and
- (d) a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority in relation to that Ship.

13.8 Deposit of original policies

Each Borrower shall ensure that all policies relating to obligatory insurances effected by it are deposited with the approved brokers through which the insurances are effected or renewed.

13.9 Payment of premiums

Each Borrower shall punctually pay all premiums or other sums payable in respect of the obligatory insurances effected by it and produce all relevant receipts when so required by the Security Trustee.

13.10 Guarantees

Each Borrower shall ensure that any guarantees required by a protection and indemnity or war risks association are promptly issued and remain in full force and effect.

13.11 Compliance with terms of insurances

No Borrower shall do nor omit to do (nor permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable under an obligatory insurance repayable in whole or in part; and, in particular:

- (a) each Borrower shall take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and (without limiting the obligation contained in Clause 13.6(c)) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Security Trustee has not given its prior approval;
- (b) no Borrower shall make any changes relating to the classification or classification society or manager or operator of the Ship owned by it approved by the underwriters of the obligatory insurances;
- (c) each Borrower shall make (and promptly supply copies to the Agent of) all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Ship owned by it is entered to maintain cover for trading to the US and Exclusive Economic Zone (as defined in the United States Oil Pollution Act 1990 or any other applicable legislation); and
- (d) no Borrower shall employ the Ship owned by it, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances, without first obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

13.12 Alteration to terms of insurances

No Borrower shall make nor agree to any alteration to the terms of any obligatory insurance nor waive any right relating to any obligatory insurance.

13.13 Settlement of claims

No Borrower shall settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty, and shall do all things necessary and provide all documents, evidence and information to enable the Security Trustee to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.

13.14 Provision of copies of communications

Each Borrower shall provide the Security Trustee, at the time of each such communication, with copies of all written communications between a Borrower and:

- (a) the approved brokers;
- (b) the approved protection and indemnity and/or war risks associations; and
- (c) the approved insurance companies and/or underwriters, which relate directly or indirectly to:

- (i) that Borrower's obligations relating to the obligatory insurances including, without limitation, all requisite declarations and payments of additional premiums or calls; and
- (ii) any credit arrangements made between that Borrower and any of the persons referred to in paragraphs (a) or (b) relating wholly or partly to the effecting or maintenance of the obligatory insurances; and
- (iii) a claim under any obligatory insurances of the Ship owned by it. 13.15

13.15 Provision of information

In addition, each Borrower shall promptly provide the Security Trustee (or any persons which it may designate) with any information which the Security Trustee (or any such designated person) requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker as to the adequacy of the obligatory insurances effected or proposed to be effected; and/or
- (b) effecting, maintaining or renewing any such insurances as are referred to in Clause 13.16 or dealing with or considering any matters relating to any such insurances,

and the Borrowers shall, forthwith upon demand, indemnify the Security Trustee in respect of all fees and other expenses incurred by or for the account of the Security Trustee in connection with any such report as is referred to in paragraph (a).

13.16 Mortgagee's interest, marine insurance and additional perils insurance

The Security Trustee shall be entitled from time to time to effect, maintain and renew a mortgagee's interest marine insurance, and mortgagee's interest additional perils insurance in an amount not less than 120 per cent. of the Loan on such terms, through such insurers and generally in such manner as the Security Trustee may from time to time consider appropriate and each Borrower shall upon demand fully indemnify the Creditor Parties in respect of all premiums and other expenses which are incurred in connection with or with a view to effecting, maintaining or renewing any such insurance or dealing with, or considering, any matter arising out of any such insurance.

13.17 Review of insurance requirements

The Security Trustee shall be entitled to review the requirements of this Clause 13 from time to time in order to take account of any changes in circumstances after the date of this Agreement which are, in the opinion of the Security Trustee, significant and capable of affecting the Borrowers, the Ships and their Insurances (including, without limitation, changes in the availability or the cost of insurance coverage or the risks to which each Borrower may be subject), and may appoint insurance consultants in relation to this review at the cost of the relevant Borrower.

13.18 Modification of insurance requirements

The Security Trustee shall notify the Borrowers of any proposed modification under Clause 13.17 to the requirements of this Clause 13 which the Security Trustee reasonably considers appropriate in the circumstances, and such modification shall take effect on and from the date it is notified in writing to the relevant Borrower as an amendment to this Clause 13 and shall bind that Borrower accordingly.

13.19 Compliance with mortgagee's instructions

The Security Trustee shall be entitled (without prejudice to or limitation of any other rights which it may have or acquire under any Finance Document) to require a Ship to remain at any safe port or to proceed to and remain at any safe port designated by the Security Trustee until the Borrower owning that Ship implements any amendments to the terms of the obligatory insurances and any operational changes required as a result of a notice served under Clause 13.18.

14. SHIP COVENANTS

14.1 General

Each Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 14 at all times during the Security Period except as the Agent, with the authorisation of the Majority Lenders, may otherwise permit in writing (and in the case of Clauses 14.2 and 14.13(e), such permission not to be unreasonably withheld).

14.2 Ship's name and registration

Each Borrower shall keep the Ship owned by it registered in its name under an Approved Flag; shall not do, omit to do or allow to be done anything as a result of which such registration might be cancelled or imperilled; and shall not change the name or port of registry of the Ship owned by it.

14.3 Repair and classification

Each Borrower shall keep the Ship owned by it in a good and safe condition and state of repair:

- (a) consistent with first class ship ownership and management practice;
- (b) so as to maintain the highest class free of overdue recommendations and conditions with a classification society which is a member of IACS acceptable to the Agent (such acceptance not to be unreasonably withheld); and
- (c) so as to comply with all laws and regulations applicable to vessels registered at ports in the applicable Approved Flag State or to vessels trading to any jurisdiction to which that Ship may trade from time to time, including but not limited to the ISM Code and the ISPS Code.

14.4 Classification society undertaking

Each Borrower shall instruct the classification society referred to in Clause 14.3:

- (a) to send to the Security Trustee, following receipt of a written request from the Security Trustee, certified true copies of all original class records held by the classification society in relation to its Ship;
- (b) to allow the Security Trustee (or its agents), at any time and from time to time, to inspect the original class and related records of that Borrower and its Ship at the offices of the classification society and to take copies of them;
- (c) to notify the Security Trustee immediately in writing if the classification society:
 - (i) receives notification from that Borrower or any other person that its Ship's classification society is to be changed; or
 - (ii) becomes aware of any facts or matters which may result in or have resulted in a change, suspension, discontinuance, withdrawal or expiry of that Ship's class under the rules or terms and conditions of that Borrower's or its Ship's membership of the classification society; and

- (d) following receipt of a written request from the Security Trustee:
- (i) to confirm that a Borrower is not in default of any of its contractual obligations or liabilities to the classification society and, without limiting the foregoing, that it has paid in full all fees or other charges due and payable to the classification society; or
- (ii) if a Borrower is in default of any of its contractual obligations or liabilities to the classification society, to specify to the Security Trustee in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the classification society.

14.5 Modification

No Borrower shall make any modification or repairs to, or replacement of, any Ship or equipment installed on it which would or might materially alter the structure, type or performance characteristics of that Ship or materially reduce its value.

14.6 Removal of parts

No Borrower shall remove any material part of any Ship, or any item of equipment installed on, any Ship unless the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed, is free from any Security Interest or any right in favour of any person other than the Security Trustee and becomes on installation on the relevant Ship the property of the relevant Borrower and subject to the security constituted by the relevant Mortgage **Provided that** a Borrower may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Ship owned by it.

14.7 Surveys

Each Borrower shall submit the Ship owned by it regularly to all periodical or other surveys which may be required for classification purposes and, if so required by the Security Trustee provide the Security Trustee, with copies of all survey reports.

14.8 Inspection

Each Borrower shall permit the Security Trustee (by surveyors or other persons appointed by it for that purpose) to board the Ship owned by it at the cost of the Borrowers no more than once in any calendar year to inspect its condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections **Provided that** if an Event of Default occurs which is continuing the Security Trustee may, by surveyors or other persons appointed by it, board the Ship and carry out such inspection at all times as it deems fit at the Borrowers' cost.

14.9 Prevention of and release from arrest

Each Borrower shall promptly discharge:

- (a) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against the Ship owned by it, the Earnings or the Insurances;
- (b) all taxes, dues and other amounts charged in respect of the Ship owned by it, the Earnings or the Insurances; and

(c) all other outgoings whatsoever in respect of the Ship owned by it, the Earnings or the Insurances, and, forthwith upon receiving notice of the arrest of the Ship owned by it, or of its detention in exercise or purported exercise of any lien or claim, that Borrower shall procure its release by providing bail or otherwise as the circumstances may require.

14.10 Compliance with laws etc.

Each Borrower shall:

- (a) comply, or procure compliance with the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and all other laws or regulations relating to the Ship owned by it, its ownership, operation and management or to the business of that Borrower;
- (b) not employ the Ship owned by it nor allow its employment in any manner contrary to any law or regulation in any relevant jurisdiction including but not limited to the ISM Code, the ISPS Code and all Sanctions;
- (c) in the event of hostilities in any part of the world (whether war is declared or not), not cause or permit the Ship owned by it to enter or trade to any zone which is declared a war zone by any government or by the Ship's war risks insurers unless the prior written consent of the Security Trustee has been given and that Borrower has (at its expense) effected any special, additional or modified insurance cover which the Security Trustee may require; and
- (d) comply with the PATRIOT Act and the United States Foreign Corrupt Practices Act.

14.11 Provision of information

Each Borrower shall promptly provide the Security Trustee with any information which it requests regarding:

- (a) the Ship owned by it, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to the master and crew of the Ship owned by it;
- (c) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of the Ship owned by it and any payments made in respect of that Ship;
- (d) any towages and salvages; and
- (e) its compliance, the Approved Manager's compliance and the compliance of the Ship owned by it with the ISM Code, the ISPS Code and Sanctions,

and, upon the Security Trustee's request, provide copies of any current charter relating to the Ship owned by it, of any current charter guarantee and copies of that Borrower's or the Approved Manager's Document of Compliance.

14.12 Notification of certain events

Each Borrower shall immediately notify the Security Trustee by fax, confirmed forthwith, by letter of:

- (a) any casualty which is or is likely to be or to become a Major Casualty;

- (b) any occurrence as a result of which the Ship owned by it has become or is, by the passing of time or otherwise, likely to become a Total Loss;
- (c) any requirement or recommendation made by any insurer or classification society or by any competent authority which is not immediately complied with;
- (d) any arrest or detention of the Ship owned by it, any exercise or purported exercise of any lien on that Ship or its Earnings or any requisition of that Ship for hire;
- (e) any intended dry docking of the Ship owned by it;
- (f) any Environmental Claim made against that Borrower or in connection with the Ship owned by it, or any Environmental Incident;
- (g) any claim for breach of the ISM Code or the ISPS Code being made against that Borrower, the Approved Manager or otherwise in connection with the Ship owned by it; or
- (h) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with,

and that Borrower shall keep the Security Trustee advised in writing on a regular basis and in such detail as the Security Trustee shall require of that Borrower's, the Approved Manager's or any other person's response to any of those events or matters.

14.13 Restrictions on chartering, appointment of managers etc.

No Borrower shall, in relation to the Ship owned by it:

- (a) let that Ship on demise charter for any period;
- (b) other than the Initial Charter in the case of Borrower C, enter into any time or consecutive voyage charter in respect of that Ship for a term which exceeds, or which by virtue of any optional extensions may exceed, 12 months;
- (c) enter into any charter in relation to that Ship under which more than 2 months' hire (or the equivalent) is payable in advance;
- (d) charter that Ship otherwise than on bona fide arm's length terms at the time when that Ship is fixed;
- (e) appoint a manager of that Ship other than the Approved Manager or agree to any alteration to the terms of the Approved Manager's appointment;
- (f) de activate or lay up that Ship; or
- (g) put that Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed 1,000,000 (or the equivalent in any other currency) unless that person has first given to the Security Trustee and in terms satisfactory to it a written undertaking not to exercise any lien on that Ship or its Earnings for the cost of such work or for any other reason.

14.14 Notice of Mortgage

Each Borrower shall keep the relevant Mortgage registered against the Ship owned by it as a valid first priority or preferred mortgage, carry on board that Ship a certified copy of the relevant Mortgage and place and maintain in a conspicuous place in the navigation room and the Master's cabin of that Ship a framed printed notice stating that that Ship is mortgaged by that Borrower to the Security Trustee.

14.15 Sharing of Earnings

No Borrower shall:

- (a) enter into any agreement or arrangement for the sharing of any Earnings; or
- (b) enter into any agreement or arrangement for the postponement of any date on which any Earnings are due, the reduction of the amount of any Earnings or otherwise for the release or adverse alteration of any right of a Borrower to any Earnings.

14.16 ISPS Code

Each Borrower shall comply with the ISPS Code and in particular, without limitation, shall:

- (a) procure that the Ship owned by that Borrower and the company responsible for that Ship's compliance with the ISPS Code comply with the ISPS Code;
- (b) maintain for that Ship an ISSC; and
- (c) notify the Agent immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.

14.17 Charterparty Assignment

If a Borrower enters into any Charterparty (subject to the Agent's approval pursuant to Clause 14.13), it shall, on the date of entry into such Charterparty, execute in favour of the Security Trustee (and register, if applicable) a Charterparty Assignment and shall:

- (a) serve notice of the Charterparty Assignment on the relevant charterer procure that the charterer acknowledges such notice in such form as the Agent may approve or require; and
- (b) deliver to the Agent such other documents equivalent to those referred to at paragraphs 3, 4 and 5 of Schedule 3, Part A as the Agent may require.

14.18 Responsible Ship Recycling

If a Ship is sold for scrapping, the Borrower owning that Ship shall ensure that that Ship shall be dismantled in a safe, sustainable and socially and environmentally responsible way.

15. SECURITY COVER

15.1 Minimum required security cover

Clause 15.2 applies if the Agent notifies the Borrowers that:

- (a) the aggregate of the Market Value of the Ships; plus
- (b) the net realisable value of any additional security previously provided under this Clause 15, is below 125 per cent of the aggregate of (i) the Loan and (ii) any Swap Exposure.

15.2 Provision of additional security; prepayment

If the Agent serves a notice on the Borrowers under Clause 15.1, the Borrowers shall prepay such part at least of the Loan as will eliminate the shortfall on or before the date falling 30 days after the date on which the Agent's notice is served under Clause 15.1 (the "**Prepayment Date**") unless at least 1 Business Day before the Prepayment Date the Borrowers have provided, or ensured that a third party has provided, additional security .

which, in the opinion of the Majority Lenders, has a net realisable value at least equal to the shortfall and is documented in such terms as the Agent may, with the authorisation of the Majority Lenders, approve or require

15.3 Valuation of Ships

The Market Value of a Ship (or any other Fleet Vessel) at any date during the Security Period is that shown by a valuation to be prepared:

- (a) as at a date not more than 14 days previously;
- (b) by an Approved Broker (selected by the Borrowers and approved by the Agent);
- (c) addressed to the Agent;
- (d) with or without physical inspection of the Ship (as the Agent may require);
- (e) on the basis of a sale for prompt delivery for cash on normal arm's length commercial terms as between a willing seller and a willing buyer, free of any existing charter or other contract of employment; and
- (f) after deducting the estimated amount of the usual and reasonable expenses which would be incurred in connection with the sale,

Provided that the Agent shall have the right to appoint (at the Borrowers' expense) another Approved Broker to provide a second valuation of that Ship addressed to the Agent and prepared in accordance with the terms of this Agreement, in which case the Market Value of that Ship shall be the arithmetic average of the two valuations.

15.4 Value of additional vessel security

The net realisable value of any additional security which is provided under Clause 15.2 and which consists of a Security Interest over a vessel shall be that shown by a valuation complying with the requirements of Clause 15.3.

15.5 Valuations binding

Any valuation under Clause 15.2, 15.3 or 15.4 shall be binding and conclusive as regards the Borrowers, as shall be any valuation which the Majority Lenders make of any additional security which does not consist of or include a Security Interest.

15.6 Provision of information

The Borrowers shall promptly provide the Agent and any Approved Broker or expert acting under Clause 15.3 or 15.4 with any information which the Agent or the Approved Broker or expert may request for the purposes of the valuation; and, if the Borrowers fail to provide the information by the date specified in the request, the valuation may be made on any basis and assumptions which the Approved Broker or the Majority Lenders (or the expert appointed by them) consider prudent.

15.7 Frequency of valuations

Each Borrower acknowledges and agrees that the Agent may commission valuation(s) of each Ship at such times as the Agent shall deem necessary.

15.8 Payment of valuation expenses

Without prejudice to the generality of the Borrowers' obligations under Clauses 20.2, 20.3 and 21.3, the Borrowers shall, on demand, pay the Agent the amount of the fees and expenses of any Approved Broker or expert instructed by the Agent under this Clause and all legal and other expenses incurred by any Creditor Party in connection with any matter arising out of this Clause **Provided that** so long as (i) no Event of Default has occurred and (ii) no mandatory prepayment is required to be made pursuant to Clause 8.8(a), the Borrowers shall not be obliged to pay any such fees or expenses in respect of more than one valuation of each Ship (and, if required by the Agent pursuant to Clause 15.3, one additional valuation of such Ship) in any calendar year.

15.9 Application of prepayment

Clause 8.10(b) shall apply in relation to any prepayment pursuant to Clause 15.2.

16. PAYMENTS AND CALCULATIONS

Currency and method of payments

All payments to be made by the Lenders or by any Borrower under a Finance Document shall be made to the Agent or to the Security Trustee, in the case of an amount payable to it:

- (a) by not later than 11.00 a.m. (New York City time) on the due date;
- (b) in same day Dollar funds settled through the New York Clearing House Interbank Payments System (or in such other Dollar funds and/or settled in such other manner as the Agent shall specify as being customary at the time for the settlement of international transactions of the type contemplated by this Agreement);
- (c) in the case of an amount payable by a Lender to the Agent or by any Borrower to the Agent or any Lender, to the account of the Agent with correspondent bank Bank of America Intl. New York (correspondent bank SWIFT: BOFAUS3N (SWIFT: ABNANL2A, beneficiary: ABN AMRO Bank N.V. Amsterdam and account number: NL60ABNA0626269504) with reference "\$53,000,000 facility re m.v.s NEW YORK, MYRTO and MAIA", or to such other account with such other bank as the Agent may from time to time notify to the Borrowers and the other Creditor Parties; and
- (d) in the case of an amount payable to the Security Trustee, to such account as it may from time to time notify to the Borrowers and the other Creditor Parties.

16.2 Payment on non-Business Day

If any payment by any Borrower under a Finance Document would otherwise fall due on a day which is not a Business Day:

- (a) the due date shall be extended to the next succeeding Business Day; or
- (b) if the next succeeding Business Day falls in the next calendar month, the due date shall be brought forward to the immediately preceding Business Day,

and interest shall be payable during any extension under paragraph (a) at the rate payable on the original due date.

16.3 Basis for calculation of periodic payments

All interest and commitment fee and any other payments under any Finance Document which are of an annual or periodic nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

16.4 Subject to Clauses 16.5, 16.6 and 16.7:

- (a) any amount received by the Agent under a Finance Document for distribution or remittance to a Lender, the Swap Bank or the Security Trustee shall be made available by the Agent to that Lender, the Swap Bank or, as the case may be, the Security Trustee by payment, with funds having the same value as the funds received, to such account as the Lender, the Swap Bank or the Security Trustee may have notified to the Agent not less than 5 Business Days previously; and
- (b) amounts to be applied in satisfying amounts of a particular category which are due to the Lenders and/or the Swap Bank generally shall be distributed by the Agent to each Lender and the Swap Bank pro rata to the amount in that category which is due to it.

16.5 Permitted deductions by Agent

Notwithstanding any other provision of this Agreement or any other Finance Document, the Agent may, before making an amount available to a Lender or the Swap Bank, deduct and withhold from that amount any sum which is then due and payable to the Agent from that Lender or the Swap Bank under any Finance Document or any sum which the Agent is then entitled under any Finance Document to require that Lender or the Swap Bank to pay on demand.

16.6 Agent only obliged to pay when monies received

Notwithstanding any other provision of this Agreement or any other Finance Document, the Agent shall not be obliged to make available to any Borrower or any Lender or the Swap Bank any sum which the Agent is expecting to receive for remittance or distribution to that Borrower or that Lender or the Swap Bank until the Agent has satisfied itself that it has received that sum.

16.7 Refund to Agent of monies not received

If and to the extent that the Agent makes available a sum to a Borrower or a Lender or the Swap Bank, without first having received that sum, that Borrower or (as the case may be) the Lender concerned or the Swap Bank shall, on demand:

- (a) refund the sum **in full** to the Agent; and
- (b) pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding or other loss, liability or expense incurred by the Agent as a result of making the sum available before receiving it.

16.8 Agent may assume receipt

Clause 16.7 shall not affect any claim which the Agent has under the law of restitution, and applies irrespective of whether the Agent had any form of notice that it had not received the sum which it made available.

16.9 Creditor Party accounts

Each Creditor Party shall maintain accounts showing the amounts owing to it by the Borrowers and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrowers and any Security Party.

16.10 Agent's memorandum account

The Agent shall maintain a memorandum account showing the amounts advanced by the Lenders and all other sums owing to the Agent, the Security Trustee and each Lender from the Borrowers and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrowers and any Security Party.

16.11 Accounts prima facie evidence

If any accounts maintained under Clauses 16.9 and 16.10 show an amount to be owing by a Borrower or a Security Party to a Creditor Party, those accounts shall be prima facie evidence that that amount is owing to that Creditor Party.

17. APPLICATION OF RECEIPTS

17.1 Normal order of application

Except as any Finance Document may otherwise provide, any sums which are received or recovered by any Creditor Party under or by virtue of any Finance Document shall be applied:

- (a) **FIRST:** in or towards satisfaction of any amounts then due and payable under the Finance Documents in the following order and proportions:
 - (i) firstly, in or towards satisfaction pro rata of all amounts then due and payable to the Creditor Parties under the Finance Documents other than those amounts referred to at paragraphs (ii) and (Hi) (including, but without limitation, all amounts payable by any Borrower under Clauses 20, 21 and 22 of this Agreement or by any Borrower or any Security Party under any corresponding or similar provision in any other Finance Document);
 - (ii) secondly, in or towards satisfaction pro rata of any and all amounts of interest or default interest payable to the Creditor Parties under the Finance Documents (and, for this purpose, the expression "**interest**" shall include any net amount which any Borrower shall have become liable to pay or deliver under section 2(e) (Obligations) of the Master Agreement but shall have failed to pay or deliver to the Swap Bank at the time of application or distribution under this Clause 17); and
 - (iii) thirdly, in or towards satisfaction pro rata of the Loan and the Swap Exposure (in the case of the latter, calculated as at the actual Early Termination Date applying to each particular Designated Transaction, or if no such Early Termination Date shall have occurred, calculated as if an Early Termination Date occurred on the date of application or distribution hereunder);
- (b) **SECONDLY:** in retention of an amount equal to any amount not then due and payable under any Finance Document but which the Agent, by notice to any Borrower, the Security Parties and the other Creditor Parties, states in its opinion will or may become due and payable in the future and, upon those amounts becoming due and payable, in or towards satisfaction of them in accordance with the provisions of Clause 17.1(a); and
- (c) **THIRDLY:** any surplus shall be paid to the Borrowers or to any other person appearing to be entitled to it.

17.2 Variation of order of application

The Agent may, with the authorisation of the Majority Lenders and the Swap Bank, by notice to the Borrowers, the Security Parties and the other Creditor Parties provide for a different manner of application from that set out in Clause 17.1 either as regards a specified sum or sums or as regards sums in a specified category or categories.

17.3 Notice of variation of order of application

The Agent may give notices under Clause 17.2 from time to time; and such a notice may be stated to apply not only to sums which may be received or recovered in the future, but also to any sum which has been received or recovered on or after the third Business Day before the date on which the notice is served.

17.4 Appropriation rights overridden

This Clause 17 and any notice which the Agent gives under Clause 17.2 shall override any right of appropriation possessed, and any appropriation made, by any Borrower or any Security Party.

18. APPLICATION OF EARNINGS; SWAP PAYMENTS

18.1 Payment of Earnings

Each Borrower undertakes with each Creditor Party to ensure that, throughout the Security Period:

- (a) (and subject only to the provisions of the General Assignments) all Earnings of the Ship owned by it are paid to the Earnings Account for that Ship; and
- (b) all payments by the Swap Bank to the Borrowers under each Designated Transaction are paid to the Earnings Accounts (or any of them).

18.2 Location of accounts

Each Borrower shall promptly:

- (a) comply with any requirement of the Agent as to the location or re-location of its Earnings Account; and
- (b) execute any documents which the Agent specifies to create or maintain in favour of the Security Trustee a Security Interest over (and/or rights of set-off, consolidation or other rights in relation to) its Earnings Account.

18.3 Debits for expenses etc.

The Agent shall be entitled (but not obliged) from time to time to debit any Earnings Account without prior notice in order to discharge any amount due and payable under Clause 20 or 21 to a Creditor Party or payment of which any Creditor Party has become entitled to demand under Clause 20 or 21.

18.4 Borrowers' obligations unaffected

The provisions of this Clause 18 do not affect:

- (a) the liability of the Borrowers to make payments of principal and interest on the due dates; or
- (b) any other liability or obligation of the Borrowers or any Security Party under any Finance Document.

18.5 Earnings Accounts balances

Subject to the other terms of this Agreement (including, without limitation, the terms of Clause 11.17 and this Clause 18), the monies on each Earnings Account (other than the

Minimum Liquidity Amount) shall be freely available to the Borrowers to be used in accordance with and in compliance with the terms and conditions of this Agreement **Provided that** no Event of Default has occurred and is continuing.

19. EVENTS OF DEFAULT

19.1 Events of Default

An Event of Default occurs if:

- (a) any Borrower or any Security Party fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document unless such failure is caused by an administrative or technical error or any other event which disrupts any applicable payment or communication system and is beyond the control of the Borrowers (or any of them) or any Security Party and in which case the payment is made within 3 Business Days of its due date; or
- (b) any breach occurs of Clause 9.2, 10.17, 10.18, 10.20, 11.2, 11.3, 11.9, 11.17, 11.19, 12.2, 12.3, 13.2, 13.3, 14.2 or 15.2 of this Agreement or clause 12.3 of the Corporate Guarantee; or
- (c) any breach by any Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach covered by paragraphs (a) or (b)) which, in the opinion of the Majority Lenders, is capable of remedy, and such default continues unremedied 10 days after written notice from the Agent requesting action to remedy the same; or
- (d) (subject to any applicable grace period specified in any Finance Document) any breach by any Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach falling within paragraphs (a), (b) or (c)); or
- (e) any representation, warranty or statement made or repeated by, or by an officer of, a Borrower or a Security Party in a Finance Document or in a Drawdown Notice or any other notice or document relating to a Finance Document is untrue or misleading when it is made or repeated; or
- (f) any of the following occurs in relation to any Financial Indebtedness of a Relevant Person (in the case of all Relevant Persons (taken as a whole) exceeding in aggregate \$10,000,000 (or the equivalent in any other currency) at any relevant time**Provided that** in the case of each Borrower, individually, any Financial Indebtedness exceeding \$500,000 (or the equivalent in any other currency)):
 - (i) any Financial Indebtedness of a Relevant Person is not paid when due; or
 - (ii) any Financial Indebtedness of a Relevant Person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
 - (iii) a lease, hire purchase agreement or charter creating any Financial Indebtedness of a Relevant Person is terminated by the lessor or owner or becomes capable of being terminated as a consequence of any termination event; or
 - (iv) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of a Relevant Person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or

- (v) any Security Interest securing any Financial Indebtedness of a Relevant Person becomes enforceable; or
- (g) any of the following occurs in relation to a Relevant Person:
 - (i) a Relevant Person becomes, in the opinion of the Majority Lenders, unable to pay its debts as they fall due; or
 - (ii) any assets of a Relevant Person are subject to any form of execution, attachment, arrest, sequestration or distress or any form of freezing order in respect of a sum of, or sums exceeding, in aggregate, in the case of all Relevant Persons (taken as a whole) \$10,000,000 (or the equivalent in any other currency) at any relevant time Provided that in the case of each Borrower, individually, any sum of, or sums exceeding, in aggregate \$500,000 (or the equivalent in any other currency);
 - (iii) any administrative or other receiver is appointed over any asset of a Relevant Person; or
 - (iv) an administrator is appointed (whether by the court or otherwise) in respect of a Relevant Person; or
 - (v) any formal declaration of bankruptcy or any formal statement to the effect that a Relevant Person is insolvent or likely to become insolvent is made by a Relevant Person or by the directors of a Relevant Person or, in any proceedings, by a lawyer acting for a Relevant Person; or
 - (vi) a provisional liquidator is appointed in respect of a Relevant Person, a winding up order is made in relation to a Relevant Person or a winding up resolution is passed by a Relevant Person; or
 - (vii) a resolution is passed, an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by (aa) a Relevant Person, (bb) the members or directors of a Relevant Person, (cc) a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person, or (dd) a government minister or public or regulatory authority of a Pertinent Jurisdiction for or with a view to the winding up of that or another Relevant Person or the appointment of a provisional liquidator or administrator in respect of that or another Relevant Person, or that or another Relevant Person ceasing or suspending business operations or payments to creditors, save that this paragraph does not apply to a fully solvent winding up of a Relevant Person other than a Borrower or the Corporate Guarantor which is, or is to be, effected for the purposes of an amalgamation or reconstruction previously approved by the Majority Lenders and effected not later than 3 months after the commencement of the winding up; or
 - (viii) an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by a creditor of a Relevant Person (other than a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person) for the winding up of a Relevant Person or the appointment of a provisional liquidator or administrator in respect of a Relevant Person in any Pertinent Jurisdiction, unless the proposed winding up, appointment of a provisional liquidator or administration is being contested in good faith, on substantial grounds and not with a view to some other insolvency law procedure being implemented instead and either (aa) the application or petition is dismissed or withdrawn within 30 days of being made or presented, or (bb) within 30 days of the administration notice being given or filed, or the other relevant steps being taken, other action is taken which will ensure that there will be no administration and (in both cases (aa) or (bb)) the Relevant Person will continue to carry on business in

the ordinary way and without being the subject of any actual, interim or pending insolvency law procedure; or

- (ix) a Relevant Person or its directors take any steps (whether by making or presenting an application or petition to a court, or submitting or presenting a document setting out a proposal or proposed terms, or otherwise) with a view to obtaining, in relation to that or another Relevant Person, any form of moratorium, suspension or deferral of payments, reorganisation of debt (or certain debt) or arrangement with all or a substantial proportion (by number or value) of creditors or of any class of them or any such moratorium, suspension or deferral of payments, reorganisation or arrangement is effected by court order, by the filing of documents with a court, by means of a contract or in any other way at all; or
- (x) any meeting of the members or directors, or of any committee of the board or senior management, of a Relevant Person is held or summoned for the purpose of considering a resolution or proposal to authorise or take any action of a type described in paragraphs (iv) to (ix) or a step preparatory to such action, or (with or without such a meeting) the members, directors or such a committee resolve or agree that such an action or step should be taken or should be taken if certain conditions materialise or fail to materialise; or
- (xi) in a country other than England, any event occurs, any proceedings are opened or commenced or any step is taken which, in the opinion of the Majority Lenders is similar to any of the foregoing; or
- (h) any Borrower ceases or suspends carrying on its business or a part of its business which, in the opinion of the Majority Lenders, is material in the context of this Agreement; or
- (i) it becomes unlawful in any Pertinent Jurisdiction or impossible:
- (i) for any Borrower, the Corporate Guarantor or any other Security Party to discharge any liability under a Finance Document or to comply with any other obligation which the Majority Lenders consider material under a Finance Document; or
- (ii) for the Agent, the Security Trustee, the Lenders or the Swap Bank to exercise or enforce any right under, or to enforce any Security Interest created by, a Finance Document; or
- (j) any official consent (including, without limitation, consents required pursuant to the relevant entity's constitutional documents of those required by law) necessary to enable any Borrower to own, operate or charter the Ship owned by it or to enable any Borrower or any Security Party to comply with any provision which the Majority Lenders consider material of a Finance Document is not granted, expires without being renewed, is revoked or becomes liable to revocation or any condition of such a consent is not fulfilled; or
- (k) any provision which the Majority Lenders consider material of a Finance Document proves to have been or becomes invalid or unenforceable, or a Security Interest created by a Finance Document proves to have been or becomes invalid or unenforceable or such a Security Interest proves to have ranked after, or loses its priority to, another Security Interest or any other third party claim or interest; or
- (l) the security constituted by a Finance Document is in any way imperilled or in jeopardy; or
- (m) without the prior written consent of the Lenders, the shares of the Corporate Guarantor cease to be listed on the New York Stock Exchange; or
- (n) an Event of Default (as defined in section 14 of the Master Agreement) occurs; or

- (o) the Master Agreement is terminated, cancelled, suspended, rescinded or revoked or otherwise ceases to remain in full force and effect for any reason except with the consent of the Agent, acting with the authorisation of the Majority Lenders ; or
- (p) any other event occurs or any other circumstances arise or develop including, without limitation:
- (i) a change in the financial position, state of affairs or prospects of any Borrower and/or any Security Party and/or any member of the Group; or
- (ii) any accident or any Environmental Incident or other event involving any Ship or another vessel owned, chartered or operated by a Relevant Person,

which may have a Material Adverse Effect.

19.2 Actions following an Event of Default

On, or at any time after, the occurrence of an Event of Default:

- (a) the Agent may, and if so instructed by the Majority Lenders, the Agent shall:
 - (i) serve on the Borrowers a notice stating that all or part of the Commitments and of the other obligations of each Lender to the Borrowers under this Agreement are cancelled; and/or
 - (ii) serve on the Borrowers a notice stating that all or part of the Loan together with accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
 - (iii) take any other action which, as a result of the Event of Default or any notice served under paragraph (i) or (ii), the Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law; and/or
- (b) the Security Trustee may, and if so instructed by the Agent, acting with the authorisation of the Majority Lenders, the Security Trustee shall take any action which, as a result of the Event of Default or any notice served under paragraph (a) (i) or (ii), the Security Trustee, the Agent, the Arranger and/or the Lenders and/or the Swap Bank are entitled to take under any Finance Document or any applicable law.

19.3 Termination of Commitments

On the service of a notice under Clause 19.2(a)(i), the Commitments and all other obligations of each Lender to the Borrowers under this Agreement shall be cancelled.

19.4 Acceleration of Loan

On the service of a notice under Clause 19.2(a)(ii), all or, as the case may be, the part of the Loan specified in the notice together with accrued interest and all other amounts accrued or owing from the Borrowers or any Security Party under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

19.5 Multiple notices; action without notice

The Agent may serve notices under Clauses 19.2(a)(i) and 19.2(a)(ii) simultaneously or on different dates and it and/or the Security Trustee may take any action referred to in Clause 19.2 if no such notice is served or simultaneously with or at any time after the service of both or either of such notices.

19.6 Notification of Creditor Parties and Security Parties

The Agent shall send to each Lender, the Swap Bank, the Security Trustee and each Security Party a copy or the text of any notice which the Agent serves on the Borrowers under Clause 19.2; but the notice shall become effective when it is served on the Borrowers, and no failure or delay by the Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide any Borrower or any Security Party with any form of claim or defence.

19.7 Creditor Party's rights unimpaired

Nothing in this Clause shall be taken to impair or restrict the exercise of any right given to individual Lenders or the Swap Bank under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clause 3.1.

19.8 Exclusion of Creditor Party liability

No Creditor Party, and no receiver or manager appointed by the Security Trustee, shall have any liability to a Borrower or a Security Party:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset,

except that this does not exempt a Creditor Party or a receiver or manager from liability for losses shown to have been directly and mainly caused by the dishonesty or the wilful misconduct of such Creditor Party's own officers and employees or (as the case may be) such receiver's or manager's own partners or employees.

19.9 Relevant Persons

In this Clause 19, a "**Relevant Person**" means a Borrower, the Corporate Guarantor or a Security Party, and any company which is a Subsidiary of the Corporate Guarantor or a Security Party and any other member of the Group but excluding any company which is dormant and the value of whose gross assets is \$50,000 or less.

19.10 Interpretation

In Clause 19.1(f), references to an event of default or a termination event include any event, howsoever described, which is similar to an event of default in a facility agreement or a termination event in a finance lease; and in Clause 19.1(g), "**petition**" includes an application.

19.11 Position of Swap Bank

Neither the Agent nor the Security Trustee shall be obliged, in connection with any action taken or proposed to be taken under or pursuant to the foregoing provisions of this Clause 19, to have any regard to the requirements of the Swap Bank except to the extent that the Swap Bank is also a Lender.

20. FEES AND EXPENSES

20.1 Arrangement and commitment fees

The Borrowers shall pay to the Agent:

- (a) on the Drawdown Date, a non-refundable arrangement fee equal to 0.6 per cent. of the total amount of the Loan drawn on the Drawdown Date; and
- (b) a non-refundable commitment fee at the rate of 0.8 per cent. per annum on the undrawn or un-cancelled amount of the Total Commitments, during the period from (and including) the date of this Agreement up to the earlier of (i) the Drawdown Date and (ii) the last day of the Availability Period, such commitment fee to be payable quarterly in arrears during such period and on the last day thereof.

20.2 Costs of negotiation, preparation etc.

The Borrowers shall pay to the Agent on its demand the amount of all expenses incurred by the Agent or the Security Trustee in connection with the negotiation, preparation, execution or registration of any Finance Document or any related document or with any transaction contemplated by a Finance Document or a related document (including, but not limited to, any costs incurred by the Agent in connection with the insurance opinion to be provided to it in accordance with paragraph 7 of Part B, Schedule 3).

20.3 Costs of variations, amendments, enforcement etc.

The Borrowers shall pay to the Agent, on the Agent's demand, for the account of the Creditor Party concerned, the amount of all expenses incurred by a Creditor Party in connection with:

- (a) any amendment or supplement to a Finance Document, or any proposal for such an amendment to be made;
- (b) any consent or waiver by the Lenders, the Swap Bank, the Majority Lenders or the Creditor Party concerned under or in connection with a Finance Document, or any request for such a consent or waiver;
- (c) the valuation of any security provided or offered under Clause 15 or any other matter relating to such security;
- (d) where the Security Trustee, in its absolute opinion, considers that there has been a material change to the insurances in respect of a Ship, the review of the insurances of that Ship pursuant to Clause 13.17; and
- (e) any step taken by the Creditor Party concerned with a view to the protection, exercise or enforcement of any right or Security Interest created by a Finance Document or for any similar purpose (including, without limitation, a request for the preparation of any insurance opinion prepared by an insurance expert acceptable to the Agent, which, in the opinion of the Agent, opines on the matters requested by the Agent in a satisfactory manner).

There shall be recoverable under paragraph (d) the full amount of all legal expenses, whether or not such as would be allowed under rules of court or any taxation or other procedure carried out under such rules.

20.4 Extraordinary management time

The Borrowers shall pay to the Agent on its demand compensation in respect of the reasonable and documented amount of time which the management of either Servicing Bank has spent in connection with a matter covered by Clause 20.3 and which exceeds the amount of time which would ordinarily be spent in the performance of the relevant Servicing Bank's routine functions. Any such compensation shall be based on such reasonable daily or

hourly rates as the Agent may notify to the Borrowers and is in addition to any fee paid or payable to the relevant Servicing Bank.

20.5 Documentary taxes

The Borrowers shall promptly pay any tax payable on or by reference to any Finance Document, and shall, on the Agent's demand, fully indemnify each Creditor Party against any claims, expenses, liabilities and losses resulting from any failure or delay by the Borrowers to pay such a tax.

20.6 Certification of amounts

A notice which is signed by 2 officers of a Creditor Party, which states that a specified amount, or aggregate amount, is due to that Creditor Party under this Clause 20 and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

21. INDEMNITIES

21.1 Indemnities regarding borrowing and repayment of Loan

The Borrowers shall fully indemnify the Agent and each Lender on the Agent's demand and the Security Trustee on its demand in respect of all claims, expenses, liabilities and losses which are made or brought against or incurred by that Creditor Party, or which that Creditor Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:

- (a) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity;
- (b) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
- (c) any failure (for whatever reason) by the Borrowers to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrowers on the amount concerned under Clause 7); and
- (d) the occurrence and/or continuance of an Event of Default or a Potential Event of Default and/or the acceleration of repayment of the Loan under Clause 19,

and in respect of any tax (other than tax on its overall net income or a FATCA Deduction) for which a Creditor Party is liable in connection with any amount paid or payable to that Creditor Party (whether for its own account or otherwise) under any Finance Document.

21.2 Breakage costs

Without limiting its generality, Clause 21.1 covers any claim, expense, liability or loss, including a loss of a prospective profit, incurred by a Lender:

- (a) in liquidating or employing deposits from third parties acquired or arranged to fund or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount); and
- (b) in terminating, or otherwise in connection with, any interest and/or currency swap or any other transaction entered into (whether with another legal entity or with another office or department of the Lender concerned) to hedge any exposure arising under this

Agreement or that part which the Lender concerned determines is fairly attributable to this Agreement of the amount of the liabilities, expenses or losses (including losses of prospective profits) incurred by it in terminating, or otherwise in connection with, a number of transactions of which this Agreement is one.

21.3 Miscellaneous indemnities

The Borrowers shall fully indemnify each Creditor Party severally on their respective demands in respect of all claims, expenses, liabilities and losses which may be made or brought against or incurred by a Creditor Party, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Agent, the Security Trustee, the Arranger or any other Creditor Party or by any receiver appointed under a Finance Document; and
- (b) any other Pertinent Matter,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the dishonesty or wilful misconduct of the officers or employees of the Creditor Party concerned.

Without prejudice to its generality, this Clause 21.3 covers any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code, the ISPS Code or any Environmental Law.

21.4 Environmental Indemnity

Without prejudice to its generality, Clause 21.3 covers any claims, demands, proceedings, liabilities, taxes, losses or expenses of every kind which arise, or are asserted, under or in connection with any law relating to safety at sea, pollution or the protection of the environment, the ISM Code or the ISPS Code.

21.5 Currency indemnity

If any sum due from any Borrower or any Security Party to a Creditor Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the "Contractual Currency") into another currency (the "Payment Currency") for the purpose of:

- (a) making or lodging any claim or proof against any Borrower or any Security Party, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrowers shall indemnify the Creditor Party concerned against the loss arising when the amount of the payment actually received by that Creditor Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 21.5, the "**available rate of exchange**" means the rate at which the Creditor Party concerned is able at the opening of business (London time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 21.5 creates a separate liability of the Borrowers which is distinct from their other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

21.6 Application to Master Agreement

For the avoidance of doubt, Clause 21.5 does not apply in respect of sums due from the Borrowers to the Swap Bank under or in connection with the Master Agreement as to which sums the provisions of section 8 (Contractual Currency) of the Master Agreement shall apply.

21.7 Certification of amounts

A notice which is signed by 2 officers of a Creditor Party, which states that a specified amount, or aggregate amount, is due to that Creditor Party under this Clause 21 and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

21.8 Sums deemed due to a Lender

For the purposes of this Clause 21, a sum payable by the Borrowers to the Agent or the Security Trustee for distribution to a Lender shall be treated as a sum due to that Lender.

21.9 Mandatory Cost

The Borrowers shall, on demand by the Agent, pay to the Agent for the account of the relevant Lender, such amount which any Lender certifies in a notice to the Agent to be its good faith determination of the amount necessary to compensate it for complying with:

- (a) in the case of a Lender lending from a lending office in a Participating Member State, the minimum reserve requirements (or other requirements having the same or similar purpose) of the European Central Bank or any other authority or agency which replaces all or any of its functions) in respect of loans made from that facility office; and
- (b) in the case of any Lender lending from a lending office in the United Kingdom, any reserve asset, special deposit or liquidity requirements (or other requirements having the same or similar purpose) of the Bank of England (or any other governmental authority or agency) and/or paying any fees to the Financial Conduct Authority and/or the Prudential Regulation Authority (or any other governmental authority or agency which replaces all or any of their functions), which, in each case, is referable to that Lender's participation in the Loan.

21.10 Notice of prepayment

If the Borrowers are not willing to continue to indemnify the Creditor Parties for any tax for which the Creditor Parties are liable under Clause 21.1, the Borrowers may give the Agent not less than 14 days' notice of their intention to prepay the Loan at the end of an Interest Period.

21.11 Prepayment

A notice under Clause 21.10 shall be irrevocable; and on the date specified in the Borrowers' notice of intended prepayment, the Commitments shall terminate and the Borrowers shall prepay the Loan together with accrued interest thereon at the applicable rate plus the Margin and the Mandatory Cost (if any).

22. NO SET-OFF OR TAX DEDUCTION

22.1 No deductions

All amounts due from the Borrowers under a Finance Document shall be paid:

- (a) without any form of set off, cross-claim or condition; and
- (b) free and clear of any tax deduction except a tax deduction which a Borrower is required by law to make.

22.2 Grossing-up for taxes

If a Borrower is required by law to make a tax deduction from any payment:

- (a) that Borrower shall notify the Agent as soon as it becomes aware of the requirement;
- (b) that Borrower shall pay the tax deducted to the appropriate taxation authority promptly, and in any event before any fine or penalty arises; and
- (c) the amount due in respect of the payment shall be increased by the amount necessary to ensure that each Creditor Party receives and retains (free from any liability relating to the tax deduction) a net amount which, after the tax deduction, is equal to the full amount which it would otherwise have received.

22.3 Evidence of payment of taxes

Within 1 month after making any tax deduction, the Borrower concerned shall deliver to the Agent documentary evidence satisfactory to the Agent that the tax had been paid to the appropriate taxation authority.

22.4 Exclusion of tax on overall net income

In this Clause 22 "**tax deduction**" means any deduction or withholding for or on account of any present or future tax, excluding any FATCA Deduction, except tax on a Creditor Party's overall net income.

22.5 Application to Master Agreement

For the avoidance of doubt, Clause 22 does not apply in respect of sums due from the Borrowers to the Swap Bank under or in connection with the Master Agreement as to which sums the provisions of section 2(d) (Deduction or Withholding for Tax) of the Master Agreement shall apply.

22.6 Notice of prepayment

If the Borrowers are not willing to continue to make a tax deduction under Clause 22.2 the Borrowers may give the Agent not less than 14 days' notice of their intention to prepay the Loan at the end of an Interest Period.

22.7 Prepayment

A notice under Clause 22.6 shall be irrevocable; and on the date specified in the Borrowers' notice of intended prepayment, the Commitments shall terminate and the Borrowers shall prepay the Loan, together with accrued interest thereon at the applicable rate plus the Margin and the Mandatory Cost (if any).

22.8 FATCA

(a) FATCA Information

- (i) Subject to paragraph (iii) below, each party to a Finance Document shall, within 10 Business Days of a reasonable request by another party to the Finance Documents:
- (A) confirm to that other party whether it is a FATCA Exempt Party or is not a FATCA Exempt Party; and
- (B) supply to the requesting party such forms (including IRS Form W-8 or Form W-9 or any successor or substitute form, as applicable), documentation and other information relating to its status under FATCA (including its applicable "passthru percentage" or other information required under the US Treasury regulations or other official guidance including intergovernmental agreements) as the requesting party reasonably requests for the purposes of such requesting party's compliance with FATCA;
- (ii) If a party to any Finance Document confirms to another party pursuant to Clause 22.8(a)(i) above that it is a FATCA Exempt Party or provides an IRS Form W-8 or W-9 showing 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, or that the IRS Form has ceased to be valid, that party shall notify that other party reasonably promptly;
- (iii) Sub-clause (i) above shall not oblige any Creditor Party to do anything which would or might in its reasonable opinion constitute a breach of any law or regulation, any policy of that party, any fiduciary duty or any duty of confidentiality, or to disclose any confidential information (including, without limitation, its tax returns and calculations); provided, however, that information required (or equivalent to the information so required) by IRS Forms W-8 or W-9 (or any successor forms) shall not be treated as confidential information of such party for purposes of this sub-clause (iii);
- (iv) If a party to any Finance Document fails to confirm its status or to supply forms, documentation or other information requested in accordance with sub-clause (i) above (including, for the avoidance of doubt, where sub-clause (iii) above applies), then:
 - (A) if that party failed to confirm whether it is (and/or remains) a FATCA Exempt Party then such party shall be treated for the purposes of the Finance Documents as if it is not a FATCA Exempt Party; and
 - (B) if that party failed to confirm its applicable passthru percentage then such party shall be treated for the purposes of the Finance Documents (and payments made thereunder) as if its applicable passthru percentage is 100 per cent.,

until (in each case) such time as the party in question provides the requested confirmation, forms, documentation or other information.

(b) FATCA Withholding

- (i) Each party to any Finance Document may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no party 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.
- (ii) Each party to any Finance Document shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of

such FATCA Deduction) notify the party to whom it is making the payment and, in addition, shall notify the Borrowers, the Agent and the other Creditor Parties.

23. ILLEGALITY, ETC.

23.1 Illegality

This Clause 23 applies if a Lender (the "**Notifying Lender**") notifies the Agent that it has become, or will with effect from a specified date, become:

- (a) unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or
- (b) contrary to, or inconsistent with, any regulation,

for the Notifying Lender to maintain or give effect to any of its obligations under this Agreement in the manner contemplated by this Agreement.

23.2 Notification of illegality

The Agent shall promptly notify the Borrowers, the Security Parties, the Security Trustee and the other Lenders of the notice under Clause 23.1 which the Agent receives from the Notifying Lender.

23.3 Prepayment; termination of Commitment

On the Agent notifying the Borrowers under Clause 23.2, the Notifying Lender's Commitment shall terminate; and thereupon or, if later, on the date specified in the Notifying Lender's notice under Clause 23.1 as the date on which the notified event would become effective the Borrowers shall prepay the Notifying Lender's Contribution in accordance with Clause 8.

23.4 Mitigation

If circumstances arise which would result in a notification under Clause 23.1 then, without in any way limiting the rights of the Notifying Lender under Clause 23.3, the Notifying Lender shall use reasonable endeavours to transfer its obligations, liabilities and rights under this Agreement and the Finance Documents to another office or financial institution not affected by the circumstances but the Notifying Lender shall not be under any obligation to take any such action if, in its opinion, to do would or might:

- (a) have an adverse effect on its business, operations or financial condition; or
- (b) involve it in any activity which is unlawful or prohibited or any activity that is contrary to, or inconsistent with, any regulation; or
- (c) involve it in any expense (unless indemnified to its satisfaction) or tax disadvantage.

24. INCREASED COSTS

24.1 Increased costs

This Clause 24 applies if a Lender (the "**Notifying Lender**") notifies the Agent that the Notifying Lender considers that as a result of:

- (a) the introduction or alteration after the date of this Agreement of a law or an alteration after the date of this Agreement in the manner in which a law is interpreted or applied

- (a) (disregarding any effect which relates to the application to payments under this Agreement of a tax on that Lender's overall net income); or
- (b) complying with any regulation (including the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004, in the form existing on the date of this Agreement ("**Basel II**") and any other regulation which relates to capital adequacy or liquidity controls or which affects the manner in which the Notifying Lender allocates capital resources to its obligations under this Agreement) which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement; or
- (c) the introduction, implementation, application, administration or compliance with Basel III, CRD IV or CRR or any law or regulation which implements or applies Basel III, CRD IV or CRR (regardless of the date on which it is enacted, adopted or issued and regardless of whether any such implementation, application or compliance is by a government, regulator, the Creditor Party or any of its Affiliates) after the date of this Agreement,

the Notifying Lender (or its Holding Company) has incurred or will incur an "**increased cost**".

24.2 Meaning of "increased costs"

In this **Clause 24**, "**increased costs**" means, in relation to a Notifying Lender:

- (a) an additional or increased cost incurred as a result of, or in connection with, the Notifying Lender having entered into, or being a party to, this Agreement or a Transfer Certificate, of funding or maintaining its Commitment or Contribution or performing its obligations under this Agreement, or of having outstanding all or any part of its Contribution or other unpaid sums;
- (b) a reduction in the amount of any payment to the Notifying Lender under this Agreement or in the effective return which such a payment represents to the Notifying Lender or on its capital;
- (c) an additional or increased cost of funding all or maintaining **all** or any of the advances comprised in a class of advances formed by or including the Notifying Lender's Contribution or (as the case may require) the proportion of that cost attributable to the Contribution; or
- (d) a liability to make a payment, or a return foregone, which is calculated by reference to any amounts received or receivable by the Notifying Lender under this Agreement,

but not an item attributable to (i) a change in the rate of tax on the overall net income of the Notifying Lender (or its Holding Company), (ii) a FATCA Deduction required to be made by a party to a Finance Document or (iii) an item covered by the indemnity for tax in Clause 21.1 or by Clause 22.

For the purposes of this Clause 24.2 the Notifying Lender may in good faith allocate or spread costs and/or losses among its assets and liabilities (or any class of its assets and liabilities) on such basis as it considers appropriate.

24.3 Notification to Borrowers of claim for increased costs

The Agent shall promptly notify the Borrowers and the Security Parties of the notice which the Agent received from the Notifying Lender under Clause 24.1.

24.4 Payment of increased costs

The Borrowers shall pay to the Agent, on the Agent's demand, for the account of the Notifying Lender the amounts which the Agent from time to time notifies the Borrowers that the Notifying Lender has specified to be necessary to compensate the Notifying Lender for the increased cost.

24.5 Notice of prepayment

If the Borrowers are not willing to continue to compensate the Notifying Lender for the increased cost under Clause 24.4, the Borrowers may give the Agent not less than 14 days' notice of their intention to prepay the Notifying Lender's Contribution at the end of an Interest Period.

24.6 Prepayment; termination of Commitment

A notice under Clause 24.5 shall be irrevocable; the Agent shall promptly notify the Notifying Lender of the Borrowers' notice of intended prepayment; and:

- (a) on the date on which the Agent serves that notice, the Commitment of the Notifying Lender shall be cancelled; and
- (b) on the date specified in its notice of intended prepayment, the Borrowers shall prepay (without premium or penalty) the Notifying Lender's Contribution, together with accrued interest thereon at the applicable rate plus the Margin and the Mandatory Cost (if any).

24.7 Application of prepayment

Clause 8 shall apply in relation to the prepayment.

25. SET-OFF

25.1 Application of credit balances

Each Creditor Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of a Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from that Borrower to that Creditor Party under any of the Finance Documents; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of that Borrower;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; and
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

25.2 Existing rights unaffected

No Creditor Party shall be obliged to exercise any of its rights under Clause 25.1; and those rights shall be without prejudice and in addition to any right of set off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

25.3 Sums deemed due to a Lender

For the purposes of this Clause 25, a sum payable by the Borrowers to the Agent or the Security Trustee for distribution to, or for the account of, a Lender shall be treated as a sum

due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to such Lender.

25.4 No Security Interest

This Clause 25 gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of any Borrower.

26. TRANSFERS AND CHANGES IN LENDING OFFICES

26.1 Transfer by Borrowers

No Borrower may, without the prior written consent of the Agent, given on the instructions of **all** the Creditor Parties, transfer any of its rights, liabilities or obligations under any Finance Document.

26.2 Transfer by a Lender

Subject to Clause 26.4, a Lender (the "**Transferor Lender**") may at any time cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or
- (c) a combination of (a) and (b),

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, another bank or financial institution or a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a "**Transferee Lender**") by delivering to the Agent a completed certificate in the form set out in Schedule 4 with any modifications approved or required by the Agent (a "**Transfer Certificate**") executed by the Transferor Lender and the Transferee Lender.

However any rights and obligations of the Transferor Lender in its capacity as Agent or Security Trustee will have to be dealt with separately in accordance with the Agency and Trust Agreement.

A transfer pursuant to this Clause 26.2 shall be effected:

- (i) without the consent of the Borrowers:
 - (A) following the occurrence of an Event of Default which is continuing; and/or
 - (B) if such transfer is to another Lender or an Affiliate of a Lender; and
- (ii) in all other circumstances with the consent of the Borrowers (such consent not to be unreasonably withheld or delayed) and the Borrowers will be deemed to have given its consent 5 Business Days following the request of the Transferor Lender unless the consent is expressly refused by the Borrowers within that time.

26.3 Transfer Certificate, delivery and notification

As soon as reasonably practicable after a Transfer Certificate is delivered to the Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrowers, the Security Parties, the Security Trustee, each of the other Lenders and the Swap Bank;
- (b) on behalf of the Transferee Lender, send to each Borrower and each Security Party letters or faxes notifying them of the Transfer Certificate and attaching a copy of it; and
- (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above,

but the Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Transferor Lender and the Transferee Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to that Transferee Lender.

26.4 Effective Date of Transfer Certificate

A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date, **Provided that** it is signed by the Agent under Clause 26.3 on or before that date.

26.5 No transfer without Transfer Certificate

Except as provided in Clause 26.17, no assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, any Borrower, any Security Party, the Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

26.6 Lender re-organisation; waiver of Transfer Certificate

However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the "**successor**"), the Agent may, if it sees fit, by notice to the successor and the Borrowers and the Security Trustee waive the need for the execution and delivery of a Transfer Certificate; and, upon service of the Agent's notice, the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender.

26.7 Effect of Transfer Certificate

A Transfer Certificate takes effect in accordance with English law as follows:

- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents (other than the Master Agreement) are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender's title and of any rights or equities which any Borrower or any Security Party had against the Transferor Lender;
- (b) the Transferor Lender's Commitment is discharged to the extent specified in the Transfer Certificate;
- (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
- (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents (other than the Master Agreement) which are applicable to the Lenders generally, including those about pro rata sharing and the exclusion of liability on the part of, and the indemnification of, the Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;

- (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate's effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the transferor, assuming that any defects in the transferor's title and any rights or equities of any Borrower or any Security Party against the Transferor Lender had not existed;
- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents (other than the Master Agreement) which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under Clause 5.7 and Clause 20, and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and
- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of any Borrower or any Security Party referred to above include, but are not limited to, any right of set off and any other kind of cross claim.

26.8 Maintenance of register of Lenders

During the Security Period the Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the lending office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 26.4) of the Transfer Certificate; and the Agent shall make the register available for inspection by any Lender, the Security Trustee and the Borrowers during normal banking hours, subject to receiving at least 3 Business Days' prior notice.

26.9 Reliance on register of Lenders

The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.

26.10 Authorisation of Agent to sign Transfer Certificates

Each Borrower, the Security Trustee, each Lender and the Swap Bank irrevocably authorise the Agent to sign Transfer Certificates on its behalf.

26.11 Registration fee

In respect of any Transfer Certificate, the Agent shall be entitled to recover a registration fee of \$2,500 from the Transferor Lender or (at the Agent's option) the Transferee Lender.

26.12 Sub-participation; securitisation; subrogation assignment

- (a) A Lender may sub-participate or include in a securitisation or similar transaction all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, any Borrower, any Security Party, the Agent or the Security Trustee or any other Creditor Party; and the Lenders may assign, in any manner and terms agreed by the Majority Lenders, the Agent and the Security Trustee, all or any part of those rights to an insurer or surety who has become subrogated to them.

- (b) The Borrower shall, and shall procure that each Security Party shall, do everything desirable or necessary to assist a Lender to achieve a successful (in the opinion of that Lender) securitisation (or similar transaction).

26.13 Disclosure of information

In relation to any information which a Lender has received in relation to any Borrower, any Security Party or their affairs under or in connection with any Finance Document that Lender may disclose any such information without the prior irrevocable authorisation of or notice to that Borrower and the Corporate Guarantor to:

- (a) a potential transferee lender, sub-participant, Affiliate, any other assignee or transferee or any other person who may propose entering into a contractual relation with that Lender in relation to this Agreement; and/or
- (b) any direct or indirect Subsidiary, any direct or indirect Holding Company, any Affiliate or any other company in its group; and/or
- (c) any authorities (including, without limitation, any private, public or internationally recognised authorities) or any party to any Finance Document or any professional adviser to that Lender; and/or
- (d) a rating agency or their professional advisors; and/or
- (e) any other person regarding the funding, refinancing, transfer, assignment, sale, sub-participation, operational arrangement or other transaction in relation thereto including without limitation any enforcement, preservation, assignment, transfer, sale or sub-participation of that Lender's rights and obligations,

and including, without limitation, (x) for purposes in connection with (1) any enforcement or (2) assignment or transfer of that Lender's rights or obligations under any Finance Document or (y) to the extent desirable or necessary in connection with or in contemplation of a securitisation (or similar transaction).

26.14 Change of lending office

A Lender may change its lending office by giving notice to the Agent and the change shall become effective on the later of:

- (a) the date on which the Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect.

26.15 Notification

On receiving such a notice, the Agent shall notify the Borrowers and the Security Trustee; and, until the Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the lending office of which the Agent last had notice.

26.16 Replacement of the Reference Bank

If the Reference Bank ceases to be a Lender or is unable on a continuing basis to supply quotations for the purposes of Clause 5 then, unless the Borrowers, the Agent and the Majority Lenders otherwise agree, the Agent, acting on the instructions of the Majority Lenders, and after consulting the Borrowers, shall appoint another bank (whether or not a Lender) to be a replacement Reference Bank; and, when that appointment comes into effect, the first mentioned Reference Bank's appointment shall cease to be effective.

26.17 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 26, each Lender may without consulting with or obtaining consent from any Borrower or any Security Party, at any time charge, assign or otherwise create a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security Interest shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for that Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by any Borrower or any Security Party or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

27. VARIATIONS AND WAIVERS

27.1 Variations, waivers etc. by Majority Lenders

Subject to Clause 27.2, a document shall be effective to vary, waive, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by fax, by the Borrowers, by the Agent on behalf of the Majority Lenders, by the Agent and the Security Trustee in their own rights, and, if the document relates to a Finance Document to which a Security Party is party, by that Security Party.

27.2 Variations, waivers etc. requiring agreement of all Lenders.

However, as regards the following, Clause 27.1 applies as if the words "by the Agent on behalf of the Majority Lenders" were replaced by the words "by or on behalf of every Lender and the Swap Bank":

- (a) a reduction in the Margin;
- (b) a postponement to the date for, or a reduction in the amount of, any payment of principal, interest, fees or other sum payable under this Agreement;
- (c) an increase in any Lender's Commitment;
- (d) a change to the definition of "**Majority Lenders**";
- (e) a change to Clause 3 or this Clause 27;
- (f) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
- (g) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender's consent is required.

27.3 Exclusion of other or implied variations

Except for a document which satisfies the requirements of Clauses 27.1 and 27.2 no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by a Borrower or a Security Party of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

28. NOTICES

28.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

28.2 Addresses for communications

A notice by letter or fax shall be sent:

- (a) to the Borrowers: c/o Approved Manager
Pendelis Street
175 64 Paleo Faliro
Athens
Greece

Fax No: +30 210 9470101
- (b) to a Lender: At the address below its name in Schedule 1 or (as the case may require) in the relevant Transfer Certificate.
- (c) to the Agent, Arranger and Security Trustee: ABN AMRO Bank N.V.
Coolsingel
AE Rotterdam
The Netherlands

Attn: Loans Administration/Transportation
Fax No: +31 10 401 5323
- (d) to the Swap Bank: ABN AMRO Bank N.V.
c/o Markets Documentation Unit
Gustav Mahlerlaan 10

NL-1082PP Amsterdam
The Netherlands
mdu@nl.abnamro.com
Fax No: +31 10 459 0538

or to such other address as the relevant party may notify the Agent or, if the relevant party is the Agent or the Security Trustee, the Borrowers, the Lenders, the Arranger, the Swap Bank and the Security Parties.

28.3 Effective date of notices

Subject to Clauses 28.4 and 28.5:

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered; and
- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.

28.4 Service outside business hours

However, if under Clause 28.3 a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
- (b) on such a business day, but after 5 p.m. local time,

the notice shall (subject to Clause 28.5) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

28.5 Illegible notices

Clauses 28.3 and 28.4 do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

28.6 Valid notices

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

28.7 Electronic communication

Any communication to be made between the Agent and a Lender or Swap Bank or the Agent and the Borrowers under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Agent and the relevant Creditor Party or the Borrowers:

- (a) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
- (b) 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
- (c) notify each other of any change to their respective addresses or any other such information supplied to them.

Any electronic communication made between the Agent and a Lender or the Swap Bank or the Borrowers will be effective only when actually received in readable form and, in the case of any electronic communication made by a Creditor Party or the Borrowers to the Agent, only if it is addressed in such a manner as the Agent shall specify for this purpose.

28.8 English language

Any notice under or in connection with a Finance Document shall be in English.

28.9 Meaning of "notice"

In this Clause 28, "**notice**" includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

29. JOINT AND SEVERAL LIABILITY

29.1 General

All liabilities and obligations of the Borrowers under this Agreement shall, whether expressed to be so or not, be several and, if and to the extent consistent with Clause 29.2, joint.

29.2 No impairment of Borrower's obligations

The liabilities and obligations of a Borrower shall not be impaired by:

- (a) this Agreement being or later becoming void, unenforceable or illegal as regards any other Borrower;
- (b) any Lender, the Swap Bank or the Security Trustee entering into any rescheduling, refinancing or other arrangement of any kind with any other Borrower;
- (c) any Lender, the Swap Bank or the Security Trustee releasing any other Borrower or any Security Interest created by a Finance Document; or
- (d) any combination of the foregoing.

29.3 Principal debtors

Each Borrower declares that it is and will, throughout the Security Period, remain a principal debtor for all amounts owing under this Agreement and the Finance Documents and no Borrower shall in any circumstances be construed to be a surety for the obligations of any other Borrower under this Agreement.

29.4 Subordination

Subject to Clause 29.5, during the Security Period, no Borrower shall:

- (a) claim any amount which may be due to it from any other Borrower whether in respect of a payment made, or matter arising out of, this Agreement or any Finance Document, or any matter unconnected with this Agreement or any Finance Document; or
- (b) take or enforce any form of security from any other Borrower for such an amount, or in any other way seek to have recourse in respect of such an amount against any asset of any other Borrower; or
- (c) set off such an amount against any sum due from it to any other Borrower; or
- (d) prove or claim for such an amount in any liquidation, administration, arrangement or similar procedure involving any other Borrower or other Security Party; or
- (e) exercise or assert any combination of the foregoing.

29.5 Borrower's required action

If during the Security Period, the Agent, by notice to a Borrower, requires it to take any action referred to in paragraphs (a) to (d) of Clause 29.4, in relation to any other Borrower, that Borrower shall take that action as soon as practicable after receiving the Agent's notice.

30. SUPPLEMENTAL

30.1 Rights cumulative, non-exclusive

The rights and remedies which the Finance Documents give to each Creditor Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

30.2 Severability of provisions

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

30.3 Counterparts

A Finance Document may be executed in any number of counterparts.

30.4 Third party rights

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

30.5 PATRIOT Act Notice

Each of the Agent and the Lenders hereby notifies the Borrowers that pursuant to the requirements of the PATRIOT Act and the policies and practices of the Agent and each Lender, the Agent and each of the Lenders is required to obtain, verify and record certain information and documentation that identifies any Borrower and any Security Party, which information includes the name and address of each Borrower and each Security Party and such other information that will allow the Agent and each of the Lenders to identify each Borrower and each Security Party in accordance with the PATRIOT Act.

31. CONFIDENTIALITY

31.1 Confidential Information

The Creditor Parties agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 31.2, and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

31.2 Disclosure of Confidential Information

The Creditor Parties may disclose:

- (a) to any of its Affiliates and Related Funds and any of their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as the Creditor Parties shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person (if that person to whom the Confidential Information is to be given is informed in writing of its confidential nature and undertakes in writing not to disclose such Confidential Information to any third party and/or make use of it in case the dealings contemplated below are not concluded):
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates, 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 any Borrower and/or any Security Party and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (iii) appointed by the Creditor Parties or by a person to whom paragraphs (i) or (ii) applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
 - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraphs (i) or (ii);
 - (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
 - (vi) to whom or for whose benefit a Creditor Parties charges, assigns or otherwise creates security (or may do so) pursuant to Clause 26.17;
 - (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) 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;
- (ix) to whom information is required to be disclosed in connection with, and for the purposes of, any insurance to be effected by a Creditor Party in relation to or in connection with any Finance Document;
- (x) who is a party to this Agreement; or
- (xi) with the consent of the Borrowers,

in each case, such Confidential Information as the Creditor Parties shall consider appropriate;

- (c) to any person appointed by a Creditor Party by a person to whom paragraphs (b)(i) or (b)(ii) of Clause 31.2 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) provided always that such person will undertake in writing not to disclose such Confidential Information to any third party;
- (d) to any rating agency (including its profession 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, the Borrowers and/or the Security Parties provided always that such rating agency will undertake in writing not to disclose such Confidential Information to any third party.

31.3 Entire agreement

This Clause 31 constitutes the entire agreement between the parties to this Agreement in relation to the obligations of the Creditor Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

31.4 Inside Information

The Creditor Parties acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Creditor Parties undertake not to use any Confidential Information for any unlawful purpose.

31.5 Notification of disclosure

The Creditor Parties agree (to the extent permitted by law and regulation) to inform the Borrowers and the Security Parties:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 31.2 except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 31.

31.6 Continuing obligations

The obligations of this Clause 31 are continuing and, in particular, shall survive and remain binding on the Creditor Parties for a period of twelve months from the earlier of:

- (a) the date on which all amounts payable by the Borrowers and the Security Parties under or in connection with the Finance Documents have been paid in full and all obligations of the Creditor Parties have been cancelled or otherwise cease to be available; and
- (b) the date on which a Creditor Party otherwise ceases to be a party to this Agreement.

32. LAW AND JURISDICTION

32.1 English law

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

32.2 Exclusive English jurisdiction

Subject to Clause 32.3, the courts of England shall have exclusive jurisdiction to settle any Dispute.

32.3 Choice of forum for the exclusive benefit of Creditor Parties

Clause 32.2 is for the exclusive benefit of the Creditor Parties, each of which reserves the rights:

- (a) to commence proceedings in relation to any Dispute in the courts of any country other than England and which have or claim jurisdiction to that Dispute; and
- (b) to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

No Borrower shall commence any proceedings in any country other than England in relation to a Dispute.

32.4 Process agent

Each Borrower irrevocably appoints Nicolaou & Co (for the attention of Antonis Nicolaou) at its registered office for the time being, presently at 25 Heath Drive, Potters Bar, Herts, EN6 1EN, England, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

32.5 Creditor Party rights unaffected

Nothing in this Clause 32 shall exclude or limit any right which any Creditor Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

32.6 Meaning of "proceedings" and "Dispute"

In this Clause 32, "**proceedings**" means proceedings of any kind, including an application for a provisional or protective measure and a "**Dispute**" means 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.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
LENDERS AND COMMITMENTS

Lender	Lending Office	Commitment (US Dollars)
ABN AMRO BANK N.V.	c/o Loans Administration — Transportation Clients 93 Coolensingel 3012 AE Rotterdam The Netherlands	53,000,000

SCHEDULE 2

DRAWDOWN NOTICE

To: ABN AMRO BANK N.V.
93 Coolsingel
AE Rotterdam
The Netherlands
Attention: [Loans Administration]

[•] 2015

DRAWDOWN NOTICE

- 1 We refer to the loan agreement (the "Loan Agreement") dated [0] March 2015 and made between ourselves, as joint and several Borrowers, the Lenders referred to therein, and yourselves as Agent, Arranger, Security Trustee and Swap Bank in connection with a term loan facility of up to us\$53,000,000. Terms defined in the Loan Agreement have their defined meanings when used in this Drawdown Notice.
- 2 We request to borrow as follows:
 - (a) Amount of Loan: US\$[53,000,000];
 - (b) Drawdown Date: [•] 2015;
 - (c) Duration of the first Interest Period shall be [•] months; and
 - (d) Payment instructions: account in our name and numbered [•] with [•] of [•].
- 3 We represent and warrant that:
 - (a) the representations and warranties in Clause 10 of the Loan Agreement would remain true and not misleading if repeated on the date of this notice with reference to the circumstances now existing; and
 - (b) no Event of Default or Potential Event of Default has occurred or will result from the borrowing of the Loan.
- 4 This notice cannot be revoked without the prior consent of the Majority Lenders.
- 5 [We authorise you to deduct the arrangement fee, being in the amount of \$[•], and the accrued commitment fee, being in the amount of \$[•], each referred to in Clause 20.1 of the Loan Agreement, from the Loan.]

[Name of Signatory]

for and on behalf of
TUVALU SHIPPING COMPANY INC.
JABAT SHIPPING COMPANY INC. and
BIKINI SHIPPING COMPANY INC.

SCHEDULE 3
CONDITION PRECEDENT DOCUMENTS
PART A

The following are the documents referred to in Clause 9.1(a) required before the service of the Drawdown Notice.

- 1 A duly executed original of this Agreement and each Finance Document (and of each document required to be delivered by each Finance Document) other than those referred to in Part B.
- 2 Copies of the certificate of incorporation and constitutional documents of each Borrower, the Corporate Guarantor and any other Security Party.
- 3 Copies of resolutions of the shareholders and directors of each Borrower and each Security Party (other than the Corporate Guarantor) authorising the execution of each of the Finance Documents to which that Borrower or that Security Party is a party and, in the case of a Borrower, authorising named officers to give the Drawdown Notice and other notices under this Agreement.
- 4 Copies of resolutions of the executive committee of the Corporate Guarantor authorising the execution of each of the Finance Documents to which it is a party.
- 5 The original of any power of attorney under which any Finance Document is executed on behalf of a Borrower, the Corporate Guarantor or any other Security Party.
- 6 Copies of all consents which any Borrower, the Corporate Guarantor or any Security Party requires to enter into, or make any payment under, any Finance Document.
- 7 Copy of the Initial Charter and of all documents signed or issued by Borrower C and the Initial Charterer (or either of them) under or in connection with it.
- 8 The originals of any mandates or other documents required by the Agent in connection with the opening or operation of the Earnings Accounts.
- 9 Such documents and other evidence in such form as is requested by the Agent in order for the Lenders to comply with all necessary "know your customer" or "client acceptance" or other similar identification procedures (including, but not limited to, specimen signatures of all the directors and other officers of each Borrower and each Security Party) in relation to the transactions contemplated in the Finance Documents.
- 10 Documentary evidence that the agent for service of process named in Clause 31 has accepted its appointment.
- 11 Favourable legal opinions from lawyers appointed by the Agent on such matters concerning the laws of Marshall Islands and such other relevant jurisdictions as the Agent may require.
- 12 If the Agent so requires, in respect of any of the documents referred to above, a certified English translation prepared by a translator approved by the Agent.

PART B

The following are the documents referred to in Clause 9.1(b) required before the Drawdown Date. In Part B of this Schedule 3, the following definitions have the following meanings:

- (a) **"Relevant Borrower"** means the Borrower which is the owner of the Relevant Ship; and
 - (b) **"Relevant Ship"** means the Ship which is to be financed by using the proceeds of the Loan being drawn on the Drawdown Date.
- 1 A duly executed original of the Mortgage and the General Assignment relating to the Relevant Ship and, in the case of Ship C, the Initial Charter Assignment (and of each document to be delivered under each of them).
 - 2 Documentary evidence that:
 - (a) the Relevant Ship is definitively and permanently registered in the name of the Relevant Borrower under an Approved Flag;
 - (b) the Relevant Ship is in the absolute and unencumbered ownership of the Relevant Borrower save as contemplated by the Finance Documents;
 - (c) the Relevant Ship maintains the highest class with a classification society which is a member of IACS and acceptable to the Agent free of all overdue recommendations and conditions ;
 - (d) the Mortgage relating to the Relevant Ship has been duly registered or recorded against the Relevant Ship as a valid first preferred or, as the case may be, priority ship mortgage in accordance with the laws of the applicable Approved Flag State; and
 - (e) the Relevant Ship is insured in accordance with the provisions of this Agreement and all requirements therein in respect of insurances have been complied with.
 - 3 Documents establishing that the Relevant Ship will, as from the Drawdown Date, be managed by the Approved Manager on terms acceptable to the Agent, together with:
 - (a) the Approved Manager's Undertaking in respect of the Relevant Ship duly signed by the Approved Manager; and
 - (b) copies of the Approved Manager's Document of Compliance and of the Relevant Ship's Safety Management Certificate (together with any other details of the applicable safety management system which the Agent requires), the ISSC and the IAPPC.
 - 4 Evidence satisfactory to the Agent that each Borrower has opened and maintains its Earnings Account.
 - 5 A valuation of the Relevant Ship and, if required by the Agent pursuant to the proviso to Clause 15.3, one additional valuation of the Relevant Ship, prepared, in each case, by an Approved Broker, complying with the requirements of Clause 15.3 and dated no earlier than 15 days prior to the Drawdown Date, with the Initial Market Value being determined in accordance with the provisions of Clause 15.3.
 - 6 Favourable legal opinions from lawyers appointed by the Agent on such matters concerning the laws of Marshall Islands, the applicable Approved Flag State and such other relevant jurisdictions as the Agent may require.
 - 7 At the cost of the Borrowers, a favourable opinion from an independent insurance consultant acceptable to the Agent on such matters relating to the insurances for the Relevant Ship as the Agent may require.

- 8 Evidence satisfactory to the Agent that the Minimum Liquidity Amount is standing to the credit of the Earnings Account in respect of the Relevant Ship pursuant to Clause 11.17.
- 9 If the Agent so requires, in respect of any of the documents referred to above, a certified English translation prepared by a translator approved by the Agent.

Each of the documents specified in paragraphs 2, 3, 5 and 7 of Part A and every other copy document delivered under this Schedule shall be certified as a true and up to date copy by a director or the secretary (or equivalent officer) of each Borrower.

SCHEDULE 4
TRANSFER CERTIFICATE

The Transferor and the Transferee accept exclusive responsibility for ensuring that this Certificate and the transaction to which it relates comply with all legal and regulatory requirements applicable to them respectively.

To: ABN AMRO Bank N.V. for itself and for and on behalf of the Borrower, [each Security Party], the Security Trustee, each Lender and the Swap Bank, as defined in the Loan Agreement referred to below.

[•] 2015

- 1 This Certificate relates to a Loan Agreement (the "Loan Agreement") dated [•] March 2015 and made between (1) Tuvalu Shipping Company Inc., Jabat Shipping Company Inc. and Bikini Shipping Company Inc. as joint and several borrowers (the "Borrowers"), (2) the banks and financial institutions named in Schedule 1 thereto as Lenders, (3) ABN AMRO Bank N.V. as Agent, (4) ABN AMRO Bank N.V. as Arranger, (5) ABN AMRO Bank N.V. as Security Trustee and (6) ABN AMRO Bank N.V. as Swap Bank for a loan facility of up to US\$53,000,000.
- 2 In this Certificate, terms defined in the Loan Agreement shall, unless the contrary intention appears, have the same meanings when used in this Certificate and:

"Relevant Parties" means the Agent, the Borrower, [each Security Party,] the Security Trustee, each Lender and the Swap Bank;

"Transferor" means [full name] of [lending office]; and

"Transferee" means [full name] of [lending office].

- 3 The effective date of this Certificate is [•], Provided that this Certificate shall not come into effect unless it is signed by the Agent on or before that date.
- 4 [The Transferor assigns to the Transferee absolutely all rights and interests (present, future or contingent) which the Transferor has as Lender under or by virtue of the Loan Agreement and every other Finance Document (other than the Master Agreement) in relation to [•] per cent. of its Contribution, which percentage represents \$[•].]
- 5 [By virtue of this Certificate and Clause 26 of the Loan Agreement, the Transferor is discharged [entirely from its Commitment which amounts to \$[•] [from [•] per cent. of its Commitment, which percentage represents \$[G]] and the Transferee acquires a Commitment of \$[•].]
- 6 The Transferee undertakes with the Transferor and each of the Relevant Parties that the Transferee will observe and perform all the obligations under the Finance Documents (other than the Master Agreement) which Clause 26 of the Loan Agreement provides will become binding on it upon this Certificate taking effect.
- 7 The Agent, at the request of the Transferee (which request is hereby made) accepts, for the Agent itself and for and on behalf of every other Relevant Party, this Certificate as a Transfer Certificate taking effect in accordance with Clause 26 of the Loan Agreement.
- 8 The Transferor:

- (a) warrants to the Transferee and each Relevant Party that:
 - (i) the Transferor has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which are required in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferor;
- (b) warrants to the Transferee that the Transferor is absolutely entitled, free of encumbrances, to all the rights and interests covered by the assignment in paragraph 4 above; and
- (c) undertakes with the Transferee that the Transferor will, at its own expense, execute any documents which the Transferee reasonably requests for perfecting in any relevant jurisdiction the Transferee's title under this Certificate or for a similar purpose.

9 The Transferee:

- (a) confirms that it has received a copy of the Loan Agreement and each of the other Finance Documents;
 - (b) agrees that it will have no rights of recourse on any ground against either the Transferor, the Agent, the Arranger, the Security Trustee, any Lender or the Swap Bank in the event that:
 - (i) any of the Finance Documents prove to be invalid or ineffective;
 - (ii) any Borrower or any Security Party fails to observe or perform its obligations, or to discharge its liabilities, under any of the Finance Documents; and
 - (iii) it proves impossible to realise any asset covered by a Security Interest created by a Finance Document, or the proceeds of such assets are insufficient to discharge the liabilities of the Borrowers or any Security Party under any of the Finance Documents;
 - (c) agrees that it will have no rights of recourse on any ground against the Agent, the Arranger, the Security Trustee, any Lender or the Swap Bank in the event that this Certificate proves to be invalid or ineffective;
 - (d) warrants to the Transferor and each Relevant Party that:
 - (i) it has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which it needs to take or obtain in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferee; and
 - (e) confirms the accuracy of the administrative details set out below regarding the Transferee.
- 10 The Transferor and the Transferee each undertake with the Agent, the Arranger and the Security Trustee severally, on demand, fully to indemnify the Agent and/or the Arranger and/or the Security Trustee in respect of any claim, proceeding, liability or expense (including all legal expenses) which they or any of them may incur in connection with this Certificate or any matter arising out of it, except such as are shown to have been mainly and directly caused by the gross and culpable negligence or dishonesty of the Agent's, the Arranger's or the Security Trustee's own officers or employees.
- 11 The Transferee shall repay to the Transferor on demand so much of any sum paid by the Transferor under paragraph 10 as exceeds one-half of the amount demanded by the Agent, the Arranger or the Security Trustee in respect of a claim, proceeding, liability or expense which was not reasonably foreseeable at the date of this Certificate; but nothing in this

paragraph shall affect the liability of each of the Transferor and the Transferee to the Agent, the Arranger or the Security Trustee for the full amount demanded by it.

[Name of Transferor]

By:

Date:

[Name of Transferee]

By:

Date:

Agent

Signed for itself and for and on behalf of itself
as Agent and for every other Relevant Party

ABN AMRO Bank N.V.

By:

Date:

Administrative Details of Transferee

Name of Transferee:

Lending Office:

Contact Person

(Loan Administration Department):

Telephone:

Fax:

Contact Person

(Credit Administration Department):

Telephone:

Fax:

Account for payments:

Note:

This Transfer Certificate alone may not be sufficient to transfer a proportionate share of the Transferor's interest in the security constituted by the Finance Documents in the Transferor's or Transferee's jurisdiction. It is the responsibility of each Lender to ascertain whether any other documents are required for this purpose.

SCHEDULE 5
DESIGNATION NOTICE

To: ABN AMRO Bank N.V.
93 Coolsingel
AE Rotterdam
The Netherlands

as Agent

Attention: Loans Administration

[•] 2015

Dear Sirs

Loan Agreement dated [•] March 2015 (the "Loan Agreement") made between (i) Tuvalu Shipping Company Inc., Jabat Shipping Company Inc. and Bikini Shipping Company Inc. as joint and several Borrowers, (ii) the Lenders, (iii) the Swap Bank and (iv) yourselves as Agent, Arranger and Security Trustee.

We refer to:

- 1 the Loan Agreement;
- 2 the Master Agreement dated as of [•] 2015 made between ourselves and the Swap Bank; and
- 3 a Confirmation delivered pursuant to the said Master Agreement dated [•] and addressed by the Swap Bank to us.

In accordance with the terms of the Loan Agreement, we hereby give you notice of the said Confirmation and hereby confirm that the Transaction evidenced by it will be designated as a "Designated Transaction" for the purposes of the Loan Agreement and the Finance Documents.

Yours faithfully,

for and on behalf of
TUVALU SHIPPING COMPANY INC.
JABAT SHIPPING COMPANY INC. and
BIKINI SHIPPING COMPANY INC.

EXECUTION PAGES

THE BORROWERS

SIGNED by)
IOANNIS ZAFIRAKIS)
for and on behalf of)
TUVALU SHIPPING COMPANY INC.)
in the presence of:)

/s/ Ioannis Zafirakis

Vassiliki Georgopoulos
Solicitor
Watson Farley & Williams
348 Syngrou Avenue
176 74 Kallithea
Athens-Greece

SIGNED by)
IOANNIS ZAFIRAKIS)
for and on behalf of)
JABAT SHIPPING COMPANY INC.)
in the presence of:)

/s/ Ioannis Zafirakis

Vassiliki Georgopoulos
Solicitor
Watson Farley & Williams
348 Syngrou Avenue
176 74 Kallithea
Athens-Greece

SIGNED by)
Andreas Nicolaos Michalopoulos)
for and on behalf of)
BIKINI SHIPPING COMPANY INC.)
in the presence of:)

/s/ Andreas Michalopoulos

Vassiliki Georgopoulos
Solicitor
Watson Farley & Williams
348 Syngrou Avenue
1767 4 Kallithea
Athens-Greece

THE LENDERS

SIGNED by)
Nadine Akleh)
for and on behalf of)
ABN AMRO BANK N.V.)
in the presence of:)

/s/ Nadine Akleh

Vassiliki Georgopoulos
Solicitor
Watson Farley & Williams
348 Syngrou Avenue
176 74 Kallithea
Athens-Greece

THE AGENT AGENT

SIGNED by)
Nadine Akleh)
for and on behalf of)
ABN AMRO BANK N.V.)
in the presence of:)

/s/ Nadine Akleh

Vassiliki Georgopoulos
Solicitor
Watson Farley & Williams
348 Syngrou Avenue
176 74 Kallithea
Athens-Greece

THE ARRANGER

SIGNED by)
Nadine Akleh)
for and on behalf of)
ABN AMRO BANK N.V.)
in the presence of:)

/s/ Nadine Akleh

Vassiliki Georgopoulos
Solicitor
Watson Farley & Williams
348 Syngrou Avenue
176 74 Kallithea
Athens-Greece

THE SECURITY TRUSTEE

SIGNED by)
Nadine Akleh)
for and on behalf of)
ABN AMRO BANK N.V.)
in the presence of:)

/s/ Nadine Akleh

Vassiliki Georgopoulos
Solicitor
Watson Farley & Williams
348 Syngrou Avenue
176 74 Kallithea
Athens-Greece

THE ARRANGER

SIGNED by)
Nadine Akleh)
for and on behalf of)
ABN AMRO BANK N.V.)
in the presence of:)

/s/ Nadine Akleh

Vassiliki Georgopoulos
Solicitor
Watson Farley & Williams
348 Syngrou Avenue
176 74 Kallithea
Athens-Greece

Dated 29 April 2015
LELU SHIPPING COMPANY INC.
as Borrower

and
DANISH SHIP FINANCE A/S (DANMARKS SKIBSKREDIT A/S)
as Lender

LOAN AGREEMENT

relating to a term loan facility of up to US\$30,000,000 to finance
part of the acquisition cost of a Capesize bulk carrier named "SANTA BARBARA"

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THIS AGREEMENT is made on 29 April 2015
BETWEEN

- (1) **LELU SHIPPING COMPANY INC.**, a corporation incorporated in the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands as borrower (the "**Borrower**"); and
- (2) **DANISH SHIP FINANCE A/S (DANMARKS SKIBSKREDIT A/S)**, acting through its office at Sankt-Annae Plads 3, DK-1250 Copenhagen K, Denmark as lender (the "**Lender**").

BACKGROUND

The Lender has agreed to make available to the Borrower, in one advance, a term loan facility of up to US\$30,000,000 for the purpose of financing part of the acquisition cost of a Capesize bulk carrier named "SANTA BARBARA".

IT IS AGREED as follows:

1 INTERPRETATION

1.1 Definitions

Subject to Clause 1.5, in this Agreement:

"Agreed Form" means in relation to any document, that document in the form approved in writing by the Lender or as otherwise approved in accordance with any other approval procedure specified in any relevant provision of any Finance Document;

"Approved Broker" means H. Clarkson & Company Limited, Simpson Spence & Young (London) Ltd., Arrow Sale & Purchase (UK) Limited, Breamar Seascope Limited, Fearnleys AS, R.S. Platou Shipbrokers AS, or any other any reputable sale and purchase broker approved by the Lender;

"Approved Charter" means any time charterparty in respect of such ship of a duration (including any options) of more than 12 months entered into by that Borrower and a charterer;

"Approved Charterparty Assignment" means, in respect of the Approved Charter, a specific deed of assignment of the rights of the Borrower executed or to be executed by the Borrower in favour of the Lender in the Agreed Form;

"Approved Flag" means the flag of the Republic of the Marshall Islands or any other flag the Lender may, in its sole and absolute discretion, approve as the flag on which the Ship may be registered;

"Approved Flag State" means the Republic of the Marshall Islands or any other country in which the Lender may, in its sole and absolute discretion, approve as the flag on which the Ship may be registered;

"Approved Manager" means, Diana Shipping Services S.A., a company incorporated and existing under the laws of Panama having its registered office at Edificio Universal, Piso 12, Avenida Federico Boyd, Panama, Republic of Panama and maintaining an office at 16 Pendelis Street, 175 64, Palaio Faliro, Greece or or any other company which the Lender may approve from time to time as the technical and/or commercial manager of that Ship;

"Approved Manager's Undertaking" means a letter of undertaking executed or to be executed by the Approved Manager in favour of the Lender, agreeing certain matters in

relation to the Approved Manager and subordinating its rights against the Ship and the Borrower to the rights of the Lender under the Finance Documents, in the Agreed Form;

"Availability Period" means the period commencing on the date of this Agreement and ending on:

- (a) 1 June 2015 (or such later date as the Lender may agree with the Borrower); or
- (b) if earlier, the date on which the Lender's obligations to advance the Loan is cancelled or terminated;

"**Borrower**" means Lelu Shipping Company Inc., a corporation incorporated and existing under the laws of the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, Marshall Islands;

"**Business Day**" means a day on which banks are open in London, Athens, Piraeus and Copenhagen and in respect of a day on which a payment is required to be made under a Finance Document, also in New York City;

"**CISADA**" means the United States Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010 as it applies to non-US persons;

"**Code**" means the United States Internal Revenue Code of 1986;

"**Commitment**" means \$30,000,000 as that amount may be reduced, cancelled or terminated in accordance with this Agreement;

"**Contractual Currency**" has the meaning given in Clause 19.4;

"**Dollars**" and "\$" means the lawful currency for the time being of the United States of America;

"**Drawdown Date**" means the date requested by the Borrower for the Loan to be advanced, or (as the context requires) the date on which the Loan is actually advanced;

"**Drawdown Notice**" means a notice in the form set out in Schedule 1 (or in any other form which the Lender approves or reasonably requires);

"**Earnings**" means all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower or the Lender and which arise out of the use or operation of the Ship, including (but not limited to):

- (a) except to the extent that they fall within paragraph (b):
 - (i) all freight, hire and passage moneys;
 - (ii) compensation payable to the Borrower or the Lender in the event of requisition of the Ship for hire;
 - (iii) remuneration for salvage and towage services;
 - (iv) demurrage and detention moneys;
 - (v) damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of the Ship; and
 - (vi) all moneys which are at any time payable under any Insurances in respect of loss of hire; and

- (b) if and whenever the Ship is employed on terms whereby any moneys falling within paragraphs (a)(i) to (vi) are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Ship;

"Environmental Claim" means:

- (a) any claim by any governmental, judicial or regulatory authority which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law; or
- (b) any claim by any other person which relates to an Environmental Incident or to an alleged Environmental Incident,

and **"claim"** means a claim for damages, compensation, fines, penalties or any other payment of any kind, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset;

"Environmental Incident" means:

- (a) any release of Environmentally Sensitive Material from the Ship; or
- (b) any incident in which Environmentally Sensitive Material is released from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or the Ship and/or the Borrower and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released otherwise than from the Ship and in connection with which the Ship is actually or potentially liable to be arrested and/or where the Borrower and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action;

"Environmental law" means any law relating to pollution or protection of the environment, to the carriage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material;

"Environmentally Sensitive Material" means oil, oil products and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous;

"Event of Default" means any of the events or circumstances described in Clause 17.1;

"FATCA" means:

- (a) sections 1471 to 1474 of the code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph(a) above; or

- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"FATCA Deduction" means a deduction or withholding from a payment under a Finance Document required by FATCA;

"FATCA Exempt Party" means a Party that is entitled to receive payments free from any FATCA Deduction;

"Finance Documents" means:

- (a) this Agreement;
- (b) the Guarantee;
- (c) the Mortgage;
- (d) the General Assignment;
- (e) any Approved Charterparty Assignment;
- (f) the Approved Manager's Undertaking; and
- (g) any other document (whether creating a Security Interest or not) which is executed at any time by the Borrower, the Guarantor, the Approved Manager, any other Security Party or any other person as security for, or to establish any form of subordination or priorities arrangement in relation to, any amount payable to the Lender under this Agreement or any of the other documents referred to in this definition,

and, in the singular, means any of them;

"Financial Indebtedness" means, in relation to a person (the "**debtor**"), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility or dematerialised equivalent made available to the debtor;
- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within (a) to (e) if the references to the debtor referred to the other person;

"Fleet Vessels" means all of the vessels (including, but not limited to, the Ship) from time to time wholly owned by members of the Group (each a **"Fleet Vessel"**);

"GAAP" means the generally accepted accounting principles from time to time in effect in the United States of America;

"General Assignment" means a first priority general assignment given by the Borrower of the Earnings, the Insurances and any Requisition Compensation in respect of the Ship executed or to be executed by the Borrower and the Lender in the Agreed Form;

"Group" means the Guarantor and all its subsidiaries (including, but not limited to, the Borrower) from time to time during the Security Period and **"member of the Group"** shall be construed accordingly;

"Guarantee" means the guarantee of the obligations of the Borrower under this Agreement and the other Finance Documents to be executed by the Guarantor in the Agreed Form;

"Guarantor" means Diana Shipping Inc., a corporation incorporated and existing under the laws of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, MH96960, Majuro, Marshall Islands;

"IACS" means the International Association of Classification Societies;

"Initial Market Value" means the Market Value thereof determined in accordance with the valuation to be provided to the Lender pursuant to paragraph 5, Part B of Schedule 2;

"Insurances" means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, effected in respect of the Ship, its Earnings or otherwise in relation to it whether before, on or after the date of this Agreement; and
- (b) all rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and any rights in respect of any claim whether or not the relevant policy, contract of insurance or entry has expired on or before the date of this Agreement;

"Interest Period" means a period determined in accordance with Clause 5;

"ISM Code" means the International Safety Management Code (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended, supplemented or superseded from time to time (and the terms "safety management system", "Safety Management Certificate" and "Document of Compliance" have the same meanings as are given to them in the ISM Code);

"ISPS Code" means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation (as the same may be amended, supplemented or superseded from time to time);

"ISSC" means a valid and current International Ship Security Certificate issued under the ISPS Code;

"Lender" means Danish Ship Finance A/S (Danmarks Skibskredit A/S), acting through its office at Sankt-Annae Plads 3, DK-1250 Copenhagen K, Denmark or its successor or assign;

"LIBOR" means, in relation to any period:

- (a) the Screen Rate;
- (b) if no rate is quoted on the applicable Screen Rate for that period, the rate which results from interpolating on a linear basis between:
 - (i) the rate quoted on the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the applicable period of the relevant part of the Loan; and
 - (ii) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the applicable period of that part of the Loan; or
- (c) if no rate is quoted on the applicable Screen Rate, the arithmetic mean of rates per annum at which deposits in Dollars are offered to the Lender by 2 leading banks in the London Interbank Market at the Lender's request at or about 11.00 a.m. (London time) on the Quotation Date for that period for a period equal to that period and for delivery on the first Business Day of it; and

if any such rate is below zero, LIBOR will be deemed to be zero;

"Loan" means the principal amount for the time being outstanding under this Agreement;

"Major Casualty" means any casualty to the Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$1,000,000 or the equivalent in any other currency;

"Mandatory Cost" means, in relation to the Loan, the cost calculated as a percentage rate per annum incurred by the Lender as a result of compliance with the requirements of the European Central Bank (or any other authority which replaces all or any of its functions), as may be determined by the Lender and notified from time to time to the Borrower and, if requested by the Borrower, such cost to be certified by the Lender;

"Margin" means 2.15 per cent. per annum;

"Market Value" means the market value of the Ship determined in accordance with Clause 14.3;

"Material Adverse Change" means the occurrence or development of any event or circumstance which, in the opinion of the Lender, has or could have a material adverse effect on:

- (a) the Borrower's or any Security Party's:
 - (i) financial position, profitability or state of affairs;
 - (ii) ability to perform their respective obligations under the Finance Documents to which they are each a party;
 - (iii) ability to discharge their respective liabilities under the Finance Documents as they fall due; or
- (b) the validity or enforceability of any of the Finance Documents;

"Maturity Date" means the date falling on the earlier of (i) the seventh anniversary of the Drawdown Date and (ii) 1 June 2022;

"Mortgage" means the first preferred or, as the case may be, priority ship mortgage (and, if applicable, collateral deed of covenant) in respect of the Ship under the relevant Approved Flag to be executed by the Borrower in favour of the Lender in the Agreed Form;

"Negotiation Period" has the meaning given in Clause 4.6;

"Obligors" means, together, the Borrower and the Corporate Guarantor and, in the singular, means either of them;

"Palios Family" means, together, each of the following:

- (a) Mr. Simeon Palios;
- (b) all the lineal descendants in direct line of Mr. Palios;
- (c) a husband or wife or widower or widow of any of the above persons;
- (d) the estates, trusts or legal representatives of which any of the above persons are the beneficiaries; and
- (e) each company legally or beneficially owned or (as the case may be) controlled by one or more of the persons or entities which would fall within paragraphs (a) to (d) of this definition,

and each one of the above shall be referred to as **"a member of the Palios Family"**;

"Party" means a party to this Agreement;

"Payment Currency" has the meaning given in Clause 19.4;

"Permitted Security Interests" means:

- (a) Security Interests created by the Finance Documents;
- (b) liens for unpaid master's and crew's wages in accordance with usual maritime practice;
- (c) liens for salvage;
- (d) liens arising by operation of law for not more than 2 months' prepaid hire under any charter in relation to the Ship not prohibited by this Agreement;
- (e) liens for master's disbursements incurred in the ordinary course of trading and any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of the Ship, provided such liens do not secure amounts more than 30 days overdue (unless the overdue amount is being contested by the Borrower in good faith by appropriate steps) and subject, in the case of liens for repair or maintenance, to Clause 13.13(f);
- (f) any Security Interest created in favour of a plaintiff or defendant in any proceedings or arbitration as security for costs and expenses where the Borrower is actively prosecuting or defending such proceedings or arbitration in good faith; and
- (g) Security Interests arising by operation of law in respect of taxes which are not overdue for payment or in respect of taxes being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made;

"Pertinent Document" means:

- (a) any Finance Document;
- (b) any policy or contract of insurance contemplated by or referred to in Clause 12 or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and
- (d) any document which has been or is at any time sent by or to the Lender in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraphs (b) or (c);

"Pertinent Jurisdiction", in relation to a company, means:

- (a) England and Wales;
- (b) the country under the laws of which the company is incorporated or formed;
- (c) a country in which the company has the centre of its main interests or in which the company's central management and control is or has recently been exercised;
- (d) a country in which the overall net income of the company is subject to corporation tax, income tax or any similar tax;
- (e) a country in which assets of the company (other than securities issued by, or loans to, related companies) having a substantial value are situated, in which the company maintains a branch or a permanent place of business, or in which a Security Interest created by the company must or should be registered in order to ensure its validity or priority; and
- (f) a country the courts of which have jurisdiction to make a winding up, administration or similar order in relation to the company, whether as main or territorial or ancillary proceedings, or which would have such jurisdiction if their assistance were requested by the courts of a country referred to in paragraphs (b) or (c);

"Pertinent Matter" means:

- (a) any transaction or matter contemplated by, arising out of, or connection with a Pertinent Document; or
- (b) any statement relating to a Pertinent Document or to a transaction or matter falling within paragraph (a);

and covers any such transaction, matter or statement, whether entered into, arising or made at any time before the signing of this Agreement or on or at any time after that signing;

"Potential Event of Default" means any event or circumstance specified in Clause 17 which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) constitute an Event of Default;

"Prohibited Person" means any person {whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed;

"Quotation Date" means, in relation to any period for which an interest rate is to be determined under any provision of a Finance Document, the day which is 2 Business Days

before the first day of that period, unless market practice differs in the London Interbank Market for a currency, in which case the Quotation Date will be determined by the Lender 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 Quotation Date will be the last of those days);

"Relevant Person" has the meaning given in Clause 17.7;

"Repayment Date" means a date on which a repayment is required to be made under Clause 7;

"Repayment Instalment" has the meaning given to it in Clause 7.1(a);

"Requisition Compensation" includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of "Total Loss";

"Sanctions" means any sanctions, embargoes, freezing provisions, prohibitions or other restrictions relating to trading, doing business, investment, exporting, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Council of the European Union, the United Nations or its Security Council or the United States of America (including as imposed by CISADA); or
- (b) otherwise imposed by any law or regulation,

by which the Borrower is bound or to which it is subject or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of the Borrower

"Screen Rate" means the London interbank offered rate administered by the ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for Dollars for the relevant period displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters. If such page or service ceases to be available, the Lender may specify another page or service displaying the relevant rate after consultation with the Borrower;

"Secured Liabilities" means all liabilities which the Borrower, the Security Parties or any of them have, at the date of this Agreement or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country;

"Security Interest" means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
- (b) the security rights of a plaintiff under an action *in rem*; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution;

"Security Party" means the Guarantor, the Approved Manager, any person (except the Lender) who, as a surety or mortgagor, as a party to any subordination or priorities arrangement, or in any similar capacity, executes a document falling within the last paragraph of the definition of "Finance Documents";

"Security Period" means the period commencing on the date of this Agreement and ending on the date on which the Lender notifies the Borrower and the Security Parties that:

- (a) all amounts which have become due for payment by each of the Borrower or any Security Party under the Finance Documents have been paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) neither the Borrower nor any Security Party has any future or contingent liability under Clause 18, 19 or 20 or any other provision of this Agreement or another Finance Document; and
- (d) the Lender does not consider that there is a significant risk that any payment or transaction under a Finance Document would be set aside, or would have to be reversed or adjusted, in any present or possible future bankruptcy of the Borrower or a Security Party or in any present or possible future proceeding relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created by a Finance Document;

"Ship" means the 2015-built Capesize bulk carrier of 179,426 deadweight tonnage with IMO number 9675951 constructed by Beihai Shipbuilding Heavy Industry, Qindao, the People's Republic of China and registered in the ownership of the Borrower under an Approved Flag with the name "SANTA BARBARA";

"SMC" means, in relation to the Ship, a safety management certificate issued in respect of that Ship in accordance with the ISM Code;

"Total Loss" means:

- (a) actual, constructive, compromised, agreed or arranged total loss of the Ship;
- (b) any expropriation, confiscation, requisition or acquisition of the Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority (excluding a requisition for hire for a fixed period not exceeding 1year without any right to an extension) unless it is within 1month redelivered to the full control of the Borrower;
- (c) any condemnation of the Ship by any tribunal or by any person or person claiming to be a tribunal; and
- (d) any arrest, capture, seizure or detention of the Ship (including any hijacking or theft) unless she is within 1month redelivered to the full control of the Borrower; and

"Total Loss Date" means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earliest of:

- (i) the date on which a notice of abandonment is given to the insurers; and
- (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower owning the Ship with the Ship's insurers in which the insurers agree to treat the Ship as a total loss; and
- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Lender that the event constituting the total loss occurred; and

"4.29.15 DANISH SHIP FINANCE" means the United States of America.

1.2 Construction of certain terms

In this Agreement:

"administration notice" means a notice appointing an administrator, a notice of intended appointment and any other notice which is required by law (generally or in the case concerned) to be filed with the court or given to a person prior to, or in connection with, the appointment of an administrator;

"approved" means, for the purposes of Clause 12, approved in writing by the Lender;

"asset" includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment;

"company" includes any partnership, joint venture and unincorporated association; "consent" includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation;

"contingent liability" means a liability which is not certain to arise and/or the amount of which remains unascertained;

"document" includes a deed; also a letter or fax;

"excess risks" means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims;

"expense" means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable value added or other tax;

"law" includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

"legal or administrative action" means any legal proceeding or arbitration and any administrative or regulatory action or investigation;

"liability" includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise;

"months" shall be construed in accordance with Clause 1.3;

"**obligatory insurances**" means all insurances effected, or which the Borrower owning the Ship is obliged to effect, under Clause 12 or any other provision of this Agreement or another Finance Document;

"**parent company**" has the meaning given in Clause 1.4;

"**person**" includes any company; any state, political sub-division of a state and local or municipal authority; and any international organisation;

"**policy**", in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms;

"**protection and indemnity risks**" means the usual risks covered by a protection and indemnity association managed and/or represented in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses {1/11/02 or 1/11/03}, clause 8 of the Institute Time Clauses {Hulls} {1/11/95} or clause 8 of the Institute Time Clauses {Hulls} {1/10/83} or the Institute Amended Running Down Clause {1/10/71} or any equivalent provision;

"**regulation**" includes any regulation, rule, official directive, request or guideline whether or not having the force of law of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

"**subsidiary**" has the meaning given in Clause 1.4;

"**successor**" includes any person who is entitled (by assignment, novation, merger or otherwise) to any other person's rights under this Agreement or any other Finance Document (or any interest in those rights) or who, as administrator, liquidator or otherwise, is entitled to exercise those rights; and in particular references to a successor include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation of it or any other person;

"**tax**" includes any present or future *tax*, duty, impost, levy or charge of any kind which is imposed by any *state*, any political sub-division of a state or any local or municipal authority (including any such imposed in connection with exchange controls), and any connected penalty, interest or fine; and

"**war risks**" includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses {1/11/02 or 1/11/03}, clause 24 of the Institute Time Clauses (Hulls) {1/11/95} or clause 23 of the Institute Time Clauses {Hulls} {1/10/83} or any equivalent provision.

1.3 Meaning of "month"

A period of one or more "**months**" ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started ("the **numerically corresponding day**"), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day *or*, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day

and "**month**" and "**monthly**" shall be construed accordingly.

1.4 Meaning of "subsidiary"

A company (S) is a subsidiary of another company (P) if:

- (a) a majority of the issued shares in S (or a majority of the issued shares in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; or
- (b) P has direct or indirect control over a majority of the voting rights attaching to the issued shares of S; or
- (c) P has the direct or indirect power to appoint or remove a majority of the directors of S; or
- (d) P otherwise has the direct or indirect power to ensure that the affairs of S are conducted in accordance with the wishes of P

and any company of which S is a subsidiary is a parent company of S.

1.5 General Interpretation

In this Agreement:

- (a) references to, or to a provision of, a Finance Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise;
- (b) references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (c) words denoting the singular number shall include the plural and vice versa; and
- (d) Clauses 1.1 to 1.5 apply unless the contrary intention appears.

1.6 Headings

In interpreting a Finance Document or any provision of a Finance Document, all clause, sub-clause and other headings in that and any other Finance Document shall be entirely disregarded.

2 FACILITY

2.1 Amount of facility

Subject to the other provisions of this Agreement, the Lender shall make available to the Borrower a loan facility of up to \$30,000,000.

2.2 Purpose of the Loan

The Borrower undertakes with the Lender to use the Loan only for the purpose of financing part of the acquisition cost of the Ship.

3 DRAWDOWN

3.1 Request for the Loan

Subject to the following conditions, the Borrower may request the Loan to be advanced by ensuring that the Lender receives a completed Drawdown Notice not later than 11.00 a.m. (Copenhagen time) 3 Business Days prior to the intended Drawdown Date.

3.2 Availability

The conditions referred to in Clause 3.1 are that :

- (a) the Drawdown Date has to be a Business Day during the Availability Period; and
- (b) the Loan shall not exceed the amount of \$30,000,000 .

3.3 Drawdown Notice irrevocable

The Drawdown Notice must be signed by a duly authorised signatory of the Borrower; and once served, the Drawdown Notice cannot be revoked without the prior consent of the Lender.

3.4 Disbursement of the Loan

Subject to the provisions of this Agreement, the Lender shall on the Drawdown Date advance the Loan to the Borrower; and payment to the Borrower shall be made to the account which the Borrower specifies in the Drawdown Notice.

3.5 Disbursement of Loan to third party

The payment by the Lender under Clause 3.4 shall constitute the borrowing of the Loan and the Borrower shall at that time become indebted, as principal and direct obligor, to the Lender in an amount equal to the Loan.

4 INTEREST

4.1 Payment of normal interest

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period applicable to it shall be paid by the Borrower on the last day of that Interest Period.

4.2 Normal rate of interest

Subject to the provisions of this Agreement, the rate of interest on the Loan in respect of an Interest Period shall be the aggregate of (i) the Margin, (ii) the Mandatory Cost (if applicable) and (iii) LIBOR for that Interest Period.

4.3 Payment of accrued interest

In the case of an Interest Period longer than 3 months, accrued interest shall be paid every 3 months during that Interest Period and on the last day of that Interest Period.

4.4 Notification of market disruption

The Lender shall promptly notify the Borrower if for any reason the Lender is unable to obtain Dollars in the London Interbank Market in order to fund the Loan (or any part of it) during any Interest Period, stating the circumstances which have caused such notice to be given.

4.5 Suspension of drawdown

If the Lender's notice under Clause 4.4 is served before the Loan is advanced, the Lender's obligation to advance the Loan shall be suspended while the circumstances referred to in the Lender's notice continue.

4.6 Negotiation of alternative rate of interest

If the Lender's notice under Clause 4.4 is served after the Loan is made available, the Borrower and the Lender shall use reasonable endeavours to agree, within the 30 days after the date on which the Lender serves its notice under Clause 4.4 (the "Negotiation Period"), an alternative interest rate or (as the case may be) an alternative basis for the Lender to fund or continue to fund the Loan during the Interest Period concerned.

4.7 Application of agreed alternative rate of interest

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

4.8 Alternative rate of interest in absence of agreement

If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Lender shall set an interest period and interest rate representing the cost of funding of the Lender in Dollars or in any available currency of the Loan plus (i) the Margin and (ii) any Mandatory Cost (if applicable); and the procedure provided for by this Clause 4.8 shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Lender.

4.9 Notice of prepayment

If the Borrower does not agree with an interest rate set by the Lender under Clause 4.8, the Borrower may give the Lender not less than 15 Business Days' notice of their intention to prepay at the end of the interest period set by the Lender.

4.10 Prepayment

A notice under Clause 4.9 shall be irrevocable; and on the last Business Day of the interest period set by the Lender, the Borrower shall prepay (without premium or penalty) the Loan, together with accrued interest thereon (and any other amount payable under Clause 19 or otherwise) at the applicable rate plus the Margin and the Mandatory Cost (if applicable) and, if the prepayment or repayment is not made on the last day of the interest period set by the Lender, any sums payable under Clause 19.1(b).

4.11 Application of prepayment

The provisions of Clause 7 shall apply in relation to the prepayment.

5 INTEREST PERIODS

5.1 Commencement of Interest Periods

The first Interest Period shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period which has to be on 1st or 15th of the relevant month (adjusted to coincide with Clause 7.2).

5.2 Duration of normal Interest Periods

Subject to Clauses 5.3 and 5.4, each Interest Period shall be:

- (a) 3 months; or

- (b) such other period as the Lender may agree with the Borrower and notified by the Borrower to the Lender not later than 11.00 am (Copenhagen time) 2 Business Days before the commencement of the Interest Period.

5.3 Duration of Interest Periods for Repayment Instalments

In respect of an amount due to be repaid under Clause 7 on a particular Repayment Date, an Interest Period shall end on that Repayment Date.

5.4 Non-availability of matching deposits for Interest Period selected

If, after the Borrower has selected (pursuant to Clause 5.2) and the Lender has agreed an Interest Period longer than 3 months, the Lender notifies the Borrower by 11.00 a.m. (Copenhagen time) on the first Business Day before the commencement of the Interest Period that it is not satisfied that deposits in Dollars for a period equal to the Interest Period will be available to it in the London Interbank Market when the Interest Period commences, the Interest Period shall be of 3 months.

6 DEFAULT INTEREST

6.1 Payment of default interest on overdue amounts

The Borrower shall pay interest in accordance with the following provisions of this Clause 6 on any amount payable by the Borrower under any Finance Document which the Lender or other designated payee does not receive on or before the relevant date, that is:

- (a) the date on which the Finance Documents provide that such amount is due for payment; or
- (b) if a Finance Document provides that such amount is payable on demand, the date on which the demand is served; or
- (c) if such amount has become immediately due and payable under Clause 17.4, the date on which it became immediately due and payable.

6.2 Default rate of interest

Interest shall accrue on an overdue amount from (and including) the relevant date on which that amount became due until the date of actual payment (as well after as before judgment) at the rate per annum determined by the Lender to be 2 per cent. above:

- (a) in the case of an overdue amount of principal, the higher of the rates set out at Clauses 6.3(a) and 6.3(b); or
- (b) in the case of any other overdue amount, the rate set out at Clause 6.3(b) .

6.3 Calculation of default rate of interest

The rates referred to in Clause 6.2 are:

- (a) the rate applicable to the overdue principal amount immediately prior to the relevant date on which that amount became due (but only for any unexpired part of any then current Interest Period applicable to it);
- (b) the aggregate of (i) the Margin and (ii) any Mandatory Cost (if applicable) plus, in respect of successive periods of any duration (including at call) up to 3 months which the Lender may select from time to time:
 - (i) LIBOR; or

- (ii) if the Lender determines that Dollar deposits for any such period are not being made available to it by leading banks in the London Interbank Market in the ordinary course of business, a rate from time to time determined by the Lender by reference to the cost of funds to it from such other sources as the Lender may from time to time determine.

6.4 Notification of interest periods and default rates

The Lender shall promptly notify the Borrower of each interest rate determined by it under Clause 6.3 and of each period selected by it for the purposes of paragraph (b) of that Clause; but this shall not be taken to imply that the Borrower is liable to pay such interest only with effect from the date of the Lender's notification.

6.5 Payment of accrued default interest

Subject to the other provisions of this Agreement, any interest due under this Clause shall be paid on the last day of the period by reference to which it was determined.

6.6 Compounding of default interest

Any such interest which is not paid at the end of the period by reference to which it was determined shall thereupon be compounded.

7 REPAYMENT AND PREPAYMENT

7.1 Amount of repayment instalments

The Borrower shall repay the Loan as follows:

- (a) by 28 equal consecutive quarterly repayment instalments in the amount of \$500,000 each (the "**Repayment Instalments**" and each a "**Repayment Instalment**"); and
- (b) a balloon payment in the amount of \$16,000,000.

7.2 Repayment Dates. Subject to the proviso below, the first Repayment Instalment of the Loan shall be repaid on the date falling 3 months after the Drawdown Date relative thereto and the last Repayment Instalment together with the balloon instalment on the Maturity Date **Provided that** the Lender may, on the first Repayment Date change the Repayment Dates so that thereafter they shall fall on either the 1st or the 15th (as the Lender may decide and notify in writing to the Borrower) of the relevant month to coincide with the interest payments to be made pursuant to Clause 5.1.

7.3 Maturity Date

On the Maturity Date, the Borrower shall additionally pay to the Lender all other sums then accrued or owing under any Finance Document.

7.4 Voluntary prepayment

Subject to the following conditions, the Borrower may prepay the whole or any part of the Loan on the last day of an Interest Period.

7.5 Conditions for voluntary prepayment

The conditions referred to in Clause 7.4 are that :

- (a) a partial prepayment shall be in an amount not less than \$500,000 or a higher integral multiple thereof;

- (b) the Lender has received from the Borrower at least 5 Business Days' prior written notice specifying the amount to be prepaid and the date on which the prepayment is to be made; and
- (c) the Borrower has provided evidence satisfactory to the Lender that any consent required by the Borrower or any Security Party in connection with the prepayment has been obtained and remains in force, and that any official regulation relevant to this Agreement which affects the Borrower or any Security Party has been complied with.

7.6 Effect of notice of prepayment

A prepayment notice may not be withdrawn or amended without the consent of the Lender and the amount specified in the prepayment notice shall become due and payable by the Borrower on the date for prepayment specified in the prepayment notice.

7.7 Mandatory prepayment

The Borrower shall be obliged to prepay the whole of the Loan if the Ship is sold or becomes a Total Loss:

- (a) in the case of a sale, on or before the date on which the sale is completed by delivery of the Ship to the buyer; or
- (b) in the case of a Total Loss, on the earlier of the date falling 150 days after the Total Loss Date and the date of receipt by the Lender of the proceeds of insurance relating to such Total Loss.

7.8 Amounts payable on prepayment

A prepayment shall be made together with accrued interest (and any other amount payable under Clause 19 or otherwise) in respect of the amount prepaid and, if the prepayment is not made on the last day of an Interest Period together with any sums payable under Clause 19.1(b) but without premium or penalty.

7.9 Application of partial prepayment

Each partial prepayment shall be applied pro rata first against the outstanding Repayment Instalments and thereafter against the balloon instalment.

7.10 No reborrowing

No amount prepaid may be reborrowed .

7.11 Cancellation of Commitment

Any portion of the Loan which has not been borrowed by the last day of the Availability Period shall automatically be cancelled.

8 CONDITIONS PRECEDENT

8.1 Documents, fees and no default

The Lender's obligation to advance the Loan is subject to the following conditions precedent:

- (a) that, on or before the date of this Agreement, the Lender receives (i) the documents described in Part A of Schedule 2 in form and substance satisfactory to the Lender and its lawyers and (ii) payment of 50 per cent. of the upfront fee referred to in Clause 18.1;

- (b) that on or before the service of the Drawdown Notice, the Lender receives the documents described in Part B of Schedule 2 in form and substance satisfactory to it and its lawyers;
- (c) that, on or before the Drawdown Date the Lender receives payment of the remaining 50 per cent. of the upfront fee referred to in Clause 18.1 and has received payment of the expenses referred to in Clause 18.2;
- (d) that both at the date of the Drawdown Notice and at the Drawdown Date:
 - (i) no Event of Default or Potential Event of Default has occurred or would result from the borrowing of the Loan;
 - (ii) the representations and warranties in Clause 9.1 and those of the Borrower or any Security Party which are set out in the other Finance Documents would be true and not misleading if repeated on each of those dates with reference to the circumstances then existing;
 - (iii) none of the circumstances contemplated by Clause 4.4 has occurred and is continuing; and
 - (iv) there has been no material adverse change in the financial position, state of affairs or prospects of the Borrower, the Guarantor or any other Security Party in the light of which the Lender considers that there is a significant risk that the Borrower, the Guarantor or any other Security Party is, or will later become, unable to discharge its liabilities under the Finance Documents to which it is a party as they fall due;
- (e) that, if the ratio set out in Clause 14.1 were applied immediately following the advance of the Loan, the Borrower would not be obliged to provide additional security or prepay part of the Loan under that Clause; and
- (f) that the Lender has received, and found to be acceptable to it, any further opinions, consents, agreements and documents in connection with the Finance Documents which the Lender may request by notice to the Borrower prior to the Drawdown Date.

8.2 Waiver of conditions precedent

If the Lender, at its discretion, permits the Loan to be borrowed before certain of the conditions referred to in Clause 8.1 are satisfied, the Borrower shall ensure that those conditions are satisfied within 5 Business Days after the Drawdown Date applicable to the Loan (or such longer period as the Lender may specify).

9 REPRESENTATIONS AND WARRANTIES

9.1 General

The Borrower represents and warrants to the Lender as follows .

9.2 Status

The Borrower is duly incorporated and validly existing and in good standing under the laws of the Republic of the Marshall Islands.

9.3 Share capital and ownership

The Borrower has an authorised share capital of five hundred (500) registered shares with par value of \$0.01 each and the legal title and beneficial ownership of all those shares is held, free of any Security Interest or other claim, by the Guarantor.

9.4 Corporate power

The Borrower has the corporate capacity and has taken all corporate action and obtained all consents necessary for it:

- (a) to register the Ship in its name under an Approved Flag;
- (b) to execute the Finance Documents to which the Borrower is a party; and
- (c) to borrow the Loan under this Agreement and to make all the payments contemplated by, and to comply with, those Finance Documents to which it is a party.

9.5 Consents in force

All the consents referred to in Clause 9.4 remain in force and nothing has occurred which makes any of them liable to revocation.

9.6 Legal validity; effective Security Interests

Each of the Finance Documents, to which the Borrower is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration as provided for in the Finance Documents):

- (a) constitute the Borrower's legal, valid and binding obligations enforceable against the Borrower in accordance with their respective terms; and
- (b) create legal, valid and binding Security Interests enforceable in accordance with their respective terms over all the assets to which they, by their terms, relate,

subject to any relevant insolvency laws affecting creditors' rights generally.

9.7 No third party Security Interests

Without limiting the generality of Clause 9.6, at the time of the execution and delivery of each Finance Document:

- (a) the Borrower will have the right to create all the Security Interests which that Finance Document purports to create; and
- (b) no third party will have any Security Interest (except for Permitted Security Interests) or any other interest, right or claim over, in or in relation to any asset to which any such Security Interest, by its terms, relates.

9.8 No conflicts

The execution by the Borrower of each Finance Document to which it is a party and the borrowing by the Borrower of the Loan (or any part thereof), and the Borrower's compliance with each Finance Document to which it is a party, will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of the Borrower; or
- (c) any contractual or other obligation or restriction which is binding on the Borrower or any of its assets.

9.9 No withholding taxes

All payments which the Borrower is liable to make under the Finance Documents may be made without deduction or withholding for or on account of any tax payable under any law of any Pertinent Jurisdiction ..

9.10 No default

No Event of Default or Potential Event of Default has occurred.

9.11 Information

All information which has been provided in writing by or on behalf of the Borrower or any Security Party to the Lender in connection with any Finance Document and satisfied the requirements of Clause 10.5; all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 10.7; and there has been no Material Adverse Change in the financial position or state of affairs of the Borrower or the Guarantor from that disclosed in the latest of those accounts.

9.12 No litigation

No legal or administrative action involving the Borrower (including action relating to any alleged or actual breach of the ISM Code or the ISPS Code) has been commenced or taken or, to the Borrower's knowledge, is likely to be commenced or taken.

9.13 Solvency

Neither is the Borrower insolvent nor in voluntary arrangement, liquidation or administration or subject to any other insolvency procedure, and no receiver, administrative receiver, administrator, liquidator, trustee or analogous officer has been appointed in respect of the Borrower or all or any part of its assets (and, for the purposes of this Clause 9.13, the Borrower will be deemed insolvent if it is unable to pay its debts within the meaning of s.123 of the Insolvency Act 1986).

9.14 Compliance with certain undertakings

At the date of this Agreement, the Borrower is in compliance with Clauses 10.2, 10.4, 10.9 and 10.13.

9.15 Taxes paid

The Borrower has paid all taxes applicable to, or imposed on or in relation to the Borrower, its business or the Ship.

9.16 ISM Code and ISPS Code compliance

All requirements of the ISM Code and the ISPS Code as they relate to the Borrower, the Approved Manager and the Ship have been complied with.

9.17 No money laundering

Without prejudice to the generality of Clause 2.2, in relation to the borrowing by the Borrower of the Loan, the performance and discharge of its obligations and liabilities under the Finance Documents, and the transactions and other arrangements effected or contemplated by the Finance Documents to which the Borrower is a party, the Borrower confirms (i) that it is acting for its own account, (ii) that it will use the proceeds of the Loan for its own benefit, under its full responsibility and exclusively for the purposes specified in this Agreement and (iii) that the foregoing will not involve or lead to contravention of any

law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities).

9.18 Sanctions

(a) The Borrower nor any Security Party:

- (i) is a Prohibited Person;
- (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
- (iii) owns or controls a Prohibited Person.

(b) No proceeds of the Loan shall be made available, directly or indirectly, to or for the benefit of a Prohibited Person nor shall they be otherwise directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.

9.19 Repetition of representations and warranties

The representations and warranties set out in this Clause 9 would be true and not misleading if repeated on the first day of each Interest Period.

9.20 No immunity

Neither the Borrower nor any of its assets are entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceeding (which shall include, without limitation, suit, attachment prior to judgement, execution or other enforcement).

10 GENERAL UNDERTAKINGS

10.1 General

The Borrower undertakes with the Lender to comply with the following provisions of this Clause 10 at all times during the Security Period, except as the Lender may otherwise permit.

10.2 Title; negative pledge and pari passu ranking

The Borrower will :

- (a) hold the legal title to, and own the entire beneficial interest in the Ship, the Insurances and Earnings, free from all Security Interests and other interests and rights of every kind, except for those created by the Finance Documents and the effect of assignments contained in the Finance Documents and except for Permitted Security Interests; and
- (b) not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future; and
- (c) procure that its liabilities under the Finance Documents to which it is a party do and will rank at least pari passu with all of its other present and future unsecured liabilities, except for liabilities which are mandatory preferred by law.

10.3 No disposal of assets

The Borrower will not transfer, lease or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation,

but paragraph (a) does not apply to any charter of the Ship as to which Clauses 13.12 and 13.13 apply.

10.4 No other liabilities or obligations to be incurred

The Borrower will not incur any liability or obligation except:

- (a) liabilities and obligations under the Finance Documents to which it is a party; and
- (b) liabilities or obligations reasonably incurred in the ordinary course of owning, operating and chartering the Ship.

10.5 Information provided to be accurate

All financial and other information which is provided in writing by or on behalf of the Borrower under or in connection with any Finance Document or any Approved Charter will be true and not misleading and will not omit any material fact or consideration.

10.6 Provision of financial statements

The Borrower will send or procure there are sent to the Lender:

- (a) as soon as possible, but in no event later than 180 days after the end of each financial year of the Guarantor (commencing with the financial year that ended on 31 December 2014), the audited annual consolidated statements of the Group;
- (b) as soon as possible, but in no event later than 90 days after each six-month period ending on 30 June and 31 December in each financial year of the Guarantor (commencing with the six-month period ending 30 June 2015), the semi-annual consolidated unaudited statements of the Group (in the form in which they are published in the relevant press release) for such period certified as to their correctness by the chief financial officer of the Guarantor; and
- (c) promptly upon request by the Lender, such further information about the financial condition, commitments, budgets, fleet list, fleet employment status and operations of the Corporate Guarantor and its subsidiaries (including, for the avoidance of doubt, the Borrower) as the Lender may reasonably require.

10.7 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 10.6 will:

- (a) be prepared in accordance with all applicable laws and GAAP consistently applied;
- (b) give a true and fair view of the state of affairs of the Group, at the date of those accounts and of its profit for the period to which those accounts relate; and
- (c) fully disclose or provide for all significant liabilities of the Group.

10.8 Shareholder and creditor notices

The Borrower will send the Lender, at the same time as they are despatched, copies of all communications which are despatched to the Borrower's shareholders or creditors or any class of them.

10.9 Consents

The Borrower will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Lender of, all consents required:

- (a) for the Borrower to perform its obligations under any Finance Document and any Approved Charter to which it is a party;
- (b) for the validity or enforceability of any Finance Document and any Approved Charter to which it is a party;
- (c) for the Borrower to own and operate and continue to own and operate the Ship; and
- (d) (without prejudice to its other obligations under the Finance Documents), for the Borrower to comply in all respects, with all laws and regulations to which it may be subject including, without limitation, all Environmental Laws and all intellectual property laws,

and the Borrower will comply with the terms of all such consents.

10.10 Maintenance of Security Interests

The Borrower will:

- (a) at its own cost, do all that is necessary to ensure that any Finance Document to which it is a party validly creates the obligations and the Security Interests which it purports to create; and
- (b) without limiting the generality of paragraph (a), at its own cost, promptly register, file, record or enrol any Finance Document with any court or authority in all Pertinent Jurisdictions, pay any stamp, registration or similar tax in all Pertinent Jurisdictions in respect of any Finance Document, give any notice or take any other step which may be or become necessary or desirable for any Finance Document to be valid, enforceable or has admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

10.11 Notification of litigation

The Borrower will provide the Lender with details of any legal or administrative action involving the Borrower, any Security Party, the Group, the Approved Manager, the Ship, the Earnings or its Insurances as soon as such action is instituted or it becomes apparent to the Borrower that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of any Finance Document.

10.12 Principal place of business

The Borrower will not:

- (a) change its place of business; and
- (b) establish, nor do anything as a result of which it would be deemed to have, a place of business in England or the United States.

10.13 Confirmation of no default

The Borrower will, within 2 Business Days after service by the Lender of a written request, serve on the Lender a notice which is signed by an authorised director of the Borrower and which:

- (a) states that no Event of Default or Potential Event of Default has occurred; or
- (b) states that no Event of Default or Potential Event of Default has occurred, except for a specified event or matter, of which all material details are given.

The Lender may serve requests under this Clause 10.13 from time to time; this Clause 10.13 does not affect the Borrower's obligations under Clause 10.14.

10.14 Notification of default

The Borrower will notify the Lender as soon as it becomes aware of:

- (a) the occurrence of an Event of Default or a Potential Event of Default; or
- (b) any matter which indicates that an Event of Default or a Potential Event of Default may have occurred

and will keep the Lender fully up-to-date with all developments.

10.15 Provision of further information

The Borrower will, as soon as practicable after receiving the request, provide the Lender with any additional financial or other information relating:

- (a) to the Borrower, the Guarantor, the Approved Manager, the Ship, its Earnings or its Insurances and any Approved Charter, each other member of the Group and any other Fleet Vessel as the Lender may require; or
- (b) to any other matter relevant to, or to any provision of, a Finance Document which may be requested by the Lender at any time.

10.16 "Know your customer" checks

If:

- (a) any law or regulation and/or the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation;
- (b) any change in the status of the Borrower or any Security Party after the date of this Agreement;
- (c) a proposed assignment or transfer by the Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Lender (or, in the case of paragraph (c), any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Lender (for itself or, in the case of the event described in paragraph (c), on behalf of any prospective new Lender) in order for the Lender or, in the case of the event described in paragraph (c), any prospective new Lender to carry

out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

10.17 Provision of copies and translation of documents

If the Lender so requires, the Borrower will supply the Lender with a certified English translation in respect of any of those documents referred to above, such translation to be prepared by a translator approved by the Lender.

10.18 Ownership

The Borrower shall procure that there is no change in the legal ownership of its shares throughout the Security Period.

10.19 Material Adverse Change

There has been no Material Adverse Change since 27 February 2015.

11 CORPORATE UNDERTAKINGS

11.1 General

The Borrower also undertakes with the Lender to comply with the following provisions of this Clause 11 at all times during the Security Period except as the Lender may otherwise permit.

11.2 Maintenance of status

The Borrower will maintain its separate corporate existence and remain in good standing under the laws of the Republic of the Marshall Islands.

11.3 Negative undertakings

The Borrower will not:

- (a) carry on any business other than the ownership, chartering and operation of the Ship; or
- (b) pay any dividend or make any other form of distribution or effect any form of redemption, purchase or return of share capital if an Event of Default has occurred or could result from the payment of such dividend or the making of any other form of distribution; or
- (c) effect any form of redemption, purchase or return of share capital;
- (d) provide any form of credit or financial assistance to :
 - (i) a person who is directly or indirectly interested in the Borrower's share or loan capital; or
 - (ii) any company in or with which such a person is directly or indirectly interested or connected

or enter into any transaction with or involving such a person or company on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms' length;

- (e) open or maintain any account with any bank or financial institution except accounts with any bank acceptable to the Lender for the purposes of the Finance Documents;

- (f) issue, allot or grant any person a right to any shares in its capital or repurchase or reduce its issued share capital;
- (g) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks, or enter into any transaction in a derivative;
- (h) enter into any form of amalgamation, merger or de-merger or any form of reconstruction or reorganisation; or
- (i) agree to purchase any vessel other than the Ship.

12 INSURANCE

12.1 General

The Borrower also undertakes with the Lender to comply with the following provisions of this Clause 12 at all times during the Security Period except as the Lender may otherwise permit.

12.2 Maintenance of obligatory insurances

The Borrower shall keep the Ship insured at the expense of such Borrower against:

- (a) fire and usual marine risks (including hull and machinery and excess risks);
- (b) war risks;
- (c) protection and indemnity risks; and
- (d) any other risks against which the Lender considers, having regard to practices and other circumstances prevailing at the relevant time, it would in the opinion of the Lender be reasonable for the Borrower to insure (including, without limitation, those required by any public body, classification society having authority on the Borrower or the Ship) and which are specified by the Lender by notice to the Borrower.

12.3 Terms of obligatory insurances

The Borrower shall effect such insurances:

- (a) in Dollars;
- (b) in the case of fire and usual marine risks and war risks, in an amount on an agreed value basis at least the greater of (i) an amount equal to 120 per cent. of the Loan and (ii) the Market Value of the Ship (and in the case of hull and machinery risks (excluding any excess cover/increased value/hull interest) in an amount of at least equal to 80 per cent. of the Market Value of the Ship); and
- (c) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club entry and in the international marine insurance market (currently \$1,000,000,000);
- (d) in relation to protection and indemnity risks in respect of the Ship's full value and tonnage;
- (e) on approved terms; and

- (f) through approved brokers and with approved insurance companies and/or underwriters *or*, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations .

12.4 Further protections for the Lender

In addition to the terms set out in Clause 12.3, the Borrower shall procure that the obligatory insurances shall:

- (a) subject always to paragraph (b), name the Borrower as the sole named assured unless the interest of every other named assured is limited:
 - (i) in respect of any obligatory insurances for hull and machinery and war risks;
 - (A) to any provable out-of-pocket expenses that it has incurred and which form part of any recoverable claim on underwriters; and
 - (B) to any third party liability claims where cover for such claims is provided by the policy (and then only in respect of discharge of any claims made against it); and
 - (ii) in respect of any obligatory insurances for protection and indemnity risks, to any recoveries it is entitled to make by way of reimbursement following discharge of any third party liability claims made specifically against it

and every other named assured has undertaken in writing to the Lender (in such form as it requires) that any deductible shall be apportioned between the Borrower and every other named assured in proportion to the gross claims made or paid by each of them and that it shall do all things necessary and provide all documents, evidence and information to enable the Lender to collect or recover any moneys which at any time become payable in respect of the obligatory insurances;

- (b) in the case of any obligatory insurances against any risks other than protection and indemnity risks, and whenever the Lender requires name (or be amended to name) the Lender as additional named assured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against the Lender, but without the Lender thereby being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
- (c) name the Lender as loss payee with such directions for payment as the Lender may specify;
- (d) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Lender shall be made without *set-off*, counterclaim or deductions or condition whatsoever;
- (e) provide that obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Lender; and
- (f) provide that the Lender may make proof of loss if the Borrower fails to do so.

12.5 Renewal of obligatory insurances

The Borrower shall:

- (a) at least 21 days before the expiry of any obligatory insurance:

- (i) notify the Lender of the brokers (or other insurers) and any protection and indemnity or war risks association through or with whom the Borrower proposes to renew that obligatory insurance and of the proposed terms of renewal; and
- (ii) obtain the Lender's approval to the matters referred to in paragraph (i);
- (b) at least 14 days before the expiry of any obligatory insurance, renew that obligatory insurance in accordance with the Lender's approval pursuant to paragraph (a); and
- (c) procure that the approved brokers and/or the war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Lender in writing of the terms and conditions of the renewal.

12.6 Copies of policies; letters of undertaking

The Borrower shall ensure that all approved brokers provide the Lender with pro forma copies of all policies relating to the obligatory insurances which they are to effect or renew and of a letter or letters of undertaking in a form required by the Lender and including undertakings by the approved brokers that:

- (a) they will have endorsed on each policy, immediately upon issue, a loss payable clause and a notice of assignment complying with the provisions of Clause 12.4;
- (b) they will hold such policies, and the benefit of such insurances, to the order of the Lender in accordance with the said loss payable clause;
- (c) they will advise the Lender immediately of any material change to the terms of the obligatory insurances;
- (d) they will notify the Lender, not less than 14 days before the expiry of the obligatory insurances, in the event of their not having received notice of renewal instructions from the Borrower or its agents and, in the event of their receiving instructions to renew, they will promptly notify the Lender of the terms of the instructions; and
- (e) they will not set off against any sum recoverable in respect of a claim relating to the Ship owned by the Borrower under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that Ship or otherwise, they waive any lien on the policies, or any sums received under them, which they might have in respect of such premiums or other amounts, and they will not cancel such obligatory insurances by reason of non-payment of such premiums or other amounts, and will arrange for a separate policy to be issued in respect of that Ship forthwith upon being so requested by the Lender.

12.7 Copies of certificates of entry

The Borrower shall ensure that any protection and indemnity and/or war risks associations in which the Ship is entered provides the Lender with:

- (a) a certified copy of the certificate of entry for the Ship;
- (b) a letter or letters of undertaking in such form as may be required by the Lender; and
- (c) a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority in relation to the Ship.

12.8 Deposit of original policies

The Borrower shall ensure that all policies relating to obligatory insurances are deposited with the approved brokers through which the insurances are effected or renewed.

12.9 Payment of premiums

The Borrower shall punctually pay all premiums or other sums payable in respect of the obligatory insurances and produce all relevant receipts when so required by the Lender.

12.10 Guarantees

The Borrower shall ensure that any guarantees required by a protection and indemnity or war risks association are promptly issued and remain in full force and effect.

12.11 Restrictions on employment

The Borrower shall not employ the Ship, nor shall permit the Ship to be employed, outside the cover provided by any obligatory insurance.

12.12 Compliance with terms of insurances

The Borrower shall not do and shall not omit to do (nor permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable thereunder repayable in whole or in part; and, in particular:

- (a) it shall take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and (without limiting the obligation contained in Clause 12.6) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Lender has not given its prior approval;
- (b) it shall not make any changes relating to the classification or classification society or manager or operator of the Ship approved by the underwriters of the obligatory insurances;
- (c) it shall make (and promptly supply copies to the Lender of) all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Ship is entered to maintain cover for trading to the United States of America and Exclusive Economic Zone (as defined in the United States Oil Pollution Act 1990 or any other applicable legislation); and
- (d) it shall not employ the Ship, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances, without first obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

12.13 Alteration to terms of insurances

The Borrower shall neither make nor agree to any alteration to the terms of any obligatory insurance nor waive any right relating to any obligatory insurance.

12.14 Settlement of claims

The Borrower shall not settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty, and shall do all things necessary and provide all documents, evidence and information to enable the Lender to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.

12.15 Provision of copies of communications

The Borrower shall provide the Lender, at the time of each such communication, with copies of all written communications between the Borrower and:

- (a) the approved brokers; and
- (b) the approved protection and indemnity and/or war risks associations; and
- (c) the approved insurance companies and/or underwriters, which relate directly or indirectly to:
 - (i) the Borrower's obligations relating to the obligatory insurances including, without limitation, all requisite declarations and payments of additional premiums or calls; and
 - (ii) any credit arrangements made between the Borrower and any of the persons referred to in paragraphs (a) or (b) relating wholly or partly to the effecting or maintenance of the obligatory insurances.

12.16 Provision of information

In addition, the Borrower shall promptly provide the Lender (or any persons which it may designate) with any information which the Lender (or any such designated person) requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker as to the adequacy of the obligatory insurances effected or proposed to be effected; and/or
- (b) effecting, maintaining or renewing any such insurances as are referred to in Clause 12.17 below or dealing with or considering any matters relating to any such insurances

and the Borrower shall, forthwith upon demand, indemnify the Lender in respect of all fees and other expenses incurred by or for the account of the Lender in connection with any such report as is referred to in paragraph (a).

12.17 Mortgagee's interest, additional perils insurance

The Lender shall be entitled from time to time to effect, maintain and renew a mortgagee's interest marine insurance and a mortgagee's interest additional perils insurance each in an amount equal to at least 110 per cent. of the Loan, on such terms, through such insurers and generally in such manner as the Lender may from time to time consider appropriate and the Borrower shall upon demand fully indemnify the Lender in respect of all premiums and other expenses which may be incurred in connection with or with a view to effecting, maintaining or renewing any such insurance or dealing with, or considering, any matter arising out of any such insurance. The Borrower acknowledges that the Lender may provide information to third parties in connection with the effectiveness, maintenance or renewal of the insurances referred to in this Clause 12.17 including, but not limited to, the name of the Ship, the IMO number and any other information in relation to the Secured Liabilities.

12.18 Review of insurance requirements

The Lender shall be entitled to review the requirements of this Clause 12 from time to time, in order to take account of any changes in circumstances after the date of this Agreement which are, in the opinion of the Lender significant and capable of affecting the Borrower or the Ship and its insurance (including, without limitation, changes in the availability or the cost of insurance coverage or the risks to which the Borrower may be subject) and may appoint insurance consultants in relation to this review at the cost of the Borrower.

12.19 Modification of insurance requirements

The Lender shall notify the Borrower of any proposed modification under Clause 12.18 to the requirements of this Clause 12 which the Lender, may consider appropriate in the circumstances and, after consultation with the Borrower, such modification shall take effect on and from the date it is notified in writing to the Borrower as an amendment to this Clause 12 and shall bind the Borrower accordingly.

12.20 Compliance with mortgagee's instructions

The Lender shall be entitled (without prejudice to or limitation of any other rights which it may have or acquire under any Finance Document) to require the Ship to remain at any safe port or to proceed to and remain at any safe port designated by the Lender until the Borrower implements any amendments to the terms of the obligatory insurances and any operational changes required as a result of a notice served under Clause 12.19.

13 SHIP COVENANTS

13.1 General

The Borrower also undertakes with the Lender to comply with the following provisions of this Clause 13 at all times during the Security Period in respect of the Ship except as the Lender may otherwise permit.

13.2 Ship's name and registration

The Borrower shall:

- (a) keep the Ship registered in its name under an Approved Flag;
- (b) not do or allow to be done anything as a result of which such registration might be cancelled or imperilled; and
- (c) not change the name or port of registry of its Ship without the prior written consent of the Lender.

13.3 Repair and classification

The Borrower shall keep the Ship in a good and safe condition and state of repair:

- (a) consistent with first-class ship ownership and management practice;
- (b) so as to maintain with the highest classification available for vessels of the same age, type and specification as the Ship free of overdue recommendations and conditions with a classification society which is acceptable to the Lender; and
- (c) so as to comply with all laws and regulations applicable to vessels registered at ports in the applicable Approved Flag State or to vessels trading to any jurisdiction to which that Ship may trade from time to time, including but not limited to the ISM Code and the ISPS Code.

13.4 Classification society undertaking

The Borrower shall instruct the classification society referred to in Clause 13.3:

- (a) to send to the Lender, following receipt of a written request from the Lender, certified true copies of all original class records and any other related records held by the classification society in relation to the Ship;

- (b) to allow the Lender (or its agents), at any time and from time to time, to inspect the original class and related records of the Borrower and the Ship at the offices of the classification society and to take copies of them;
- (c) to notify the Lender immediately in writing if the classification society:
 - (i) receives notification from the Borrower or any other person that the relevant Ship's classification society is to be changed; or
 - (ii) becomes aware of any facts or matters which may result in or have resulted in a change, suspension, discontinuance, withdrawal or expiry of the relevant Ship's class under the rules or terms and conditions of the Borrower's or the relevant Ship's membership of the classification society; and
- (d) following receipt of a written request from the Lender:
 - (i) to confirm that the Borrower is not in default of any of its contractual obligations or liabilities to the classification society and, without limiting the foregoing, that it has paid in full all fees or other charges due and payable to the classification society; or
 - (ii) if the Borrower is in default of any of its contractual obligations or liabilities to the classification society, to specify to the Lender in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the classification society.

13.5 Modification

The Borrower shall not make any modification or repairs to, or replacement of, the Ship or equipment installed on the Ship which would or might materially alter the structure, type or performance characteristics of the Ship or reduce its value.

13.6 Removal of parts

The Borrower shall not remove any material part of the Ship, or any item of equipment installed on the Ship, unless the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed, is free from any Security Interest or any right in favour of any person other than the Lender and becomes on installation on the relevant Ship the property of the Borrower and subject to the security constituted by the relevant Mortgage Provided that the Borrower may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Ship.

13.7 Surveys

The Borrower shall submit the Ship regularly to all periodical or other surveys which may be required for classification purposes and, if so required by the Lender provide the Lender, with copies of all survey reports.

13.8 Inspection

The Borrower shall, at its expense, permit the Lender (by surveyors or other persons appointed by it for that purpose) to board the Ship at all reasonable times to inspect its condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections **Provided that** the Borrower shall be liable to pay the costs and expenses for no more than one such inspection in any calendar year so long as no Event of Default has occurred and is continuing in which case the Lender may (by surveyors or other persons appointed by it for that purpose) board that Ship and carry out such inspections at all times it deems fit.

13.9 Prevention of and release from arrest

The Borrower shall promptly discharge:

- (a) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against the Ship, the Earnings or the Insurances;
- (b) all taxes, dues and other amounts charged in respect of the Ship, the Earnings or the Insurances; and
- (c) all other outgoings whatsoever in respect of the Ship, the Earnings or the Insurances,

and, forthwith upon receiving notice of the arrest of the Ship, or of its detention in exercise or purported exercise of any lien or claim, the Borrower shall procure its release by providing bail or otherwise as the circumstances may require.

13.10 Compliance with laws etc.

The Borrower shall:

- (a) comply, or procure compliance with the ISM Code, the ISPS Code, all Environmental Laws and all other laws or regulations relating to the Ship, its ownership, operation and management or to the business of the Borrower;
- (b) not employ the Ship nor allow its employment in any manner contrary to any law or regulation in any relevant jurisdiction including but not limited to the ISM Code and the ISPS Code;
- (c) in the event of hostilities in any part of the world (whether war is declared or not), not cause or permit it to enter or trade to any zone which is declared a war zone by any government or by the Ship's war risks insurers unless the prior written consent of the Lender has been given and the Borrower has (at its expense) effected any special, additional or modified insurance cover which the Lender may require; and
- (d) comply with all applicable regulations (in the United States of America and, where relevant, elsewhere) with respect to maintenance of its Certificate of Financial Responsibility and other certificates of third party liability insurance so as to enable its Ship to trade fully at all times.

13.11 Provision of information

The Borrower shall promptly provide the Lender with any information which it requests regarding:

- (a) the Ship, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to the Ship's master and crew;
- (c) any expenses incurred, or likely to be incurred, in connection with the trading, chartering, operation, maintenance or repair of the Ship and any payments made in respect of the Ship;
- (d) any towages and salvages; and
- (e) the Borrower's, the Approved Manager's or the Ship's compliance with the ISM Code and the ISPS Code,

and, upon the Lender's request, provide copies of any current charter relating to the Ship, of any current charter guarantee, the SMC and copies of the Borrower's or the Approved Manager's Document of Compliance.

13.12 Notification of certain events

The Borrower shall immediately notify the Lender by fax, confirmed forthwith by letter, of:

- (a) any casualty which is or is likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which the Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;
- (c) any requirement or recommendation made by any insurer or classification society or by any competent authority which is not immediately complied with;
- (d) any arrest or detention of the Ship, any exercise or purported exercise of any lien on the Ship or the Earnings or any requisition of the Ship for hire;
- (e) any intended dry docking of the Ship;
- (f) any Environmental Claim made against the Borrower or in connection with the Ship, or any Environmental Incident;
- (g) any claim for breach of the ISM Code or the ISPS Code being made against the Borrower, the Approved Manager or otherwise in connection with the Ship; or
- (h) the Borrower's entry into an Approved Charter;
- (i) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with,

and the Borrower shall keep the Lender advised in writing on a regular basis and in such detail as the Lender shall require of the Borrower's, the Approved Manager's or any other person's response to any of those events or matters.

13.13 Restrictions on chartering, appointment of managers etc

The Borrower shall not:

- (a) let the Ship on demise charter or enter into any time or consecutive voyage charter for a term which exceeds, or which by virtue of any optional extensions may exceed, 36 months;
- (b) enter into any charter in relation to the Ship under which more than 2 months' hire (or the equivalent) is payable in advance;
- (c) charter the Ship otherwise than on bona fide arm's length terms at the time when the Ship is fixed;
- (d) appoint a manager of the Ship other than an Approved Manager or an affiliate of the Approved Manager or agree to any alteration to the terms of the Approved Manager's appointment;
- (e) de-activate or lay up the Ship; or
- (f) put the Ship into the possession of any person for the purpose of work being done upon her in an amount exceeding or likely to exceed US\$1,000,000 (or the equivalent in any other currency) unless that person has first given to the Lender and in terms satisfactory to it a

written undertaking not to exercise any lien on the Ship or its Earnings for the cost of such work or for any other reason.

13.14 Notice of Mortgage

The Borrower shall keep the Mortgage registered against its Ship as a valid first priority mortgage, carry on board its Ship a certified copy of the relevant Mortgage and place and maintain in a conspicuous place in the navigation room and the Master's cabin of its Ship a framed printed notice stating that that Ship is mortgaged by the Borrower to the Lender.

13.15 Sharing of Earnings

The Borrower shall not:

- (a) enter into any agreement or arrangement for the sharing of any Earnings; and
- (b) enter into any agreement or arrangement for the postponement of any date on which any Earnings are due, the reduction of the amount of any Earnings or otherwise for the release or adverse alteration of any right of the Borrower to the Earnings; or
- (c) enter into any agreement or arrangement for the release, or adverse alteration to, any guarantee or Security Interest relating to any Earnings.

13.16 ISPS Code

The Borrower shall comply with the ISPS Code and in particular, without limitation, shall:

- (a) procure that the Ship and the company responsible for the Ship's compliance with the ISPS Code comply with the ISPS Code; and
- (b) maintain for the Ship an ISSC; and
- (c) notify the Lender immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC in respect of any Ship.

13.17 Charter Assignment

If the Borrower enters into an Approved Charter, the Borrower shall, at the request of the Lender, execute in favour of the Lender an Approved Charterparty Assignment and shall:

- (a) serve notice of the Approved Charterparty Assignment on the charterer and procure that the charterer acknowledges such notice in such form as the Lender may approve or require; and
- (b) deliver to the Lender such other documents equivalent to those referred to at paragraphs 3, 4 and 5 of Schedule 2, Part A as the Lender may require.

14 SECURITY COVER

14.1 Minimum required security cover

Clause 14.2 applies if the Lender notifies the Borrower that:

- (a) the Market Value of the Ship; plus
- (b) the net realisable value of any additional security previously provided under this Clause 14 is below 125 per cent. of the Loan.

14.2 Provision of additional security; prepayment

If the Lender serves a notice on the Borrower under Clause 14.1, the Borrower shall prepay (in accordance with Clause 7) such part (at least) of the Loan as will eliminate the shortfall on or before the date falling 1 month after the date on which the Lender's notice is served under Clause 14.1 (the "**Prepayment Date**"), unless at least 10 Business Days before the Prepayment Date it has provided or ensured that a Security Party or a third party has provided, additional security which, in the opinion of the Lender, has a net realisable value at least equal to the shortfall and which has been documented in such terms as the Lender may approve or require.

14.3 Valuation of Ship

The Market Value of the Ship (or any other Fleet Vessel) at any date during the Security Period is that shown by a valuation to be prepared:

- (a) as at a date not more than 14 days previously;
- (b) by an Approved Broker appointed by the Borrower and approved by and addressed to the Lender;
- (c) with or without physical inspection of the Ship (as the Lender may require);
- (d) on the basis of a sale for prompt delivery for cash on normal arm's length commercial terms as between a willing seller and a willing buyer, free of any existing charter or other contract of employment;
- (e) after deducting the estimated amount of the usual and reasonable expenses which would be incurred in connection with the sale,

Provided that if the Lender serves a notice on the Borrower under Clause 14.1, each of the Lender and the Borrower shall have the right to appoint (at the Borrower's expense) another Approved Broker to provide additional valuations of the Ship (addressed to the Lender and prepared in accordance with the terms of this Agreement) and the Market Value of the Ship shall be the arithmetic average of all three valuations.

14.4 Value of additional vessel security

The net realisable value of any additional security which is provided under Clause 14.2 and which consists of a Security Interest over a vessel shall be that shown by a valuation complying with the requirements of Clause 14.3.

14.5 Valuations binding

Any valuation under Clause 14.2, 14.3 or 14.4 shall be binding and conclusive as regards the Borrower, as shall be any valuation which the Lender makes of any additional security which does not consist of or include a Security Interest.

14.6 Provision of information

The Borrower shall promptly provide the Lender and any Approved Shipbroker or expert acting under Clause 14.3 or 14.4 with any information which the Lender or the Approved Shipbroker or expert may request for the purposes of the valuation; and, if the Borrower fails to provide the information by the date specified in the request, the valuation may be made on any basis and assumptions which the shipbroker or the Lender (or the expert appointed by it) considers prudent.

14.7 Payment of valuation expenses

Without prejudice to the generality of the Borrower's obligations under Clauses 18.2, 18.3 and 19.3, the Borrower shall, on demand, pay the Lender the amount of the fees and expenses of any Approved Shipbroker or expert instructed by the Lender under this Clause for up to one valuation annually and a Illegal and other reasonable expenses incurred by the Lender in connection with any matter arising out of this Clause 14 **Provided that** other than the cost of the fees and expenses in respect of the valuations obtained prior to the Drawdown Date, the Borrower shall not be obliged to pay any fees and expenses in respect of more than one valuations in any calendar year unless an Event of Default has occurred or there is a breach of the security cover provisions in Clause 14.1 in which case the Borrower shall bear the cost of all valuations while such circumstances are in existence.

14.8 Frequency of Valuations

The Lender shall obtain valuations of the Ship under this Clause 14 for the purpose of determining the Initial Market Value of the Ship and the Borrower acknowledges and agrees that the Lender may commission valuations in accordance with Clause 14.3 in respect of the Ship at such times as the Lender shall deem necessary.

14.9 Application of prepayment

Clause 7 shall apply in relation to any prepayment pursuant to Clause 14.2.

15 PAYMENTS AND CALCULATIONS

15.1 Currency and method of payments

All payments to be made by the Borrower to the Lender under a Finance Document shall be made to the Lender:

- (a) by not later than 12.00 p.m. (New York City time) on the due date;
- (b) in same day Dollar funds settled through the New York Clearing House Interbank Payments System (or in such other Dollar funds and/or settled in such other manner as the Lender shall specify as being customary at the time for the settlement of international transactions of the type contemplated by this Agreement); and
- (c) to the account of the Lender at Nordea Bank Finland pic, New York Branch (SWIFT: NDEAUS3N-ABA/Routing # 026010786 (Account No 7443423001), or to such other account with such other bank as the Lender may from time to time notify to the Borrower.

15.2 Payment on non-Business Day

If any payment by the Borrower under a Finance Document would otherwise fall due on a day which is not a Business Day:

- (a) the due date shall be extended to the next succeeding Business Day; or
- (b) if the next succeeding Business Day falls in the next calendar month, the due date shall be brought forward to the immediately preceding Business Day,

and interest shall be payable during any extension under paragraph (a) at the rate payable on the original due date.

15.3 Basis for calculation of periodic payments

All interest and commitment fee and any other payments under any Finance Document which are of an annual or periodic nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

15.4 Lender accounts

The Lender shall maintain an account showing the amounts advanced by the Lender and all other sums owing to the Lender from the Borrower and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrower and any Security Party.

15.5 Accounts prima facie evidence

If the account maintained under Clause 15.4 shows an amount to be owing by the Borrower or a Security Party to the Lender, that account shall be prima facie evidence that that amount is owing to the Lender.

16 APPLICATION OF RECEIPTS

16.1 Normal order of application

Except as any Finance Document may otherwise provide, any sums which are received or recovered by the Lender under or by virtue of any Finance Document shall be applied:

- (a) FIRST: in or towards payment pro rata of any unpaid fees, costs and expenses of the Lender under the Finance Documents;
- (b) SECONDLY: in or towards payment pro rata of any accrued interest or commission due but unpaid under this Agreement;
- (c) THIRDLY: in or towards payment pro rata of any principal due but unpaid under this Agreement;
- (d) FOURTHLY: in or towards payment pro rata of any other amounts due but unpaid under any Finance Documents;
- (e) FIFTHLY: in retention of an amount equal to any amount not then due and payable under any Finance Document but which the Lender, by notice to the Borrower and the Security Parties, states in its opinion will or may become due and payable in the future and, upon those amounts becoming due and payable, in or towards satisfaction of them in accordance with the provisions of this Clause; and
- (f) SIXTHLY: any surplus shall be paid to the Borrower or to any other person appearing to be entitled to it.

16.2 Variation of order of application

The Lender may, by notice to the Borrower and the Security Parties, provide for a different manner of application from that set out in Clause 16.1 either as regards a specified sum or sums or as regards sums in a specified category or categories.

16.3 Notice of variation of order of application

The Lender may give notices under Clause 16.2 from time to time; and such a notice may be stated to apply not only to sums which may be received or recovered in the future, but also

to any sum which has been received or recovered on or after the third Business Day before the date on which the notice is served.

16.4 Appropriation rights overridden

This Clause 16 and any notice which the Lender gives under Clause 16.2 shall override any right of appropriation possessed, and any appropriation made, by the Borrower or any Security Party.

17 EVENTS OF DEFAULT

17.1 Events of Default

An Event of Default occurs if:

- (a) the Borrower or any Security Party fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document; or
- (b) any breach occurs of Clause 8.2, 9.3, 10.2, 10.3, 10.9, 11.2, 11.3, 12.2, 12.3, 13.2, 13.3, 13.9, 13.10, 13.12, 13.3, 14.2 or clause 12.3{*Financial Covenants*} of the Guarantee; or
- (c) any breach by the Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach covered by paragraph (a) or (b)) if, in the opinion of the Lender, such default is capable of remedy and such default continues unremedied 10 days after written notice from the Lender requesting action to remedy the same; or
- (d) (subject to any applicable grace period specified in any Finance Document) any breach by the Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach covered by paragraph (a), (b) or (c)); or
- (e) any representation, warranty or statement made or repeated by, or by an officer of, the Borrower or a Security Party in a Finance Document or in the Drawdown Notice or any other notice or document relating to a Finance Document is untrue or misleading when it is made or repeated; or
- (f) any of the following occurs in relation to any Financial Indebtedness of a Relevant Person (exceeding, in the case of the Guarantor, \$10,000,000 and in the case of the Borrower and any other Relevant Person, \$500,000 (or the equivalent in any other currency) in aggregate):
 - (i) any Financial Indebtedness of a Relevant Person is not paid when due or, if so payable, on demand; or
 - (ii) any Financial Indebtedness of a Relevant Person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
 - (iii) a lease, hire purchase agreement or charter creating any Financial Indebtedness of a Relevant Person is terminated by the lessor or owner or becomes capable of being terminated as a consequence of any termination event; or
 - (iv) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of a Relevant Person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or

- (v) any Security Interest securing any Financial Indebtedness of a Relevant Person becomes enforceable;
or
- (g) any of the following occurs in relation to a Relevant Person:
 - (i) a Relevant Person becomes, in the opinion of the Lender, unable to pay its debts as they fall due; or
 - (ii) any assets of a Relevant Person are subject to any form of execution, attachment, arrest, sequestration or distress, or any form of freezing order, in respect of a sum of, or sums aggregating \$500,000 or more or the equivalent in another currency;
 - (iii) any administrative or other receiver is appointed over any asset of a Relevant Person; or
 - (iv) an administrator is appointed (whether by the court or otherwise) in respect of a Relevant Person; or
 - (v) any formal declaration of bankruptcy or any formal statement to the effect that a Relevant Person is insolvent or likely to become insolvent is made by a Relevant Person or by the directors of a Relevant Person or, in any proceedings, by a lawyer acting for a Relevant Person; or
 - (vi) a provisional liquidator is appointed in respect of a Relevant Person, a winding up order is made in relation to a Relevant Person or a winding up resolution is passed by a Relevant Person; or
 - (vii) a resolution is passed, an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by (aa) a Relevant Person, (bb) the members or directors of a Relevant Person, (cc) a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person, or (dd) a government minister or public or regulatory authority of a Pertinent Jurisdiction for or with a view to the winding up of that or another Relevant Person or the appointment of a provisional liquidator or administrator in respect of that or another Relevant Person, or that or another Relevant Person ceasing or suspending business operations or payments to creditors, save that this paragraph does not apply to a fully solvent winding up of a Relevant Person other than the Borrower and/or the Guarantor which is, or is to be, effected for the purposes of an amalgamation or reconstruction previously approved by the Lender and effected not later than 3 months after the commencement of the winding up; or
 - (viii) an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by a creditor of a Relevant Person (other than a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person) for the winding up of a Relevant Person or the appointment of a provisional liquidator or administrator in respect of a Relevant Person in any Pertinent Jurisdiction, unless the proposed winding up, appointment of a provisional liquidator or administration is being contested in good faith, on substantial grounds and not with a view to some other insolvency law procedure being implemented instead and either (aa) the application or petition is dismissed or withdrawn within 30 days of being made or presented, or (bb) within 30 days of the administration notice being given or filed, or the other relevant steps being taken, other action is taken which will ensure that there will be no administration and (in both cases (aa) or (bb)) the Relevant Person will continue to carry on business in the ordinary way and without being the subject of any actual, interim or pending insolvency law procedure; or

- (ix) a Relevant Person or its directors take any steps (whether by making or presenting an application or petition to a court, or submitting or presenting a document setting out a proposal or proposed terms, or otherwise) with a view to obtaining, in relation to that or another Relevant Person, any form of moratorium, suspension or deferral of payments, reorganisation of debt (or certain debt) or arrangement with all or a substantial proportion (by number or value) of creditors or of any class of them or any such moratorium, suspension or deferral of payments, reorganisation or arrangement is effected by court order, by the filing of documents with a court, by means of a contract or in any other way at all; or
- (x) any meeting of the members or directors, or of any committee of the board or senior management, of a Relevant Person is held or summoned for the purpose of considering a resolution or proposal to authorise or take any action of a type described in paragraphs (iv) to (ix) or a step preparatory to such action, or (with or without such a meeting) the members, directors or such a committee resolve or agree that such an action or step should be taken or should be taken if certain conditions materialise or fail to materialise; or
- (xi) in a Pertinent Jurisdiction other than England, any event occurs, any proceedings are opened or commenced or any step is taken which, in the opinion of the Lender is similar to any of the foregoing; or
- (h) the Borrower or any Security Party ceases or suspends carrying on its business or a part of its business which, in the opinion of the Lender, is material in the context of this Agreement; or
- (i) it becomes unlawful in any Pertinent Jurisdiction or impossible :
 - (i) for the Borrower or any Security Party to discharge any liability under a Finance Document or to comply with any other obligation which the Lender considers material under a Finance Document; or
 - (ii) for the Lender to exercise or enforce any right under, or to enforce any Security Interest created by, a Finance Document; or
- (j) any consent necessary to enable the Borrower to own, operate or charter the Ship or to enable the Borrower or any Security Party to comply with any provision which the Lender considers material of a Finance Document to which it is a party is not granted, expires without being renewed, is revoked or becomes liable to revocation or any condition of such a consent is not fulfilled; or
- (k) it appears to the Lender that, without its prior written consent, a change has occurred or probably has occurred after the date of this Agreement in the direct shareholders or the legal ownership of any of the shares in the Borrower or the Approved Manager or in the control of the voting rights attaching to any of those shares; or
- (l) any members of the Palios Family (either directly and/or indirectly through companies beneficially owned by any members of the Palios Family and/or trusts of foundations of which any member of the Palios Family are beneficiaries ceases to own and control in aggregate at least 10 per cent. of the issued common stock of the Corporate Guarantor; or
- (m) Mr. Simeon Palios ceases to hold directorship position in the Guarantor and active role in the decision making in respect of the Guarantor; or
- (n) without the prior consent of the Lender, the shares of the Guarantor cease to be listed on the New York Stock Exchange; or
- (o) any provision which the Lender considers material of a Finance Document proves to have been or becomes invalid or unenforceable, or a Security Interest created by a Finance

Document proves to have been or becomes invalid or unenforceable or such a Security Interest proves to have ranked after, or loses its priority to, another Security Interest or any other third party claim or interest; or

- (p) the security constituted by a Finance Document is in any way imperilled or in jeopardy; or
- (q) an event of default occurs under any credit agreement entered or to be entered into between the Guarantor (or any of its subsidiaries (direct or indirect), affiliate or co- subsidiary thereof) as borrower and the Lender as lender;
- (r) any other event occurs or any other circumstances arise or develop including, without limitation:
 - (i) a material adverse change in the financial position, state of affairs or prospects of any Relevant Person; or
 - (ii) any accident or other event involving the Ship or another vessel owned, chartered or operated by a Relevant Person;

in the light of which the Lender considers that there is a significant risk that the Borrower or the Guarantor is, or will later become, unable to discharge its or their liabilities under the Finance Documents as they fall due.

17.2 Actions following an Event of Default

On, or at any time after, the occurrence of an Event of Default the Lender may:

- (a) serve on the Borrower a notice stating that all or part of the Commitment and of the other obligations of the Lender to the Borrower under this Agreement are cancelled; and/or
- (b) serve on the Borrower a notice stating that all or part of the Loan, together with accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
- (c) take any other action which, as a result of the Event of Default or any notice served under paragraph (a) or (b), the Lender is entitled to take under any Finance Document or any applicable law.

17.3 Termination of Commitment

On the service of a notice under Clause 17.2(a) the Commitment and all the obligations of the Lender to the Borrower under this Agreement shall be cancelled.

17.4 Acceleration of Loan

On the service of a notice under Clause 17.2(b) all or, as the case may be, the part of the Loan specified in the notice together with accrued interest and all other amounts accrued or owing from the Borrower or any Security Party under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

17.5 Multiple notices; action without notice

The Lender may serve notices under Clauses 17.2(a) or 17.2(b) simultaneously or on different dates and it may take any action referred to in Clause 17.2 if no such notice is served or simultaneously with or at any time after the service of both or either of such notices.

17.6 Exclusion of Lender liability

Neither the Lender nor any receiver or manager appointed by the Lender, shall have any liability to the Borrower or a Security Party:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset

except that this does not exempt the Lender or a receiver or manager from liability for losses shown to have been caused directly and mainly by the dishonesty or the wilful misconduct of the Lender's own officers and employees or (as the case may be) such receiver's or manager's own partners or employees.

17.7 Relevant Persons

In this Clause 17 a "Relevant Person" means the Borrower, the Guarantor, the Approved Manager or any other Security Party, and any other member of the Group.

17.8 Interpretation

In Clause 17.1(f) references to an event of default or a termination event include any event, howsoever described, which is similar to an event of default in a facility agreement or a termination event in a finance lease; and in Clause 17.1(g) "**petition**" includes an application.

18 FEES AND EXPENSES

18.1 Upfront fee

The Borrower shall pay to the Lender a non-refundable upfront fee of \$225,000 (representing 0.75 per cent. of the maximum amount of the Commitment) as follows:

- (a) 50 per cent. on the date of this Agreement; and
- (b) 50 per cent. on the Drawdown Date.

18.2 Costs of negotiation, preparation etc.

The Borrower shall pay to the Lender on its demand the amount of all expenses incurred by the Lender in connection with the negotiation, preparation, execution or registration of any Finance Document or any related document or with any transaction contemplated by a Finance Document or a related document.

18.3 Costs of variations, amendments, enforcement etc.

The Borrower shall pay to the Lender, on the Lender's demand, the amount of all expenses incurred by the Lender in connection with:

- (a) any amendment or supplement to a Finance Document, or any proposal for such an amendment to be made;
- (b) any consent or waiver by the Lender concerned under or in connection with a Finance Document, or any request for such a consent or waiver;

- (c) the valuation of any security provided or offered under Clause 14 or any other matter relating to such security;
- (d) where the Lender, in its absolute opinion, considers that there has been a material change to the insurances in respect of the Ship, the review of the Insurances pursuant to Clause 12.18; or
- (e) any step taken by the Lender with a view to the protection, exercise or enforcement of any right or Security Interest created by a Finance Document or for any similar purpose.

There shall be recoverable under paragraph (e) the full amount of all legal expenses, whether or not such as would be allowed under rules of court or any taxation or other procedure carried out under such rules.

18.4 Documentary taxes

The Borrower shall promptly pay any tax payable on or by reference to any Finance Document, and shall, on the Lender's demand, fully indemnify the Lender against any claims, expenses, liabilities and losses resulting from any failure or delay by the Borrower to pay such a tax.

18.5 Certification of amounts

A notice which is signed by 2 officers of the Lender, which states that a specified amount, or aggregate amount, is due to the Lender under this Clause 18 and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

19 INDEMNITIES

19.1 Indemnities regarding borrowing and reduction of Loan

The Borrower shall fully indemnify the Lender on its demand in respect of all claims, expenses, liabilities and losses which are made or brought against or incurred by the Lender, as a result of or in connection with:

- (a) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender;
- (b) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
- (c) any failure (for whatever reason) by the Borrower to make payment of any amount due under a Finance Document, on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 6);
- (d) the occurrence and/or continuance of an Event of Default or a Potential Event of Default and/or the acceleration of repayment of the Loan under Clause 17,

and in respect of any tax (other than tax on its overall net income or a FATCA Deduction) for which the Lender is liable in connection with any amount paid or payable to the Lender (whether for its own account or otherwise) under any Finance Document.

19.2 Breakage costs

Without limiting its generality, Clause 19.1 covers any claim, expense, liability or loss, including a loss of a prospective profit, incurred by the Lender in liquidating or employing

deposits from third parties acquired or arranged to fund or maintain all or any part of the Loan and/or any overdue amount (or an aggregate amount which includes the Loan or any overdue amount).

19.3 Miscellaneous indemnities

The Borrower shall fully indemnify the Lender on its demand in respect of all claims, expenses, liabilities and losses which may be made or brought against or incurred by the Lender, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Lender or by any receiver appointed under a Finance Document;
- (b) any other Pertinent Matter,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the dishonesty or wilful misconduct of the officers or employees of the Lender.

Without prejudice to its generality, this Clause 19.3 covers any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code, the ISPS Code or any Environmental Law or any Sanctions.

19.4 Currency indemnity

If any sum due from the Borrower or any Security Party to the Lender under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the "Contractual Currency") into another currency (the "Payment Currency") for the purpose of:

- (a) making or lodging any claim or proof against the Borrower or any Security Party, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrower shall indemnify the Lender against the loss arising when the amount of the payment actually received by the Lender is converted at the available rate of exchange into the Contractual Currency.

In this Clause 19.4, the "**available rate of exchange**" means the rate at which the Lender is able at the opening of business (London time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 19.4 creates a separate liability of the Borrower which is distinct from its other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

19.5 Certification of amounts

A notice which is signed by 2 officers of the Lender, which states that a specified amount, or aggregate amount, is due to the Lender under this Clause 19 and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

19.6 Environmental Indemnity

Without prejudice to its generality, Clause 19.3 covers any claims, demands, proceedings, liabilities, taxes, losses or expenses of every kind which arise, or are asserted, under or in connection with any law relating to safety at sea, pollution or the protection of the environment, the ISM Code or the ISPS Code.

20 NO SET-OFF OR TAX DEDUCTION

20.1 No deductions

All amounts due from the Borrower under a Finance Document shall be paid:

- (a) without any form of set-off, cross-claim or condition; and
- (b) free and clear of any tax deduction except a tax deduction which the Borrower is required by law to make.

20.2 Grossing-up for taxes

If the Borrower is required by law to make a tax deduction from any payment:

- (a) the Borrower shall notify the Lender as soon as it becomes aware of the requirement;
- (b) the Borrower shall pay the tax deducted to the appropriate taxation authority promptly, and in any event before any fine or penalty arises;
- (c) the amount due in respect of the payment shall be increased by the amount necessary to ensure that the Lender receives and retains (free from any liability relating to the tax deduction) a net amount which, after the tax deduction, is equal to the full amount which it would otherwise have received.

20.3 Evidence of payment of taxes

Within one month after making any tax deduction, the Borrower concerned shall deliver to the Lender documentary evidence satisfactory to the Lender that the tax had been paid to the appropriate taxation authority.

20.4 Exclusion of tax on overall net income

In this Clause 20.4, "**tax deduction**" means any deduction or withholding for or on account of any present or future tax except tax on the Lender's overall net income, other than a FATCA Deduction.

20.5 FATCA Information

- (a) Subject to paragraph (c) below, each Party shall, within 10 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;
 - (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;

- (iii) supply to that other Party such *forms*, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to 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, or that a form provided pursuant to paragraph (a)(i) above has ceased to be accurate or valid, that Party shall notify that other Party or provide a revised form reasonably promptly.
- (c) Paragraph (a) above shall not oblige Lender to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (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.

20.6 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.

21 ILLEGALITY, ETC.

21.1 Illegality

This Clause 21 applies if the Lender notifies the Borrower that it has become, or will with effect from a specified date, become:

- (a) unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or
- (b) contrary to, or inconsistent with, any regulation,

for the Lender to maintain or give effect to any of its obligations under this Agreement in the manner contemplated by this Agreement.

21.2 Notification and effect of illegality

On the Lender notifying the Borrower under Clause 21.1, the Commitment shall terminate; and thereupon or, if later, on the date specified in the Lender's notice under Clause 21.1 as the date on which the notified event would become effective the Borrower shall prepay the Loan in full in accordance with Clause 7.

21.3 Mitigation

If circumstances arise which would result in a notification under Clause 21.1 then, without in any way limiting the rights of the Lender under Clause 21.2, the Lender shall use reasonable endeavours to transfer its obligations, liabilities and rights under this Agreement and the Finance Documents to another office or financial institution not affected by the circumstances but the Lender shall not be under any obligation to take any such action if, in its opinion, to do would or might:

- (a) have an adverse effect on its business, operations or financial condition; or
- (b) involve it in any activity which is unlawful or prohibited or any activity that is contrary to, or inconsistent with, any regulation; or
- (c) involve it in any expense (unless indemnified to its satisfaction) or tax disadvantage .

22 INCREASED COSTS

22.1 Increased costs

This Clause 22 applies if the Lender notifies the Borrower that it considers that as a result of:

- (a) the introduction or alteration after the date of this Agreement of a law, or a regulation or an alteration after the date of this Agreement in the manner in which a law is interpreted or applied (disregarding any effect which relates to the application to payments under this Agreement of a tax on the Lender's overall net income); or
- (b) the effect of complying with any regulation (including any which relates to capital adequacy or liquidity controls or which affects the manner in which the Lender allocates capital resources to its obligations under this Agreement) which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement or
- (c) the implementation or application of or compliance with the "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 ("**Basel III**") or any other law or regulation which implements Basel III (whether such implementation, application or compliance is by a government, regulator or the Lender or a parent company or affiliate of it),

the Lender (or a parent company of it) has incurred or will incur an "**increased cost**".

In this Clause 22 "**increased cost**" means:

- (i) an additional or increased cost incurred as a result of, or in connection with, the Lender having entered into, or being a party to, this Agreement of funding or maintaining the Loan or performing its obligations under this Agreement, or of having outstanding all or any part of the Loan or other unpaid sums;

- (ii) a reduction in the amount of any payment to the Lender under this Agreement, or in the effective return which such a payment represents to the Lender, or on its capital;
- (iii) an additional or increased cost of funding all or maintaining all or any of the advances comprised in a class of advances formed by or including the Loan or (as the case may require) the proportion of that cost attributable to the Loan; or
- (iv) a liability to make a payment, or a return foregone, which is calculated by reference to any amounts received or receivable by the Lender under this Agreement;

but not (aa) an item attributable to a change in the rate of tax on the overall net income of the Lender (or a parent company of it) or (bb) an item covered by the indemnity for tax in Clause 19.1 or by Clause 20 or a FATCA Deduction.

For the purposes of this Clause 22.1 the Lender may in good faith allocate or spread costs and/or losses among its assets and liabilities (or any class of its assets and liabilities) on such basis as it considers appropriate.

22.2 Payment of increased costs

The Borrower shall pay to the Lender, on its demand, for the account of the Lender the amounts which the Lender from time to time notifies the Borrower that it has specified to be necessary to compensate it for the increased cost.

22.3 Notice of prepayment

If the Borrower is not willing to continue to compensate the Lender for the increased cost under Clause 22.3, the Borrower may give the Lender not less than 10 Business Days' notice of its intention to prepay the Loan at the end of an Interest Period.

22.4 Prepayment; termination of Commitment

A notice under Clause 22.3 shall be irrevocable; and on the date specified in its notice of intended prepayment, the Borrower shall prepay (without premium or penalties) the Loan together with accrued interest thereon at the applicable rate plus the Margin.

22.5 Application of prepayment

Clause 7 shall apply in relation to the prepayment.

23 SET-OFF

23.1 Application of credit balances

The Lender may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of the Lender, in or towards satisfaction of any sum then due from the Borrower to the Lender under any of the Finance Documents; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars;

- (iii) enter into any other transaction or make any entry with regard to the credit balance which the Lender considers appropriate.

23.2 Existing rights unaffected

The Lender shall not be obliged to exercise any of its rights under Clause 23.1; and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which the Lender is entitled (whether under the general law or any document).

23.3 No Security Interest

This Clause 23 gives the Lender a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

24 TRANSFERS AND CHANGES IN LENDING OFFICE

24.1 Transfer by Borrower

The Borrower may not, without the prior consent of the Lender:

- (a) transfer any of its respective rights, liabilities or obligations under any Finance Document; or
- (b) enter into any merger, de-merger or other reorganisation, or carry out any other act, as a result of which any of, their rights or liabilities would vest in, or pass to, another person.

24.2 Assignment by Lender

The Lender may assign all or any of the rights and interests (present, future or contingent) which it has under or by virtue of the Finance Documents with the consent of the Borrower, such consent not to be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent 5 Business Days after the Lender has requested it unless such consent is expressly refused by the Borrower within that time Provided that the consent of the Borrower or any Security party will not be required under this Clause 24.2 in the following cases:

- (a) if such assignment is to a subsidiary or any other company or financial institution which is in the same ultimate ownership or control as the Lender;
- (b) if the transfer is imposed or required by central bank;
- (c) if the transfer is to a first-class bank or financial institution; or
- (d) following the occurrence of an Event of Default.

24.3 Rights of assignee

In respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document, or any misrepresentation made in or in connection with a Finance Document, a direct or indirect assignee of any of the Lender's rights or interests under or by virtue of the Finance Documents shall be entitled to recover damages by reference to the loss incurred by that assignee as a result of the breach or misrepresentation irrespective of whether the Lender would have incurred a loss of that kind or amount.

24.4 Sub-participation; subrogation assignment

The Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the

Borrower; and the Lender may assign, in any manner and terms agreed by it, all or any part of those rights to an insurer or surety who has become subrogated to them.

24.5 Disclosure of information

The Lender may disclose to a potential assignee or sub-participant any information which the Lender has received in relation to the Borrower, any Security Party or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature.

24.6 Change of lending office

The Lender may change its lending office by giving notice to the Borrower and the change shall become effective on the later of:

- (a) the date on which the Borrower receive the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect .

24.7 Security over Lender's rights

In addition to the other rights provided to the Lender under this Clause 24, the Lender may without consulting with or obtaining consent from the Borrower or any Security Party, at any time charge, assign or otherwise create a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of the Lender including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve or central bank; and
- (b) if the Lender is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by the Lender as security for those obligations or securities

except that no such charge, assignment or Security Interest shall:

- (i) release the Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by the Borrower or any Security Party or grant to any person any more extensive rights than those required to be made or granted to the Lender under the Finance Documents.

25 VARIATIONS AND WAIVERS

25.1 Variations, waivers etc. by Lender

Subject to Clause 25.2, a document shall be effective to vary, waive, suspend or limit any provision of a Finance Document, or the Lender's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by fax, by the Borrower and the Lender and, if the document relates to a Finance Document to which a Security Party is party, by that Security Party.

25.2 Exclusion of other or implied variations

Except for a document which satisfies the requirements of Clause 25.1, no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the

Lender (or any person acting on its behalf) shall result in the Lender (or any person acting on its behalf) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower or a Security Party of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time .

26 NOTICES

26.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

26.2 Addresses for communications

A notice by letter or fax shall be sent:

- (a) to the Borrower :
c/o Approved Manager
16 Pendelis Street
175 64 Paleo Faliro
Athens
Greece

Attn: Chief Financial Officer

Fax No: +30 210 9470101
- (b) to the Lender :
Danish Ship Finance A/S (Danmarks Skibskredit A/S)
Sankt-Annae Plads 3
DK-1250 Copenhagen K
Denmark

Attn: Customer Relations

Fax No: +(45) 33 33 9666

or to such other address as the relevant party may notify the Lender.

26.3 Effective date of notices

Subject to Clauses 26.4 and 26.5:

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered; and

- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.

26.4 Service outside business hours

However, if under Clause 26.3 a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
- (b) on such a business day, but after 5 p.m. local time,

the notice shall (subject to Clause 26.5) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

26.5 Illegible notices

Clauses 26.3 and 26.4 do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

26.6 Valid notices

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement *or*, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

26.7 English language

Any notice under or in connection with a Finance Document shall be in English.

26.8 Meaning of "notice"

In this Clause 26, "**notice**" includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

27 SUPPLEMENTAL

27.1 Rights cumulative, non-exclusive

The rights and remedies which the Finance Documents give to the Lender are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

27.2 Severability of provisions

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

27.3 Counterparts

A Finance Document may be executed in any number of counterparts .

27.4 Third party rights

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

28 LAW AND JURISDICTION

28.1 English law

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

28.2 Exclusive English jurisdiction

Subject to Clause 28.3, the courts of England shall have exclusive jurisdiction to settle any Dispute.

28.3 Choice of forum for the exclusive benefit of the Lender

Clause 28.2 is for the exclusive benefit of the Lender, which reserves the rights:

- (a) to commence proceedings in relation to any Dispute in the courts of any country other than England and which have or claim jurisdiction to that Dispute; and
- (b) to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

The Borrower shall not commence any proceedings in any country other than England in relation to a Dispute.

28.4 Process agent

The Borrower irrevocably appoints Nicolaou & Co (for the attention of Antonis Nicolaou) at its registered office for the time being, presently at 25 Heath Drive, Potters Bar, Herts, EN6 IEN, England, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

28.5 Lender's rights unaffected

Nothing in this Clause 28 shall exclude or limit any right which the Lender may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

28.6 Meaning of "proceedings"

In this Clause 28, "proceedings" means proceedings of any kind, including an application for a provisional or protective measure and a "Dispute" means 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.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

DRAWDOWN NOTICE

To: Danish Ship Finance A/S
(Danmarks Skibskredit A/S)
Sankt Annae Plads 3
DK-1250 Copenhagen K
Denmark

Attention: Loans Administration

April 2015

- 1 We refer to the loan agreement (the "**Loan Agreement**") dated [] April 2015 and made between ourselves, as Borrower, and yourselves, as Lender, in connection with a loan facility of US\$30,000,000. Terms defined in the Loan Agreement have their defined meanings when used in this Drawdown Notice.
- 2 We request to borrow the Loan as follows:
 - (a) Amount: US\$30,000,000;
 - (b) Drawdown Date: [] April 2015;
 - (c) Duration of the first Interest Period shall be 3 months;
 - (d) Payment instructions: account in [].
- 3 We represent and warrant that:
 - (a) the representations and warranties in Clause 9 of the Loan Agreement would remain true and not misleading if repeated on the date of this notice with reference to the circumstances now existing;
 - (b) no Event of Default or Potential Event of Default has occurred or will result from the borrowing of the Loan.
- 4 This notice cannot be revoked without the prior consent of the Lender.
- 5 [We authorise you to deduct the second instalment of the upfront fee referred to in Clause 18.1 from the amount of the Loan.]

[Name of Signatory]

Authorised Signatory
for and on behalf of
LELU SHIPPING COMPANY INC.

SCHEDULE 2
CONDITION PRECEDENT DOCUMENTS
PART A

The following are the documents referred to in Clause 8.1(a).

- 1 A duly executed original of this Agreement and each Finance Document (and of each document required to be delivered by each Finance Document) other than those referred to in Part B of this Schedule 2.
- 2 Copies of the certificate of incorporation and constitutional documents of the Borrower, the Guarantor and Approved Manager and up to date original goodstanding certificates in respect of the Borrower, the Guarantor and the Approved Manager.
- 3 Copies of resolutions of the directors of the Borrower and each Security Party authorising the execution of the Finance Documents to which each is a party and, in the case of the Borrower, authorising named signatories to give the Drawdown Notice and other notices under this Agreement.
- 4 Copies of the resolutions of the executive committee of the Guarantor authorising the execution of the Finance Documents to which it is party.
- 5 The original of any power of attorney under which any Finance Document is to be executed on behalf of the Borrower or the Guarantor .
- 6 Documentary evidence showing that the Borrower is a wholly owned subsidiary of the Guarantor.
- 7 All documentation required by the Lender in relation to the Borrower and any Security Party pursuant to the Lender's "know your customer" requirements including, without limitation:
 - (a) passports or any other documentation acceptable to the Lender of the persons signing this Agreement and any Finance Document on behalf of the Borrower or a Security Party; and
 - (b) any other documentation and information as the Lender may deem necessary and/or advisable in order to comply with any law and/or regulation regarding money laundering and/or the financing of terrorist activities.
- 8 Documentary evidence that the agent for service of process named in Clause 28 has accepted its appointment.
- 9 If the Lender so requires, in respect of any of the documents referred to above, a certified English translation prepared by a translator approved by the Lender.
- 10 Copy of the memorandum of agreement dated 8 December 2014 and made between the Borrower as buyer and Oldendorff Carriers GmbH & Co. KG, Lubeck, Germany as seller in relation to the acquisition of the Ship.
- 11 Copy of the Ship's main particulars.
- 12 A favourable legal opinion from lawyers appointed by the Lender on such matters concerning the laws of the Marshall Islands, England and such other relevant jurisdictions as the Lender may require.

- 13 The financial statements of the Corporate Guarantor as described in clause 10.6 and 10.7 of the Loan Agreement.
- 14 Any other documents that the Lender may reasonably require in respect of the Borrower and any Security Party.

PART B

The following are the documents referred to in Clause 8.1(b) required before the Drawdown Date.

- 1 A duly executed original of the Mortgage, the General Assignment and any Approved Charterparty Assignment (and of each document to be delivered by each of them including, without limitation, any notice of assignment and loss payable clause) in respect of the Ship.
- 2 Documentary evidence that :
 - (a) the Ship is definitively and permanently registered in the name of the Borrower under an Approved Flag;
 - (b) the Ship is in the absolute and unencumbered ownership of the Borrower save as contemplated by the Finance Documents;
 - (c) the Ship maintains +100AI Bulk Carrier, CSR, BC-A, Grab (25), (Hold Nos. 2+4+6+8 may be empty), ESP, ShipRight (ACS (B) CM) *IWS, LI, ECO (IHM), + LMC, UMS with Lloyd's Register free of all recommendations and conditions of such classification society;
 - (d) the Mortgage has been duly registered against the Ship in accordance with the laws and requirements of the applicable Approved Flag State; and
 - (e) the Ship is insured in accordance with the provisions of this Agreement and all requirements therein in respect of insurances have been complied with.
- 3 Documents establishing that the Ship will, as from the Drawdown Date, be managed by the Approved Manager on terms acceptable to the Lender, together with:
 - (a) a letter of undertaking executed by the Approved Manager in favour of the Lender in the terms required by the Lender agreeing certain matters in relation to the management of the Ship and subordinating the rights of the Approved Manager against the Ship and the Borrower to the rights of the Lender under the Finance Documents; and
 - (b) copies of the Approved Manager's Document of Compliance and of the Ship's SMC and ISSC (together with any other details of the applicable safety management system which the Lender requires).
- 4 Favourable legal opinions from lawyers appointed by the Lender on such matters concerning the laws of the Marshall Islands, the applicable Approved Flag State, England and such other relevant jurisdictions as the Lender may require.
- 5 A valuation of the Ship (at the cost of the Borrower), addressed to the Lender, stated to be for the purpose of this Agreement and otherwise prepared in accordance with Clause 14.3.
- 6 If the Ship is subject to an Approved Charter, a copy of the Approved Charter duly executed by the parties thereto.
- 7 A favourable opinion from an independent insurance consultant acceptable to the Lender on such matters relating to the insurances for the Ship as the Lender may require.

- 8 Copies of the certificates in respect of International Ship and Port Facility Security Code {ISPS) and the International Safety Management Code (including the guidelines on its implementation) {ISM), adopted by the International Maritime Organisation.
- 9 A copy of the certificate of insurance or other financial security in respect of civil liability for bunker oil pollution damage issued by the relevant certifying authority in relation to the Ship.
- 10 Documentary evidence that the agent for service of process named in Clause 28 has accepted its appointment.
- 11 Any other documents as the Lender may reasonably require in respect of the Borrower and any Security Party.
- 12 If the Lender so requires, in respect of any of the documents referred to above, a certified English translation prepared by a translator approved by the Lender .

Each of the documents specified in paragraphs 2, 3, 4, 10 and 11 of Part A and every other copy document delivered under this Schedule shall be certified as a true, complete and up to date copy by a director or the secretary (or equivalent officer) of the Borrower or a lawyer.

EXECUTION PAGE

BORROWER

SIGNED by Andreas Nikolaos Michalopoulos
for and on behalf of
LELU SHIPPING COMPANY INC.

) /s/ Andreas Nikolaos Michalopoulos
)
)

/s/ VASSILIKI GEORGOPOULOS

VASSILIKI GEORGOPOULOS
SOLICITOR
WATSON FARLEY & WILLIAMS
48 SYNGROU AVENUE
176 74 KALLITHEA
ATHENS — GREECE

LENDER

SIGNED by Nadine Akleh
for and on behalf of
DANISH SHIP FINANCE A/S
(DANMARKS SKIBSKREDIT A/S)

) /s/ Nadine Akleh
)
)
)

Witness to all
the above signatures

)
)

Name:
Address :

/s/ VASSILIKI GEORGOPOULOS

VASSILIKI GEORGOPOULOS
SOLICITOR
WATSON FARLEY & WILLIAMS
48 SYNGROU AVENUE
176 74 KALLITHEA
ATHENS — GREECE

DATED 16 January 2015

JOINT VENTURE AND SUBSCRIPTION AGREEMENT

between

WILHELMSSEN SHIP MANAGEMENT HOLDING LIMITED

AND

DIANA SHIP MANAGEMENT INC.

AND

DIANA WILHELMSSEN MANAGEMENT INC.

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Agreed Form Documents

- Management Agreement
- WSM Services Agreement
- DSS Services Agreement

THIS AGREEMENT is dated 15 January 2015

PARTIES

- (1) **Wilhelmsen Ship Management Holding Limited**, a company incorporated and registered in Hong Kong with company number 294252 whose registered office is at Unit 1610, 16th Floor, West Tower, Shun Tak Centre, 168-200 Connaught Road Central, Hong Kong (WSM);
- (2) **Diana Ship Management Inc.**, a company incorporated and registered in the Marshall Islands with company number 72086 whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 ('Diana'); and
- (3) **Diana Wilhelmsen Management Inc.**, a company incorporated and registered in the Marshall Islands with company number 71900 whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the '**Company**'),

(each a '**Party**' and together the '**Parties**').

BACKGROUND

- (A) The Company was incorporated in the Marshall Islands on 24 September 2014. As at the date of this Agreement, Diana is the sole shareholder of the Company holding 1 Ordinary Share of a par value of US\$1.
- (B) The current Directors of the Company are Mrs Semiramis Paliou and Mr Ioannis Zafirakis.
- (C) WSM and Diana wish to subscribe for Ordinary Shares in the Company in accordance with the terms of this concord
- (D) This Agreement sets out the terms upon which WSM and Diana shall invest in the Company and how the Joint Venture shall be operated by the Parties.

1. INTERPRETATION

1.1 Definitions In this Agreement:

A Director	means a director of the Board appointed in accordance with this Agreement and the Articles that has been nominated by WSM;
Affiliate	means, in respect of a non-natural person, any person controlling, controlled by or under common control with that person including any member of the same Group of that person provided, however, that the Shareholders shall not be deemed to be Affiliates of the Company and vice versa;
Annual Budget	means the annual budget agreed by the Shareholders in accordance with clause 11 (Annual Budget and Business Plan);
Annual Business Plan	means the annual business plan agreed by the Shareholders in accordance with clause 11 (Annual Budget and Business Plan);
Applicable Law	means any law (statutory, common or otherwise), constitution, code, rule, regulation, order, judgment, decree or similar authority enacted, adopted, promulgated or applied by any Governmental Authority (and in all cases includes all applicable local anti-bribery and anti-corruption laws and regulations and any international or national economic and/or trade sanctions and embargoes in effect from time to time and 'Governmental Authority' shall include any national or local government, any regulatory authority, any governmental authority, department, bureau, agency, commission, board or tribunal, any crown corporation and any licensing body, court, judicial body or arbitral body, or other law, rule or regulation-making entity);
Articles	means the articles of association and by-laws of the Company;

B Director	means a director of the Board appointed in accordance with this Agreement and the Articles that has been nominated by Diana;
Board	means the board of directors of the Company from time to time or any validly constituted committee thereof;
Business Day	means a day on which banks in the City of London, Oslo and Athens are open for business generally;
Buyer	means a <i>bona fide</i> arm's length purchaser;
Company Greek Office	means the office of the Company in Greece to be established under clause 3.6 of this Agreement and pursuant to the provisions of art. 25 of Greek law 27/195 as amended and currently in force;
Deed of Adherence	means a deed of adherence to this Agreement in the form reasonably approved by the Board;
Diana Group	means Diana Shipping Inc. of the Marshall Islands and its subsidiaries from time to time (excluding, for the avoidance of doubt, any Group Company); and 'member of the Diana Group' shall be construed accordingly;
DSS	means Diana Shipping Services S.A. of Panama;
DSS Services Agreement	means a services agreement in the agreed form between DSS and the Company for the provision of services to the Company;
Group	means, in relation to any company, that company and any other company which, at the relevant time, is its ultimate parent or subsidiary or a direct or indirect subsidiary of its parent; and 'member' of a Group shall be construed accordingly;
Group Company	means the Company and each member of its Group, excluding, for the avoidance of doubt, the Shareholders and their respective Groups;
Important Business	means any decision (or proposed decision) of the Board: <ul style="list-style-type: none"> (a) to make any change to the Company's dividend policy, funding policy or capital policy; (b) to adopt or materially alter or significantly depart from the Annual Budget or Annual Business Plan; (c) to issue or redeem any Shares or other securities or financial products; or (d) that affects the ability of the Shareholders to continue their association in the spirit of utmost good faith as required by clause 2.3.
Insolvency Event	means each and any of the following occurring in relation to the relevant Party: <ul style="list-style-type: none"> (a) the issue of a petition for the winding-up of the Party. This sub-clause (a) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged or dismissed within 28 days of commencement or, if earlier, the date on which it is advertised; (b) the making of an order or an effective resolution being passed for winding up, liquidation or dissolution except for the purpose of a solvent reconstruction or amalgamation (made with the consent of the other Parties, such consent not to be unreasonably withheld or delayed) where the resulting entity assumes all of the obligations of the relevant Party under this Agreement in writing; (c) the appointment of an administrative receiver, administrator,

trustee, liquidator, manager or similar officer;

- (d) an encumbrancer, receiver (including an administrative receiver) or other similar officer taking possession of or a distress, execution, sequestration or process is levied or enforced which is levied or enforced upon the whole or any material part of such Party's undertaking, property, assets or revenues;
- (e) the making or proposing of making of a composition, scheme, compromise or arrangement, with any class of creditors or for the benefit of creditors generally;
- (f) such Party being unable to pay debts as they fall due; or
- (g) the occurrence in any relevant jurisdiction of anything equivalent or analogous to any of those matters referred to in paragraphs (a), (b), (c), (d), (e) and (f) above in relation to the relevant party;

Joint Venture	means the operation of the Company for the purpose of undertaking the business described in clause 2.1;
Legal Representative	means the individual who shall be appointed as the legal representative of the Company Greek Office as described in clause 3.6(a);
Management Agreement	means the ship management agreement in agreed form between each owner of a vessel specified in clause 5.1(b) and the Company for the provision by the Company of ship management services to such owner;
Ordinary Shares	means the ordinary shares of no par value each in the capital of the Company having the rights set out in the Articles;
Reserved Matter	means each of the reserved matters set out in Schedule 1;
Shareholders	means WSM and Diana;
Shares	means any shares in the capital of the Company;
WSM Norway	means Wilhelmsen Ship Management (Norway) AS, which is a wholly owned subsidiary of WSM with Norwegian company registration No 940995329;
WSM Services Agreement	means a services agreement in the agreed form between WSM Norway and the Company for the provision of services to the Company; and
Winding Up Notice	means a written notice issued by a Shareholder pursuant to clause 28.2 bringing into effect the provisions of clause 29.

1.2 Interpretation

In this Agreement:

- (a) a reference to a statute or statutory provision includes a reference to:
 - (i) that statute or provision as amended, re-enacted, replaced or modified from time to time; and
 - (ii) any order, statutory instrument, regulation or other subordinate legislation made from time to time under the relevant statute;
- (b) a reference to "writing" is a reference to any mode of representing or reproducing words in a visible, non-transitory form;
- (c) "control" means, in relation to a body corporate, the power of a person to secure that its affairs are conducted in accordance with the wishes of that person:
- (i) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate; or

- (ii) by virtue of any powers conferred by the articles of association or any other document regulating that or any other body corporate,

and a "change of control" shall occur if a person who controls any company or undertaking ceases to do so, or if another person acquires control of it;

- (d) a reference to a document "in the agreed form" is a reference to the form of that document signed or initialed for identification purposes by or on behalf of the Parties to this Agreement;
- (e) an agreement or obligation for a Shareholder to "procure" any action or inaction of the Company under this Agreement shall be construed as an agreement or obligation for such Shareholder to exercise its voting rights, discretions and other powers in respect of its Shares or otherwise under this Agreement and the Company's constitutional documents in such a manner so as to procure (insofar as is possible) such action or inaction (as the case may be);
- (f) a reference to a person shall include any natural person, legal person or other entity (whether or not having a legal personality) and a reference to a non-natural person is a reference to any person (as so defined) other than an individual;
- (g) the singular includes the plural and vice versa;
- (h) a reference to a clause or a Schedule is a reference to a clause of or a schedule to this Agreement;
- (i) any phrase introduced by the terms "including" or "in particular", or any cognate expression, shall be construed as illustrative and not limiting of any preceding words;
- (j) a reference to a month means a calendar month, a quarter means a calendar quarter and a year means a calendar year;
- (k) headings are used for convenience only and shall not affect the interpretation of this Agreement; and
- (l) the Schedules form part of this Agreement.

2. BUSINESS OF THE COMPANY

- 2.1 The business of the Company, unless otherwise determined by the Shareholders in accordance with clause 18, shall be to provide ship management services to operators of bulk and container vessels owned and operated by the Diana Group and to third party operators in accordance with the Annual Budget and Annual Business Plan and the Company shall build a specialised organisation to that effect. It is agreed that the Shareholders initially intend for the Joint Venture to manage vessels owned by the Diana Group with a view, subject to agreement between the Shareholders, to extend the provision of services to third party operators following the third anniversary of this Agreement.
- 2.2 The Company shall hold its own document of compliance(**DOC**), which shall be based on WSM's management system.
- 2.3 Each of the Shareholders agree to exercise its rights under this Agreement and as a shareholder in the Company (insofar as it lawfully can) so as to ensure that the Company performs and complies with all obligations on its part under this Agreement and the Annual Budget and the Business Plan as the same may be amended with the consent of the Shareholders in accordance with clause 18 from time to time and shall work towards ensuring that the Company shall actively pursue the targets and purposes described in the Annual Budget and Business Plan.

3. COMPLETION

- 3.1 Immediately after the execution of this Agreement, the Parties shall comply with their obligations under this clause.
- 3.2 The Parties shall procure that such meetings of the Company and the Board are held and/or Shareholders' and board resolutions passed as may be necessary to:
 - (a) authorise the Board to allot and issue the Shares referred to in clause 3.3 on the terms referred to in such clause credited as fully paid;
 - (b) authorise the Board to allot and issue the Shares referred to in clause 3.4 on the terms referred to in such clause credited as fully paid;
 - (c) appoint Carl Christian Schou, Hakon Lenz and Pico Zarifeh as A Directors;

- (d) appoint Semiramis Paliou, Ioannis Zafirakis and Andreas-Nikolaos Michalopoulos as B Directors;
- (e) appoint Mrs Semiramis Paliou as Chairperson of the Company;
- (f) appoint Messrs Ernst & Young as the auditors of the Company;
- (g) approve the entry into and the execution of the following agreed form documents:
 - (i) WSM Services Agreement;
 - (ii) DSS Services Agreement; and
 - (iii) the Management Agreements in respect of the vessels specified in clause 5.1(b).
- 3.3 WSM shall subscribe for 250 Ordinary Shares for cash at US\$1.00 per Share and shall deliver payment for such Shares in cleared funds to the account of the Company (together the **'WSM Initial Subscription Monies'**).
- 3.4 Diana shall subscribe for 249 Ordinary Shares for cash at US\$1.00 per Share and shall deliver payment for such Shares in cleared funds to the account of the Company (together the **'Diana Initial Subscription Monies'**).
- 3.5 The Parties shall procure that:
 - (a) on receipt of the WSM Initial Subscription Moneys, the Company shall allot and issue credited as fully paid for 250 Ordinary Shares to WSM and enter WSM in the stock register of the Company as the holder of the Shares subscribed for and issue share certificates to WSM in respect of such Shares; and
 - (b) on receipt of the Diana Initial Subscription Moneys, the Company shall allot and issue credited as fully paid for 249 Ordinary Shares to Diana and enter Diana in the stock register of the Company as the holder of the Shares subscribed for and issue share certificates to Diana in respect of such Shares.
- 3.6 Immediately following (but not before) the completion of all matters set out in clauses 3.2, 3.3, 3.4 and 3.5, the Parties shall procure that the Company shall proceed to all necessary actions for obtaining a licence from the appropriate Greek Governmental Authorities for the establishment of the Company Greek Office, including without limitation:
 - (a) the approval by the Board of the Company of the establishment of the Company Greek Office and the appointment by the Company of the Legal Representative of the Company Greek Office to be nominated by the Board of the Company and
 - (b) the submission by the Company (through the Legal Representative of the Company Greek Office) of the application for obtaining the afore-mentioned licence toward the appropriate Greek Governmental Authorities, together with all required supporting documentation.
- 3.7 Immediately following the issuance of the licence provided in clause 3.6, and in any event within three (3) months as from the date of such issuance, the Parties shall procure that the Company shall proceed to all necessary actions for the actual establishment and commencement of operation of the Company Greek Office, including but not limited to, the lease of offices, the hiring of personnel, and the purchase and installation of the furniture and other necessary office equipment.

4. FINANCE

- 4.1 If the Company requires finance in accordance with its Annual Business Plan, the Board shall make a proposal to Shareholders setting out the funding requirements, use of funds and the available options for raising such funds. The Shareholders shall act in good faith in considering any proposal put forward by the Board.
- 4.2 Save as expressly provided in this Agreement, no Shareholder shall be under any obligation to contribute further funds, to guarantee or to provide security in relation to any obligations of a Group Company or to indemnify any third party in respect of the obligations or liabilities of a Group Company.
- 4.3 Save as expressly provided in this Agreement, no Shareholder shall be obliged to subscribe for further shares or loan stock of a Group Company.
- 4.4 No Shareholder shall pledge, charge, create a mortgage or otherwise encumber its Shares, nor shall it enter into any derivative arrangements pursuant to which it transfers some or all of its economic rights attaching to its Shares or is required to make payments calculated by reference to the returns generated by such economic rights without the written consent of the other Shareholder.

5. OBLIGATIONS OF DIANA

5.1 Diana shall:

- (a) as soon as practicable following execution of this Agreement use its best endeavours to: (i) find appropriate (at Diana's discretion) office space available to be leased by the Company Greek Office under terms reflecting ordinary market practice for such type of leases; and (ii) identify appropriate (at Diana's discretion) personnel, in terms of both number and qualifications, to be employed by the Company Greek Office as per ordinary market practice for such type of offices.
- (b) procure that following the completion of all the matters set out in clause 3 and clause 6.1(a) each of the owners of the following vessels enter into new Management Agreements with the Company:
 - (i) ALCYON;
 - (ii) ALCMENE;
 - (iii) CLIO;
 - (iv) CORONIS;
 - (v) ERATO;
 - (vi) NIREFS;
 - (vii) OCEANIS;
 - (viii) SEMIRIO;
 - (ix) SIDERIS GS; and
 - (x) TRITON.
- (c) procure that DSS enters simultaneously with the signing of the Management Agreements into the DSS Services Agreement with the Company and that DSS delivers and implements the services described in the DSS Services Agreement;
- (d) following the third anniversary of this Agreement (as set forth in clause 2.1), actively seek opportunities to expand the fleet under management by the Company in accordance with the Annual Business Plan, PROVIDED, however, that such obligation to actively seek opportunities to expand the fleet under management by the Company does not refer to any vessels owned by members of the Diana Group.

6. OBLIGATIONS OF WSM

6.1 WSM shall:

- (a) as soon as practicable following execution of this Agreement, procure the establishment of a DOC for the Company being based on the WSM management systems;
- (b) procure that WSM Norway enters simultaneously with the signing of the Management Agreements into the WSM Services Agreement with the Company and that WSM Norway delivers and implements the following services as further described in the WSM Services Agreement:
 - (i) crew and vessel accounting;
 - (ii) procurement;
 - (iii) HSEQ services; and
 - (iv) giving access to WSM's crew network.
- (c) actively seek opportunities to expand the fleet under management by the Company in accordance with the Annual Business Plan.

6A. THE COMPANY GREEK OFFICE - CONDITIONS

- 6A.1 The Parties acknowledge and confirm that the establishment and continued lawful operation of the Company Greek Office is a prerequisite for the entry into, and the continuance of, this Agreement. Therefore, if the licence

for the establishment of the Company Greek Office is not obtained or is later revoked, in either case for any reason whatsoever, this Agreement shall terminate automatically and clause 29 shall apply.

6A.2 The Parties undertake to procure that the Company complies with all its obligations under Applicable Law.

7. COMPETITION

- 7.1 Diana agrees to procure that any contract in relation to the management of a vessel owned by a member of the Diana Group whose management is intended to be granted to a company outside the Diana Group shall be first offered to the Company by written notice and that the Company shall be granted 30 days exclusivity to negotiate the terms of the relevant services with the owner of such vessel. If no notice is received from the Company that it wishes to provide such services within 3 weeks of being advised of the opportunity or if the Company notifies Diana that it does not wish to provide such services or if no agreement is reached as to the terms of the relevant services within the afore-mentioned exclusivity period, then the Diana Group is free to arrange the relevant services from any third party. It is hereby clarified that each Shareholder or any of their respective Affiliates, or any of their respective partners, officers, members, shareholders, subsidiaries, directors, employees, agents, consultants, or legal or other advisors may otherwise explore or exploit an investment or business opportunity or prospective economic or competitive advantage in which a Group Company could have an interest or expectancy, or engage in, or hold interests in, one or more businesses that may compete with a business of a Group Company.
- 7.2 It is hereby agreed that for each new vessel belonging to an external customer (and not a member of the Diana Group) whose management is granted to the Company('New Vessel') and up to a total number of New Vessels equal to the then number of Diana Vessels, there shall be a deduction of the total monthly management fees then payable to the Company in respect of the Diana Vessels by an amount equal to the amount of the total monthly operating expenses of the Company Greek Office (i.e. expenses for personnel, office lease and equipment, etc. less finance costs) divided by the number of the Diana Vessels and the New Vessels at that time. The amount of such deduction shall be apportioned among the Diana Vessels at the relevant time as further described in the sample calculation included as Schedule 7.2 hereto. However, in no event shall the total deduction amount granted per month result in numbers which are below the total fees payable to DSS under the DSS Services Agreement, i.e. the total monthly management fees payable to the Company in respect of the Diana Vessels shall always be more than the amount of total fees payable to DSS under the DSS Services Agreement. For the purposes of this clause 7.2, "Diana Vessels" means the vessels listed in clause 5.1(b) hereof and any other vessels belonging to a member of the Diana Group whose management is performed by the Company.

8. NON-POACH

Each Shareholder undertakes to the Company and the other Shareholder that while they are a Shareholder they shall not and shall procure their Affiliates shall not entice away or endeavour to entice away from a Group Company anyone who was an employee or consultant of a Group Company at any time during the 12 months immediately preceding the date on which they ceased to be a Shareholder.

9. ACCOUNTS AND FINANCIAL REPORTING

- 9.1 The Company shall:
- (a) at all times maintain accurate and complete accounting and other financial records in United States dollars in accordance with the requirements of all Applicable Laws and International Financial Reporting Standards('IFRS');
 - (b) prepare and despatch monthly management accounts in prepared in accordance with IFRS in a format agreed by the Shareholders from time to time to the Shareholders within 10 Business Days of the end of the month in question;
 - (c) prepare and despatch quarterly management reports approved by the Board in a format agreed by the Shareholders from time to time to the Shareholders within 20 Business Days of the end of the quarter in question;
 - (d) prepare and despatch quarterly unaudited financial statements in accordance with IFRS as soon as practicable and in any event not later than 30 days after the end of the relevant quarter;
 - (e) prepare its annual audited accounts in respect of each accounting reference period in accordance with IFRS as are required by Applicable Law and procure that such accounts are audited as soon as practicable and in any event not later than 90 days after the end of the relevant accounting reference period;

- (f) procure that the Company's auditors shall be Ernst & Young for the financial period of the Company up to and including 31 December 2015 and thereafter shall be as agreed by the Shareholders from time to time but shall, in any event, be a firm of international standing and experience; and
- (g) provide promptly such further information and reports as any Shareholder may from time to time reasonably require as to any and all matters relating to the business or financial condition of each Group Company.

10. ACCESS TO INFORMATION

10.1 The Company shall:

- (a) give each Shareholder and its respective authorised representatives full access at all reasonable times to carry out an audit and to examine and take copies of the books and records of the Company;
- (b) promptly furnish to each Shareholder:
 - (i) such books, records, documents and information regarding the business affairs, finances, condition, employees, property, assets, intellectual property or any other matter relating to the Company and the business of the Joint Venture as the Shareholder may request from time to time;
 - (ii) copies of all information provided to any third party financier in accordance with the requirements of any banking facility documents at the same time as such information is provided to such person;
 - (iii) such further information in the possession or control of the Company regarding the financial condition and operations of its Group as a shareholder may reasonably request;
 - (iv) written notice as soon as reasonably practicable upon the Company or any Director becoming aware of any offer made to or from holders of any of the Ordinary Shares to purchase any Shares.
 - (v) written notice providing details of all claim forms, writs and petitions served on a Group Company within 5 Business Days of such service where the value of the claim exceeds US\$50,000 (exclusive of costs); and
 - (vi) written notice, as soon as practicable and in any event no later than 5 Business Days after it becomes aware of any circumstances which are likely to lead to a Group Company being involved in any litigation or arbitration where the value of the claim exceeds US\$50,000 (exclusive of costs) and of the commencement of any such litigation or arbitration giving as full particulars of such circumstances or such litigation or arbitration as are available to the Company.

11. ANNUAL BUDGET AND BUSINESS PLAN

11.1 The Company shall procure that the Board shall prepare an Annual Budget and Annual Business Plan in respect of each financial year of the Company's Group which shall include the following:

- (a) an estimate of the working capital requirements of the Company's Group incorporated within a cash flow statement;
- (b) a projected profit and loss account;
- (c) an operating budget (including estimated capital expenditure and operational expenditure requirements) and balance sheet forecast;
- (d) a review of the projected business; and
- (e) a summary of business objectives.

11.2 The Annual Budget and Annual Business Plan in respect of the first accounting period shall be prepared before the date of commencement of the management of the vessels listed in clause 5.1(b) pursuant to the Management Agreements.

11.3 The Board shall submit Annual Budgets and Annual Business Plans in respect of subsequent accounting periods to the Shareholders for approval not later than 60 days before the commencement of the accounting period in question. Within 14 days of receipt of the Annual Budget and Annual Business Plan, either Shareholder shall be entitled to request such further information as may reasonably be required to enable it to reach an informed view

as to the content, reasonableness and prudence of the draft in question. The Company shall comply with any such request within 10 Business Days of such request and will copy its response to the other Shareholder.

- 11.4 Following receipt of the draft Annual Budget and Annual Business Plan for any financial year and of any further information supplied in accordance with clause 11.3, the Shareholders shall consult each other upon the content of the draft and shall act in good faith and with reasonable diligence to agree its contents as soon as reasonably practicable.
- 11.5 If either or both of the Shareholders do not approve the Annual Budget or Annual Business Plan, the Company shall procure that the Board shall discuss the Shareholders' objections with each Shareholder and shall prepare and submit a revised Annual Budget and/or Annual Business Plan which deals with such objections not later than 15 days before the commencement of the accounting period in question. In the event that the Annual Budget and/or Annual Business Plan is not approved by the Shareholders then the Company shall be operated in accordance with such parts of the revised Annual Budget and Annual Business Plan as have been approved by the Shareholders and, in respect of any parts that have not been so approved, the Company shall continue to be operated in accordance with the prior year's Annual Budget and/or Annual Business Plan.
- 11.6 The Company shall procure that the Board will regularly review the Annual Budget and Annual Business Plan during the course of the financial year of the Company. The Board may propose changes to the Annual Budget and Annual Business Plan during the course of the relevant financial year to the Shareholders, who may approve such changes pursuant to clause 18. Each Shareholder shall respond to a proposal by the Board within 30 days of receipt of such proposal.

12. OPERATION OF BANK ACCOUNTS

- 12.1 The Parties shall procure that each of the Directors and Shareholders have not less than read only online access to the bank accounts of each Group Company for the purpose of monitoring expenditure.
- 12.2 The Parties agree that no withdrawal, payment or commitment will be made on a bank account of a Group Company in excess of US\$20,000 without the written approval of at least one A Director and one B Director.

13. BOARD OF DIRECTORS

- 13.1 Subject to clause 18 and to Applicable Law, the Board shall be responsible for the management of the Company (provided always that the Board shall have the right to delegate any such responsibility as it sees fit). In particular, the Board shall approve the Company's strategy, oversee the implementation of such strategy, review the Company's financial results, set appropriate mandates and apply controls necessary to comply with the Annual Budget and the Annual Business Plan.
- 13.2 The Parties agree that the maximum number of directors of the Company shall be six (6), unless the Shareholders otherwise determine from time to time. For as long as they hold not less than 50 per cent. of the Shares in issue in the Company, WSM shall be entitled at any time to appoint three (3) Directors who shall be designated as A Directors and Diana shall be entitled at any time to appoint three (3) Directors who shall be designated as B Directors. In the event a Shareholder holds less than 50 per cent. of the Shares in issue in the Company, that Shareholder shall only be permitted to appoint one (1) designated Director and shall procure that any additional Director appointment by that Shareholder shall immediately resign from his or her position. The Shareholders may at any time remove and/or replace any of their nominated Directors, upon giving written notice to the other Shareholder. Each Shareholder shall to the extent reasonably practicable consult in advance with the other Shareholder regarding the identity of any proposed replacement Director to be nominated by it or any alternate director to be nominated by one of its nominated Directors.
- 13.3 The Shareholders shall take all action as may be necessary to ensure the appointment and/or removal of a Shareholder's nominated Director as specified in clause 13.2 in accordance with such Shareholder's instructions.
- 13.4 Each Director shall be entitled to make full disclosure to the Shareholder appointing him of any information relating to the Company which that Director may acquire in the course of his appointment. For the avoidance of doubt, all such information shall be treated as confidential information for the purposes of clause 21.
- 13.5 No Director shall be entitled to a salary from the Company by reason of him or her holding office as a director of the Company. WSM shall be responsible for the expenses incurred by the A Directors in their capacity as directors of the Company and Diana shall be responsible for the expenses incurred by the B Directors in their capacity as directors of the Company. Directors may appoint an alternate director in accordance with the Articles and any reference to a Director in this Agreement shall, where the context permits, include a reference to his alternate so appointed.

- 13.6 If a Shareholder has *bona fide* material concerns regarding the fitness for office or conduct of a Director or alternate director nominated or to be nominated by the other Shareholder, the Shareholders shall consult with each other and use their respective reasonable endeavours to deal with such concerns.

14. BOARD MEETINGS

- 14.1 The Board shall convene as necessary and appropriate to manage the affairs of the Company, but the Shareholders shall procure that the Board meets at least three times in each calendar year.
- 14.2 Unless otherwise agreed in writing by all the Directors, at least 5 Business Days' notice in writing shall be given of each meeting of the Board, which notice shall specify in as much detail as is practicable the time of the meeting, its location and the business to be considered at the meeting. Notice of a meeting of the Board shall be given by any Director or by the company secretary of the Company (if any) at the request of any Director. No other business may be transacted at any Board meeting unless all of the members of the Board present at such meeting agree.
- 14.3 The quorum necessary for the transaction of the business of the Board shall be four Directors, provided that at least two are A Directors and at least two are B Directors. If a quorum is not reached within 30 minutes after the time fixed for the Board meeting, such meeting shall be adjourned and the meeting shall be reconvened for the same time and day at the same place for the date 5 Business Days after the date set for the initial meeting.
- 14.4 Decisions of the Board shall be by simple majority of the votes cast including at least two A Directors and two B Directors.
- 14.5 The first Chairperson shall be nominated by Diana. The Chairperson shall not have a second or casting vote at Board meetings. The Shareholders shall alternate the right on a 2 year basis commencing on the date of this Agreement to appoint the Chairperson and his successors from among their respective nominee Directors.
- 14.6 This clause applies to the tenure and removal of the Chairperson:
- (a) during the term of any given Chairperson, the Shareholder that did not nominate that Chairperson has the right to notify the other shareholder in writing ('**Removal Notice**') that the Chairperson must be removed ('**Outgoing Chairperson**');
 - (b) each Shareholder can only exercise the right in clause 14.6(a) once every 12 months, with each 12 month period commencing on the date of this Agreement or the anniversary of the date of this Agreement as the case may be;
 - (c) upon receipt of a Removal Notice the Shareholder that nominated the Outgoing Chairperson must within five Business Days:
 - (i) remove the Outgoing Chairperson as its designated Director from the Board and appoint a new designated Director to the Board in accordance with clause 13.2; and
 - (ii) nominate a new Chairperson to serve out the remaining period of the Outgoing Chairperson's term.
- 14.7 Meetings of the Board may be conducted by telephone or video conference or any other electronic means by which each Director participating in the meeting can communicate with the other director(s).
- 14.8 In lieu of the Board meeting in person, a written resolution may be adopted by the Board, provided that such resolution is sent to all members of the Board and is signed and affirmatively adopted by all of the Directors.
- 14.9 If any matter to be considered or voted upon at a Board meeting relates to: (a) the Company enforcing rights under or taking any action against a Shareholder or an Affiliate of a Shareholder in relation to any matter arising under any agreement entered into between the Company and a Shareholder or an Affiliate of a Shareholder (including in the case of WSM the WSM Services Agreement and in the case of DSS the DSS Services Agreement); or (b) the Company defending itself against any action taken or threatened against it by a Shareholder or an Affiliate of a Shareholder, then that matter will be considered at a separate meeting or meetings of the Board, and the Directors appointed by the relevant Shareholder referred to above will not be entitled to: (i) receive information or advice received by the Company on such matter; or (ii) vote (or be counted in the quorum at a meeting) in relation to such matter. The quorum for such a meeting will be at least two Directors who are entitled to vote on the matter and the provisions of clause 18 will not apply in respect of such matter.
- 14.10 If a question arises at a meeting of Directors as to the right of a Director to vote, the question may, before the conclusion of the meeting, by a decision of the Board (such decision to be made by way of a vote of the Directors present at the meeting other than the Director whose right to vote is in question), be referred to the Chairperson

of the meeting (provided that the Chairperson is not a Director nominated by the same Shareholder as the Director whose right to vote is in question) and his ruling in relation to any Director other than himself will be final and conclusive.

15. LANGUAGE OF MEETINGS

- 15.1 All Board and Shareholder meetings and resolutions shall be conducted and recorded in the English language and, subject to Applicable Law as to the books and records of the Company Greek Office, the books and records of the Company shall be in English. Where any such document is translated into a language other than English, the English language text shall prevail.

16. GROUP COMPANIES

- 16.1 The Parties shall procure that the provisions of clauses 13 to 15 shall apply, *mutatis mutandis*, to the composition and conduct of the board of each Group Company, unless otherwise agreed by the Shareholders.

17. DAY-TO-DAY MANAGEMENT OF THE COMPANY AND ITS GROUP

- 17.1 The day-to-day management of the Group Companies shall be conducted by a managing director and a senior management team appointed and supervised by the Board in each case as approved unanimously by the Shareholders. The Board will determine, from time to time, the roles and responsibilities of the members of the senior management team. For the avoidance of doubt, the managing director shall be a director in title only and shall not be a member of the Board.
- 17.2 Pursuant to Applicable Law, the Company shall delegate to the Legal Representative of the Company Greek Office all powers and duties in connection with the operation of such office and the Legal Representative shall represent and bind the Company in all its affairs connected with the Company Greek Office. In exercising the powers and duties under this clause, the Legal Representative shall act pursuant to any relevant directions from the Board and always in accordance with clause 18.
- 17.3 The Shareholders shall procure that the Board procures that:
- (a) each Group Company is fully insured (in the case of insurance against loss of or damage to property for an amount not less than the reinstatement value) with a well-established and reputable insurer against all such risks as are usually insured against by persons carrying on similar businesses (including consequential loss of profits for a period of not less than six months and environmental, pollution and impairment risks) for the life of the Joint Venture; and
 - (b) each Group Company conducts its business in accordance with all Applicable Laws, in accordance and within any constitutional restriction (if any) on its objects and powers, solely under its corporate name and without infringement of any proprietary right or interest of any other person.
- 17.4 Each Party undertakes to the other Parties that it:
- (a) shall not, and, in the case of the Company it shall procure that each Group Company shall not, engage in any activity, practice or conduct which would constitute an offence under any anti-bribery or corruption law applicable to that Party, including but not limited to the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act 1977 (**Anti-Corruption Law**); and
 - (b) has, and shall procure that each member of the Company's Group has, and shall maintain in place, adequate procedures designed to prevent any associated person from undertaking any conduct that may give rise to an offence under any Anti-Corruption Law.

18. RESERVED MATTERS

- 18.1 Subject to clauses 18.2 and 18.3, for as long as the Shareholders hold Shares in the Company, the Company shall not, and shall procure that no Group Company shall, without the prior written consent of the Shareholders do any of the matters set out in Schedule 1.
- 18.2 Unless a Shareholder notifies the Company and the other Shareholder that it does not wish this clause to apply to it (which notice it can give and revoke at any time) and subject to Applicable Law, for the purposes of clause 18.1 and any other provision under this Agreement that requires Shareholder consent or approval, any two A Directors shall have the power and authority to give consent or approval in respect of any Reserved Matter on behalf of WSM, and any two B Directors shall have the power and authority to give consent or approval in respect of any Reserved Matter on behalf of Diana, in each case either in writing or through their affirmative vote at a meeting of the Board at which they are present.

- 18.3 The Shareholders shall be deemed to have consented to any Reserved Matter to the extent that such matter is explicitly provided for in the Annual Business Plan or Annual Budget as approved in accordance with clause 11.
- 18.4 No Shareholder will be entitled to exercise any right or power to prevent any Group Company from enforcing its rights under or taking any action against that Shareholder or its Affiliate in relation to any matter arising under any agreement entered into between any Group Company and a Shareholder or any of its Affiliates or from defending itself in relation to any action taken against it by a Shareholder or any of its Affiliates.

19. DISTRIBUTION OF PROFITS

Subject to Applicable Law, there shall be distributed within six months after the end of the relevant accounting period by way of dividend the balance of the distributable profits of the Company for each accounting period after deduction of the retained amount specified in the current Annual Business Plan.

20. INTELLECTUAL PROPERTY

- 20.1 For the purposes of this clause 20, Intellectual Property means and is comprised of:
- (a) **(WSM Intellectual Property)** any patent, copyright, database right, design right, trade mark, brand name, logos including but not limited to the 'W flag' of the Wilh. Wilhelmsen Holding ASA Group, the Wilhelmsen Ship Management branding and any other trademark or product brands of the Wilh. Wilhelmsen Holding ASA Group and any other industrial or intellectual property owned or used by the Wilhelmsen Holding ASA Group, whether registered or not, together with any current applications for any registerable items of the foregoing; and
 - (b) **(Diana Intellectual Property)** industrial or intellectual property owned or used by Diana, whether registered or not, together with any current applications for any registerable items of the foregoing.
- 20.2 All Intellectual Property utilised by the Company, shall be owned by and registered in the name of the relevant Shareholder or their relevant Affiliate. The Company is not entitled to the ownership or registration of any Intellectual Property.
- 20.3 Upon termination of this agreement the Parties shall immediately, unless otherwise agreed in writing:
- (a) cease to describe themselves as joint venture partners or any kind of associate of the other Party or its Affiliates and cease from any act and omission indicating or suggesting any relationship with the other Party or its Affiliates;
 - (b) cease to use all Intellectual Property of the other Party (including without limitation on stationery and vehicles) and the other Party's sales and advertising material related to or referring to the other Party or its products and services; and
 - (c) shall procure that the Company remove any and all logos, banners or material carrying reference to any member within the Wilh. Wilhelmsen Holding ASA Group, and for the avoidance of doubt, Diana agrees and undertakes to WSM that upon Diana ceasing to be a Shareholder it will cease to use any WSM Intellectual Property or anything substantially identical or deceptively similar to the WSM Intellectual Property.
- 20.4 In the event that a Shareholder ceases to be a Shareholder, the Parties must, in addition to their obligations under clause 20.3, remove from the Company's name, by way of Unanimous Shareholders' Resolution, all references to WSM or Diana as the case may be as soon as possible and in any event no later than 10 Business Days after the date on which the relevant Shareholder ceases to be a Shareholder.
- 20.5 Each party acknowledges that the Intellectual Property of the other Party or any of that Party's Affiliates, is their property and no such rights are automatically granted to a Party or Diana with respect to another Party's Intellectual Property by virtue of this Agreement.

21. CONFIDENTIALITY

- 21.1 Each Party shall keep and treat as strictly confidential and not at any time disclose or make known in any way to any person who is not a Party, or use for a purpose other than the performance of its obligations under this Agreement, any information which it now possesses or which may come within its knowledge during the term of this Agreement, in relation to or connected with or arising out of this Agreement or the matters contained in it, the existence of this Agreement or the business, activities or affairs of any other Party (together 'Confidential**Information**') or, through any failure to exercise all due care, cause any unauthorised disclosure of any

Confidential Information and will make every effort to prevent the use or disclosure of such information, except that these restrictions do not apply to the disclosure of Confidential Information if and to the extent that:

- (a) disclosure is required by law or for the purpose of any judicial proceedings or by any regulatory authority, government body or recognised securities exchange, after consultation with the relevant Party, where practicable and legally permitted to do so;
 - (b) the information is or becomes generally available to the public other than as a result of a breach of any undertaking or duty of confidentiality by any person;
 - (c) the information is disclosed on a strictly confidential basis by a Party to its advisers, auditors and bankers for the purposes of its business;
 - (d) disclosure is by a Party to a member of its Group provided that it shall procure that such Group member shall keep such information confidential upon the terms of this clause 21; or
 - (e) the relevant Parties have given their prior written consent to the contents and manner of the disclosure.
- 21.2 Notwithstanding clause 21.1(a) and subject to Applicable Law, no Party shall make any regulatory announcement concerning any aspect of this Agreement or its existence or the business of the Company without first taking reasonable steps to obtain the agreement of the Shareholders to the text of that announcement.
- 21.3 The provisions of this clause 21 shall continue in force in accordance with their terms for the continuance of this Agreement and for a period of 36 months following its termination.

22. TAXATION

[Not used]

23. DEADLOCK

- 23.1 The Parties agree that a deadlock(**'Deadlock'**) arises, in respect of a matter, on the first date on which the following requirements are satisfied:
- (a) a meeting of Directors cannot be convened because of the absence of the required quorum after three successive attempts; or
 - (b) a matter of Important Business has arisen for the determination of the Board and the Board is unable to reach a decision with the requisite majority after three successive attempts (together with (a) a **'Board Deadlock'**); or
 - (c) a general meeting of Shareholders cannot be convened because of the absence of the required quorum after three successive attempts; or
 - (d) a Reserved Matter has arisen for the approval of the Shareholders and the Shareholders are unable to approve such matter with the requisite majority after three successive attempts (together with (c) a **'Shareholder Deadlock'**); or
- 23.2 If a Deadlock arises and the Shareholders have not otherwise resolved the matter, any Shareholder(**'first party'**) may issue a notice (**'Trigger Notice'**) to the other Shareholder (**'second party'**) in which the first party shall:
- (a) offer to purchase all, but not less than all, of the second party's Shares;
 - (b) specify the price at which the first party is willing to purchase the relevant Shares; and
 - (c) nominate a completion date, which is to be not less than 30 Business Days and not more than 40 Business Days after the date of the Trigger Notice.
- 23.3 The second party must, within 10 Business Days following the date of the Trigger Notice elect, by notice in writing to the first party, either to:
- (a) sell all of its Shares to the first party; or
 - (b) purchase all of the first party's Shares,

in either case, at the price specified in the Trigger Notice and, in the event an election is not made within the relevant time period, the second party is deemed to have elected (a).

- 23.4 Upon an election (or deemed election) being made pursuant to clause 23.3, a contract of sale, including the terms specified in the Trigger Notice, shall be deemed to arise between the first party and the second party on the earlier of the date the second party gave the notice referred to in clause 23.3 or the expiry of the election period, and completion shall occur within the period specified in the Trigger Notice.

24. TRANSFER OF SHARES

- 24.1 Save as permitted by this clause 24.1, no Shareholder shall sell, transfer, or otherwise dispose of any Share, or any interest in any Share (including any voting right attached to it), enter into any agreement in respect of the votes attaching to any Share or enter into any agreement, conditional or otherwise, to do any of the foregoing, except with the prior written consent of the other Shareholder (which consent shall not be unreasonably withheld or delayed). The Company shall procure that the Board declines to approve for registration any transfer of Shares which does not comply with the provisions of this clause 24.1.
- 24.2 Subject always to clauses 4.3, 4.4 and 24.4, a Shareholder (the 'Transferor') may sell, transfer or otherwise dispose of the whole (but not less than the whole) of its Shareholding to an Affiliate of the Transferor (such company hereinafter referred to as a 'Permitted **Transferee**').
- 24.3 Any transfer to a Permitted Transferee under clause 24.2 shall only be permitted if:
- (a) prior written notice of the transfer is given to the other Shareholder;
 - (b) such transfer is not in breach of, or will not result in any breach of, or is not inconsistent with, any Applicable Law;
 - (c) the Permitted Transferee executes the Deed of Adherence agreeing to be bound as a Shareholder to the provisions of this Agreement in accordance with clause 24.8;
 - (d) the Permitted Transferee agrees with the other Shareholder that, should it at any time cease to qualify as a Permitted Transferee of the Transferor, it will, prior to or immediately upon so ceasing, transfer the relevant Shares to the Transferor or an entity then qualifying as a Permitted Transferee of the Transferor; and
 - (e) the Transferor agrees to ensure that the Permitted Transferee will comply in all respects with its obligations hereunder and the transfer shall not relieve the Transferor of any liability under this Agreement whether accruing before or after such transfer and the Transferor shall remain liable for any breach of this Agreement by the Permitted Transferee.
- 24.4 As security for a Transferor's obligations pursuant to clause 24.3(e), each Shareholder hereby irrevocably appoints the Company as its attorney to execute any such transfer on its behalf (whether as transferor or transferee) at such consideration as the original Transferor shall notify to the Company or, in default of such notification prior to the date of the transfer, for such consideration (including a nil consideration) as the Company shall in its absolute discretion consider appropriate. In order that the Company is able to monitor whether any obligations arise in relation to clause 24.3(e) or this clause 24.4, each Shareholder shall notify the Company forthwith if it ceases to be an Affiliate of the Transferor or if the Permitted Transferee ceases to be an Affiliate of it, and the Shareholders shall each provide the Company with such evidence as any member of the Board may reasonably require to ensure that no obligations have arisen in relation to it pursuant to clause 24.3(e) or this clause 24.4.
- 24.5 Where a Shareholder wishes to make a transfer of all (but not some) of its Shares (the '**Offered Shares**'), other than to a Permitted Transferee, **it** must first serve written notice upon the Company and the other Shareholder (a '**Transfer Notice**') informing them of its intention and inviting the other Shareholder to apply in writing to the Transferor for all (but not some) of the Offered Shares. The Transfer Notice shall specify the number of Offered Shares to be transferred, the price and other material terms of the offer and a time (being not less than fifteen (15) Business Days) within which the other Shareholder must make applications for Offered Shares as aforesaid or the offer will lapse ('**Offer Period**'). A Shareholder shall not be permitted to transfer a part interest in its holding of Shares except with the prior written consent of the other Shareholder.
- 24.6 If the other Shareholder applies for the Offered Shares, the Transferor shall be obliged to allocate the Offered Shares to that Shareholder.
- 24.7 If, following the expiry of the Offer Period, the Offered Shares remain to be sold, the Transferor may transfer such remaining Offered Shares to a third party upon terms that are no more favourable than those offered to the existing Shareholder under this clause 24.1 provided that such transfer is completed with 30 days of the date of expiry of the Offer Period.

- 24.8 It shall be a condition of any allotment, issue or transfer of a Share or any interest therein to a person who is not a party to this Agreement that such person (the 'Transferee') shall duly adhere to and become a party to this Agreement (as a Shareholder) by executing a Deed of Adherence, and the Company shall not register the Transferee or otherwise admit such Transferee as a Shareholder unless and until a Deed of Adherence has been so executed by the Transferee to the reasonable satisfaction of the Board. Any person to whom Shares have been transferred in accordance with this clause 24.1 and which duly executed a Deed of Adherence shall be treated thereafter as a Shareholder and a Party for the purposes of this Agreement.

25. COMPULSORY TRANSFER

- 25.1 Upon the occurrence of any of the following events:

- (a) a Shareholder suffers an Insolvency Event;
- (b) a Shareholder commits a material breach of this Agreement, and if such breach is capable of remedy, is not remedied within 20 Business Days of the earlier of the defaulting Shareholder becoming aware of such breach and the other Shareholder giving written notice to the defaulting Shareholder of the breach;
- (c) a change of control of a Shareholder except where an Affiliate of the Shareholder continues to have control,

such event shall be deemed to constitute a Deadlock and either Shareholder shall be permitted to issue a Trigger Notice in accordance with clause 23.2 upon which the provisions of clauses 23.2 to 23.4 shall apply.

26. DRAG ALONG

- 26.1 If a Shareholder('Selling Shareholder') wishes to transfer all of its Shares to a Buyer, the Selling Shareholder may, subject to the other Shareholder not giving notice to acquire the Shares pursuant to clause 24.6 or the transfer being a transfer to a Permitted Transferor pursuant to clause 24.2, require the other Shareholder ('Dragged Shareholder') to sell and transfer all its Shares to the Buyer (or as the Buyer directs) in accordance with the provisions of this clause 26 ('Drag Along Option').
- 26.2 The Selling Shareholder may exercise the Drag Along Option by giving written notice to that effect('Drag Along Notice') at any time before the transfer of the Selling Shareholder's Shares to the Buyer. The Drag Along Notice shall specify:
- (a) that the Dragged Shareholder is required to transfer all its Shares('Called Shares') pursuant to this clause 26;
 - (b) the person to whom the Called Shares are to be transferred;
 - (c) the consideration payable for the Called Shares which shall, for each Called Share, be an amount equal to the price per Share paid for the Shares being acquired from the Selling Shareholder by the Buyer; and
 - (d) the proposed date of the transfer.
- 26.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholder has not sold its Shares to the Buyer within 60 Business Days of serving the Drag Along Notice. The Selling Shareholder may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 26.4 No Drag Along Notice shall require the Dragged Shareholder to agree to any terms except those specifically set out in this clause 26, provided that the Dragged Shareholder shall be required to give warranties to the Buyer as to its title to the Shares and its capacity to transfer the Shares if requested to do so by the Buyer or the Selling Shareholder.
- 26.5 Completion of the sale of the Called Shares shall take place on the Completion Date. Completion Date means the date proposed for completion of the sale of the Selling Shareholder's Shares unless:
- (a) the Dragged Shareholder and the Selling Shareholder agree otherwise in which case the Completion Date shall be the date agreed in writing by the Dragged Shareholder and the Selling Shareholder; or
 - (b) that date is less than 10 Business Days after the date on which the Drag Along Notice is served, in which case the Completion Date shall be 20 Business Days after service of the Drag Along Notice.
- 26.6 The rights of pre-emption set out in the Articles shall not apply to any transfer of shares to a Buyer (or as it may direct) pursuant to a sale for which a Drag Along Notice has been duly served.

- 26.7 Within 10 Business Days of the Selling Shareholder serving a Drag Along Notice on the Dragged Shareholder, the Dragged Shareholder shall deliver stock transfer forms for the Called Shares, together with the relevant share certificates (or a suitable indemnity for any lost share certificates) to the Company. On the Completion Date, the Company shall pay the Dragged Shareholder, on behalf of the Buyer, the amounts they are due for their Shares pursuant to clause 26.2(c) to the extent that the Buyer has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Buyer. The Company shall hold the amounts due to the Dragged Shareholder pursuant to clause 26.2(c) in trust for the Dragged Shareholder without any obligation to pay interest.
- 26.8 To the extent that the Buyer has not, on the Completion Date, put the Company in funds to pay the consideration due pursuant to clause 26.2(c), the Dragged Shareholder shall be entitled to the return of the stock transfer forms and share certificates (or suitable indemnity) for the relevant Called Shares and the Dragged Shareholder shall have no further rights or obligations under this clause 26 in respect of its Shares.
- 26.9 If the Dragged Shareholder does not, on completion of the sale of the Called Shares, execute transfer(s) in respect of all of the Called Shares held by it, the Dragged Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Selling Shareholder to be his agent and attorney to execute all necessary transfer(s) on his behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares, to deliver such transfer(s) to the Buyer (or as they may direct) as the holder thereof. After the Buyer (or its nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any such person. Failure to produce a share certificate shall not impede the registration of shares under this clause 26.

27. TAG ALONG

- 27.1 Except where a Shareholder gives notice to acquire a Selling Shareholder's Shares pursuant to clause 24.6 or the transfer is a transfer to a Permitted Transferor pursuant to clause 24.2, the provisions of clauses 27.2 to 27.5 shall apply if, in one or a series of related transactions, a Selling Shareholder proposes to transfer all of its Shares(**Proposed Transfer**) to a Buyer.
- 27.2 Before making a Proposed Transfer, the Selling Shareholder shall procure that the Buyer makes an offer(**Tag Along Offer**) to the other Shareholder (**Tag Along Shareholder**) to purchase all of the Shares held by them for a consideration in cash per Share that is equal to the price per Share paid for the Shares being acquired from the Selling Shareholder by the Buyer.
- 27.3 The Tag Along Offer shall be given by written notice(**Tag Along Notice**), at least 20 Business Days (**Offer Period**) before the proposed sale date (**Sale Date**). To the extent not described in any accompanying documents, the Tag Along Notice shall set out:
- (a) the identity of the Buyer;
 - (b) the purchase price which shall equal the price per Share being paid for the Shares being acquired by the Buyer from the Selling Shareholder;
 - (c) the Sale Date; and
 - (d) the number of Shares proposed to be purchased by the Buyer(**Offer Shares**).
- 27.4 If the Buyer fails to make the Tag Along Offer to the Tag Along Shareholder in accordance with clauses 27.2 and 27.3, the Selling Shareholder shall not be entitled to complete the Proposed Transfer and the Company shall not register any transfer of Shares effected in accordance with the Proposed Transfer.
- 27.5 If the Tag Along Offer is accepted by the Tag Along Shareholder within the Offer Period, the completion of the Proposed Transfer shall be conditional on completion of the purchase of the Offer Shares held by the Tag Along Shareholder.

28. TERM AND TERMINATION

- 28.1 This Agreement shall continue until the earlier of (i) the Shareholders mutually agreeing to terminate the Joint Venture in relation to the Company; (ii) a Shareholder validly serving a Winding Up Notice in accordance with the provisions of clause 28.2 or the Shareholders otherwise approving the winding up of the Company pursuant to clause 18; and (iii) one of the Shareholders ceasing to hold any Shares in the Company (each a**Termination Event**). Upon the occurrence of such a Termination Event, the provisions of clause 29 shall apply.
- 28.2 Either Shareholder (the**Terminating Shareholder**) may, without prejudice to any other right or remedy it may have, serve a notice (**Winding Up Notice**) to the other Shareholder (the **Non-Terminating Shareholder**) bringing into effect the provisions of clause 29 after it becomes aware of any of the following events:

- (a) the Non-Terminating Shareholder is in material breach of this Agreement and, if such breach is capable of remedy, fails to remedy such breach within 30 days of the service of a written notice by the Terminating Shareholder specifying such breach and requiring it to be remedied;
- (b) the Non-Terminating Shareholder undergoes an Insolvency Event. Each Shareholder undertakes to the other to notify the other in writing immediately upon it becoming aware that it is reasonably likely to undergo or has undergone, such an Insolvency Event;
- (c) there is a change of control of the Non-Terminating Shareholder;
- (d) the activities or existence of a Group Company, or any of the transactions or relationships constituted or envisaged by this Agreement, violate or are inconsistent with, or would violate or be inconsistent or result in non-compliance with, any Applicable Law and the Shareholders have not been able, having used their respective reasonable endeavours, to agree how to avoid such violation, inconsistency or non-compliance.
- (e) by reason of any actual and implemented change in, or in the interpretation or application of, or the introduction of, any law, regulation or official mandatory directive (whether or not having the force of law) or practice followed by the relevant Governmental Authorities, resulting in that the activities of the Greek Company Office or any of the transactions constituted or envisaged by this Agreement, violate or are inconsistent with, or would violate or be inconsistent or result in non-compliance with, any Applicable Law in respect of the Company Greek Office.

28.3 The provisions of clauses 28 and 29 shall be without prejudice to any right or obligation of any Shareholder arising under this Agreement which is outstanding at the time of any person ceasing to hold any Shares or upon the termination of this Agreement and shall not affect any provision of this Agreement which is expressly or by implication provided to come into effect upon, or to continue in effect after, such termination.

28.4 Upon the termination of this Agreement in accordance with clause 28.3, the Company shall be wound up in accordance with the provisions of clause 29.

28.5 Where a Party and its Affiliates cease to hold any Shares, this Agreement (other than clause 21 or where required pursuant to clause 23.1) shall cease to bind such Party. This Agreement shall also automatically terminate as between all the Parties upon the Company having only one Shareholder (and there being no options or other legally binding rights to call for the issue of Shares still outstanding).

29. WINDING UP AND CONSEQUENCES OF TERMINATION

29.1 Upon the occurrence of a Termination Event, unless the Shareholders mutually agree otherwise:

- (a) the Shareholders shall procure that the Company is wound up as soon as possible after the occurrence of the relevant Termination Event in the most efficient manner possible and in accordance with all Applicable Law;
- (b) upon request of either Shareholder, the Parties will procure that the Company engages an insolvency expert to assist with the winding up process and if required will procure the appointment by the Company of a liquidator; and
- (c) the Shareholders shall pass such resolutions as may be necessary to complete the winding up.

29.2 After the occurrence of a Termination Event and until the Company is wound up, the Parties shall use all reasonable endeavours to ensure that:

- (a) all existing contracts of the Company are performed and closed out as soon as possible to the extent that there are sufficient resources;
- (b) unless the Parties otherwise agree, the Company shall not enter into any new contractual obligations or undertake any new activity save as may be ancillary to the activities required by sub-clause (a) above;
- (c) any proprietary information or intellectual property rights belonging to or originating from a Party shall be returned to it by the other Party or the Company; and
- (d) each Party shall continue to comply with all other terms of this Agreement until the winding up process has been completed.

29.3 This Agreement shall automatically terminate once the winding up of the Company is completed. Such termination shall be without prejudice to any right, obligation or remedy accrued as at the date of termination and

shall be without prejudice to any provisions of this Agreement which are, expressly or impliedly, intended to continue in effect notwithstanding the termination of this Agreement.

29.4 If either Shareholder fails or is unable to give its co-operation pursuant to this clause 29 in order to complete the winding up process of the Company, the other Shareholder, without prejudice to any other right or remedy that it may have, shall be entitled in the name of the first Shareholder to execute any resolution or other document as may be necessary to allow the winding up of the Company to proceed and be completed and each of the Shareholders irrevocably appoints the other its attorney with power to execute such documents for such purposes.

29.5 Upon the occurrence of a Termination Event, the WSM Services Agreement shall be automatically terminated on the terms set forth in the WSM Services Agreement clause 4b.

30. WARRANTIES

30.1 Each Party warrants to the other that:

- (a) it is duly organised, validly existing and (to such extent such concept is relevant under its jurisdiction) in good standing under the laws of its jurisdiction of incorporation or formation, with all requisite power and authority to enter into and perform its obligations under this Agreement;
- (b) this Agreement has been duly authorised, executed and delivered by such Party, constitutes the legal, binding obligations of such Party and is enforceable in accordance with its terms except insofar as enforcement may be limited by bankruptcy, insolvency or other laws relating to or affecting enforcement of creditors' rights or general principles of equity;
- (c) no consents or approvals are required from any governmental authority or other person for such Party to enter this Agreement;
- (d) all corporate, partnership or other actions on the part of such Party necessary for the authorisation, execution and delivery of this Agreement, and the consummation of the transactions and agreements contemplated hereby, have been taken; and
- (e) neither the execution and delivery of this Agreement by such Party nor the consummation of the transactions or agreements contemplated herein, conflict with or contravene the provisions of such Party's organisational documents or any agreement or instrument by which it or its properties are bound, or any law, rule or regulation, order or decree to which its or its properties are subject.

30.2 WSM warrants to Diana that WSM Norway is a wholly owned subsidiary of WSM as at the date of this Agreement. Should the ownership of WSM Norway change during the term of this Agreement WSM shall notify Diana in writing about the changes without undue delay.

31. LIMITATION OF LIABILITY

Each Party (a) accepts liability to the other Party, without limit in the case of any loss or damage suffered or incurred by the other Party as a result of death or personal injury to any person caused by such Party or its officers, employees, agents (including volunteers) or sub-contractors, and in the case of any such loss or damage, only to the extent arising from the gross negligence or wilful misconduct of such Party or its officers, employees, agents (including volunteers) or sub-contractors and (b) agrees to indemnify the other Party against all losses, expenses (including legal fees), damages or liabilities suffered or incurred by the other Party as a result thereof or to the extent arising therefrom, respectively, in each case except to the extent due to the gross negligence or wilful misconduct of the other Party and except to the extent unrelated to this Joint Venture or the transactions contemplated herein.

32. GENERAL

32.1 Each of the Shareholders shall exercise all voting rights and other powers of control available to them in relation to the Company and indirectly in relation to each Group Company so as to procure (so far as each is able by the exercise of such rights and powers) that at all times during the term of this Agreement the provisions concerning the structure and organisation of each Group Company and the regulation by the Shareholders of the affairs of each Group Company set out in this Agreement are duly observed and given full force and effect and all actions required of the Parties under this Agreement are carried out in a timely manner. Without prejudice to the generality of the foregoing, each Shareholder shall procure that (subject to their fiduciary duties) each of the directors appointed or deemed to be appointed by it shall execute and do all such acts and things and give and confer all such powers and authorities as they would have been required to execute, do give or confer had they been a party and had covenanted in the same terms as the Party which nominated them a director.

- 32.2 If there shall be any conflict between the provisions of this Agreement and the provisions of the Articles, then as between the Shareholders, the provisions of this Agreement shall prevail. In the event of a conflict between the provisions of this Agreement and the provisions of the Articles, the Shareholders shall procure so far as each is able that the Articles are amended so that they do not conflict with this Agreement. Each Shareholder agrees that it will not exercise any rights conferred on it by the Articles of the Company which are or may be inconsistent with its rights or obligations under this Agreement.
- 32.3 Notwithstanding any other provisions of this Agreement, in the event that either Shareholder (or any of its Affiliates) shall be in dispute with or shall have a conflict of interest with any Group Company, whether as a party to a contract with the Group Company referred to in this Agreement or otherwise, such Shareholder shall, and shall procure that the directors nominated by it to the Board and to the board of the relevant Group Company shall, not do anything or omit to do anything (whether through the exercise of any voting rights or otherwise) which would or might prevent the Group Company from exercising or from deciding whether or not to exercise such rights as it may have in respect of the matter or against the Shareholder (or its Affiliate) in question in the best interests of the Group Company, as the case may be, without regard to such dispute or conflict of interest.
- 32.4 Other than where expressly otherwise provided, nothing in this Agreement shall create, or be deemed to create, a partnership at law, or the relationship of principal and agent, between the Parties or any of them.
- 32.5 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.
- 32.6 Each Party agrees and acknowledges that:
- (a) in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement; and
 - (b) it shall have no claim for innocent or negligent misrepresentation based upon any representation or warranty set out in this Agreement.
- 32.7 If any provision of this Agreement is held by any court or other competent authority to be void, invalid or unenforceable in whole or in part, this Agreement shall continue to be valid as to its other provisions and the remainder of the affected provisions; and the Parties agree to negotiate in good faith such suitable alternative provisions replicating as nearly as possible the intention of such invalid provision, being in the case of a provision held void by a competent authority a provision which is acceptable to the relevant competent authority.
- 32.8 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement.
- 32.9 The Parties shall bear their own costs of and incidental to the preparation, execution and implementation of this Agreement and the establishment of the Company.

33. ASSIGNMENT

- 33.1 Save as permitted by clauses 33.2, this Agreement is personal to the Parties and none of them may assign, mortgage, charge (otherwise than by floating charge) or sub-license any of its rights under this Agreement, or sub-contract or otherwise delegate any of its obligations under this Agreement, except with the prior written consent of the other Parties.
- 33.2 A Shareholder may assign in whole or in part the benefit of this Agreement to any Permitted Transferee (provided that if such assignee ceases to be a Permitted Transferee the benefit of this Agreement shall be deemed automatically by that fact to have been re-transferred to the Buyer immediately before the assignee ceases to be a Permitted Transferee).

34. WAIVERS AND AMENDMENTS

- 34.1 No failure or delay by any Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of such rights and no waiver of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 34.2 No amendment shall be made to this Agreement save by instrument in writing signed by the Parties.

35. SERVICE OF NOTICES

- 35.1 Any notice or other communication to be given or served under or in connection with this Agreement shall be in writing and may be delivered by hand, sent by pre-paid international courier, or sent by fax to the Party due to receive the notice at the following address or fax number or sent by electronic mail:
- (i) in the case of WSM, at c/o Strandveien 20, 1366 Lysaker, Norway, attention Mr Carl Schou (fax: + 60 320845602),
 - (ii) in the case of Diana, at do Pendelis 16, 17564 Palaio Faliro, Athens, Greece, attention: the Manager (fax: +302109470101)
 - (iii) in the case of the Company, at the address of the Company Greek Office, attention: the Legal Representative of the Company Greek Office (fax: the fax number of the Company Greek Office); and
 - (iv) in the case of any other Party, at the address or fax number specified in its Deed of Adherence,

or at such other address or fax number as may previously have been specified by that Party by notice given in accordance with this clause 35.

35.2 A notice is deemed to be given or served:

- (a) if delivered by hand, at the time it is left at the address;
- (b) if sent by international courier, on the fourth Business Day after despatch; and
- (c) if sent by fax, on receipt of a clear transmission report.

35.3 In the case of a notice given or served by fax or by hand, where this occurs after 5.00 p.m. on a Business Day, or on a day which is not a Business Day, the date of service shall be deemed to be the next Business Day.

36. GOVERNING LAW AND JURISDICTION

- 36.1 This Agreement and any dispute or claim (whether contractual or otherwise) arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with English law and each Party irrevocably submits to the exclusive jurisdiction of the English Courts in relation to any such dispute or claim.
- 36.2 No term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person (a '**Third Party**') other than the Parties to this Agreement, and the consent of a Third Party shall not be required for any amendment to or termination of this Agreement.
- 36.3 WSM irrevocably appoints Wilh. Wilhelmsen Holding ASA (attn: Chief Legal Officer, Corporate Legal department) at present of Strandveien 20, PB 33, 1324 Lysaker, Norway as its process agent to receive on its behalf service of process in any proceedings in England. Such service shall be deemed completed on delivery to such process agent (whether or not it is forwarded to and received by WSM). If for any reason such process agent ceases to be able to act as a process agent or no longer has an address in England WSM irrevocably agrees to appoint a substitute process agent acceptable to the other Parties and to deliver to such other Parties a copy of the new process agent's acceptance of that appointment within 28 days.
- 36.4 Diana irrevocably appoints A. Nicolaou & Co. at present of Heath Drive, Potters Road, Herts EN6 1 EN, England as its process agent to receive on its behalf service of process in any proceedings in England. Such service shall be deemed completed on delivery to such process agent (whether or not it is forwarded to and received by Diana). If for any reason such process agent ceases to be able to act as a process agent or no longer has an address in England Diana irrevocably agrees to appoint a substitute process agent acceptable to the other Parties and to deliver to such other Parties a copy of the new process agent's acceptance of that appointment within 28 days.
- 36.5 The Company irrevocably appoints A. Nicolaou & Co. at present of Heath Drive, Potters Road, Herts EN6 1 EN, England as its process agent to receive on its behalf service of process in any proceedings in England. Such service shall be deemed completed on delivery to such process agent (whether or not it is forwarded to and received by the Company). If for any reason such process agent ceases to be able to act as a process agent or no longer has an address in England the Company irrevocably agrees to appoint a substitute process agent acceptable to the other Parties and to deliver to such other Parties a copy of the new process agent's acceptance of that appointment within 28 days.

THIS AGREEMENT HAS BEEN EXECUTED AND DELIVERED AS A DEED BY THE PARTIES ON THE DATE STATED AT THE BEGINNING OF THIS AGREEMENT.

Executed and delivered as a deed by)
Wilhelmsen Ship Management Holding) /s/ Dag Schjerven
Limited acting by: Dag Schjerven) Director

In the presence of:

/s/ Mette Stokke Nord
Name: Mette Stokkenord

Address:

Strandveien 20
1366 Lysaker, Norway

Executed and delivered as a deed by Diana Ship)
Management Inc.) /s/ Semiramis Paliou
acting by: Semiramis Paliou) Director
In the presence of:

/s/ Margarita Veniou
Name: Margarita Veniou

Address:

Pendelis 16, 175 64 Palaio Faliro
Athens, Greece

Executed and delivered as a deed by)
Diana Wilhelmsen Management Inc.) /s/ Ioannis Zafirakis
acting by: Ioannis Zafirakis) Director

In the presence of:

/s/ Margarita Veniou
Name: Margarita Veniou

Address:

Pendelis 16, 17564 Palaio Faliro
Athens, Greece

SCHEDULE 1
RESERVED MATTERS

- (a) change its name;
- (b) make any alteration or addition to its Memorandum of Association or the Articles or other constitutional documents;
- (c) approve any Annual Budget or Annual Business Plan, or make any substantial amendment to the Annual Budget and Annual Business Plan approved by the Shareholders;
- (d) increase the Company's share capital, consolidate, sub-divide or alter any of the rights attached to any Shares or share capital of the Company, reduce the Company's share capital, capitalise any amount standing to the credit of any reserve of the Company or reorganise any of the share capital of the Company;
- (e) issue or allot any Shares, debentures or other securities, or any option, warrant or other interest in respect thereof other than in accordance with clause 3.4;
- (f) create any class of Shares other than the Ordinary Shares;
- (g) approve or register the transfer of Shares to any person save pursuant to a transfer made in accordance with this Agreement;
- (h) carry on any business other than that set out at clause 2 (Business of the Company);
- (i) dispose of the whole or a major part of the business or close down any business operation other than a winding up of the Company in accordance with this Agreement;
- (j) sell, charge or otherwise dispose of or part with possession of, any capital asset having a market value at the relevant time of US\$2,500;
- (k) incorporate or acquire, whether by formation or otherwise, any subsidiary, or dispose of or dilute its interest in any of its subsidiaries for the time being other than in accordance with the Annual Business Plan;
- (l) amalgamate or merge the Company or a subsidiary of the Company, or their respective businesses with any other company or business undertaking;
- (m) enter into any joint venture, partnership, consortium agreement or similar arrangement or acquire any shares or other interest in any company, partnership or joint venture;
- (n) enter into or undertake any contract or commitment (including any contract or commitment by way of loan, guarantee, advance, indemnity or any release of the same) either (i) outside the ordinary course of the business; or (ii) otherwise than on arm's length terms;
- (o) enter into or agree to enter into any transaction with a value of US\$2,500 or more other than in accordance with the Annual Budget and Annual Business Plan;
- (p) enter into any transaction or arrangement of any nature whatsoever with any of its shareholders or directors or any person who is an Affiliate of a shareholder or director, whether or not any other person shall be party to such transaction or arrangement;
- (q) incur any capital expenditure or series of capital expenditure (other than in accordance with the limits set forth in the Annual Budget);
- (r) incur any indebtedness or engage in any financing arrangement of any kind (including those of a kind not required to be shown in the Company's audited accounts);
- (s) issue any loan capital or enter into any commitment with respect to the issue of loan capital;
- (t) create or permit to be created any mortgage, charge, pledge, lien, encumbrance or other security interest whatsoever on any asset of the Company or any of its subsidiaries other than in the ordinary course of business to secure financing contemplated by clause 4 (Finance) and any liens arising by operation of law;

- (u) change either:
 - (i) its auditors; or
 - (ii) its accounting reference date;
- (v) make or permit to be made any material change in the accounting policies and principles adopted by the Company in the preparation of its audited and/or management accounts;
- (w) change the structure and size of the Board, including changing the maximum number of directors referred to in clause 13 (Management of the Company);
- (x) institute, settle or compromise any legal proceedings (other than debt recovery proceedings in the ordinary course of business) involving the Company or a subsidiary or submit to arbitration any dispute involving the Company or a subsidiary;
- (y) pay a dividend other than in accordance with clause 19 (Dividends);
- (z) pass any resolution for its winding up (other than upon the insolvency of the Company);
- (aa) list any Group Company or its shares or other interests on any exchange;
- (bb) enter into or vary any contract of employment or any service contract with an officer or consultant which is not terminable by the relevant Group Company without payment of compensation (other than statutory compensation) within three months, or providing for the payment of remuneration (including pension and other benefits) in excess of a rate of US\$15,000 per annum or increase the remuneration of any staff (including pension and other benefits) to a rate in excess of US\$15,000;
- (cc) lease or purchase any interest in any land or building or any fixed asset;
- (dd) factor or assign any of its book debts;
- (ee) establish or amend any profit sharing, share option, bonus or other incentive scheme of any nature for directors or employees, or grant any rights thereunder to any person;
- (ff) dismiss any director, officer or employee in circumstances in which it incurs or agrees to bear redundancy or other costs in excess of US\$7,000 in total;
- (gg) appoint or remove a member of the senior management team or the Legal Representative or any replacement thereof; or
- (hh) agree to do any of the foregoing.

SCHEDULE 7.2

SAMPLE CALCULATION — DEDUCTION IN MANAGEMENT FEE

Example scenario assumption:

On the third anniversary of the Agreement, the Company manages 10 Diana Vessels and the annual operating expenses of the Company Greek office (less finance costs) are US\$1.2mio (i.e. US\$100,000 per month).

Example calculation 1:

If, one external vessel then is added to the Company managed fleet, then the total monthly management fees payable by the owners of the Diana Vessels should be reduced by the total monthly expenses of the Company Greek Office (US\$100,000) divided by the number of the Diana Vessels plus the one new vessel (i.e. $10+1=11$), i.e. by $100,000:11=9,090$. The total monthly management fees payable by the owners of the Diana Vessels should then be reduced by 9,090, i.e. by $9,090:10=909$ per Diana Vessel.

Example calculation 2:

If three new external vessels then are added to the Company managed fleet, the calculation of the reduction of the management fees payable will be made as follows:

For the first new vessel: $100,000:11(10+1)=9,090:10=909$ pm per Diana Vessel

For the second new vessel: $100,000:12(10+2)=8,333:10=833$ pm per Diana Vessel

For the third new vessel: $100,000:13(10+3)=7,692:10=769$ pm per Diana Vessel

Totally resulting the aggregate monthly reduction per Diana Vessel of 2,511.

Dated 22 July 2015

DIANA SHIPPING INC.
as Borrower

and

THE BANKS AND FINANCIAL INSTITUTIONS
listed in Schedule 1
as Lenders

and

BNP PARIBAS
as Agent
and as Security Trustee

and

BNP PARIBAS
as Bookrunner

and

BNP PARIBAS
as Swap Bank

LOAN AGREEMENT

relating to a US\$165,000,000 facility to refinance
part of the acquisition cost of the Ships listed in Schedule 7 hereto

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THIS AGREEMENT is made on 22 July 2015
BETWEEN

- (1) **DIANA SHIPPINC INC.**, a corporation domesticated in the Marshall islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall islands MH96960 as **Borrower**;
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1 (*Lenders and Commitments*), as **Lenders**;
- (3) **BNP PARI BAS** a banking corporation having its registered office at 16 Boulevard des Italiens, 75009, Paris, France acting through its office at 16, rue de Hanovre, 75002 Paris, France as **Agent** and **Security Trustee**;
- (4) **BNP PARI BAS** a banking corporation having its registered office at 16 Boulevard des Italiens, 75009, Paris, France acting through its office at 16, rue de Hanovre, 75002 Paris, France as **Bookrunner**; and
- (5) **BNP PARIBAS** as **Swap Bank**.

BACKGROUND

- (A) The Lenders have agreed to make available to the Borrower a secured term loan facility in one advance for the purposes of refinancing the Existing Indebtedness in an amount equal to the lesser of (a) \$165,000,000 and (b) 70 per cent. of the aggregate Initial Market Value of the Ships which shall be made available for the purpose of refinancing the Existing Indebtedness.
- (B) The Borrower may from time to time hedge its exposure under this Agreement to interest rate fluctuations by entering into Designated Transactions with the Swap Bank.
- (C) The Lenders and the Swap Bank have agreed to share pari passu in the security to be granted to the Security Trustee pursuant to this Agreement.

IT IS AGREED as follows:

1 INTERPRETATION

1.1 Definitions

Subject to Clause 1.5 (*General Interpretation*), in this Agreement:

"Account Bank" means BNP Paribas (Suisse), acting through its office at Place de Hollande 2, CP CH-1211, Geneva 11, Switzerland;

"Account Pledge" means a deed of pledge of each Earnings Account in the Agreed Form and, in the plural, means all of them;

"Accounting Information" means, as at the date of calculation or, as the case may be, in respect of an accounting period, the annual audited consolidated accounts of the Group or, as the case may be, the semi-annual unaudited financial statements of the Group, in each case, which the Borrower is obliged to deliver to the Agent pursuant to Clause 12.6 (*Provision of financial statements*) in accordance with the provisions of Clause 12.7 (*Form of financial statements*);

"Affected Lender" has the meaning given in Clause 5.7 (*Market disruption*);

"Agency and Trust Agreement" means the agency and trust agreement dated the same date as this Agreement and made between the same parties in such form as the Agent may approve or require;

"Agent" means BNP Paribas acting through its office at 16, rue de Hanovre, 75002, Paris France or any successor of it appointed under clause 5 of the Agency and Trust Agreement;

"Agreed Form" means in relation to any document, that document in the form approved in writing by the Agent (acting on the instructions of all the Lenders) or as otherwise approved in accordance with any other approval procedure specified in any relevant provisions of any Finance Document;

"Applicable Person" has the meaning given in Clause 30.5 (*Waiver of Banking Secrecy*);

"Approved Broker" means any of Clarkson, Fearnleys, Gibsons, Arrow, Galbraith's, Breamar Seascope, Maersk Brokers, Simpson Spence & Young (to include, in each case, their successors or assigns and such subsidiary or other company in the same corporate group through which valuations are commonly issued by each of these brokers), or such other first- class independent broker as the Borrower and the Agent (acting on the instructions of the Majority Lenders) may agree in writing from time to time;

"Approved Classification" means, in respect of a Ship, the classification specified in Column I of Schedule 7 (*Ships*) with the Approved Classification Society or the equivalent classification with another Approved Classification Society;

"Approved Classification Society" means, in respect of a Ship, the classification society specified in Column H of Schedule 7 (*Ships*) or any other classification society which is a member of the International Association of Classification Societies and which has been approved in writing by the Agent acting with the authorisation of the Majority Lenders;

"Approved Flag State" means, in respect of a Ship, the flag set out in Column C of Schedule 7 (*Ships*), or any country in which the Agent may, with the authorisation of the Majority Lenders, approve that that Ship may be registered;

"Approved Manager" means, in relation to a Ship, Diana Shipping Services S.A., a company incorporated and existing under the laws of Panama having its registered office at Edificio Universal, Piso 12, Avenida Federico Boyd, Panama, Republic of Panama and maintaining an office at 16 Pendelis Street, 175 64, Palaio Fa lira, Greece or -in relation to any Ship in respect of which the Borrower exercises its right set out in Clause 15.20 (*Change of Approved Manager*)- Diana Wilhelmsen Management Limited, a company incorporated and existing under the laws of the Republic of Cyprus having its registered office at 21 Vasili Michailidi Street, 3026 Limassol, Cyprus, and any other company which the Agent may, with the authorisation of the Majority Lenders, approve from time to time as the technical or, as the case may be, commercial manager of that Ship (such approval not to be unreasonably withheld or unduly delayed);

"Approved Manager's Undertaking" means, in relation to a Ship, a letter of undertaking executed or to be executed by the Approved Manager in favour of the Security Trustee in the terms required by the Security Trustee agreeing certain matters in relation to the Approved Manager serving as the manager of that Ship and subordinating the rights of the Approved Manager against that Ship and the Collateral Guarantor owning that Ship to the rights of the Creditor Parties under the Finance Documents, in the Agreed Form;

"Availability Period" means the period commencing on the date of this Agreement and ending on:

- (a) 31 August 2015 (or such later date as the Agent may, with the authorisation of the Majority Lenders, agree with the Borrower); or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated;

"Balloon Instalment" has the meaning given in paragraph (b) of Clause 8.1 (*Amount of Repayment Instalments*);

"Basel III Framework" means:

- (a) the agreements on capital requirements, 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 from time to time;
- (b) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement- Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated from time to time; and
- (c) any further guidance or standards published from time to time by the Basel Committee on Banking Supervision relating to "Basel III";

"Bookrunner" means BNP Paribas acting through its office at 16, rue de Hanovre, 75002 Paris, France;

"Business Day" means a day on which banks are open in London, Athens, Paris, Geneva and Frankfurt and, in respect of a day on which a payment is required to be made under a Finance Document, also in New York City;

"Cash and Cash Equivalents" means, at any time, the aggregate of:

- (a) the amount of freely available and unencumbered credit balances on any deposit or current account (including, for the avoidance of doubt, any restricted cash);
- (b) the market value of transferable certificates of deposit in a freely convertible currency acceptable to the Security Trustee issued by a prime international bank; and
- (c) the market value of equity securities (if and to the extent that the Lenders satisfied that such equity securities are readily saleable for cash and that there is a ready market therefor) and investment grade debt securities which are publicly traded on a major stock exchange or investment market (valued at market value as at any applicable date of determination);

in each case owned free of any Security Interest (other than a Security Interest in favour of the Security Trustee) by the Borrower or any of its subsidiaries where:

- (i) the market value of any asset specified in paragraph (b) and (c) shall be the bid price quoted for it on the relevant calculation date by the Security Trustee; and

- (ii) the amount or value of any asset denominated in a currency other than Dollars shall be converted into Dollars using the Lenders' spot rate for the purchase of Dollars with that currency on the relevant calculation date;

"Charterparty" means, in relation to a Ship, any charterparty in respect of that Ship of a duration exceeding 12 months or capable of exceeding a duration of 12 months, made on terms and with a charterer acceptable in all respects to Agent (acting on the instructions of the Lenders);

"Charterparty Assignment" means, in respect of a Charterparty, the deed of assignment of that Charterparty in favour of the Security Trustee, in the Agreed Form;

"Code" means the United States Internal Revenue Code of 1986;

"Collateral Guarantee" means the guarantee to be given by each Collateral Guarantor in favour of the Security Trustee, guaranteeing the obligations of the Borrower under this Agreement, the Master Agreement and the other Finance Documents, in the Agreed Form;

"Collateral Guarantor" means the companies and corporations listed in Column B of (Schedule 2 (*Guarantors*) hereto whose registered offices are located at the addresses set out in Column E of Schedule 2 (*Guarantors*);

"Commitment" means, in relation to a Lender, the amount set opposite its name in Schedule 1 (*Lenders and Commitments*), or, as the case may require, the amount specified in the relevant Transfer Certificate, as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and **"Total Commitments"** means the aggregate of the Commitments of all the Lenders);

"Compliance Certificate" means a certificate in the form set out in Schedule 8 (*Form of Compliance Certificate*) (or in any other form which the Agent approves or requires in its sole discretion);

"Confidential Rate" means any quotation supplied to the Agent by a Reference Bank or any Funding Rate;

"Confirmation" and **"Early Termination Date"**, in relation to any continuing Designated Transaction, have the meanings given in the Master Agreement;

"Consolidated Net Debt" means the Total Debt less the aggregate amount of Cash and Cash Equivalents (excluding amounts restricted in connection with contingent/off balance sheet obligations);

"Contractual Currency" has the meaning given in Clause 22.4 (*Extension of indemnities; environmental indemnity*);

"Contribution" means, in relation to a Lender, the part of the Loan which is owing to that Lender;

"CRD IV" means:

- (a) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms; and
- (b) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;

"Creditor Party" means the Agent, the Security Trustee, the Swap Bank or any Lender, whether as at the date of this Agreement or at any later time;

"Designated Transaction" means a Transaction which fulfils the following requirements:

- (a) it is entered into by the Borrower pursuant to the Master Agreement with the Swap Bank; and
- (b) its purpose is the hedging of the Borrower's exposure under this Agreement to fluctuations in LIBOR arising from the funding of the Loan (or any part thereof) for a period expiring no later than the final Repayment Date;

"Dollars" and **"\$"** means the lawful currency for the time being of the United States of America;

"Drawdown Date" means the date requested by the Borrower for the Loan to be made, or (as the context requires) the date on which the Loan is actually made;

"Drawdown Notice" means a notice in the form set out in Schedule 3 (*Drawdown Notice*);

"Earnings" means, in relation to a Ship, all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Collateral Guarantor owning that Ship or the Security Trustee and which arise out of the use or operation of that Ship, including (but not limited to):

- (a) except to the extent that they fall within paragraph (b);
 - (i) all freight, hire and passage moneys;
 - (ii) compensation payable to the relevant Collateral Guarantor or the Security Trustee in the event of requisition of a Ship for hire;
 - (iii) remuneration for salvage and towage services;
 - (iv) demurrage and detention moneys;
 - (v) damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of a Ship; and
 - (vi) all moneys which are at any time payable under any Insurances in respect of loss of hire; and
- (b) if and whenever a Ship is employed on terms whereby any moneys falling within paragraphs (a)(i) to (vi) are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to that Ship;

"Earnings Account" means, in relation to a Ship, an account in the name of the Collateral Guarantor owning that Ship with the Account Bank in Switzerland designated "[Collateral Guarantor's name]-Earnings Account", or any other account (with the Account Bank or with an office of the Agent) which is designated by the Agent in writing as the Earnings Account in relation to that Ship for the purposes of this Agreement;

"Environmental Claim" means:

- (a) any claim by any governmental, judicial or regulatory authority which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law; or

- (b) any claim by any other person which relates to an Environmental Incident or to an alleged Environmental Incident,

and "**claim**" means a claim for damages, compensation, fines, penalties or any other payment of any kind whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset;

"Environmental Incident" means:

- (a) any release of Environmentally Sensitive Material from a Ship; or
- (b) any incident in which Environmentally Sensitive Material is released from a vessel other than a Ship and which involves a collision between a Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which a Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or a Ship and/or a Collateral Guarantor and/or any operator or manager of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released otherwise than from a Ship and in connection with which a Ship is actually or potentially liable to be arrested and/or where any Collateral Guarantor and/or any operator or manager of a Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action;

"Environmental Law" means any law relating to pollution or protection of the environment, to the carriage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material;

"Environmentally Sensitive Material" means oil, oil products and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous;

"Existing Indebtedness" means the "Indebtedness" as such term is defined in the Existing Loan Agreement;

"Existing Loan Agreement" means a loan agreement dated 18 February 2005 as amended and restated by an amending and restating agreement dated 24 May 2006 and as further amended from time to time and made between (inter alia) (i) the Borrower and (ii) the Royal Bank of Scotland Pic as lender in relation to a revolving credit facility of up to US\$300,000,000;

"Event of Default" means any of the events or circumstances described in Clause 20.1 (*Events of Default*);

"FATCA" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction;

"FATCA Deduction" means a deduction or withholding from a payment under any Finance Document required by or under FATCA;

"FATCA Exempt Party" means a party to a Finance Document that is entitled to receive payments free from any FATCA Deduction;

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

"Fee Letter" means a letter dated on or about the date of this Agreement between the Agent and the Borrower setting out the amount of the structuring and agency fees referred to in Clause 21.1 (*Structuring, agency, account bank fees*);

"Finance Documents" means:

- (a) this Agreement;
- (b) the Agency and Trust Agreement;
- (c) the Master Agreement;
- (d) the Master Agreement Assignment;
- (e) the Collateral Guarantees;
- (f) the General Assignments;
- (g) the Mortgages;
- (h) the Account Pledges;
- (i) any Charterparty Assignments;
- (j) the Approved Manager's Undertaking;
- (k) the Fee Letter; and
- (l) any other document (whether creating a Security Interest or not) which is executed at any time by the Borrower, any Collateral Guarantor or any other person as security for, or to establish any form of subordination or priorities arrangement in relation to, any amount payable to the Lenders and/or the Swap Bank under this Agreement or the Master Agreement or any of the other documents referred to in this definition;

"Financial Indebtedness" means, in relation to a person (the "**debtor**"), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility or dematerialised equivalent made available to the debtor;

- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing; or
- (g) in connection with any receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis); or
- (h) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (g) if the references to the debtor referred to the other person;

"Fleet Vessels" means all of the vessels (including, but not limited to, the Ships) from time to time wholly owned by members of the Group (each a **"Fleet Vessel"**);

"Funding Rate" means any rate notified to the Agent by a Lender pursuant to Clause 5.12 (*Alternative rate of interest in absence of agreement*);

"GAAP" means generally accepted international accounting principles as from time to time in effect in the United States of America;

"General Assignment" means, in relation to a Ship, a general assignment of the Earnings, the Insurances and any Requisition Compensation in the Agreed Form;

"Group" means the Borrower and all its subsidiaries (including, but not limited to, the Collateral Guarantors) from time to time during the Security Period and a "member of the Group" shall be construed accordingly;

"IACS" means the International Association of Classification Societies;

"Initial Market Value" means, in relation to a Ship, the Market Value of that Ship calculated in accordance with the valuation received relative thereto referred to in paragraph 4 of Schedule 4 (*Condition Precedent Documents*), Part B;

"Insurances" means, in relation to a Ship:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, effected in respect of the Ship, its Earnings or otherwise in relation to it whether before, on or after the date of this Agreement; and
- (b) all rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and any rights in respect of any claim whether or not the relevant policy, contract of insurance or entry has expired on or before the date of this Agreement;

"Interest Period" means a period determined in accordance with Clause 6 (*Interest Periods*);

"Interpolated Screen Rate" means, in relation to LIBOR for an Interest Period, 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 that Interest Period; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds that Interest Period,

each as of 11.00 a.m. (London time) on the Quotation Day for the currency of the Loan;

"ISM Code" means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time;

"ISPS Code" means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation as the same may be amended, supplemented or superseded from time to time;

"ISSC" means a valid and current International Ship Security Certificate issued under the ISPS Code;

"ITF" means the International Transport Workers' Federation;

"Lender" means, subject to Clause 27.6 (*Lender re-organisation; waiver of Transfer Certificate*):

- (a) a bank or financial institution listed in Schedule 1 (*Lenders and Commitments*) and acting through its branch or office indicated in Schedule 1 (*Lenders and Commitments*) (or through another branch notified to the Borrower under Clause 27.14 (*Change of lending office*)) unless it has delivered a Transfer Certificate or Certificates covering the entire amounts of its Commitment and its Contribution; and
- (b) the holder for the time being of a Transfer Certificate;

"LIBOR" means, for an Interest Period:

- (a) the applicable Screen Rate;
- (b) (if no Screen Rate is available for that Interest Period) the Interpolated Screen Rate; or
- (c) if:
 - (i) no Screen Rate is available for the currency of the Loan; or
 - (ii) no Screen Rate is available for that Interest Period and it is not possible to calculate an Interpolated Screen Rate,
 - (iii) the Reference Bank Rate,

as of, in the case of paragraphs (a) and (c) above, 11.00 a.m. (London time) on the Quotation Day for the currency of the Loan and for a period equal in length to that Interest Period and, if any such rate is below zero, LIBOR will be deemed to be zero;

"Liquidity Reserve Account" means an account in the name of the Borrower with the Account Bank in Switzerland designated "Diana Shipping-Liquidity Reserve Account", or any other account (with the Account Bank or with an office of the Agent) which is designated by the Agent in writing as the Liquidity Reserve Account for the purposes of this Agreement;

"Loan" means the principal amount for the time being outstanding under this Agreement;

"Major Casualty" means, in relation to a Ship, any casualty to the Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$1,000,000 or the equivalent in any other **currency**;

"Majority Lenders" means:

- (a) before the Loan has been made, Lenders whose Commitments total 66.66 per cent. of the Total Commitments; and
- (b) after the Loan has been made, Lenders whose Contributions total 66.66 per cent. of the Loan;

"Mandatory Cost" "Mandatory Cost" means, in relation to the Loan, the cost calculated as a percentage rate per annum incurred by a Lender as a result of compliance with (a) the requirements of the Bank of England and/or the Financial Conduct Authority and/or the Prudential Regulation Authority (or, in any case, any other authority which replaces all or any of its functions) and/or the Autorite des marches financiers (AMF) and/or the Autorite de controle prudentiel (ACPR) and/or the Banque de France and/or any other relevant financial regulatory authority or (b) the requirements of the European Central Bank, as may be determined by a Lender and notified to the Agent from time to time and notified in turn by the Agent to the Owner;

"Margin" means:

- (a) from the Drawdown Date until the second anniversary of the Drawdown Date, 2.35 per cent. per annum;
- (b) from the second anniversary of the Drawdown Date until the third anniversary of the Drawdown Date, 2.30 per cent. per annum; and
- (c) from the third anniversary of the Drawdown Date until the end of the Security Period, 2.25 per cent. per annum;

"Market Value" means, in relation to a Ship, the market value of that Ship determined from time to time in accordance with Clause 16.4 (*Valuation of Ships*);

"Market Value Adjusted Net Worth" means Market Value Adjusted Total Assets less Total Debt;

"Market Value Adjusted Total Assets" means, at any time, the Total Assets adjusted to reflect the difference between the book values of all Fleet Vessels and the aggregate Market Value of all Fleet Vessels;

"Master Agreement" means the master agreement (on the 2002 ISDA (Master Agreement) made or to be made between the Borrower and the Swap Bank and includes all Designated Transactions from time to time entered into and Confirmations from time to time exchanged thereunder;

"Master Agreement Assignment" means the assignment of the Master Agreement in favour of the Security Trustee executed or to be executed by the Borrower, in the Agreed Form;

"Material Adverse Effect" means, a material adverse change in, or a material adverse effect on:

- (a) the financial condition, assets, prospects or business of the Borrower and/or any Collateral Guarantor or on the consolidated financial condition, assets, prospects or business of the Group; or
- (b) the ability of the Borrower or any Collateral Guarantor to perform and comply with its obligations under any Finance Documents;

"Mortgage" means, in relation to a Ship, a first preferred or, as the case may be, priority ship mortgage on that Ship (and, if required pursuant to the laws of the applicable Approved Flag State, a deed of covenant collateral thereto) in the Agreed Form and, in the plural, means all of them;

"Negotiation Period" has the meaning given in Clause 5.10 (*Negotiation of alternative rate of interest*);

"New Swap Bank" has the meaning given to it in Clause 27.19 (*Assignments, transfers and novations by the Swap Bank*);

"Notifying Lender" has the meaning given in Clause 24.1 (*Illegality*) or Clause 25.1 (*Increased costs*) as the context requires;

"Payment Currency" has the meaning given in Clause 22.5 (*Currency indemnity*);

"Permitted Security Interests" means:

- (a) Security Interests created by the Finance Documents;
- (b) liens for unpaid master's and crew's wages in accordance with usual maritime practice;
- (c) liens for salvage;
- (d) liens arising by operation of law for not more than 2 months' prepaid hire under any charter in relation to a Ship not prohibited by this Agreement;
- (e) liens for master's disbursements incurred in the ordinary course of trading and any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of a Ship, provided such liens do not secure amounts more than 30 days overdue (unless the overdue amount is being contested by the relevant Collateral Guarantor in good faith by appropriate steps) and subject, in the case of liens for repair or maintenance, to paragraph (g) of Clause 15.13 (*Restrictions on chartering, appointment of managers etc.*);
- (f) any Security Interest created in favour of a plaintiff or defendant in any proceedings or arbitration as security for costs and expenses while the Borrower or a Collateral Guarantor is actively prosecuting or defending such proceedings or arbitration in good faith; and
- (g) Security Interests arising by operation of law in respect of taxes which are not overdue for payment or in respect of taxes being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made;

"Pertinent Jurisdiction", in relation to a company, means:

- (a) England and Wales;

- (b) the country under the laws of which the company is incorporated or formed;
- (c) a country in which the company has the centre of its main interests or which the company's central management and control is or has recently been exercised;
- (d) a country in which the overall net income of the company is subject to corporation tax, income tax or any similar tax;
- (e) a country in which assets of the company (other than securities issued by, or loans to, related companies) having a substantial value are situated, in which the company maintains a branch or permanent place of business, or in which a Security Interest created by the company must or should be registered in order to ensure its validity or priority; and
- (f) a country the courts of which have jurisdiction to make a winding up, administration or similar order in relation to the company, whether as a main or territorial or ancillary proceedings, or which would have such jurisdiction if their assistance were requested by the courts of a country referred to in paragraphs (b) or (c);

"Potential Event of Default" means an event or circumstance which, with the giving of any notice, the lapse of time, a determination of the Majority Lenders and/or the satisfaction of any other condition, would constitute an Event of Default;

"Quotation Date" means, in relation to any period for which an interest rate is to be determined under any provision of a Finance Document, the day which is 2 London business days (on which banks are open for general business in London) before the first day of that period, unless market practice differs in the London Interbank Market for a currency, in which case the Quotation Date will be determined by the 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 Quotation Date will be the last of those days);

"Reference Banks" means subject to Clause 27.16, the London branch of BNP Paribas and any of its successors or such other banks as may be appointed by the Agent after consultation with the Borrowers;

"Reference Bank Rate" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks, as the rate at which the Reference Bank could borrow funds in the London interbank market, in the relevant currency and for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period.

"Relevant Party" means, for the purpose of Clauses 10.15 (*No bribery, corruption or money laundering*) and 10.18 (*Sanctions*), the Borrower, a Collateral Guarantor, the Approved Manager, the other Security Parties and any charterer which is a party to a Charterparty or any sub-charterer of a Ship;

"Relevant Person" has the meaning given in Clause 20.9 (*Relevant Persons*);

"Repayment Date" means a date on which a repayment is required to be made under Clause 8 (*Repayment and Prepayment*);

"Requisition Compensation" includes all compensation *or* other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of "Total Loss";

"Sanctioned Person" has the meaning given to it in paragraph (a) of Clause 10.18 (*Sanctions*);

"Sanctions" means any economic or trade sanctions or restrictive measures enacted, administered, imposed or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the U.S. Department of State, the United Nations Security Council, and/or the European Union and/or the French Republic, and/or Her Majesty's Treasury or other relevant sanctions authority;

"Screen Rate" means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters). If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower;

"Secured Liabilities" means all liabilities which the Borrower, the Collateral Guarantors, the other Security Parties or any of them have, at the date of this Agreement or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country;

"Security Interest" means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
- (b) the security rights of a plaintiff under an action *in rem* in which the vessel concerned has been arrested or a writ has been issued or similar step taken; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution;

"Security Party" means each Collateral Guarantor, the Approved Manager and any other person (except a Creditor Party) who, as a surety or mortgagor, as a party to any subordination or priorities arrangement, or in any similar capacity, executes a document falling within the final paragraph of the definition of "Finance Documents";

"Security Period" means the period commencing on the date of this Agreement and ending on the date on which:

- (a) all amounts which have become due for payment by the Borrower, any Collateral Guarantor or any other Security Party under the Finance Documents have been paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) neither the Borrower nor any Collateral Guarantor nor any other Security Party has any future or contingent liability under Clauses 21 (*Fees and Expenses*), 22 (*Indemnities*) or 23 (*No Set-Off or Tax Deduction*) or any other provision of this Agreement or another Finance Document;

"**Security Trustee**" means BNP Paribas acting through its office at 16, rue de Hanovre, 75002, Paris France or any successor of it appointed under clause 5 of the Agency and Trust Agreement;

"**Ship**" means each of the Ships listed in Schedule 7 (*Ships*) and, in the plural, means all of them;

"**Swap Bank**" means BNP Paribas acting through its office at 16, rue de Hanovre, 75002, Paris France;

"**Swap Exposure**" means, as at any relevant date the amount certified by the Swap Bank to the Agent to be the aggregate net amount in Dollars which would be payable by the Borrower to the Swap Bank under (and calculated in accordance with) section 6(e) (Payments on Early Termination) of the Master Agreement if an Early Termination Date had occurred on the relevant date in relation to all continuing Designated Transactions entered into between the Borrower and the Swap Bank;

"**Total Assets**" means, at any date of calculation, the amount of the total assets of the Group determined on a consolidated basis as shown in the most recent Applicable Accounts delivered by the Borrower pursuant to Clause 12.6 (*Provision of financial statements*); and

"**Total Debt**" means, at any date of calculation or, as the case may be, for any accounting period, the total liabilities of the Group on a consolidated basis as at that date or for that period as shown in the most recent Applicable Accounts delivered by the Borrower pursuant to Clause 12.6 (*Provision of financial statements*).

"**Total loss**" means, in relation to a Ship:

- (a) actual, constructive, compromised, agreed or arranged total loss of that Ship;
- (b) any expropriation, confiscation, requisition or acquisition of that Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority (excluding a requisition for hire for a fixed period not exceeding 1 year without any right to an extension) unless it is within 1 month redelivered to the full control of the Collateral Guarantor owning that Ship; and
- (c) any arrest, capture, seizure or detention of that Ship (including any hijacking or theft) unless it is within 1 month redelivered to the full control of the Collateral Guarantor owning that Ship;

"**Total loss Date**" means, in relation to a Ship:

- (a) in the case of an actual loss of that Ship, the date on which it occurred or, if that is unknown, the date when that Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of that Ship, the earliest of:
 - (i) the date on which a notice of abandonment is given to the insurers;
 - (ii) any condemnation of that Ship by any tribunal or by any person or person claiming to be a tribunal; and
 - (iii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower or the Collateral Guarantor (as the case may be)

owning that Ship with that Ship's insurers in which the insurers agree to treat that Ship as a total loss; and

- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Agent that the event constituting the total loss occurred;

"Transaction" has the meaning given in the Master Agreement;

"Transfer Certificate" has the meaning given in Clause 27.2 (*Transfer by a Lender*);

"Trust Property" has the meaning given in clause 3.1 of the Agency and Trust Agreement; and

"US Tax Obligor" means:

- (a) a person which is resident for tax purposes in the United States of America; or
- (b) a person some or all of whose payments under the Finance Documents are from sources within the United States for US federal income tax purposes.

1.2 Construction of certain terms

In this Agreement:

"administration notice" means a notice appointing an administrator, a notice of intended appointment and any other notice which is required by law (generally or in the case concerned) to be filed with the court or given to a person prior to, or in connection with, the appointment of an administrator;

"approved" means, for the purposes of Clause 14 (*Insurance*), approved in writing by the Agent;

"asset" includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment;

"company" includes any partnership, joint venture and unincorporated association; **"consent"** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation;

"contingent liability" means a liability which is not certain to arise and/or the amount of which remains unascertained;

"document" includes a deed; also a letter or fax;

"excess risks" means, in relation to a Ship, the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims;

"expense" means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable value added or other tax;

"law" includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

"legal or administrative action" means any legal proceeding or arbitration and any administrative or regulatory action or investigation;

"liability" includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise;

"months" shall be construed in accordance with Clause 1.3 (*Meaning of "month"*);

"obligatory insurances" means, in relation to a Ship, all insurances effected, or which the Collateral Guarantor owning the Ship is obliged to effect, under Clause 14 (*Insurance*) or any other provision of this Agreement or another Finance Document;

"parent company" has the meaning given in Clause 1.4 (*Meaning of "subsidiary"*);

"person" includes any company; any state, political sub-division of a state and local or municipal authority; and any international organisation;

"policy", in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms;

"protection and indemnity risks" means the usual risks covered by a protection and indemnity association managed in London, including pollution risks, freight demurrage and defence risks, strike and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation therein of clause 1 of the Institute Time Clauses (Hulls)(1/10/83) or clause 8 of the Institute Time Clauses (Hulls) (1/11/1995) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision;

"regulation" includes any regulation, rule, official directive, request or guideline (either having the force of law or compliance with which is reasonable in the ordinary course of business of the party concerned) of any governmental, intergovernmental or supranational] body, agency, department or regulatory, self-regulatory or other authority or organisation;

"subsidiary" has the meaning given in Clause 1.4 (*Meaning of "subsidiary"*);

"successor" includes any person who is entitled (by assignment, novation, merger or otherwise) to any other person's rights under this Agreement or any other Finance Document (or any interest in those rights) or who, as administrator, liquidator or otherwise, is entitled to exercise those rights; and in particular references to a successor include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation of it or any other person;

"tax" includes any present or future tax, duty, impost, levy or charge of any kind which is imposed by any state, any political sub-division of a state or any local or municipal authority (including any such imposed in connection with exchange controls), and any connected penalty, interest or fine; and

"war risks" means the risks according to Institute War and Strike Clauses (Hull Time) (1/10/83) or (1/11/95), or equivalent conditions, including, but not limited to risk of mines, blocking and trapping, missing vessel, confiscation, piracy and all risks excluded from the standard form of English or other marine policy.

1.3 Meaning of "month"

A period of one or more **"months"** ends on the day **in** the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (**"the numerically corresponding day"**), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day,

and "**month**" and "**monthly**" shall be construed accordingly.

1.4 Meaning of "subsidiary"

A company (S) is a subsidiary of another company (P) if:

- (a) a majority of the issued shares in S (or a majority of the issued shares in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; or
- (b) P has direct or indirect control over a majority of the voting rights attached to the issued shares of S; or
- (c) P has the direct or indirect power to appoint or remove a majority of the directors of S; or
- (d) P otherwise has the direct or indirect power to ensure that the affairs of S are conducted in accordance with the wishes of P,

and any company of which S is a subsidiary is a parent company of S.

1.5 General interpretation

In this Agreement:

- (a) references to, or to a provision of, a Finance Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise;
- (b) references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (c) words denoting the singular number shall include the plural and vice versa; and
- (d) Clauses 1.1 (*Definitions*) to 1.5 (*General Interpretation*) apply unless the contrary intention appears; and
- (e) A Potential Event of Default (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived.

1.6 Headings

In interpreting a Finance Document or any provision of a Finance Document, all clause, sub-clause and other headings in that and any other Finance Document shall be entirely disregarded.

2 LOAN FACILITY AND DESIGNATED TRANSACTIONS

2.1 Amount of facility

Subject to the other provisions of this Agreement, the Lenders shall make available to the Borrower a secured term loan facility in an amount of up to the lesser of (i) \$165,000,000 and (ii) 70 per cent. of the aggregate Initial Market Value of the Ships in one advance.

2.2 Lenders' participations in Loan

Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

2.3 Purpose of Loan

The Borrower undertakes with each Creditor Party to use the Loan only for the purpose stated in the preamble to this Agreement.

2.4 Designated Transactions under the Master Agreement

At any time during the Security Period, the Borrower may request the Swap Bank to conclude Designated Transactions for the purpose of hedging exposure to interest rate fluctuations in the context of their interest payment obligations under this Agreement. The entry by the Swap Bank into the Master Agreement does not commit the Swap Bank to conclude Designated Transactions, or even to offer terms for doing so, but does provide a contractual framework within which Designated Transactions may be concluded and secured, assuming that the Swap Bank is willing to conclude any Designated Transaction at the relevant time and that, if that is the case, mutually acceptable terms can be agreed at the relevant time.

3 POSITION OF THE LENDERS AND THE SWAP BANK

3.1 Interests of Creditor Parties several

The rights of the Creditor Parties under this Agreement and the Master Agreement are several.

3.2 Individual Creditor Parties' right of action

Each Creditor Party shall be entitled to sue for any amount which has become due and payable by the Borrower to it under this Agreement and the Master Agreement without joining the Agent, the Security Trustee or any other Creditor Party as additional parties in the proceedings.

3.3 Proceedings by individual Creditor Party

However, without the prior consent of the Lenders, no Creditor Party may bring proceedings in respect of:

- (a) any other liability or obligation of the Borrower or a Security Party under or connected with a Finance Document; or
- (b) any misrepresentation or breach of warranty by the Borrower or a Security Party in or connected with a Finance Document.

3.4 Obligations of Creditor Parties several

The obligations of the Lenders and the Swap Bank under this Agreement and the Master Agreement are several; and a failure of a Lender and the Swap Bank to perform its obligations under this Agreement or (as the case may be) the Master Agreement shall not result in:

- (a) the obligations of the other Lenders or the Swap Bank being increased; nor
- (b) the Borrower, any Security Party or any other Lender or the Swap Bank being discharged (in whole or in part) from its obligations under any of the Finance Documents,

and in no circumstances shall a Lender or the Swap Bank have any responsibility for a failure of another Lender to perform its obligations under this Agreement or under the Master Agreement.

3.5 Parties bound by certain actions of Lenders

Every Lender, the Borrower and each Security Party shall be bound by:

- (a) any determination made, or action taken, by the Lenders under any provision of a Finance Document;
- (b) any instruction or authorisation given by the Lenders to the Agent or the Security Trustee under or in connection with any Finance Document; and
- (c) any action taken (or in good faith purportedly taken) by the Agent or the Security Trustee in accordance with such an instruction or authorisation.

3.6 Reliance on action of Agent

However, the Borrower and each Security Party:

- (a) shall be entitled to assume that the Lenders have duly given any instruction or authorisation which, under any provision of a Finance Document, is required in relation to any action which the Agent has taken or is about to take; and
- (b) shall not be entitled to require any evidence that such an instruction or authorisation has been given.

3.7 Construction

In Clauses 3.4 (*Obligations of Creditor Parties several*) and 3.5 (*Parties bound by certain actions of Lenders*) references to action taken include (without limitation) the granting of any waiver or consent, an approval of any document and an agreement to any matter.

4 DRAWDOWN

4.1 Request for Loan

Subject to the following conditions, the Borrower may request the Loan to be made by ensuring that the Agent receives a completed Drawdown Notice not later than 11.00 a.m. (Paris time) 5 Business Days prior to the intended Drawdown Date.

4.2 Availability

The conditions referred to in Clause 4.1 (*Request for Loan*) are that:

- (a) the Drawdown Date has to be a Business Day during the Availability Period; and
- (b) the amount of the Loan shall not exceed an amount equal to the lesser of (i) \$165,000,000 and (ii) 70 per cent. of the aggregate Initial Market Value of the Ships and shall be used in refinancing the Existing Indebtedness.

4.3 Notification to Lenders of receipt of the Drawdown Notice

The Agent shall promptly notify the Lenders that it has received the Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;
- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the first Interest Period.

4.4 Drawdown Notice irrevocable

The Drawdown Notice must be signed by an authorised representative of the Borrower; and once served, the Drawdown Notice cannot be revoked without the prior consent of the Agent, acting on the authority of the Majority Lenders.

4.5 Lenders to make available Contributions

Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Agent the amount due from that Lender on that Drawdown Date under Clause 2.2 (*Lenders' participations in Loan*).

4.6 Disbursement of Loan

Subject to the provisions of this Agreement, the Agent shall on the Drawdown Date pay to the Borrower the amounts which the Agent receives from the Lenders under Clause 4.5 (*Lenders to make available Contributions*); and that payment to the Borrower shall be made:

- (a) to the account which the Borrower specify in the Drawdown Notice; and
- (b) in the like funds as the Agent received the payments from the Lenders.

4.7 Disbursement of Loan to third party

The payment by the Agent under Clause 4.6 (*Disbursement of Loan*) the existing agent under the Existing Loan Agreement shall constitute the making of the Loan and the Borrower shall at that time become indebted, as principal and direct obligors, to each Lender in an amount equal to that Lender's participation in the Loan.

5 INTEREST

5.1 Payment of normal interest

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period shall be paid by the Borrower on the last day of that Interest Period.

5.2 Normal rate of interest

Subject to the provisions of this Agreement, the rate of interest on the Loan in respect of an Interest Period shall be the aggregate of (i) the applicable Margin, (ii) the Mandatory Cost (if

any) and (iii) LIBOR for that Interest Period subject to Clauses 5.6 (*Absence of quotations by Reference Banks*) and 5.7 (*Market disruption*).

5.3 Payment of accrued interest

In the case of an Interest Period longer than 3 months, accrued interest shall be paid every 3 months during that Interest Period and on the last day of that Interest Period.

5.4 Notification of Interest Periods and rates of normal interest

The Agent shall notify the Borrower and each Lender of:

- (a) each rate of interest; and
- (b) the duration of each Interest Period,

as soon as reasonably practicable after each is determined.

5.5 Obligation of Reference Banks to quote

Each Reference Bank which is a Lender shall use all reasonable efforts to supply the quotation required of it for the purposes of fixing a rate of interest under this Agreement unless that Reference Bank ceases to be a Lender pursuant to Clause 27.16 (*Replacement of Reference Bank*).

5.6 Absence of quotations by Reference Banks

If any Reference Bank fails to supply a quotation, the relevant rate of interest shall be set in accordance with the following provisions of this Clause 5 (*Interest*).

5.7 Market disruption

The following provisions of this Clause 5 (*Interest*) apply if:

- (a) LIBOR is to be determined by reference to the Reference Banks and no Reference Bank does, before 1.00 p.m. (London time) on the Quotation Date for an Interest Period, provide quotations to the Agent in order to fix LIBOR; or
- (b) at least 1 Business Day before the start of an Interest Period, a Lender may notify the Agent that LIBOR fixed by the Agent would not accurately reflect the cost to that Lender of funding its respective Contribution (or any part of it) during the Interest Period in the London Interbank Market at or about 11.00 a.m. (London time) on the Quotation Date for the Interest Period; or
- (c) at least 1 Business Day before the start of an Interest Period, the Agent is notified by a Lender (the "**Affected Lender**") that for any reason it is unable to obtain Dollars in the London Interbank Market in order to fund its Contribution (or any part of it) during the Interest Period.

5.8 Notification of market disruption

The Agent shall promptly notify the Borrower and each of the Lenders stating the circumstances falling within Clause 5.7 (*Market disruption*) which have caused its notice to be given.

5.9 Suspension of drawdown

If the Agent's notice under Clause 5.8 (*Notification of market disruption*) is served before the Loan is made:

- (a) in a case falling within paragraphs (b) or (b) of Clause 5.7 (*Market disruption*), the Lenders' obligations to make the Loan; and
- (b) in a case falling within paragraph (c) of Clause 5.7 (*Market disruption*), the Affected Lender's obligation to participate in the Loan,

shall be suspended while the circumstances referred to in the Agent's notice continue.

5.10 Negotiation of alternative rate of interest

If the Agent's notice under Clause 5.8 (*Notification of market disruption*) is served after the Loan is made, the Borrower, the Agent and the Lenders or (as the case may be) the Affected Lender shall use reasonable endeavours to agree, within the 30 days after the date on which the Agent serves its notice under Clause 5.8 (*Notification of market disruption*), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.

5.11 Application of agreed alternative rate of interest

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

5.12 Alternative rate of interest in absence of agreement

If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender, set an interest period and interest rate representing the cost of funding of the Lenders concerned or (as the case may be) the Affected Lender in Dollars or in any available currency of their or its Contribution plus the Margin and the Mandatory Costs (if any); and

the procedure provided for by this Clause 5.12 (*Alternative rate of interest in absence of agreement*) shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Agent.

5.13 Notice of prepayment

If the Borrower does not agree with an interest rate set by the Agent under Clause 5.12 (*Alternative rate of interest in absence of agreement*), the Borrower may give the Agent not less than 15 Business Days' notice of their intention to prepay at the end of the interest period set by the Agent.

5.14 **Prepayment; termination of Commitments**

A notice under Clause 5.13 (*Notice of prepayment*) shall be irrevocable; the Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender of the Borrower's notice of intended prepayment; and:

- (a) on the date on which the Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender shall be cancelled; and
- (b) on the last Business Day of the interest period set by the Agent, the Borrower shall prepay (without premium or penalty) the Loan or, as the case may be, the Affected Lender's

Contribution, together with accrued interest thereon at the applicable rate plus the Margin and the Mandatory Costs (if any).

5.15 Confidential Rates

- (a) The Agent and the Borrower agree to keep each Confidential Rate confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Agent may disclose:
 - (i) any Funding Rate to the Borrower pursuant to Clause 5.4 (*Notification of Interest Periods and rates of normal interest*); and
 - (ii) any Confidential Rate to any person appointed by it 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, to the extent necessary to enable such service provider to provide any of the services referred to in this paragraph (ii) if the service provider to whom the Confidential Rate 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 Agent and the relevant Reference Bank or Lender, as the case may be.
- (c) The Agent may disclose any Confidential Rate, and the Borrower may disclose any Funding Rate, to:
 - (i) any of its affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners, delegates, agents, managers, administrators, nominees, attorneys, trustees or custodians if any person to whom that Confidential Rate is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that the Confidential Rate may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Confidential Rate or is otherwise bound by requirements of confidentiality in relation to that Confidential Rate;
 - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Confidential Rate is to be given is informed in writing of its confidential nature and that the Confidential Rate may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
 - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Confidential Rate is to be given is informed in writing of its confidential nature and that the Confidential Rate may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
 - (iv) any person with the consent of the relevant Reference Bank or Lender, as the case may be.

- (d) The Agent's obligations in this Clause 5.15 (*Confidential Rates*) relating to quotations provided by Reference Banks are without prejudice to its obligations to make notifications under Clause 5.4 (*Notification of Interest Periods and rates of normal interest*) provided that (other than pursuant to paragraph (b)(i) above) the Agent shall not include the details of any individual quotation provided by a Reference Bank as part of any such notification.
- (e) The Agent and the Borrower acknowledge that each Confidential Rate is or may be price- sensitive information and that the use of such a Confidential Rate may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and the Borrower undertakes not to use any Confidential Rate for any unlawful purpose.
- (f) The Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Reference Bank or Lender, as the case may be:
 - (i) of the circumstances of any disclosure of any Confidential Rate made pursuant to paragraph (c)(ii) 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
 - (ii) upon becoming aware that any Confidential Rate has been disclosed in breach of this Clause 5.15 (*Confidential Rates*).

5.16 Application of prepayment

The provisions of Clause 8 (*Repayment and Prepayment*) shall apply in relation to the prepayment.

6 INTEREST PERIODS

6.1 Commencement of Interest Periods

The first Interest Period applicable to the Loan shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period.

6.2 Duration of normal Interest Periods

Subject to Clauses 6.3 (*Duration of Interest Periods for Repayment Instalments*) and 6.4 (*Non-availability of matching deposits for Interest Period selected*), each Interest Period shall be:

- (a) subject to sub-paragraph (b) below, 1, 3 or 6 months as notified by the Borrower to the Agent not later than 11.00 a.m. (Paris time) 5 Business Days before the commencement of the Interest Period; or
- (b) 3 months, if the Borrower fails to notify the Agent by the time specified in paragraph (a); or
- (c) such other period as the Agent may, with the authorisation of all the Lenders, agree with the Borrower.

6.3 Duration of Interest Periods for Repayment Instalments

In respect of an amount due to be repaid under Clause 8 (*Repayment and Prepayment*) on a particular Repayment Date, an Interest Period shall end on that Repayment Date.

6.4 Non-availability of matching deposits for Interest Period selected

If, after the Borrower has selected and the Lenders have agreed an Interest Period longer than 6 months, any Lender notifies the Agent by 11.00 a.m. (London time) on the third Business Day before the commencement of the Interest Period that it is not satisfied that deposits in Dollars for a period equal to the Interest Period will be available to it in the London Interbank Market when the Interest Period commences, the Interest Period shall be of 6 months.

7 DEFAULT INTEREST

7.1 Payment of default interest on overdue amounts

The Borrower shall pay interest in accordance with the following provisions of this Clause 7 (*Default Interest*) on any amount payable by the Borrower under any Finance Document which the Agent, the Security Trustee or the other designated payee does not receive on or before the relevant date, that is:

- (a) the date on which the Finance Documents provide that such amount is due for payment; or
- (b) if a Finance Document provides that such amount is payable on demand, the date on which the demand is served; or
- (c) if such amount has become immediately due and payable under Clause 20.4 (*Acceleration of Loan*), the date on which it became immediately due and payable.

7.2 Default rate of interest

Interest shall accrue on an overdue amount from (and including) the relevant date until the date of actual payment (as well after as before judgment) at the rate per annum determined by the Agent to be 2 per cent. above:

- (a) in the case of an overdue amount of principal, the higher of the rates set out at paragraphs (a) and (b) of Clause 7.3 (*Calculation of default rate of interest*); or
- (b) in the case of any other overdue amount, the rate set out at paragraph (b) of Clause 7.3 (*Calculation of default rate of interest*).

7.3 Calculation of default rate of interest

The rates referred to in Clause 7.2 (*Default rate of interest*) are:

- (a) the rate applicable to the overdue principal amount immediately prior to the relevant date (but only for any unexpired part of any then current Interest Period applicable to it);
- (b) the aggregate of the applicable Margin and the Mandatory Cost (if any) plus, in respect of successive periods of any duration (including at call) up to 3 months which the Agent may select from time to time:
 - (i) LIBOR; or
 - (ii) if the Agent (after consultation with the Reference Bank) determines that Dollar deposits for any such period are not being made available to the Reference Bank by leading banks in the London Interbank Market in the ordinary course of business, a rate from time to time determined by the Agent by reference to the cost of funds to the Reference Bank from such other sources as the Agent (after consultation with the Reference Bank) may from time to time determine.

7.4 Notification of Interest Periods and default rates

The Agent shall promptly notify the Lenders and the Borrower of each interest rate determined by the Agent under Clause 7.3 (*Calculation of default rate of interest*) and of each period selected by the Agent for the purposes of paragraph (b) of that Clause; but this shall not be taken to imply that the Borrower is liable to pay such interest only with effect from the date of the Agent's notification.

7.5 Payment of accrued default interest

Subject to the other provisions of this Agreement, any interest due under this Clause shall be paid on the last day of the period by reference to which it was determined; and the payment shall be made to the Agent for the account of the Creditor Party to which the overdue amount is due.

7.6 Compounding of default interest

Any such interest which is not paid at the end of the period by reference to which it was determined shall thereupon be compounded.

7.7 Application to Master Agreement

For the avoidance of doubt this Clause 7 (*Default Interest*) does not apply to any amount payable under the Master Agreement in respect of any continuing Designated Transaction as to which section 2(e) (Default Interest, Other Amounts) of the Master Agreement shall apply.

8 REPAYMENT AND PREPAYMENT

8.1 Amount of Repayment Instalments

The Borrower shall repay the Loan by:

- (a) 20 consecutive quarterly instalments, the first 8 instalments in an amount of \$2,500,000, followed by 4 instalments in an amount of \$5,000,000 and 8 instalments in an amount of \$7,000,000 (the "**Repayment Instalments**" and each a "**Repayment Instalment**"; and
- (b) a balloon instalment of \$69,000,000 (the "**Balloon Instalment**"),

Provided that if the amount of the Loan drawn down hereunder is less than \$165,000,000, each of the Repayment Instalments and the Balloon Instalment shall be reduced pro rata by an amount in aggregate equal to the undrawn balance.

8.2 Repayment Dates

The first Repayment Instalment shall be repaid on the date falling three months after the Drawdown Date with the remaining Repayment Instalments to be repaid at 3-monthly intervals thereafter and the last Repayment Instalment together with the Balloon Instalment shall be paid on the earlier of:

- (a) the fifth anniversary after the Drawdown Date; and
- (b) 31 July 2020.

8.3 Final Repayment Date

On the final Repayment Date, the Borrower shall additionally pay to the Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.

8.4 Voluntary prepayment

Subject to the following conditions, the Borrower may prepay the whole or any part of the Loan on the last day of an Interest Period.

8.5 Conditions for voluntary prepayment

The conditions referred to in Clause 8.4 (*Voluntary prepayment*) are that:

- (a) a partial prepayment shall be \$1,000,000 or a multiple of \$1,000,000;
- (b) the Agent has received from the Borrower at least 10 Business Days' prior written notice specifying the amount to be prepaid and the date on which the prepayment is to be made;
- (c) the Borrower has provided evidence satisfactory to the Agent that any consent required by the Borrower, any Collateral Guarantor or any other Security Party in connection with the prepayment has been obtained and remains in force, and that any official regulation relevant to this Agreement which affects the Borrower, any Collateral Guarantor or any other Security Party has been complied with;
- (d) the Borrower has complied with Clause 8.12 (*Unwinding of Designated Transactions*) on or prior to the date of prepayment; and
- (e) the Borrower has provided evidence satisfactory to the Agent that they have sufficient funds to pay any breakage costs and/or any other amounts that may become payable under this Agreement and the Master Agreement in connection with the prepayment.

8.6 Effect of notice of prepayment

A prepayment notice may not be withdrawn or amended without the consent of the Agent, given with the authorisation of the Majority Lenders, and the amount specified in the prepayment notice shall become due and payable by the Borrower on the date for prepayment specified in the prepayment notice.

8.7 Notification of notice of prepayment

The Agent shall notify the Lenders promptly upon receiving a prepayment notice, and shall provide any Lender which so requests with a copy of any document delivered by the Borrower under paragraph (c) of Clause 8.5 (*Conditions for voluntary prepayment*).

8.8 Mandatory prepayment

The Borrower shall be obliged to prepay the Relevant Amount if a Ship is sold or becomes a Total Loss and comply with Clause 8.12 (*Unwinding of Designated Transactions*):

- (a) in the case of a sale, on or before the date on which the sale is completed by delivery of the relevant Ship to the buyer;
or
- (b) in the case of a Total Loss, on the earlier of the date falling 120 days after the Total Loss Date and the date of receipt by the Security Trustee of the proceeds of insurance relating to such Total Loss.

In this Clause 8.8 (*Mandatory prepayment*), "**Relevant Amount**" means:

- (i) if the relevant Ship is more than 10 years old, an amount equal to 100 per cent. of the sale or Total Loss proceeds; and
- (ii) if the relevant Ship is less than 10 years old an amount equal to the higher of:
 - (A) such part of the Loan as is equal to the ratio of the Market Value of the Ship lost or sold, as the case may be, to the aggregate sum of the Market Values of the Ships; and
 - (B) from the Drawdown Date until the first anniversary of the Drawdown Date, an amount which, after the application of the prepayment to be made pursuant to this Clause 8.8 (*Mandatory prepayment*), results **in** the security cover ratio under Clause 16.1 (*Minimum required security cover*) being equal to 125 per cent. of the aggregate of the Loan and the Swap Exposure; and
 - (C) from the first anniversary of the Drawdown Date until the end of the Security Period, an amount which, after the application of the prepayment to be made pursuant to this Clause 8.8 (*Mandatory prepayment*), results in the security cover ratio under Clause 16.1 (*Minimum required security cover*) being equal to 130 per cent. of the aggregate of the Loan and the Swap Exposure, and

provided that no Event of Default or Potential Event of Default has occurred and is continuing, any remaining proceeds of the sale or Total Loss of a Ship after the prepayments referred to in paragraph (ii) above have been made together with all other amounts that are payable on any such prepayment pursuant to the Finance Documents shall be paid to the Collateral Guarantor that owned the relevant Ship.

8.9 Amounts payable on prepayment

A prepayment shall be made together with accrued interest (and any other amount payable under Clause 22 (*indemnities*) or otherwise) in respect of the amount prepaid and, if the prepayment is not made on the last day of an Interest Period together with any sums payable under paragraph (b) of Clause 22.1 (*indemnities regarding borrowing and repayment of Loan*) but without premium or penalty.

8.10 Application of partial prepayment

Each partial prepayment shall be applied:

- (a) if made pursuant to Clause 8.4 (*Voluntary prepayment*), pro rata against the then outstanding Repayment Instalments and the Balloon Instalment or as otherwise agreed between the Borrower and the Agent;
- (b) if made pursuant to Clause 8.8 (*Mandatory prepayment*):
 - (i) **FIRSTLY**: pro rata towards repayment of any overdue interest, any breakage costs, any accrued interest relating to the Loan, any other costs, fees, expenses, commissions due under this Agreement and any periodical payments (other than any payments arising out of a termination or closing out) under the Master Agreement; and
 - (ii) **SECONDLY**: pro rata against the then outstanding Repayment Instalments and the Balloon Instalment and the Swap Exposure under the Master Agreement.

8.11 No reborrowing

No amount repaid or prepaid may be re-borrowed.

8.12 Unwinding of Designated Transactions

On or prior to any repayment or prepayment of the Loan or any part thereof under this Clause 8 (*Repayment and Prepayment*) or any other provision of this Agreement, the Borrower shall wholly or partially reverse, offset, unwind or otherwise terminate one or more of the continuing Designated Transactions so that the notional principal amount of the continuing Designated Transactions thereafter remaining does not exceed the amount of the Loan following such repayment or prepayment and will not in the future (taking into account the scheduled amortisation) exceed the amount of the Loan as reducing from time to time thereafter pursuant to Clause 8.1 (*Amount of Repayment Instalments*).

8.13 Prepayment of Swap benefit

If a Designated Transaction is terminated in circumstances where the Swap Bank would be obliged to pay an amount to the Borrower under the Master Agreement, the Borrower hereby agrees that such payment shall be applied in accordance with Clause 18.1 (*Normal order of application*) and authorise the Swap Bank to pay such amount to the Agent for such purpose.

9 CONDITIONS PRECEDENT

9.1 Documents, fees and no default

Each Lender's obligation to contribute to the Loan is subject to the following conditions precedent:

- (a) that, on or before the date of this Agreement, the Agent receives:
 - (i) the documents described in Part A of Schedule 4 (*Condition Precedent Documents*) in a form and substance satisfactory to the Agent and its lawyers;
 - (ii) the structuring fee, the annual agency fee and the annual account bank fee referred to in Clause 21 (*Fees and Expenses*); and
 - (iii) payment in full of any expenses payable pursuant to Clause 21 (*Fees and Expenses*) which are due and payable on the date of this Agreement;
- (b) that, on the Drawdown Date but prior to the making of the Loan, the Lender receives or is satisfied that it will receive on the Drawdown Date the documents described in Part B of Schedule 4 (*Condition Precedent Documents*) in form and substance satisfactory to the Agent and its lawyers;
- (c) the documents described in Part B of Schedule 4 (*Condition Precedent Documents*) in form and substance satisfactory to it and its lawyers;
- (d) that both at the date of the Drawdown Notice and at the Drawdown Date:
 - (i) no Event of Default or Potential Event of Default has occurred or would result from the borrowing of the Loan;
 - (ii) the representations and warranties in Clause 10.1 (*General*) and those of the Borrower or any Collateral Guarantor or any other Security Party which are set out in the other Finance Documents would be true and not misleading if repeated on each of those dates with reference to the circumstances then existing; and

- (iii) none of the circumstances contemplated by Clause 5.7 (*Market disruption*) has occurred and is continuing; and
- (iv) there has been no Material Adverse Effect since 31 December 2014;
- (e) that, if the ratio set out in Clause 16.1 (*Minimum required security cover*) were applied immediately following the making of the Loan, the Borrower would not be obliged to provide additional security or prepay part of the Loan under that Clause; and
- (f) that the Agent has received, and found to be acceptable to it, any further opinions, consents, agreements and documents in connection with the Finance Documents which the Agent may, with the authorisation of the Majority Lenders, request by notice to the Borrower prior to the Drawdown Date.

9.2 Waiver of conditions precedent

If the Majority Lenders, at their discretion, permit the Loan to be borrowed before certain of the conditions referred to in Clause 9.1 (*Documents, fees and no default*) are satisfied, the Borrower shall ensure that those conditions are satisfied within 3 Business Days after the Drawdown Date (or such longer period as the Agent may, with the authorisation of the Majority Lenders, specify).

10 REPRESENTATIONS AND WARRANTIES

10.1 General

The Borrower represents and warrants to each Creditor Party as follows.

10.2 Status

The Borrower is duly domesticated and validly existing and in good standing under the laws of the Republic of the Marshall Islands.

10.3 Shares capital and ownership

- (a) The Borrower is authorised to issue 200,000,000 registered shares of a par value of US\$0.01 per share and 25 million registered preferred shares each with a par value of US\$0.01, out of which (preferred shares) 1,000,000 are designated as series A preferred shares and 5,000,000 are designated as series B preferred shares
- (b) Each Collateral Guarantor is authorised to issue the number of shares set out opposite its name in Schedule 2 all of which shares have been issued fully paid, and the legal title and beneficial ownership of all those shares is held, free of any Security Interest or other claim, by the Borrower.

10.4 Corporate power

The Borrower has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute the Finance Documents to which that Borrower is a party; and
- (b) to borrow under this Agreement and to enter into Designated Transactions under the Master Agreement and to make all the payments contemplated by, and to comply with, the Finance Documents to which the Borrower is a party and the Master Agreement.

10.5 Consents in force

All the consents referred to in Clause 10.4 (*Corporate power*) remain in force and nothing has occurred which makes any of them liable to revocation.

10.6 Legal validity; effective Security Interests

The Finance Documents to which the Borrower is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration as provided for in the Finance Documents):

- (a) constitute the Borrower's legal, valid and binding obligations enforceable against the Borrower in accordance with their respective terms; and
- (b) create legal, valid and binding Security Interests enforceable in accordance with their respective terms over all the assets to which they, by their terms, relate,

subject to any relevant insolvency laws affecting creditors' rights generally.

10.7 No third party Security Interests

Without limiting the generality of Clause 10.6 (*Legal validity; effective Security Interests*), at the time of the execution and delivery of each Finance Document:

- (a) the Borrower will have the right to create all the Security Interests which any Finance Document to which it is a party purports to create; and
- (b) no third party will have any Security Interest (except for Permitted Security Interests) or any other interest, right or claim over, in or in relation to any asset to which any such Security Interest, by its terms, relates.

10.8 No conflicts

The execution by the Borrower of each Finance Document to which it is a party, and the borrowing by the Borrower of the Loan, and its compliance with each Finance Document to which it is a party will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of the Borrower; or
- (c) any contractual or other obligation or restriction which is binding on the Borrower or any of its assets.

10.9 No withholding taxes

All payments which the Borrower is liable to make under the Finance Documents to which it is a party may be made without deduction or withholding for or on account of any tax payable under any law of any Pertinent Jurisdiction.

10.10 No default

No Event of Default or Potential Event of Default has occurred or would result from the entry into, the performance of, or any transaction contemplated by, any Finance Document.

10.11 Information

All information which has been provided in writing by or on behalf of the Borrower or any Security Party to any Creditor Party in connection with any Finance Document satisfied the requirements of Clause 12.5 (*Information provided to be accurate*); all audited and

unaudited accounts which have been so provided satisfied the requirements of Clause 12.7 (*Form of financial statements*); and there has been no Material Adverse Effect since 31 December 2014.

10.12 No litigation

No legal or administrative action involving the Borrower or any Collateral Owner (including action relating to any alleged or actual breach of the ISM Code or the ISPS Code) which if adversely determined by the Agent, is likely to have a Material Adverse Effect, has been commenced or taken or, to the Borrower's knowledge, is likely to be commenced or taken.

10.13 Compliance with certain undertakings

At the date of this Agreement, the Borrower is in compliance with Clauses 12.2 (Title; *negative pledge*), 12.4 (No *other liabilities or obligations to be incurred*), 12.9 (*Consents*) and 12.13 (*Confirmation of no default*).

10.14 Taxes paid

The Borrower has paid all taxes applicable to, or imposed on or in relation to the Borrower, its business or the Ship owned by it.

10.15 No bribery, corruption or money laundering

Without prejudice to the generality of Clause 2.3 (*Purpose of*), in relation to the borrowing by the Borrower of the Loan, the performance and discharge of its obligations and liabilities under the Finance Documents, and the transactions and other arrangements affected or contemplated by the Finance Documents to which the Borrower is a party, the Borrower confirms (i) that it is acting for its own account; (ii) that it will use the proceeds of the Loan for its own benefit, under its full responsibility and exclusively for the purposes specified in this Agreement; and (iii) that no Relevant Party nor any of their subsidiaries, nor any of their respective directors, officers, employees, (nor, to the best knowledge of such Relevant Party, any of their affiliates, agents or representatives) has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws or regulations in any applicable jurisdiction and that each Relevant Party has instituted and maintains policies and procedures designed to prevent violation of such laws, regulations and rules; and (iv) that the foregoing will not involve or lead to a contravention of any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council).

10.16 ISM Code, ISPS Code Compliance and Environmental Laws

All requirements of the ISM Code, ISPS Code and Environmental Laws as they relate to the Borrower, each Collateral Guarantor, the Approved Manager and each Ship have been complied with.

10.17 No immunity

Neither the Borrower, nor any of its assets are entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceeding (which shall include, without limitation, suit attachment prior to judgement, execution or other enforcement).

10.18 Sanctions

- (a) None of the Borrower, the Approved Manager, or any of their subsidiaries their respective director and officer, or, to the knowledge of each Borrower, any affiliate, agent or employee of the Borrower, the Approved Manager or any of their respective subsidiaries is an

individual or entity ("**Person**"), that is, or is directly or indirectly owned or controlled by Persons that are: (i) the target of any Sanctions (a "**Sanctioned Person**") or (ii) located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions broadly prohibiting dealings with such government, country, or territory (a "**Sanctioned Country**"), including, without limitation currently, Cuba, Iran, North Korea, Sudan and Syria.

- (b) No Relevant Party nor any of their subsidiaries, nor any of their respective directors, officers, employees (nor, to the knowledge of such Relevant Party, any of their affiliates, agents or representatives) has taken any action resulting in a violation by such persons of Sanctions or which constitutes or would constitute any such violation by the Borrower, a Creditor Party or any Security Party.

10.19 Repetition

The representations and warranties set out in Clause 10 shall be deemed to be repeated by the Borrower:

- (a) on the date of service of the Drawdown Notice;
- (b) on the Drawdown Date; and
- (c) on the first day of each Interest Period (other than in the case of representations and warranties set out in Clause 10.12),

as if made with reference to the facts and circumstances existing on each such day.

11 FINANCIAL COVENANTS

11.1 General

The Borrower also undertakes with the Security Trustee to comply with the following provisions of this Clause 11 (*Financial Covenants*) at all times during the Security Period except as the Agent may, with the authority of the Majority Lenders, otherwise permit.

11.2 Financial Covenants

The Borrower shall ensure that at all times throughout the Security Period:

- (a) the Market Value Adjusted Net Worth of the Borrower shall not be less than \$300,000,000;
- (b) the ratio of Consolidated Net Debt to Market Value Adjusted Total Assets less the aggregate amount of Cash and Cash Equivalents shall not exceed 65 per cent.; and
- (c) the aggregate of all Cash and Cash Equivalents shall not be less than \$500,000 per Fleet Vessel (including, for the avoidance of doubt, the Minimum Liquidity Amount required to be maintained pursuant to Clause 12.19 (*Borrower's Minimum Liquidity*)).

11.3 Compliance Check

Compliance with the undertakings contained in Clauses 11.2 (*Financial Covenants*) and 16.1 (*Minimum required security cover*) shall be determined as at 30 June and 31 December in each financial year of the Borrower and each Collateral Guarantor by reference to:

- (a) in the case of the compliance check as at 30 June in that financial year, the unaudited statements of the Group for the 6-month period ending on that date (commencing with the financial statements for the 6-month period which ending on 30 June 2015) delivered, in

each case, to the Agent pursuant to paragraph (b) Clause 12.6 (*Provision of financial statements*); and

- (b) in the case of the compliance check as at 31 December in that financial year (commencing with the financial statements for the financial year which ends on 31 December 2014), the annual audited consolidated financial statements of the Group for that Financial Year delivered, in each case, to the Agent pursuant to paragraph (a) of Clause 12.6 (*Provision of financial statements*).

At the same time as the Borrower and each Collateral Guarantor delivers the financial statements referred to above, the Borrower and each Collateral Guarantor shall deliver to the Agent a Compliance Certificate signed by the chief financial officer of the Borrower (commencing with the financial statements for the financial year which ends on 31 December 2014).

11.4 Change in accounting expressions and policies

If, by reason of change in format or GAAP or other relevant accounting policies, the expressions appearing in any financial statements referred to in Clause 12.6 (*Provision of financial statements*) alter from those in the financial statements for each Collateral Guarantor, or as the case may be, the Group for the financial year which ended on 31 December 2014, the relevant definitions contained in Clause 1.1 (*Definitions*) and the provisions of Clause 11.2 (*Financial Covenants*) shall be deemed modified in such manner as the Agent, acting with the authorisation of the Majority Lenders, shall require to take account of such different expressions but otherwise to maintain in all respects the substance of those provisions.

12 GENERAL UNDERTAKINGS

12.1 General

The Borrower undertakes with each Creditor Party to comply with the following provisions of this Clause 12 (*General Undertakings*) at all times during the Security Period except as the Agent may, with the authorisation of the Majority Lenders, otherwise permit in writing.

12.2 Title; negative pledge

- (a) The Borrower shall:
 - (i) not create or permit to arise any Security Interest (except for Permitted Security Interests) over any asset which is the subject of any of the Finance Documents; and
 - (ii) procure that its liabilities under this Agreement will rank *pari passu* with all its other present and future unsecured liabilities, except for liabilities which are mandatorily preferred by law.
- (b) The Borrower shall procure that each Collateral Guarantor will:
 - (i) hold the legal title to, and own the entire beneficial interest in the Ship owned by it, her Insurances and Earnings, free from all Security Interests and other interests and rights of every kind, except for those created by the Finance Documents and the effect of assignments contained in the Finance Documents; and
 - (ii) not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future; and

- (iii) procure that its liabilities under the Finance Documents to which it is party do and will rank at least pari passu with all other present and future unsecured liabilities, except for liabilities which are mandatorily preferred by law.

12.3 No disposal of assets

The Borrower will procure that no Collateral Guarantor will transfer, lease or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation,

but paragraph (a) does not apply to any charter of a Ship as to which Clause 15.13 (*Restrictions on chartering, appointment of managers etc.*) applies.

12.4 No other liabilities or obligations to be incurred

- (a) The Borrower will not incur any Financial Indebtedness to another member of the Group unless such Financial Indebtedness is fully subordinated to this Agreement and the Borrower shall, promptly following the Agent's demand, execute or procure the execution of any documents which the Agent specifies to create or maintain the subordination of the rights of the relevant member of the Group against the Borrower to those of the Creditor Parties under the Finance Documents on terms in all respects acceptable to the Agent (acting with the authorisation of the Majority Lenders).
- (b) The Borrower shall procure that none of the Collateral Guarantors will incur any liability or obligation except:
 - (i) liabilities and obligations under the Finance Documents to which it is a party;
 - (ii) liabilities or obligations reasonably incurred in the ordinary course of owning, operating and chartering the Ship owned by it; and
 - (iii) Financial Indebtedness to the Borrower or any other member of the Group or any of their affiliates (the "**Relevant Entity**") unless such Financial Indebtedness is fully subordinated to the Loan and the Swap Exposure and each Collateral Guarantor shall, promptly following the Agent's demand, execute or procure the execution of any documents which the Agent specifies to create or maintain the subordination of the rights of the Relevant Entity against that Borrower to those of the Creditor Parties under the Finance Documents on terms in all respects acceptable to the Agent (acting with the authorisation of the Majority Lenders).

12.5 Information provided to be accurate

All financial and other information which is provided in writing by or on behalf of the Borrower under or in connection with any Finance Document will be true, correct, accurate and not misleading and will not omit any material fact or consideration.

12.6 Provision of financial statements

The Borrower will send, or procure there are sent, to the Agent:

- (a) as soon as possible, but in no event later than 180 days after the end of each financial year of the Borrower (commencing with the financial year ending on 31 December 2014), the audited consolidated financial statements of the Borrower;

- (b) as soon as possible, but in no event later than 90 days after the end of each financial half- year in each financial year of the Borrower ending on 30 June (commencing with the half- year ending on 30 June 2015), the semi-annual unaudited consolidated financial statements of the Borrower in the form in which they were published in the relevant press release; and
- (c) promptly after each request by the Agent, such further financial information about the Borrower, the Collateral Guarantors, the Ships, the Fleet Vessels, any Security Party or the Group or any member thereof (including but not limited to, information regarding charter arrangements, Financial Indebtedness and operating expenses) as the Agent may require.

12.7 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 12.6 (*Provision of financial statements*) will:

- (a) be prepared in accordance with all applicable laws and GAAP consistently applied; and
- (b) give a true and fair view of the state of affairs of the Group at the date of those accounts and of their profit for the period to which those accounts relate.

12.8 Shareholder and creditor notices

The Borrower will send the Agent, at the same time as they are despatched, copies of all communications which are despatched to the Borrower's shareholders or creditors or any class of them.

12.9 Consents

The Borrower will, and shall procure that each Collateral Guarantor will, maintain in force and promptly obtain or renew, and will promptly send certified copies to the Agent of, all consents required:

- (a) for the Borrower or that Collateral Guarantor to perform its obligations under any Finance Document to which it is a party;
- (b) for the validity or enforceability of any Finance Document to which it is a party;
- (c) for the Borrower or that Collateral Guarantor to continue to own and operate the Ship owned by it,

and the Borrower or that Collateral Guarantor will comply with the terms of all such consents.

12.10 Maintenance of Security Interests

The Borrower will and shall procure that each Collateral Guarantor will:

- (a) at its own cost, do all that it reasonably can to ensure that any Finance Document validly creates the obligations and the Security Interests which it purports to create; and
- (b) without limiting the generality of paragraph (a) above, 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 in respect of any Finance Document, give any notice or take any other step which, in the opinion of the Majority Lenders, is or has become necessary or desirable for any Finance Document to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

12.11 Notification of litigation

The Borrower will and shall procure that each Collateral Guarantor provide the Agent with details of any legal or administrative action involving the Borrower, any Collateral Guarantor, any other Security Party, the Approved Manager or the Ship owned by it, the Earnings or the Insurances as soon as such action is instituted or it becomes apparent to the Borrower that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of any Finance Document.

12.12 Principal place of business

The Borrower will not establish, or do anything as a result of which it would be deemed to have, a place of business in England or the United States of America.

12.13 Confirmation of no default

The Borrower will, within 2 Business Days after service by the Agent of a written request, serve on the Agent a notice which is signed by 2 directors of the Borrower and which:

- (a) states that no Event of Default or Potential Event of Default has occurred; or
- (b) states that no Event of Default or Potential Event of Default has occurred, except for a specified event or matter, of which all material details are given.

The Agent may serve requests under this Clause 12.13 (*Confirmation of no default*) from time to time; and this Clause 12.13 does not affect the Borrower's obligations under Clause 12.14 (*Notification of default*).

12.14 Notification of default

The Borrower will notify the Agent as soon as the Borrower becomes aware of:

- (a) the occurrence of an Event of Default or a Potential Event of Default; or
- (b) any matter which indicates that an Event of Default or a Potential Event of Default may have occurred/

and will keep the Agent fully up-to-date with all developments.

12.15 Provision of further information

The Borrower will, as soon as practicable after receiving the request, provide the Agent with any additional financial or other information relating:

- (a) to any Collateral Guarantor, any Ship, the Earnings, the Insurances, any Charterparty, the Approved Manager, any Fleet Vessel and any other member of the Group; or
- (b) to any other matter relevant to, or to any provision of, a Finance Document, (including, without limitation, any information requested in connection with the Creditor Parties' "Know your customer" regulations, including but not limited to information required pursuant to all applicable laws and regulations, including, without limitation, the laws of the European Union, Switzerland and the United States of America in connection with the Borrower, any Collateral Guarantor and any other Security Party and their respective beneficial owners),

which may be requested by the Agent, the Security Trustee, any Lender or any Lender at any time.

12.16 Provision of copies and translation of documents

The Borrower will supply the Agent with a sufficient number of copies of the documents referred to above to provide 1 copy for each Creditor Party; and if the Agent so requires in respect of any of those documents, the Borrower will provide a certified English translation prepared by a translator approved by the Agent.

12.17 "Know your customer" checks

If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
- (b) any change in the status of the Borrower, any Collateral Guarantor or any other Security Party after the date of this Agreement; or
- (c) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (c). any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Agent or the Lender concerned supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or the Lender concerned (for itself or, in the case of the event described in paragraph (c). on behalf of any prospective new Lender) in order for the Agent, the Lender concerned or, in the case of the event described in paragraph (c). any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

12.18 Designated Transactions

The Borrower undertakes to serve to the Agent a notice of designation in the form set out in Schedule 6 (*Designation Notice*) prior to entering into a Transaction with the Swap Bank pursuant to the Master Agreement. Failure by the Borrower to serve such notice shall not preclude a Transaction from being designated as a Designated Transaction for the purposes of the Finance Documents.

12.19 Borrower's Minimum liquidity

The Borrower will maintain to the credit of the Liquidity Reserve Account as from the Drawdown Date and at all times thereafter during the Security Period an aggregate amount of not less than \$500,000 per Ship (the "**Minimum Liquidity Amount**").

12.20 Sanctions

The Borrower:

- (a) shall not, and shall procure that no Collateral Guarantor will, directly or indirectly use, lend, make payments of, contribute or otherwise make available, all or any part of the proceeds of the Loan or other transaction(s) contemplated by this Agreement to fund any trade, business or other activities or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person (i) involving or for the benefit of any Sanctioned Person or in any country or territory, that, at the time of such funding, is a Sanctioned Person or Sanctioned Country or (ii) in any other manner that would result in a violation of

Sanctions by any Person (including any Person participating in the loan hereunder, whether as underwriter, advisor, investor, or otherwise);

- (b) shall not permit or authorise and shall prevent (and shall procure that the Collateral Guarantors will not permit or authorise and will prevent) a Ship being used directly or indirectly (i) by or for the benefit of any Sanctioned Person or in any country or territory that is a Sanctioned Country and/or (ii) in any trade which will expose a Ship, any Creditor Party, the Approved Manager, crew or insurers to enforcement proceedings or any other consequences whatsoever arising from Sanctions; and
- (c) shall, and shall procure that each Collateral Guarantor shall, ensure that neither its assets nor the assets subject to the Finance Documents shall be used directly or indirectly by or for the benefit of any Sanctioned Person or otherwise used in any manner which may breach any applicable Sanctions.

13 CORPORATE UNDERTAKINGS

13.1 General

The Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 13 (*Corporate Undertakings*) at all times during the Security Period except as the Agent may, with the authorisation of the Majority Lenders, otherwise permit in writing.

13.2 Maintenance of status

- (a) The Borrower shall maintain its separate corporate existence and remain in good standing under the laws of the Republic of the Marshall Islands.
- (b) The Borrower shall procure that each Collateral Guarantor shall maintain its separate corporate existence and remain in good standing under the laws of its country of incorporation set out in Column C of Schedule 2 (*Guarantors*).

13.3 Negative undertakings

The Borrower will not:

- (a) change the nature of its business (including but not limited to the ownership of the ship owning entities being engaged in chartering and operation of ships);
- (b) allow any Collateral Guarantor to carry on any business other than the ownership, chartering and operation of the Ship owned by it; or
- (c) pay any dividend or make any other form of distribution or effect any form of redemption, purchase or return of its shares (the "**Distribution**") if an Event of Default has occurred and is continuing at such time or would occur as a result of payment of such Distribution; or
- (d) provide any form of credit or financial assistance to:
 - (i) a person who is directly or indirectly interested in the Borrower's share or loan capital; or
 - (ii) any company in or with which such a person is directly or indirectly interested or connected,

or enter into any transaction with or involving such a person or company on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms' length; or

- (e) allow any Collateral Guarantor to open or maintain any account with any bank or financial institution except accounts with the Agent and the Security Trustee for the purposes of the Finance Documents; or
- (f) allow any Collateral Guarantor to issue, allot or grant, any person a right to any of its shares or repurchase or reduce its issued shares; or
- (g) allow any Collateral Guarantor to acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks, or enter into any transaction in a derivative (other than the Designated Transactions under the Master Agreement); or
- (h) enter into, and procure that not if its Subsidiaries will enter into, any form of amalgamation, merger or de-merger or any form of reconstruction or reorganisation.

14 INSURANCE

14.1 General

The Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 14 (*Insurance*) at all times during the Security Period except as the Agent may, with the authorisation of the Majority Lenders, otherwise permit in writing.

14.2 Maintenance of obligatory insurances

The Borrower shall procure that each Collateral Guarantor shall keep the Ship owned by it insured at the expense of that Collateral Guarantor against:

- (a) fire and usual marine risks (including hull and machinery and excess risks);
- (b) war risks;
- (c) protection and indemnity risks in excess of the limit of cover for oil pollution liability risks included within the protection and indemnity risks; and
- (d) any other risks against which the Lenders consider, having regard to practices and other circumstances prevailing at the relevant time, it would in the opinion of the Lenders be reasonable for that Collateral Guarantor to insure and which are specified by the Security Trustee by notice to that Collateral Guarantor.

14.3 Terms of obligatory insurances

The Borrower shall procure that each Collateral Guarantor shall effect such insurances:

- (a) in Dollars;
- (b) in the case of fire and usual marine risks and war risks, in such amounts, on an agreed value basis, as shall from time to time be approved by the Agent but in any event in an amount not less than the greater of (i) the Market Value of the Ship and (ii) 120 per cent. of the Loan;
- (c) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club entry with the international group of protection and indemnity clubs) and in the international marine insurance market (currently \$1,000,000,000);
- (d) in relation to protection and indemnity risks in respect of the relevant Ship's full value and full tonnage;

- (e) on such terms as shall from time to time be approved in writing by the Agent (including, without limitation, a blocking and trapping clause); and
- (f) through approved brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations which are members of the International Group of Protection and Indemnity Associations.

14.4 Further protections for the Creditor Parties

In addition to the terms set out in Clause 14.3 (*Terms of obligatory insurances*), the Borrower shall procure that the obligatory insurances effected by each Collateral Guarantor shall:

- (a) except in relation to risks referred to in paragraph (c) of Clause 14.2 (*Maintenance of obligatory insurances*) and protection and indemnity risks), if the Security Trustee so requires, name (or be amended to name) the Security Trustee as mortgagee for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against the Security Trustee, but without the Security Trustee thereby being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such **insurance**;
- (b) name the Security Trustee as sole loss payee with such directions for payment as the Security Trustee may specify;
- (c) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Security Trustee shall be made without set-off, counterclaim or deductions or condition whatsoever;
- (d) provide that the insurers shall waive, to the fullest extent permitted by English law, their entitlement (if any) (whether by statute, common law, equity, or otherwise) to be subrogated to the rights and remedies of the Security Trustee in respect of any rights or interests (secured or not) held by or available to the Security Trustee in respect of the Secured Liabilities, until the Secured Liabilities shall have been fully repaid and discharged, except that the insurers shall not be restricted by the terms of this paragraph (d) from making personal claims against persons (other than the Borrower, any Collateral Guarantor or any Creditor Party) in circumstances where the insurers have fully discharged their liabilities and obligations under the relevant obligatory insurances;
- (e) provide that the obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Security Trustee or any other Creditor Party;
- (f) provide that the Security Trustee may make proof of loss if that Collateral Guarantor fails to do so; and
- (g) provide that if any obligatory insurance is cancelled, or if any substantial change is made in the coverage which adversely affects the interest of the Security Trustee, or if any obligatory insurance is allowed to lapse for non-payment of premium, such cancellation, charge or lapse shall not be effective with respect to the Security Trustee for 30 days (or 7 days in the case of war risks) after receipt by the Security Trustee of prior written notice from the insurers of such cancellation, change or lapse.

14.5 Renewal of obligatory insurances

The Borrower shall procure that each Collateral Guarantor shall:

- (a) at least 21 days before the expiry of any obligatory insurance effected by it:

- (i) notify the Security Trustee of the brokers (or other insurers) and any protection and indemnity or war risks association through or with whom that Borrower proposes to renew that obligatory insurance and of the proposed terms of renewal; and
- (ii) obtain the Lenders' approval to the matters referred to in paragraph (i);
- (b) at least 14 days before the expiry of any obligatory insurance effected by it, renew that obligatory insurance in accordance with the Lenders' approval pursuant to paragraph (a); and
- (c) procure that the approved brokers and/or the war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Security Trustee in writing of the terms and conditions of the renewal.

14.6 Copies of policies; letters of undertaking

The Borrower shall procure that each Collateral Guarantor shall ensure that all approved brokers provide the Security Trustee with copies of all policies relating to the obligatory insurances which they are to effect or renew and of a letter or letters or undertaking in a form required by the Lenders and including undertakings by the approved brokers that:

- (a) they will have endorsed on each policy, immediately upon issue, a loss payable clause and a notice of assignment complying with the provisions of Clause 14.4 (*Further protections for the Creditor Parties*);
- (b) they will hold such policies, and the benefit of such insurances, to the order of the Security Trustee in accordance with the said loss payable clause;
- (c) they will advise the Security Trustee immediately of any material change to the terms of the obligatory insurances;
- (d) they will notify the Security Trustee, not less than 14 days before the expiry of the obligatory insurances, in the event of their not having received notice of renewal instructions from that Collateral Guarantor or its agents and, in the event of their receiving instructions to renew, they **will** promptly notify the Security Trustee of the terms of the instructions; and
- (e) they will not set off against any sum recoverable in respect of a claim relating to the Ship owned by that Collateral Guarantor under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that Ship or otherwise, they waive any lien on the policies, or any sums received under them, which they might have ~~in~~ respect of such premiums or other amounts, and they will not cancel such obligatory insurances by reason of non-payment of such premiums or other amounts, and will arrange for a separate policy to be issued in respect of that Ship forthwith upon being so requested by the Security Trustee.

14.7 Copies of certificates of entry

The Borrower shall procure that each Collateral Guarantor shall ensure that any protection and indemnity and/or war risks associations in which the Ship owned by it is entered provides the Security Trustee with:

- (a) a certified copy of the certificate of entry for that Ship;
- (b) a letter or letters of undertaking in such form as may be required by the Lenders; and
- (c) where required to be issued under the terms of insurance/indemnity provided by the relevant Collateral Guarantor's protection and indemnity association, a certified copy of each United States of America voyage quarterly declaration (or other similar document or

documents) made by that Borrower in relation to the Ship owned by it in accordance with the requirements of such protection and indemnity association; and

- (d) a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority in relation to that Ship.

14.8 Deposit of original policies

The Borrower shall procure that each Collateral Guarantor shall ensure that all policies relating to obligatory insurances effected by it are deposited with the approved brokers through which the insurances are effected or renewed.

14.9 Payment of premiums

The Borrower shall procure that each Collateral Guarantor shall punctually pay all premiums or other sums payable in respect of the obligatory insurances effected by it and produce all relevant receipts when so required by the Security Trustee.

14.10 Guarantees

The Borrower shall procure that each Collateral Guarantor shall ensure that any guarantees required by a protection and indemnity or war risks association are promptly issued and remain in full force and effect.

14.11 Compliance with terms of insurances

The Borrower shall procure that each Collateral Guarantor shall not do nor omit to do (nor permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable under an obligatory insurance repayable in whole or in part; and, in particular:

- (a) the Borrower shall procure that each Collateral Guarantor shall take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and (without limiting the obligation contained in paragraph (c) of Clause 14.6 (*Copies of policies; letters of undertaking*) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Security Trustee has not given its prior approval;
- (b) the Borrower shall procure that each Collateral Guarantor shall make any changes relating to the Approved Classification or Approved Classification Society or manager or operator of the Ship owned by it approved by the underwriters of the obligatory insurances;
- (c) the Borrower shall procure that each Collateral Guarantor shall make (and promptly supply copies to the Agent of) all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Ship owned by it is entered to maintain cover for trading to the United States of America and Exclusive Economic Zone (as defined in the United States Oil Pollution Act 1990 or any other applicable legislation); and
- (d) the Borrower shall procure that each Collateral Guarantor shall employ the Ship owned by it, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances (including but not limited to any applicable laws and Sanctions), without first obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

14.12 Alteration to terms of insurances

The Borrower shall procure that each Collateral Guarantor shall not either make or agree to any alteration to the terms of any obligatory insurance nor waive any right relating to any obligatory insurance.

14.13 Settlement of claims

The Borrower shall procure that each Collateral Guarantor shall not settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty, and shall do all things necessary and provide all documents, evidence and information to enable the Security Trustee to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.

14.14 Provision of copies of communications

The Borrower shall procure that each Collateral Guarantor shall provide the Security Trustee, at the time of each such communication, copies of all written communications between that Collateral Guarantor and:

- (a) the approved brokers;
- (b) the approved protection and indemnity and/or war risks associations; and
- (c) the approved insurance companies and/or underwriters, which relate directly or indirectly to:
 - (i) that Collateral Guarantor's obligations relating to the obligatory insurances including, without limitation, all requisite declarations and payments of additional premiums or calls; and
 - (ii) any credit arrangements made between that Collateral Guarantor and any of the persons referred to in paragraphs (a) or (b) relating wholly or partly to the effecting or maintenance of the obligatory insurances.

14.15 Provision of information

In addition, the Borrower shall procure that each Collateral Guarantor shall promptly provide the Security Trustee (or any persons which it may designate) with any information which the Security Trustee (or any such designated person) requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker appointed by the Agent as to the adequacy of the obligatory insurances effected or proposed to be effected; and/or
- (b) effecting, maintaining or renewing any such insurances as are referred to in Clause 14.6 (*Copies of policies; letters of undertaking*) or dealing with or considering any matters relating to any such insurances,

and the Borrower shall, forthwith upon demand, indemnify the Security Trustee in respect of all fees and other expenses incurred by or for the account of the Security Trustee in connection with any such report as is referred to in paragraph (a).

14.16 Restrictions on employment

The Borrower shall procure that none of the Collateral Guarantor shall employ the Ship owned by it, nor permit her to be employed, outside the cover provided by any obligatory insurances.

14.17 Mortgagee's interest and additional perils insurances

The Security Trustee shall be entitled from time to time to effect, maintain and renew all or any of the following insurances in such amounts, on such terms, through such insurers and generally in such manner as the Lenders may from time to time consider appropriate:

- (a) a mortgagee's interest marine insurance in an amount equal to 120 per cent. of the aggregate of the Loan and the Swap Exposure, providing for the indemnification of the Security Trustee for any losses under or in connection with any Finance Document which directly or indirectly result from loss of or damage to a Ship or a liability of that Ship or of the Collateral Guarantor owing that Ship, being a loss or damage which is prima facie covered by an obligatory insurance but in respect of which there is a non-payment (or reduced payment) by the underwriters by reason of, or on the basis of an allegation concerning:
 - (i) any act or omission on the part of the Collateral Guarantor owning that Ship, of any operator, charterer, manager or sub-manager of that Ship or of any officer, employee or agent of that Collateral Guarantor or of any such person, including any breach of warranty or condition or any non-disclosure relating to such obligatory insurance;
 - (ii) any act or omission, whether deliberate, negligent or accidental, or any knowledge or privity of the Collateral Guarantor owning that Ship, any other person referred to in paragraph (i) above, or of any officer, employee or agent of that Collateral Guarantor or of such a person, including the casting away or damaging of that Ship and/or that Ship being unseaworthy; and/or
 - (iii) any other matter capable of being insured against under a mortgagee's interest marine insurance policy whether or not similar to the foregoing;
- (b) a mortgagee's interest additional perils policy in an amount equal to 120 per cent. of the aggregate of the Loan and the Swap Exposure, providing for the indemnification of the Security Trustee against, among other things, any possible losses or other consequences of any Environmental Claim, including the risk of expropriation, arrest or any form of detention of a Ship, the imposition of any Security Interest over the Ship and/or any other matter capable of being insured against under a mortgagee's interest additional perils policy whether or not similar to the foregoing,

and the Borrower shall upon demand fully indemnify the Security Trustee in respect of all premiums and other expenses which are incurred in connection with or with a view to effecting, maintaining or renewing any such insurance or dealing with, or considering, any matter arising out of any such insurance.

14.18 Review of insurance requirements

The Lenders shall be entitled to review the requirements of this Clause 14 (*Insurance*) from time to time in order to take account of any changes in circumstances after the date of this Agreement which are, in the opinion of the Lenders, significant and capable of affecting the Borrower, any Collateral Guarantor or any of the Ships and its or their insurance (including, without limitation, changes in the availability or the cost of insurance coverage or the risks to which any Collateral Guarantor may be subject). and may appoint insurance consultants in relation to this review at the cost of the Borrower, such review to be carried out before the Drawdown Date and, at the Agent's request, at any time during the Security Period if the Agent (acting on the instructions of the Lenders) considers necessary (fees of the insurance consultants to conduct such review shall be deducted from the Earnings Account in relation to the relevant Ship and the Borrower shall procure that each Collateral Guarantor shall irrevocably authorise the Agent to debit each Earnings Account in order to pay such fees).

14.19 Modification of insurance requirements

The Security Trustee shall notify the Borrower and each Collateral Guarantor of any proposed modification under Clause 14.18 (*Review of insurance requirements*) to the requirements of this Clause 14 (*Insurance*) which the Lenders consider appropriate in the circumstances, and such modification shall take effect on and from the date it is notified in writing to the Borrower and each Collateral Guarantor as an amendment to this Clause 14 (*Insurance*) and shall bind the Borrower and each Collateral Guarantor accordingly.

14.20 Compliance with mortgagee's instructions

The Security Trustee shall be entitled (without prejudice to or limitation of any other rights which it may have or acquire under any Finance Document) to require the Ship to remain at any safe port or to proceed to and remain at any safe port designated by the Security Trustee until the Borrower and/or the relevant Collateral Guarantor implement any amendments to the terms of the obligatory insurances and any operational changes required as a result of a notice served under Clause 14.19 (*Modification of insurance requirements*).

15 SHIP COVENANTS

15.1 General

The Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 15 (*Ship Covenants*) at all times during the Security Period except as the Agent, with the authorisation of the Majority Lenders, may otherwise permit.

15.2 Ship's name and registration

The Borrower shall procure that each Collateral Guarantor shall keep the Ship owned by it registered in its name under the laws of an Approved Flag State; shall not do, omit to do or allow to be done anything as a result of which such registration might be cancelled or imperilled; and shall not change the name or port of registry of the Ship owned by it.

15.3 Repair and classification

The Borrower shall procure that each Collateral Guarantor shall keep the Ship owned by it in a good and safe condition and state of repair:

- (a) consistent with first-class ship ownership and management practice;
- (b) so as to maintain the highest class with an Approved Classification Society free of overdue recommendations and conditions of such Approved Classification Society; and
- (c) so as to comply with all laws and regulations applicable to vessels registered at ports in the Approved Flag State or to vessels trading to any jurisdiction to which that Ship may trade from time to time, including but not limited to the ISM Code and the ISPS Code.

15.4 Classification society undertaking

The Borrower shall procure that each Collateral Guarantor shall instruct the Approved Classification Society referred to in Clause 15.3 (*Repair and classification*):

- (a) to send to the Security Trustee (with a copy to the Borrower), following receipt of a written request from the Security Trustee, certified true copies of all original class records held by the Approved Classification Society in relation to that Ship;
- (b) to allow the Security Trustee (or its agents), not more than once per calendar year, to inspect the original class and related records of that Collateral Guarantor and that Ship

either (i) in person at the offices of the Approved Classification Society or (ii) electronically (through the Approved Classification Society directly) and to take copies of such records

(c) to notify the Security Trustee immediately in writing if the Approved Classification Society:

- (i) receives notification from that Collateral Guarantor or any person that that Ship's Approved Classification Society is to be changed; or
- (ii) becomes aware of any facts or matters which may result in or have resulted in a change, suspension, discontinuance, withdrawal or expiry of that Ship's class under the rules or terms and conditions of that Collateral Guarantor's or that Ship's membership of the Approved Classification Society; and

(d) following receipt of a written request from the Security Trustee:

- (i) to confirm that that Collateral Guarantor is not in default of any of its contractual obligations or liabilities to the Approved Classification Society and, without limiting the foregoing, that it has paid in full all fees or other charges due and payable to the Approved Classification Society; or
- (ii) if that Collateral Guarantor is in default of any of its contractual obligations or liabilities to the Approved Classification Society, to specify to the Security Trustee in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the Approved Classification Society.

15.5 Modification

The Borrower shall procure that no Collateral Guarantor shall make any modification or repairs to, or replacement of, any Ship or equipment installed on it which would or might materially alter the structure, type or performance characteristics of that Ship or materially reduce its value.

15.6 Removal of parts

The Borrower shall procure that no Collateral Guarantor shall remove any material part of any Ship, or any item of equipment installed on, any Ship unless the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed, is free from any Security Interest or any right in favour of any person other than the Security Trustee and becomes on installation on the relevant Ship the property of the relevant Collateral Guarantor and subject to the security constituted by the relevant Mortgage **Provided that** a Collateral Guarantor may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Ship owned by it.

15.7 Surveys

The Borrower shall procure that each Collateral Guarantor shall submit the Ship owned by it regularly to all periodical or other surveys which may be required for classification purposes and, if so required by the Lenders provide the Security Trustee, with copies of all survey reports.

15.8 Inspection

The Borrower shall procure that each Collateral Guarantor shall permit the Security Trustee (by surveyors or other persons appointed by it for that purpose) to board the Ship owned by it up to once annually to inspect its condition or to satisfy themselves about proposed or

executed repairs and shall afford all proper facilities for such inspections and pay to the Agent the amount of all fees, costs and expenses incurred in respect of such inspections.

15.9 Prevention of and release from arrest

The Borrower shall procure that each Collateral Guarantor shall promptly discharge:

- (a) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against the Ship owned by it, the Earnings or the Insurances;
- (b) all taxes, dues and other amounts charged in respect of the Ship owned by it, the Earnings or the Insurances; and
- (c) all other outgoings whatsoever in respect of the Ship owned by it, the Earnings or the Insurances,

and, within 7 days upon receiving notice of the arrest of the Ship owned by it, or of its detention in exercise or purported exercise of any lien or claim, that Collateral Guarantor shall procure its release by providing bail or otherwise as the circumstances may require.

15.10 Compliance with laws etc.

The Borrower shall procure that each Collateral Guarantor shall:

- (a) comply, or procure compliance with the ISM Code (including, without limitation, by the Approved Manager), the ISPS Code, all Environmental Laws, Sanctions and all other laws or regulations relating to the Ship owned by it, its ownership, operation and management or to the business of that Collateral Guarantor;
- (b) not employ the Ship owned by it nor allow its employment in any manner contrary to any law or regulation in any relevant jurisdiction including but not limited to the ISM Code and the ISPS Code; and
- (c) in the event of hostilities in any part of the world (whether war is declared or not), not cause or permit the Ship owned by it to enter or trade to any zone which is declared a war zone by any government or by the Ship's war risks insurers unless the prior written consent of the Lenders has been given and that Collateral Guarantor has (at its expense) effected any special, additional or modified insurance cover which the Lenders may require.

15.11 Provision of information

The Borrower shall procure that each Collateral Guarantor shall promptly provide the Security Trustee with any information which the Lenders request regarding:

- (a) the Ship owned by it, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to the master and crew of the Ship owned by it;
- (c) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of the Ship owned by it and any payments made in respect of that Ship;
- (d) any towages and salvages; and
- (e) its compliance, the Approved Manager's compliance and the compliance of the Ship owned by it with the ISM Code and the ISPS Code,

and, upon the Security Trustee's request, provide copies of any current charter relating to the Ship owned by it, of any current charter guarantee and copies of each Collateral Guarantor's or the Approved Manager's Document of Compliance or any other document issued under the ISM Code.

15.12 Notification of certain events

The Borrower shall procure that each Collateral Guarantor shall immediately notify the Security Trustee by fax, confirmed forthwith by letter, of:

- (a) any casualty which is or is likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which the Ship owned by it has become or is, by the passing of time or otherwise, likely to become a Total Loss;
- (c) any requirement or recommendation made by any insurer or Approved Classification Society or by any competent authority which is not immediately complied with;
- (d) any arrest or detention of the Ship owned by it, any exercise or purported exercise of any lien on that Ship or its Earnings or any requisition of that Ship for hire;
- (e) any intended dry docking of the Ship owned by it;
- (f) any Environmental Claim made against that Collateral Guarantor or in connection with the Ship owned by it, or any Environmental Incident;
- (g) any claim for breach of the ISM Code or the ISPS Code being made against that Collateral Guarantor, the Approved Manager or otherwise in connection with the Ship owned by it; or
- (h) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with,

and that Collateral Guarantor shall keep the Security Trustee advised in writing on a regular basis and in such detail as the Security Trustee shall require of that Collateral Guarantor's, the Approved Manager's or any other person's response to any of those events or matters.

15.13 Restrictions on chartering, appointment of managers etc.

The Borrower shall procure that each Collateral Guarantor shall not, in relation to the Ship owned by it:

- (a) let that Ship on demise charter for any period;
- (b) enter into any time or consecutive voyage charter in respect of that Ship for a term which exceeds, or which by virtue of any optional extensions may exceed, 13 months;
- (c) enter into any charter in relation to that Ship under which more than 2 months' hire (or the equivalent) is payable in advance;
- (d) charter that Ship otherwise than on bona fide arm's length terms at the time when that Ship is fixed;
- (e) appoint a manager of that Ship other than the Approved Manager or agree to any alteration to the terms of the Approved Manager's appointment;
- (f) de-activate or lay up that Ship; or

- (g) put that Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed \$1,000,000 (or the equivalent in any other currency) unless that person has first given to the Security Trustee and in terms satisfactory to it a written undertaking not to exercise any lien on that Ship or its Earnings for the cost of such work or for any other reason.

15.14 Notice of Mortgage

The Borrower shall procure that each Collateral Guarantor shall keep the relevant Mortgage registered against the Ship owned by it as a valid first priority or, as the case may be, preferred mortgage, carry on board that Ship a certified copy of the relevant Mortgage and place and maintain in a conspicuous place in the navigation room and the Master's cabin of that Ship a framed printed notice stating that that Ship is mortgaged by that Borrower to the Security Trustee.

15.15 Sharing of Earnings

The Borrower shall procure that no Collateral Guarantor shall:

- (a) enter into any agreement or arrangement for the sharing of any Earnings;
- (b) enter into any agreement or arrangement for the postponement of any date on which any Earnings are due; the reduction of the amount of any Earnings or otherwise for the release or adverse alteration of any right of the Collateral Guarantors to any Earnings; or
- (c) enter into any agreement or arrangement for the release of, or adverse alteration to, any guarantee or Security Interest relating to any Earnings.

15.16 Charter Assignment

If any Collateral Guarantor enters into any Charterparty, the Borrower shall procure that that Collateral Guarantor shall, at the request of the Agent, execute in favour of the Security Trustee a Charterparty Assignment, and shall deliver to the Agent such other documents equivalent to those referred to at paragraphs 3, 4, 5, 8 and 9 of Part A of Schedule 4 (*Condition Precedent Documents*) hereof as the Agent may require.

15.17 ISM Code, ISPS Code compliance and Environmental Laws

The Borrower shall procure that each Collateral Guarantor shall comply with the ISPS Code and in particular, without limitation, shall:

- (a) procure that the Ship owned by that Collateral Guarantor and the company responsible for that Ship's compliance with the ISPS Code comply with the ISPS Code; and
- (b) maintain for that Ship an ISSC; and
- (c) notify the Agent immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.

15.18 ITF compliance.

The Borrower shall, and shall procure that each Collateral Guarantor shall, procure that the Approved Manager shall be approved by the ITF as and when it is required by law to maintain such approval.

15.19 Sanctions Provisions

- (a) The Borrower shall, and shall procure that each other Security Party and each Ship shall, and, in respect of any charterer, shall use its best efforts to procure that that charterer shall, comply in all respects with all laws to which it may be subject, including, without limitation, all national and international laws, directives, regulations, decrees, rulings and such analogous rules, including, but not limited to, rules relating to Sanctions.
- (b) The Borrower undertakes, and shall procure that each Collateral Guarantor undertakes, to make any charterers and operators of the Ships aware of the requirements of this Clause and of Clause 10.18 (*Sanctions*) and that provisions relating to Sanctions substantially similar to those set out under this Agreement are included in any Charterparty or any other charter and shall procure that any charterer acts in accordance with these requirements.

15.20 Change of Approved Manager

The Borrower may, at its sole discretion, at any time during the Security Period, change the Approved Manager of a Ship from Diana Shipping Services SA to Diana Wilhelmsen Management Limited **Provided that** the Borrower shall notify the Agent 2 Business Days prior to such change and undertakes to provide the Agent with the documents referred to in paragraph 3 of Part B of Schedule 4 within 1 Business Day after the change of the Approved Manager is concluded.

16 SECURITY COVER

16.1 Minimum required security cover

Clause 16.2 (*Provision of additional security; prepayment*) applies if the Agent notifies the Borrower that:

- (a) the aggregate of the Market Values of the Ships; plus
- (b) the net realisable value of any additional security previously provided under this Clause 16 (*Security cover*),

is:

- (i) until the date falling on the first anniversary of the Drawdown Date, below 125 per cent. of the aggregate of the Loan and the Swap Exposure; and
- (ii) from the date falling on the first anniversary of the Drawdown Date and for the remainder of the Security Period, below 130 per cent. of the aggregate of the Loan and the Swap Exposure.

16.2 **Provision of additional security; prepayment**

If the Agent serves a notice on the Borrower under Clause 16.1 (*Minimum required security cover*), the Borrower shall prepay such part (at least) of the Loan as will eliminate the shortfall on or before the date falling 1 month after the date on which the Agent's notice is served under Clause 16.1 (*Minimum required security cover*) unless at least 1 Business Day before the Prepayment Date they have provided, or ensured that a third party has provided, additional security which, in the opinion of the Majority Lenders, has a net realisable value at least equal to the shortfall and which has been documented in such terms as the Agent may, with the authorisation of the Majority Lenders, approve or require.

In this Clause 16.2 (*Provision of additional security; prepayment*) "**security**" means a Security Interest over an asset or assets (whether securing the Borrower's liabilities under the Finance Documents or a guarantee in respect of those liabilities), or a guarantee, letter of credit or other security in respect of the Borrower's liabilities under the Finance Documents.

16.3 Requirement for additional documents.

The Borrower shall not be deemed to have complied with Clause 16.2 (*Provision of additional security; prepayment*) above until the Agent has received in connection with the additional security certified copies of documents of the kinds referred to in paragraphs 3, 4 and 5 of Schedule 4 (*Condition Precedent Documents*) Part A and such legal opinions in terms acceptable to the Majority Lenders from such lawyers as they may select.

16.4 Valuation of Ships

The market value of a Ship at any date is that shown by a valuation prepared:

- (a) as at a date not more than [2] months previously;
- (b) by an Approved Broker appointed by the Agent;
- (c) with or without physical inspection of the Ship (as the Agent may require);
- (d) on the basis of a sale for prompt delivery for cash on normal arm's length commercial terms as between a willing seller and a willing buyer, free of any existing charter or other contract of employment; and
- (e) after deducting the estimated amount of the usual and reasonable expenses which would be incurred in connection with the sale.

16.5 Value of additional vessel security

The net realisable value of any additional security which is provided under Clause 16.2 and which consists of a Security Interest over a vessel shall be that shown by a valuation complying with the requirements of Clause 16.4 (*Valuation of Ships*).

16.6 Valuations binding

Any valuation under Clause 16.2 (*Provision of additional security; prepayment*), 16.4 (*Valuation of Ships*) or 16.5 (*Value of additional vessel security*) shall be binding and conclusive as regards the Borrower, as shall be any valuation which the Majority Lenders make of any additional security which does not consist of or include a Security Interest.

16.7 Provision of information

The Borrower shall promptly provide the Agent and any shipbroker or expert acting under Clause 16.4 (*Valuation of Ships*) or 16.5 (*Value of additional vessel security*) with any information which the Agent or an Approved Broker or expert may request for the purposes of the valuation; and, if the Borrower fails to provide the information by the date specified in the request, the valuation may be made on any basis and assumptions which the Approved Broker or the Majority Lenders (or the expert appointed by them) consider prudent.

16.8 Payment of valuation expenses

Without prejudice to the generality of the Borrower's obligations under Clauses 21.1 (*Structuring, agency, account bank fees*), 21.3 (*Costs of variations, amendments, enforcement etc.*) and 22.3 (*Miscellaneous indemnities*), the Borrower shall, on demand, pay the Agent the amount of the fees and expenses of any Approved Broker or expert instructed by the Agent under this Clause and all legal and other expenses incurred by any Creditor Party in connection with any matter arising out of this Clause.

16.9 Frequency of valuations

The Borrower acknowledges and agree that the Agent may commission valuation(s) of the Ships or any of them at such times as the Agent shall deem necessary and, in any event, at least once in each calendar year.

16.10 Application of prepayment

Clause 8 (*Repayment and Prepayment*) shall apply in relation to any prepayment pursuant to Clause 16.2 (*Provision of additional security; prepayment*).

17 PAYMENTS AND CALCULATIONS

17.1 Currency and method of payments

All payments to be made:

- (a) by the Lenders to the Agent; or
- (b) by the Borrower to the Agent, the Security Trustee or any Lender,

under a Finance Document shall be made to the Agent or to the Security Trustee, in the case of an amount payable to it:

- (i) by not later than 11.00 a.m. (New York City time) on the due date;
- (ii) to the account of the Agent as the Agent may from time to time notify to the Borrower and the other Creditor Parties; and
- (iii) in the case of an amount payable to the Security Trustee, to such account as it may from time to time notify to the Borrower and the other Creditor Parties.

17.2 Payment on non-Business Day

If any payment by any of the Security Parties under a Finance Document would otherwise fall due on a day which is not a Business Day:

- (a) the due date shall be extended to the next succeeding Business Day; or
- (b) if the next succeeding Business Day falls in the next calendar month, the due date shall be brought forward to the immediately preceding Business Day,

and interest shall be payable during any extension under paragraph (a) at the rate payable on the original due date.

17.3 Basis for calculation of periodic payments

All interest and any other payments under any Finance Document which are of an annual or periodic nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

17.4 Distribution of payments to Creditor Parties

Subject to Clauses 17.5 (*Permitted deductions by Agent*), 17.6 (*Agent only obliged to pay when monies received*) and 17.7 (*Refund to Agent of monies not received*):

- (a) any amount received by the Agent under a Finance Document for distribution or remittance to a Lender, the Swap Bank or the Security Trustee shall be made available by the Agent to

that Lender, the Swap Bank or, as the case may be, the Security Trustee by payment, with funds having the same value as the funds received, to such account as the Lender, the Swap Bank or the Security Trustee may have notified to the Agent not less than 5 Business Days previously; and

- (b) amounts to be applied in satisfying amounts of a particular category which are due to the Lenders or the Swap Bank generally shall be distributed by the Agent to each Lender or the Swap Bank pro rata to the amount in that category which is due to it.

17.5 Permitted deductions by Agent

Notwithstanding any other provision of this Agreement or any other Finance Document, the Agent may, before making an amount available to a Lender or the Swap Bank, deduct and withhold from that amount any sum which is then due and payable to the Agent from that Lender or the Swap Bank under any Finance Document or any sum which the Agent is then entitled under any Finance Document to require that Lender or the Swap Bank to pay on demand.

17.6 Agent only obliged to pay when monies received

Notwithstanding any other provision of this Agreement or any other Finance Document, the Agent shall not be obliged to make available to the Borrower or any Lender or the Swap Bank any sum which the Agent is expecting to receive for remittance or distribution to that Borrower or that Lender or the Swap Bank until the Agent has satisfied itself that it has received that sum.

17.7 Refund to Agent of monies not received

If and to the extent that the Agent makes available a sum to the Borrower or a Lender, without first having received that sum, the Borrower or (as the case may be) the Lender concerned or the Swap Bank shall, on demand:

- (a) refund the sum in full to the Agent; and
- (b) pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding or other loss, liability or expense incurred by the Agent as a result of making the sum available before receiving it.

17.8 Agent may assume receipt

Clause 17.7 (*Refund to Agent of monies not received*) shall not affect any claim which the Agent has under the law of restitution, and applies irrespective of whether the Agent had any form of notice that it had not received the sum which it made available.

17.9 Creditor Party accounts

Each Creditor Party shall maintain accounts showing the amounts owing to it by the Borrower and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrower and any Security Party.

17.10 Agent's memorandum account

The Agent shall maintain a memorandum account showing the amounts advanced by the Lenders and all other sums owing to the Agent, the Security Trustee and each Lender from the Borrower and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrower and any Security Party.

17.11 Accounts prima facie evidence

If any accounts maintained under Clauses 17.9 (*Creditor Party accounts*) and 17.10 (*Agent's memorandum account*) show an amount to be owing by the Borrower or a Security Party to a Creditor Party, those accounts shall be prima facie evidence that that amount is owing to that Creditor Party.

18 APPLICATION OF RECEIPTS

18.1 Normal order of application

Except as any Finance Document may otherwise provide, any sums which are received or recovered by any Creditor Party under or by virtue of any Finance Document shall be applied:

- (a) FIRST: in or towards satisfaction of any amounts then due and payable under the Finance Documents or the Master Agreement in the following proportions:
 - (i) first, in or towards satisfaction pro rata of all amounts then due and payable to the Creditor Parties under the Finance Documents and the Master Agreement (in respect of any Designated Transactions) other than those amounts referred to at (ii) and (iii) below (including, but without limitation, all amounts payable by the Borrower under Clauses 21 (*Fees and Expenses*), 22 (*Indemnities*) and 23 (*No Set-Off or Tax Deduction*) of this Agreement or by the Borrower or any Security Party under any corresponding or similar provision in any other Finance Document or in the Master Agreement);
 - (ii) secondly, in or towards satisfaction pro rata of any and all amounts of interest or default interest payable to the Creditor Parties under the Finance Documents and the Master Agreement (in respect of any Designated Transactions) (and, for this purpose, the expression "interest" shall include any net amount which the Borrower shall have become liable to pay or deliver under section 2(e) (Obligations) of the Master Agreement (in respect of any Designated Transactions) but shall have failed to pay or deliver to the Swap Bank at the time of application or distribution under this Clause 18 (*Application of Receipts*)); and
 - (iii) thirdly, in or towards satisfaction pro rata of the Loan and the Swap Exposure (in the case of the latter, calculated as at the actual Early Termination Date applying to each particular Designated Transaction, or if no such Early Termination Date shall have occurred, calculated as if an Early Termination Date occurred on the date of application or distribution hereunder);
- (b) SECONDLY: in retention of an amount equal to any amount not then due and payable under any Finance Document or the Master Agreement (in respect of any Designated Transactions) but which the Agent, by notice to the Borrower, the Security Parties and the other Creditor Parties, states in its opinion will or may become due and payable in the future and, upon those amounts becoming due and payable, in or towards satisfaction of them in accordance with the foregoing provisions of this paragraph of paragraph (a) of Clause 18.1(*Normal order of application*);
- (c) THIRDLY: in or towards satisfaction of any amounts representing management fees then due and payable by the Borrower or the Collateral Guarantors to the Approved Manager in connection with the Ships; and
- (d) FOURTHLY: any surplus shall be paid to the Borrower or to any other person appearing to be entitled to it.

18.2 Variation of order of application

The Agent may, with the authorisation of the Majority Lenders and the Swap Bank, by notice to the Borrower, the Security Parties and the other Creditor Parties provide for a different manner of application from that set out in Clause 18.1 (*Normal order of application*) either as regards a specified sum or sums or as regards sums **in** a specified category or categories.

18.3 Notice of variation of order of application

The Agent may give notices under Clause 18.2 (*Variation of order of application*) from time to time; and such a notice may be stated to apply not only to sums which may be received or recovered in the future, but also to any sum which has been received or recovered on or after the third Business Day before the date on which the notice is served.

18.4 Appropriation rights overridden

This Clause 18 (*Application of Receipts*) and any notice which the Agent gives under Clause 18.2 (*Variation of order of application*) shall override any right of appropriation possessed, and any appropriation made, by the Borrower or any Security Party.

19 APPLICATION OF EARNINGS

19.1 Payment of Earnings

The Borrower undertakes with each Creditor Party to ensure that, and to procure that each Collateral Guarantor shall ensure that, throughout the Security Period:

- (a) (subject only to the provisions of the General Assignment), all the Earnings of each Ship are paid to the Earnings Account relevant for that Ship; and
- (b) all payments by the Swap Bank to the Borrower under each Designated Transaction are paid to the Liquidity Reserve Account.

19.2 Earnings Accounts balances

Subject to all other terms of this Agreement (including, without limitation, Clause 12.19 (*Borrower's Minimum Liquidity*) and the other Finance Documents, any monies standing to the credit of each Earnings Account shall be freely available to the Collateral Guarantors to be used in accordance with, and in compliance with the terms and conditions of, this Agreement and the other Finance Documents **Provided** that no Event of Default or a Potential Event of Default shall have occurred and is continuing.

19.3 Location of accounts

The Borrower shall promptly:

- (a) comply, or procure that each Collateral Guarantor complies, with any requirement of the Agent as to the location or re-location of the Earnings Accounts (or any of them) or the Liquidity Reserve Account; and
- (b) execute, or procure that each Collateral Guarantor executes, any documents which the Agent specifies to create or maintain in favour of the Security Trustee a Security Interest over (and/or rights of set-off, consolidation or other rights in relation to) the Earnings Accounts or the Liquidity Reserve Account.

19.4 Debits for expenses etc.

The Agent shall be entitled (but not obliged) from time to time to debit any Earnings Account or the Liquidity Reserve Account without prior notice in order to discharge any amount due and payable under Clause 21 (*Fees and Expenses*) or 22 (*Indemnities*) to a Creditor Party or

payment of which any Creditor Party has become entitled to demand under Clause 21 (*Fees and Expenses*) or 22 (*Indemnities*).

19.5 Borrower obligations unaffected

The provisions of this Clause 19 (*Application of Earnings*) do not affect:

- (a) the liability of the Borrower to make payments of principal and interest on the due dates; or
- (b) any other liability or obligation of the Borrower or any Security Party under any Finance Document.

20 EVENTS OF DEFAULT

20.1 Events of Default

An Event of Default occurs if:

- (a) the Borrower or any Security Party fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document; or
- (b) any breach occurs of Clause 9.2 (*Waiver of conditions precedent*), 10.18 (*Sanctions*), 12.2 (*Title; negative pledge*), 12.3 (*No disposal of assets*), 12.19 (*Borrower's Minimum liquidity*), 12.20 (*Sanctions*), 13.2 (*Maintenance of status*), 13.3 (*Negative undertakings*), 14.2 (*Maintenance of obligatory insurances*), 14.3 (*Terms of obligatory insurances*), 15.2 (*Ship's name and registration*), 15.3 (*Repair and classification*), 15.11 (*Provision of information*) or 16.2 (*Provision of additional security; prepayment*); or
- (c) any breach by the Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach covered by paragraphs (a) or (b)) which, in the opinion of the Majority Lenders, is capable of remedy, and such default continues unremedied 10 days after the earlier of (i) written notice from the Agent requesting action to remedy the same and (ii) the Borrower becoming aware of such breach; or
- (d) (subject to any applicable grace period specified in the Finance Document) any breach by the Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach falling within paragraphs (a), (b) or (c)); or
- (e) any representation, warranty or statement made or repeated by, or by an officer of, the Borrower or a Security Party in a Finance Document or in the Drawdown Notice or any other notice or document relating to a Finance Document is untrue or misleading when it is made or repeated; or
- (f) any of the following occurs in relation to any Financial Indebtedness of a Relevant Person (exceeding \$500,000 (or the equivalent in any other currency) in the case of each Collateral Guarantor and in no event exceeding \$15,000,000 (or the equivalent in any other currency) in respect of all Relevant Persons in aggregate at any relevant time):
 - (i) any Financial Indebtedness of a Relevant Person is not paid when due or, if so payable, on demand; or
 - (ii) any Financial Indebtedness of a Relevant Person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or

- (iii) a lease, hire purchase agreement or charter creating any Financial Indebtedness of a Relevant Person is terminated by the lessor or owner or becomes capable of being terminated as a consequence of any termination event; or
 - (iv) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of a Relevant Person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or
 - (v) any Security Interest securing any Financial Indebtedness of a Relevant Person becomes enforceable; or
- (g) any of the following occurs in relation to a Relevant Person:
- (i) a Relevant Person becomes, in the opinion of the Majority Lenders, unable to pay its debts as they fall due; or
 - (ii) any assets of a Relevant Person are subject to any form of execution, attachment, arrest, sequestration or distress in respect of a sum of, or sums, exceeding in aggregate \$500,000 (or the equivalent in any other currency) in the case of each Collateral Owner and in no event exceeding \$15,000,000 (or the equivalent in any other currency) in respect of all Relevant Persons in aggregate at any relevant time; or
 - (iii) any administrative or other receiver is appointed over any asset of a Relevant Person; or
 - (iv) an administrator is appointed (whether by the court or otherwise) in respect of a Relevant Person; or
 - (v) any formal declaration of bankruptcy or any formal statement to the effect that a Relevant Person is insolvent or likely to become insolvent is made by a Relevant Person or by the directors of a Relevant Person or, in any proceedings, by a lawyer acting for a Relevant Person; or
 - (vi) a provisional liquidator is appointed in respect of a Relevant Person, a winding up order is made in relation to a Relevant Person or a winding up resolution is passed by a Relevant Person; or
 - (vii) a resolution is passed, an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by (aa) a Relevant Person, (bb) the members or directors of a Relevant Person, (cc) a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person, or (dd) a government minister or public or regulatory authority of a Pertinent Jurisdiction for or with a view to the winding up of that or another Relevant Person or the appointment of a provisional liquidator or administrator in respect of that or another Relevant Person, or that or another Relevant Person ceasing or suspending business operations or payments to creditors, save that this paragraph does not apply to a fully solvent winding up of a Relevant Person other than the Borrower or a Collateral Guarantor which is, or is to be, effected for the purposes of an amalgamation or reconstruction previously approved by the Majority Lenders and effected not later than 3 months after the commencement of the winding up; or
 - (viii) an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by a creditor of a Relevant Person

(other than a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person) for the winding up of a Relevant Person or the appointment of a provisional liquidator or administrator in respect of a Relevant Person in any Pertinent Jurisdiction, unless the proposed winding up, appointment of a provisional liquidator or administration is being contested in good faith, on substantial grounds and not with a view to some other insolvency law procedure being implemented instead and either (aa) the application or petition is dismissed or withdrawn within 30 days of being made or presented, or (bb) within 30 days of the administration notice being given or filed, or the other relevant steps being taken, other action is taken which will ensure that there will be no administration and (in both cases (aa) or (bb)) the Relevant Person will continue to carry on business in the ordinary way and without being the subject of any actual, interim or pending insolvency law procedure; or

- (ix) a Relevant Person or its directors take any steps (whether by making or presenting an application or petition to a court, or submitting or presenting a document setting out a proposal or proposed terms, or otherwise) with a view to obtaining, in relation to that or another Relevant Person, any form of moratorium, suspension or deferral of payments, reorganisation of debt (or certain debt) or arrangement with all or a substantial proportion (by number or value) of creditors or of any class of them or any such moratorium, suspension or deferral of payments, reorganisation or arrangement is effected by court order, by the filing of documents with a court, by means of a contract or in any other way at all; or
- (x) any meeting of the members or directors, or of any committee of the board or senior management, of a Relevant Person is held or summoned for the purpose of considering a resolution or proposal to authorise or take any action of a type described in paragraphs (iv) to (ix) or a step preparatory to such action, or (with or without such a meeting) the members, directors or such a committee resolve or agree that such an action or step should be taken or should be taken if certain conditions materialise or fail to materialise; or
- (xi) in a country other than England, any event occurs, any proceedings are opened or commenced or any step is taken which, in the opinion of the Majority Lenders is similar to any of the foregoing; or
- (h) the Borrower or any Collateral Guarantor ceases or suspends carrying on its business or a part of its business which, in the opinion of the Majority Lenders, is material in the context of this Agreement; or
- (i) it becomes unlawful or impossible:
 - (i) for the Borrower or any Security Party to discharge any liability under a Finance Document or to comply with any other obligation which the Majority Lenders consider material under a Finance Document; or
 - (ii) for the Agent, the Security Trustee, the Lenders or the Swap Bank to exercise or enforce any right under, or to enforce any Security Interest created by, a Finance Document; or
- (j) any official consent necessary to enable any Collateral Guarantor to own, operate or charter the Ship owned by it or to enable any Collateral Guarantor or any Security Party to comply with any provision which the Majority Lenders consider material of a Finance Document is not granted, expires without being renewed, is revoked or becomes liable to revocation or any condition of such a consent is not fulfilled; or
- (k) any provision which the Majority Lenders consider material of a Finance Document proves to have been or becomes invalid or unenforceable, or a Security Interest created by a Finance

Document proves to have been or becomes invalid or unenforceable or such a Security Interest proves to have ranked after, or loses its priority to, another Security Interest or any other third party claim or interest; or

- (l) Mr. Simeon Palios ceases to own (either directly or indirectly) at least 5 per cent. of the share capital of the Borrower; or
- (m) the Borrower ceases to own (either directly or indirectly) the entire share capital of any Collateral Guarantor;
- (n) without the prior written consent of the Agent (acting with the authorisation of all Lenders) the shares of the Borrower cease to be listed on the New York Stock Exchange;
- (o) the security constituted by a Finance Document is in any way imperilled or in jeopardy; or
- (p) an Event of Default (as defined in Section 14 of the Master Agreement) occurs; or
- (q) the Master Agreement is terminated, cancelled, suspended, rescinded or revoked or otherwise ceases to remain in full force and effect for any reason except with the consent of the Agent, acting with the authorisation of the Lenders; or
- (r) any other event occurs or any other circumstances arise or develop including, without limitation:
 - (i) a change in the business, condition (financial or otherwise), operation, state of affairs or prospects of any Relevant Person; or
 - (ii) any accident or other event involving any Ship or another vessel owned, chartered or operated by a Relevant Person,

in the light of which the Majority Lenders consider that there is a significant risk that the Borrower, any Collateral Guarantor or any other Security Party are, or will later become, unable to discharge its liabilities under the Finance Documents as they fall due.

20.2 Actions following an Event of Default

On, or at any time after, the occurrence of an Event of Default:

- (a) the Agent may, and if so instructed by the Majority Lenders, the Agent shall:
 - (i) serve on the Borrower a notice stating that all or part of the Commitments and of the other obligations of each Lender to the Borrower under this Agreement are terminated; and/or
 - (ii) serve on the Borrower a notice stating that all or part of the Loan together with accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
 - (iii) take any other action which, as a result of the Event of Default or any notice served under paragraph (i) or (ii) above, the Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law; and/or
- (b) the Security Trustee may, and if so instructed by the Agent, acting with the authorisation of the Majority Lenders in consultation with the Swap Bank, the Security Trustee shall take any action which, as a result of the Event of Default or any notice served under paragraph (a)(i) or (a)(ii), the Security Trustee, the Agent and/or the Lenders and/or the Swap Bank are entitled to take under any Finance Document or any applicable law.

20.3 Termination of Commitments

On the service of a notice under paragraph (a)(i) of Clause 20.2 (*Actions following an Event of Default*), the Commitments and all other obligations of each Lender to the Borrower under this Agreement shall be terminated.

20.4 Acceleration of Loan

On the service of a notice under paragraph (a)(i) of Clause 20.2 (*Actions following an Event of Default*), all or, as the case may be, the part of the Loan specified in the notice together with accrued interest and all other amounts accrued or owing from the Borrower or any Security Party under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

20.5 Multiple notices; action without notice

The Agent may serve notices under paragraphs (a)(i) or (a)(ii) of Clause 20.2 (*Actions following an Event of Default*) simultaneously or on different dates and it and/or the Security Trustee may take any action referred to in that Clause if no such notice is served or simultaneously with or at any time after the service of both or either of such notices.

20.6 Notification of Creditor Parties and Security Parties

The Agent shall send to each Lender, the Swap Bank, the Security Trustee and each Security Party a copy or the text of any notice which the Agent serves on the Borrower under Clause 20.2 (*Actions following an Event of Default*); but the notice shall become effective when it is served on the Borrower, and no failure or delay by the Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide the Borrower or any Security Party with any form of claim or defence.

20.7 Creditor Party's rights unimpaired

Nothing in this Clause shall be taken to impair or restrict the exercise of any right given to individual Lenders or the Swap Bank under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clause 3.1 (*Interests of Creditor Parties several*).

20.8 Exclusion of Creditor Party liability

No Creditor Party, and no receiver or manager appointed by the Security Trustee, shall have any liability to the Borrower or a Security Party:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset,

except that this does not exempt a Creditor Party or a receiver or manager from liability for losses shown to have been directly and mainly caused by the dishonesty or the wilful misconduct of such Creditor Party's own officers and employees or (as the case may be) such receiver's or manager's own partners or employees.

20.9 Relevant Persons

In this Clause 20 (*Events of Default*), a "**Relevant Person**" means the Borrower, any Collateral Guarantor, the Approved Manager, any other Security Party and/or any other member of the Group.

20.10 Interpretation

In paragraph (f) of Clause 20.1 (*Events of Default*) references to an event of default or a termination event include any event, howsoever described, which is similar to an event of default in a facility agreement or a termination event in a finance lease; and in paragraph (g) of Clause 20.1 (*Events of Default*) "**petition**" includes an application.

21 FEES AND EXPENSES

21.1 Structuring, agency, account bank fees

The Borrower shall pay to the Agent:

- (a) on the date of this Agreement, a non-refundable structuring fee in the amount set out in the Fee Letter;
- (b) on the date of this Agreement and on each anniversary thereof during the Security Period, an annual agency fee of an amount agreed in writing between the Agent and the Borrower prior to the date of this Agreement, such agency fee to be payable to the Agent in advance for its own account; and
- (c) on the date of this Agreement and on each anniversary thereof during the Security Period, an annual account bank fee in an amount to be agreed in writing between the Agent and the Borrower prior to the date of this Agreement, such account bank fee to be payable to the Agent in advance for the account of the Account Bank.

21.2 Costs of negotiation, preparation etc.

The Borrower shall pay to the Agent on its demand the amount of all expenses incurred by the Agent or the Security Trustee in connection with the negotiation, preparation, execution or registration of any Finance Document or any related document or with any transaction contemplated by a Finance Document or a related document (including, without limitation, out of pocket expenses, legal fees and any related VAT).

21.3 Costs of variations, amendments, enforcement etc.

The Borrower shall pay to the Agent, on the Agent's demand, for the account of the Creditor Party concerned the amount of all expenses incurred by a Creditor Party in connection with:

- (a) any amendment or supplement to a Finance Document requested by a Security Party, or any proposal for such an amendment to be made;
- (b) any consent or waiver by the Lenders, the Majority Lenders, the Swap Bank or the Creditor Party concerned under or in connection with a Finance Document, or any request for such **consent or waiver**;
- (c) the valuation of any security provided or offered under Clause 16 (*Security cover*) or any other matter relating to such security;
- (d) where the Agent, in its absolute opinion, considers that there has been a material change to the insurances in respect of any of the Ships, the review of the insurances of that Ship pursuant to Clause 14.18 (*Review of insurance requirements*);

- (e) the opinions of the independent insurance consultant referred to in paragraph 6 of Part B, Schedule 4 (*Condition Precedent Documents*); and
- (f) any step taken by the Creditor Party concerned with a view to the protection, exercise or enforcement of any right or Security Interest created by a Finance Document or for any similar purpose.

There shall be recoverable under paragraph (f) the full amount of all legal expenses, whether or not such as would be allowed under rules of court or any taxation or other procedure carried out under such rules.

21.4 Documentary taxes

The Borrower shall promptly pay any tax payable on or by reference to any Finance Document, and shall, on the Agent's demand, fully indemnify each Creditor Party against any claims, expenses, liabilities and losses resulting from any failure or delay by the Borrower to pay such a tax.

21.5 Certification of amounts

A notice which is signed by 2 officers of a Creditor Party, which states that a specified amount, or aggregate amount, is due to that Creditor Party under this Clause 21 (*Fees and Expenses*) and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

22 INDEMNITIES

22.1 Indemnities regarding borrowing and repayment of Loan

The Borrower shall fully indemnify the Agent and each Lender on the Agent's demand and the Security Trustee on its demand in respect of all claims, expenses, liabilities and losses which are made or brought against or incurred by that Creditor Party, or which that Creditor Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:

- (a) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender or the Swap Bank claiming the indemnity;
- (b) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period including, without limitation, where such receipt or recovery is made as a result of the voluntary or mandatory repayment or prepayment of the Loan, or any part thereof;
- (c) any failure (for whatever reason) by the Borrower to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 7 (*Default Interest*)); and
- (d) the occurrence of an Event of Default or a Potential Event of Default and/or the acceleration of repayment of the Loan under Clause 20 (*Events of Default*),

and in respect of any tax (other than tax on its overall net income or a FATCA Deduction) for which a Creditor Party is liable in connection with any amount paid or payable to that Creditor Party (whether for its own account or otherwise) under any Finance Document.

22.2 Breakage costs

Without limiting its generality, Clause 22.1 (*Indemnities regarding borrowing and repayment of Loan*) covers any claim, expense, liability or loss, including a loss of a prospective profit, incurred by a Lender:

- (a) in liquidating or employing deposits from third parties acquired or arranged to fund or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount); and
- (b) in terminating, or otherwise in connection with, any interest and/or currency swap or any other transaction entered into (whether with another legal entity or with another office or department of the Lender concerned) to hedge any exposure arising under this Agreement or that part which the Lender concerned determines is fairly attributable to this Agreement of the amount of the liabilities, expenses or losses (including losses of prospective profits) incurred by it in terminating, or otherwise in connection with, a number of transactions of which this Agreement is one.

22.3 Miscellaneous indemnities

The Borrower shall fully indemnify each Creditor Party severally on their respective demands in respect of all claims, demands, proceedings, liabilities, taxes, losses and expenses of every kind ("**liability items**") which may be made or brought against, or incurred by, a Creditor Party, in any country, in relation to:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Agent, the Security Trustee or any other Creditor Party or by any receiver appointed under a Finance Document; and
- (b) any other event, matter or question which occurs or arises at any time during the Security Period and which has any connection with, or any bearing on, any Finance Document, any payment or other transaction relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created (or intended to be created) by a Finance Document,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the dishonesty or wilful misconduct of the officers or employees of the Creditor Party concerned.

22.4 Extension of indemnities; environmental indemnity

Without prejudice to its generality, Clause 22.3 (*Miscellaneous indemnities*) covers:

- (a) any matter which would be covered by Clause 22.3 (*Miscellaneous indemnities*) if any of the references in that Clause to a Lender were a reference to the Agent or (as the case may be) to the Security Trustee; and
- (b) any liability items which arise, or are asserted, under or in connection with any law relating to safety at sea, pollution or the protection of the environment, the ISM Code, the ISPS Code or any Environmental Law.

22.5 Currency indemnity

If any sum due from the Borrower or any Security Party to a Creditor Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- (a) making or lodging any claim or proof against of the Borrower or any Security Party, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrower shall indemnify the Creditor Party concerned against the loss arising when the amount of the payment actually received by that Creditor Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 22.5 (*Currency indemnity*) the "available rate of exchange" means the rate at which the Creditor Party concerned is able at the opening of business (London time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 22.5 (*Currency indemnity*) creates a separate liability of the Borrower which is distinct from their other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

22.6 Certification of amounts

A notice which is signed by 2 officers of a Creditor Party, which states that a specified amount, or aggregate amount, is due to that Creditor Party under this Clause 22 (*Indemnities*) and which indicates (without necessarily specifying a detailed breakdown of the amounts due) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

22.7 Application of Master Agreement

For the avoidance of doubt, Clause 22.5 (*Currency indemnity*) does not apply in respect of sums due from the Borrower to the Swap Bank under or in connection with the Master Agreement as to which sums the provisions of Section 8 (Contractual Currency) of the Master Agreement shall apply.

22.8 Sums deemed due to a Lender

For the purposes of this Clause 22 (*Indemnities*), a sum payable by the Borrower to the Agent or the Security Trustee for distribution to a Lender shall be treated as a sum due to that Lender.

22.9 Sanctions

- (a) Each Security Party shall, within three (3) Business Days of demand by a Creditor Party, indemnify each Creditor Party against any cost, loss or liability incurred by it as a result of any civil penalty or fine against, and all reasonable costs and expenses (including reasonable counsel fees and disbursements) incurred in connection with the defence thereof by, the Agent or any Lender as a result of conduct of any Security Party or any of their subsidiaries, affiliates, partners, directors, officers, employees, agents, representatives or advisors, that violates any Sanctions.
- (b) The indemnity in paragraph (a) of this Clause 22.9 (*Sanctions*) above shall cover any losses incurred by each Creditor Party in any jurisdiction arising or asserted under or in connection with any law relating to any Sanctions.

23 NO SET-OFF OR TAX DEDUCTION

23.1 No deductions

All amounts due from the Borrower under a Finance Document shall be paid:

- (a) without any form of set-off, cross-claim or condition; and
- (b) free and clear of any tax deduction except a tax deduction which the Borrower is required by law to make.

23.2 Grossing-up for taxes

If the Borrower is required by law to make a tax deduction from any payment:

- (a) the Borrower shall notify the Agent as soon as it becomes aware of the requirement;
- (b) the Borrower shall pay the tax deducted to the appropriate taxation authority promptly, and in any event before any fine or penalty arises;
- (c) the amount due in respect of the payment shall be increased by the amount necessary to ensure that each Creditor Party receives and retains (free from any liability relating to the tax deduction) a net amount which, after the tax deduction, is equal to the full amount which it would otherwise have received.

23.3 Evidence of payment of taxes

Within 1 month after making any tax deduction, the Borrower shall deliver to the Agent documentary evidence satisfactory to the Agent that the tax had been paid to the appropriate taxation authority.

23.4 Exclusion of tax on overall net income

In this Clause 23 (*No Set-Off or Tax Deduction*) "**tax deduction**" means any deduction or withholding for or on account of any present or future tax except tax on a Creditor Party's overall net income or a FATCA Deduction.

23.5 Application of Master Agreement

For the avoidance of doubt, Clause 23 (*No Set-Off or Tax Deduction*) does not apply **in** respect of sums due from the Borrower to the Swap Bank under or in connection with the Master Agreement as to which sums the provisions of Sections 2(d) (Deduction or Withholding for Tax), 2(c) (Netting of Payments) and 6(e) (Payments on Early Termination) of the Master Agreement shall apply.

23.6 FATCA information

- (a) Subject to paragraph (c) below, each party to the Finance Documents shall, within 10 Business Days of a reasonable request by another party to the Finance Documents:
 - (i) confirm to that other party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party; and
 - (ii) supply to that other party such forms, documentation and other information relating to its status under FATCA as that other party reasonably requests for the purposes of that other party's compliance with FATCA; and
 - (iii) supply to that other party such forms, documentation and other information relating to its status as that other party reasonably requests for the purposes of that

other party's compliance with any other law, regulation or exchange of information **regime**;

- (b) if a party to any Finance Document confirms to another party pursuant to sub-paragraph (i) of paragraph (a) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that party shall notify that other party reasonably promptly;
- (c) paragraph (a) above shall not oblige any Creditor Party, and paragraph (a)(iii) above shall not oblige any other Party to a Finance Document, to do anything which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality;
- (d) if a party to any Finance Document fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (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 as if it is not a FATCA Exempt Party until such time as the party in question provides the requested confirmation, forms, documentation or other information.
- (e) If the Borrower or a Security Party becomes a US Tax Obligor or a FATCA FFI, it shall as soon as reasonably practicable (i) inform the Agent of the same and (ii) provide the Agent with a W-8 BEN-E form (or any successor form) or any other forms or documentation the Agent may reasonably require;
- (f) Where the Agent reasonably believes that its obligations under FATCA require it, the relevant Borrower or the relevant Security Party shall provide the Agent, upon request, with a W-8 BEN-E form (or any successor form) or any other forms or documentation the Agent may reasonably require, as soon as reasonably practicable. The Agent shall not be liable for any action which it takes or refrains from taking under or in connection with this paragraph (f);
- (g) If the Borrower or a Security Party becomes a US Tax Obligor or a FATCA FFI, or where the Agent reasonably believes that its obligations under FATCA require it, each Creditor Party shall, within 10 Business Days of the date of a request from the Agent supply to the Agent:
 - (i) a withholding certificate on Form W-8 or Form W-9 (or any successor form) (as applicable); and/or
 - (ii) any withholding statement and other documentation, authorisations and waivers as the Agent may require to certify or establish the status of such Creditor Party under FATCA,

the Agent shall provide any withholding certificate, withholding statement, documentation, authorisations and waivers it receives from a Creditor Party pursuant to this paragraph (g) to the Borrower or the relevant Security Party and shall be entitled to rely on any such withholding certificate, withholding statement, documentation, authorisations and waivers provided without further verification. The Agent shall not be liable for any action which it takes or refrains from taking under or in connection with this paragraph (g); and

- (h) The Borrower, each Security Party and each Creditor Party agrees that if any withholding certificate, withholding statement, documentation, authorisations and waivers provided to the Agent pursuant to paragraphs (e) to (g) above is or becomes materially inaccurate or

incomplete, it shall promptly update such withholding certificate, withholding statement, documentation, authorisations and waivers or promptly notify the Agent in writing of its legal inability to do so. The Agent shall provide any such updated withholding certificate, withholding statement, documentation, authorisations and waivers to the Borrower or the relevant Security Party or Creditor Party. The Agent shall not be liable for any action which it takes or refrains from taking under or in connection with this paragraph (h).

23.7 FATCA Deduction

- (a) Each party to a Finance Document may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and shall not 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 to a Finance Document shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the party to a Finance Document to whom it is making the payment and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Creditor Parties.

24 ILLEGALITY, ETC

24.1 Illegality

This Clause 24 (*illegality, etc.*) applies if a Lender (the "**Notifying Lender**") notifies the Agent that it has become, or will with effect from a specified date, become:

- (a) unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or
- (b) contrary to, or inconsistent with, any regulation,

for the Notifying Lender to maintain or give effect to any of its obligations under this Agreement in the manner contemplated by this Agreement.

24.2 Notification of illegality

The Agent shall promptly notify the Borrower, the Security Parties, the Security Trustee and the other Lenders of the notice under Clause 24.1 (*Illegality*) which the Agent receives from the Notifying Lender.

24.3 **Prepayment; termination of Commitment**

On the Agent notifying the Borrower under Clause 24.2 (*Notification of illegality*), the Notifying Lender's Commitment shall terminate; and thereupon or, if later, on the date specified in the Notifying Lender's notice under Clause 24.1 (*Illegality*) as the date on which the notified event would become effective the Borrower shall prepay the Notifying Lender's Contribution in accordance with Clause 8 (*Repayment and Prepayment*).

24.4 Mitigation

If circumstances arise which would result in a notification under Clause 24.1 (*Illegality*) then, without in any way limiting the rights of the Notifying Lender under Clause 24.3 (*Prepayment; termination of Commitment*), the Notifying Lender shall use reasonable endeavours to transfer its obligations, liabilities and rights under this Agreement and the Finance Documents to another office or financial institution not affected by the

circumstances but the Notifying Lender shall not be under any obligation to take any such action if, in its opinion, to do would or might:

- (a) have an adverse effect on its business, operations or financial condition; or
- (b) involve it in any activity which is unlawful or prohibited or any activity that is contrary to, or inconsistent with, any regulation; or
- (c) involve it in any expense (unless indemnified to its satisfaction) or tax disadvantage.

25 INCREASED COSTS

25.1 Increased costs

This Clause 25 (*Increased Costs*) applies if a Lender (the "**Notifying Lender**") notifies the Agent that the Notifying Lender considers that as a result of:

- (a) the introduction or alteration after the date of this Agreement of a law or an alteration after the date of this Agreement in the manner in which a law is interpreted or applied (disregarding any effect which relates to the application to payments under this Agreement of a tax on the Lender's overall net income); or
- (b) complying with any regulation (including any which relates to capital adequacy or liquidity controls or which affects the manner in which the Notifying Lender allocates capital resources to its obligations under this Agreement) which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement,

the Notifying Lender (or a parent company of it) has incurred or will incur an "**increased cost**"; or

- (c) the effect of complying with the regulations set out in the "International Convergence of Capital Standards, a Revised Framework" published by the Basle Committee on Banking Supervision in June 2004 as implemented in the EU by the Capital Requirements Directive (2006/48/EC and 2006/49/EC) is that the Notifying Lender (or a parent company of it) has incurred or will incur an "increased cost" when compared to the cost of complying with such regulations as determined by the Notifying Lender (or a parent company of it) on the date of this Agreement and including any amendment taking account of incorporating any measure from the Basel III Framework or CRD IV, and CRD IV or any other law of regulation which implements Basel III and CRD IV.

25.2 Meaning of "increased cost"

In this Clause 25 (*Increased Costs*), "**increased cost**" means:

- (a) an additional or increased cost incurred as a result of, or in connection with, the Notifying Lender having entered into, or being a party to, this Agreement or a Transfer Certificate, of funding or maintaining its Commitment or Contribution or performing its obligations under this Agreement, or of having outstanding all or any part of its Contribution or other unpaid sums;
- (b) a reduction in the amount of any payment to the Notifying Lender under this Agreement or in the effective return which such a payment represents to the Notifying Lender or on its capital;
- (c) an additional or increased cost of funding all or maintaining all or any of the advances comprised in a class of advances formed by or including the Notifying Lender's Contribution or (as the case may require) the proportion of that cost attributable to the Contribution; or

- (d) a liability to make a payment, or a return foregone, which is calculated by reference to any amounts received or receivable by the Notifying Lender under this Agreement,

but not an item attributable to a change in the rate of tax on the overall net income of the Notifying Lender (aa) (or a parent company of it) or (bb) an item covered by the indemnity for tax in Clause 22.1 (*Indemnities regarding borrowing and repayment of Loan*) or by Clause 23 (*No Set-Off or Tax Deduction*) or (cc) a FATCA Deduction.

For the purposes of this Clause 25.2 (*Meaning of "increased cost"*) the Notifying Lender may in good faith allocate or spread costs and/or losses among its assets and liabilities (or any class thereof) on such basis as it considers appropriate.

25.3 Notification to Borrower of claim for increased costs

The Agent shall promptly notify the Borrower and the Security Parties of the notice which the Agent received from the Notifying Lender under Clause 25.1 (*Increased costs*).

25.4 Payment of increased costs

The Borrower shall pay to the Agent, on the Agent's demand, for the account of the Notifying Lender the amounts which the Agent from time to time notifies the Borrower that the Notifying Lender has specified to be necessary to compensate the Notifying Lender for the increased cost.

25.5 Notice of prepayment

If the Borrower is not willing to continue to compensate the Notifying Lender for the increased cost under Clause 25.4 (*Payment of increased costs*), the Borrower may give the Agent not less than 14 days' notice of their intention to prepay the Notifying Lender's Contribution at the end of an Interest Period and/or to cancel the Notifying Lender's Available Commitment.

25.6 **Prepayment; termination of Commitment**

A notice under Clause 25.5 (*Notice of prepayment*) shall be irrevocable; the Agent shall promptly notify the Notifying Lender of the Borrower's notice of intended prepayment; and:

- (a) on the date on which the Agent serves that notice, the Commitment of the Notifying Lender shall be cancelled; and
- (b) on the date specified in its notice of intended prepayment, the Borrower shall prepay (without premium or penalty) the Notifying Lender's Contribution, together with accrued interest thereon at the applicable rate plus the Margin.

25.7 Application of prepayment

Clause 8 (*Repayment and Prepayment*) shall apply in relation to the prepayment.

26 SET-OFF

26.1 Application of credit balances

Each Creditor Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from the Borrower to that Creditor Party under any of the Finance Documents; and

(b) for that purpose:

- (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;
- (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; and
- (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

26.2 Existing rights unaffected

No Creditor Party shall be obliged to exercise any of its rights under Clause 22.5 (*Currency indemnity*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

26.3 Sums deemed due to a Lender

For the purposes of this Clause 26 (*Set-Off*), a sum payable by the Borrower to the Agent or the Security Trustee for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to such Lender.

26.4 No Security Interest

This Clause 26 (*Set-Off*) gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

27 TRANSFERS AND CHANGES IN LENDING OFFICES

27.1 Transfer by Borrower

The Borrower may not, without the consent of the Agent, given on the instructions of all the Lenders:

- (a) transfer any of its rights or obligations under any Finance Document; or
- (b) enter into any merger, de-merger or other reorganisation, or carry out any other act, as a result of which any of its rights or liabilities would vest in, or pass to, another person.

27.2 Transfer by a Lender

Subject to Clause 27.4 (*Effective Date of Transfer Certificate*), a Lender (the "**Transferor Lender**") may at any time, cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or
- (c) a combination of (a) and (b),

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, another bank or financial institution or a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a "**Transferee Lender**") by delivering to the Agent a completed certificate in the form set out in Schedule 5 (*Transfer Certificate*) with any

modifications approved or required by the Agent (a "**Transfer Certificate**") executed by the Transferor Lender and the Transferee Lender.

However any rights and obligations of the Transferor Lender in its capacity as Agent or Security Trustee will have to be dealt with separately in accordance with the Agency and Trust Agreement.

A transfer pursuant to this Clause 27.2 (*Transfer by a Lender*) shall be affected:

- (i) without the consent of the Borrower:
 - (A) following the occurrence of an Event of Default which is continuing; and/or
 - (B) if such transfer is to another Lender or an affiliate of a Lender;
- (ii) in all other circumstances with the consent of the Borrower (such consent not to be unreasonably withheld or delayed) and the Borrower will be deemed to have given its consent 5 Business Days following the request of the Transferor Lender unless the consent is expressly refused by the Borrower within that time.

27.3 Transfer Certificate, delivery and notification

As soon as reasonably practicable after a Transfer Certificate is delivered to the Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrower, the Security Parties, the Security Trustee and each of the other Lenders and the Swap Bank;
- (b) on behalf of the Transferee Lender, send to the Borrower and each Security Party letters or faxes notifying them of the Transfer Certificate and attaching a copy of it; and
- (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above, but the Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Transferor Lender and the Transferee Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to that Transferee Lender.

27.4 Effective Date of Transfer Certificate

A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date, **Provided that** it is signed by the Agent under Clause 27.3 (*Transfer Certificate, delivery and notification*) on or before that date.

27.5 No transfer without Transfer Certificate

Except as provided in Clause 27.17 (*Security over Lenders' rights*), no assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, the Borrower, any Security Party, the Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

27.6 Lender re-organisation; waiver of Transfer Certificate

However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the "successor"). the Agent may, if it sees fit, by notice to the successor and the Borrower and the Security Trustee waive the need for the execution and delivery of a Transfer Certificate; and, upon service of the

Agent's notice, the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender.

27.7 Effect of Transfer Certificate

A Transfer Certificate takes effect in accordance with English law as follows:

- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender's title and of any rights or equities which the Borrower or any Security Party had against the Transferor Lender;
- (b) the Transferor Lender's Commitment is discharged to the extent specified in the Transfer Certificate;
- (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
- (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;
- (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate's effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the transferor, assuming that any defects in the transferor's title and any rights or equities of the Borrower or any Security Party against the Transferor Lender had not existed;
- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under Clause 5.7 (*Market disruption*) and Clause 21 (*Fees and Expenses*), and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and
- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of the Borrower or any Security Party referred to above include, but are not limited to, any right of set off and any other kind of cross-claim.

27.8 Maintenance of register of Lenders

During the Security Period the Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the lending office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 27.4 (*Effective Date of Transfer Certificate*)) of the Transfer Certificate; and the Agent shall make the register available for inspection by any Lender, the Security Trustee and the Borrower during normal banking hours, subject to receiving at least 3 Business Days' prior notice.

27.9 Reliance on register of Lenders

The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.

27.10 Authorisation of Agent to sign Transfer Certificates

The Borrower, the Security Trustee, each Lender and the Swap Bank irrevocably authorise the Agent to sign Transfer Certificates on its behalf.

27.11 Registration fee

In respect of any Transfer Certificate, the Agent shall be entitled to recover a registration fee of \$1,500 (and all costs, fees and expenses incidental to the transfer (including, but not limited to legal fees and expenses)) from the Transferor Lender or (at the Agent's option) the Transferee Lender.

27.12 Sub-participation; subrogation assignment

A Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the Borrower, any Security Party, the Agent or the Security Trustee; and the Lenders may assign, in any manner and terms agreed by the Majority Lenders, the Agent and the Security Trustee, all or any part of those rights to an insurer or surety who has become subrogated to them.

27.13 Disclosure of information

A Lender may disclose to a potential Transferee Lender or sub-participant any information which the Lender has received in relation to the Borrower, any Security Party or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature.

The Borrower agrees that the terms and conditions of this Agreement shall remain confidential and shall not, or shall procure that no Collateral Guarantor shall, disclose (whether, without limitation, **in** writing or orally) to third parties (other than any disclosure to the Borrower's shareholders, officers, employees or professional advisers **Provided that** the person to whom disclosure is made agrees to be bound by the terms of the confidentiality undertaking in this Clause 27.13 (*Disclosure of information*) and any disclosure imposed by law or any court order) the existence of this Agreement or the terms and conditions contained herein without the prior written consent of the Lenders.

27.14 Change of lending office

A Lender may change its lending office by giving notice to the Agent and the change shall become effective on the later of:

- (a) the date on which the Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect.

27.15 Notification

On receiving such a notice, the Agent shall notify the Borrower and the Security Trustee; and, until the Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the lending office of which the Agent last had notice.

27.16 Replacement of Reference Bank

If any Reference Bank ceases to be a Lender or is unable on a continuing basis to supply quotations for the purposes of Clause 5 (*Interest*) then, unless the Borrower, the Agent and the Majority Lenders otherwise agree, the Agent, acting on the instructions of the Majority Lenders, and after consulting the Borrower, shall appoint another bank (whether or not a Lender) to be a replacement Reference Bank; and, when that appointment comes into effect, the first-mentioned Reference Bank's appointment shall cease to be effective.

27.17 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 27 (*Transfers and Changes in Lending Offices*), each Lender may without consulting with or obtaining consent from the Borrower or any Security Party, at any time charge, assign or otherwise create a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities;

except that no such charge, assignment or Security Interest shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by the Borrower or any Security Party or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

27.18 If a Lender transfers any of its rights or obligations under the Finance Documents or changes its lending office and, as a result of circumstances existing at the date the transfer occurs, the Borrower would be obliged to make a payment to the Transferee Lender or Lender acting through its new lending office under Clauses 23 (*NoSet-Off or Tax Deduction*) or 2S (*Increased Costs*), then the Transferee Lender or Lender acting through its new lending office is only entitled to receive payments under those Clauses to the same extent as the Transferor Lender or Lender acting through its previous lending office would have been if the transfer had not occurred.

27.19 Assignments, transfers and novations by the Swap Bank

- (a) Notwithstanding the relevant sections of the Master Agreement, the Swap Bank may, with the consent of the Majority Lenders and the Borrower, such consents not to be unreasonably withheld or delayed [but without requiring the consent of the Agent], assign any of its rights or transfer by novation any of its rights and obligations under the Master Agreement to which it is a party to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, derivatives, securities or other financial assets (the "**New Swap Bank**").
- (b) Any costs associated with any transfer, assignment or novation under this Clause 27.19 (*Assignments, transfers and novations by the Swap Bank*) shall be for the New Swap Bank's account.

- (c) Any assignment, transfer or novation under this Clause 27.19 (*Assignments, transfers and novations by the Swap Bank*) will only be effective on:
 - (i) any amendments as may be necessary to the Mortgages or any of the other Finance Documents;
 - (ii) receipt by the Agent of written confirmation from the New Swap Bank (in form and substance satisfactory to the Agent) that the New Swap Bank is bound by this Agreement as regards the rights and obligations of the Swap Bank hereunder;
 - (iii) performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment, transfer or novation to the New Swap Bank, the completion of which the Agent shall promptly notify to the existing Swap Bank and the New Swap Bank; and
 - (iv) receipt by the Agent of the New Swap Bank's consent to the Master Agreement Assignment and a new notice of assignment pursuant to the Master Assignment signed by the Borrower and acknowledgement thereof from the New Swap Bank.
- (d) The Borrower shall co-operate in providing the notice of assignment referred to in sub paragraph (iii) of paragraph (c) above.

28 VARIATIONS AND WAIVERS

28.1 Variations, waivers etc. by Majority Lenders

Subject to Clause 28.2 (*Variations, waivers etc. requiring agreement of all Lenders*), a document shall be effective to vary, waive, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by fax, by the Borrower, by the Agent on behalf of the Majority Lenders, by the Agent and the Security Trustee in their own rights, and, if the document relates to a Finance Document to which a Security Party is party, by that Security Party and if the document affects any of the rights and obligations of the Swap Bank, by the Swap Bank.

28.2 Variations, waivers etc. requiring agreement of all Lenders

However, as regards the following, Clause 28.1 (*Variations, waivers etc. by Majority Lenders*) applies as if the words "by the Agent on behalf of the Majority Lenders" were replaced by the words "by or on behalf of every Lender":

- (a) a reduction in the Margin;
- (b) a postponement to the date for, or a reduction in the amount of, any payment of principal, interest, fees or other sum payable under this Agreement;
- (c) an increase in any Lender's Commitment;
- (d) a change to the definition of "Majority Lenders";
- (e) a change to Clause 3 (*Position of the Lenders and the swap bank*) or this Clause 28 (*Variations and Waivers*);
- (f) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
- (g) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender's consent is required.

28.3 Exclusion of other or implied variations

Except for a document which satisfies the requirements of Clauses 28.1 (*Variations, waivers etc. by Majority Lenders*) and 28.2 (*Variations, waivers etc. requiring agreement of all Lenders*), no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower or a Security Party of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

29 NOTICES

29.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

29.2 Addresses for communications

A notice shall be sent:

c/o Approved Manager
16 Pendelis Street
175 64 Paleo Faliro
Athens
Greece

Attn: Chief Financial Officer

Fax No: +30 210 9470101

- (b) to a Lender: At the address below its name in Schedule 1 (*Lenders and Commitments*) or (as the case may require) in the relevant Transfer Certificate.

- (c) to the Agent,
Security Trustee, Bookrunner: BNP Paribas
16, rue de Hanovre
75002 Paris Cedex 02
France

Fax: +33 (0) 142984317

E-mail: pierre.masse@bnpparibas.com

fabienne.delorme@bnpparibas.com

BNP Paribas
3 rue Taitbout
75009 Paris France

Attn: Legal and Transaction Management Group- ISDA

with copy to:

BNP Paribas, London Branch
10 Harewood Avenue
NW1 6AA London
England

Fax: +44 207 595 5059

Attn: Legal and Transaction Management Group- ISDA

or to such other address as the relevant party may notify the Agent or, if the relevant party is the Agent or the Security Trustee, the Borrower, the Lenders, the Swap Bank and the Security Parties.

29.3 Effective date of notices

Subject to Clauses 29.4 (*Service outside business hours*) and 29.5 (*Illegible notices*):

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered; and
- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.

29.4 Service outside business hours

However, if under Clause 29.3 (*Effective date of notices*) a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
- (b) on such a business day, but after 5 p.m. local time,

the notice shall (subject to Clause 29.5 (*Illegible notices*)) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

29.5 Illegible notices

Clauses 29.3 (*Effective date of notices*) and 29.4 (*Service outside business hours*) do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

29.6 Valid notices

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

29.7 Electronic communication

Any communication to be made between the Agent and a Lender and/or the Swap Bank under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Agent and the relevant Lender and/or the Swap Bank:

- (a) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
- (b) 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
- (c) notify each other of any change to their respective addresses or any other such information supplied to them.

29.8 Effectiveness of electronic communication

Any electronic communication made between the Agent and a Lender and/or the Swap Bank will be effective only when actually received in readable form and, in the case of any electronic communication made by a Lender or the Swap Bank to the Agent, only if it is addressed in such a manner as the Agent shall specify for this purpose.

29.9 Use of websites

- (a) The Agent may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the "**Website Lenders**") who accept this method of communication by posting this information onto the electronic website www.debtdomain.com (or such other electronic website that the Agent may designate in consultation with the Borrower) (the "**Designated Website**") if:
 - (i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
 - (ii) the Agent and the Website Lenders are aware of the address of and any relevant password specifications for the Designated Website; and
 - (iii) the information is in a format previously agreed between the Agent and the Website Lenders.
- (b) If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Agent shall supply the information to the Paper Form Lender in paper form.
- (c) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website.
- (d) The Agent shall promptly upon becoming aware of its occurrence notify the Website Lenders if:
 - (i) the Designated Website cannot be accessed due to technical failure;

- (ii) the password specifications for the Designated Website change;
 - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
 - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
 - (v) the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.
- (e) If the Agent notifies the Website Lenders that any of the events occurred under paragraphs (d)(i) or (d)(v) above has occurred, all information to be provided by the Agent under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

29.10 English language

Any notice under or in connection with a Finance Document shall be in English.

29.11 Meaning of "notice"

In this Clause 29 (*Notices*), "**notice**" includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

29.12 Application of Master Agreement

Any notice under or in connection with the Master Agreement shall comply with the provisions of Section 12 of the Master Agreement.

30 SUPPLEMENTAL

30.1 Rights cumulative, non-exclusive

The rights and remedies which the Finance Documents give to each Creditor Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

30.2 Severability of provisions

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

30.3 Counterparts

A Finance Document may be executed in any number of counterparts.

30.4 Third party rights

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

30.5 Waiver of Banking Secrecy

The Borrower hereby irrevocably authorises and gives consent to the Agent and, each of its affiliates, and their respective subsidiaries, branches and representative offices and their respective directors, officers, employees and agents (the "**Authorised Persons**" and each an "**Authorised Person**"). to disclose and transmit to the Applicable Persons, whether orally, in writing or by any other means, information and documents which relates to, or are connected with, the Borrower, its beneficial owner, any other member of the Group, its or their business, dealings or assets (the "**Information**"), from time to time and to the extent that the Authorised Person deems such disclosure or transmission to be necessary or desirable for or incidental to the carrying out of its duties, obligations, commitments and activities whether arising under contract or by operation of law and/or consolidated supervision and risk management policy, to the extent that the Information is covered by banking secrecy under any applicable law in general and Swiss banking secrecy rules in particular and/or:

- (a) necessary or desirable for the purposes of its internal cross-selling enabling the Borrower and/or any other member of the Group to benefit from the Agent's or any other Authorised Person's business activities; and/or
- (b) necessary or desirable to insure a risk related to the Borrower and/or any other member of the Group; and/or
- (c) necessary or desirable to syndicate a risk related to the Borrower and/or any other member of the Group; and/or
- (d) necessary or desirable to securitise a risk related to the Borrower and/or any other member of the Group; and/or
- (e) necessary or desirable to open an account or to start a business relation with the Agent's or any other Authorised Person's parent company or any of its subsidiaries or branches.

In this Clause 30.5 (*Waiver of Banking Secrecy*). "**Applicable Person**" means any or all of the following persons:

- (i) any authority or person against which, pursuant to any applicable law, administrative order or court ruling, banking secrecy may not be validly asserted by an Authorised Person;
- (ii) the Agent's or any other Authorised Person's parent company, any of its subsidiaries, branches or representative offices;
- (iii) any rating agency, auditor, insurance and reinsurance company, broker or professional adviser, to the extent such entity or person is bound by a statutory or contractual duty of confidentiality;
- (iv) any financial institution and institutional or other investor who is or might be involved in securitisation schemes, hedging agreements, participations, credit derivatives or any other risk transfer or sharing arrangements, including, inter alia, a bank and/or other financial institution's participation in, or syndication in respect of, the Loan;
- (v) any potential assignee or transferee or person who has entered into or is proposing to enter into contractual arrangements with the Authorised Person in relation to the Borrower; and
- (vi) any external computer services provider, for the purpose of maintenance or repair of the Agent's or any other Authorised Person's computer systems and data

provided that such external computer services provider is bound by the confidentiality policy of BNP Paribas.

30.6 Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an affiliate) ceases to be a Lender, the Agent shall (in consultation with the Borrower) appoint another Lender or an affiliate of a Lender to replace that Reference Bank.

30.7 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Agent but may do so at the Agent's request.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any quotation provided to the Agent.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any quotation provided to the Agent, and any officer, employee or agent of each Reference Bank may rely on this clause subject to the provisions of the Third Parties Act.

30.8 Third party Reference Banks

Any Reference Bank which is not a party to this Agreement may rely on clause 30.7 (*Role of Reference Banks*) and clause 5.16 (*Application of prepayment*) subject to the provisions of the Third Parties Act.

31 LAW AND JURISDICTION

31.1 English law

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

31.2 Exclusive English jurisdiction

Subject to Clause 31.3 (*Choice of forum for the exclusive benefit of the Creditor Parties*), the courts of England shall have exclusive jurisdiction to settle any Dispute.

31.3 Choice of forum for the exclusive benefit of the Creditor Parties

Clause 31.2 (*Exclusive English jurisdiction*) is for the exclusive benefit of the Creditor Parties, each of which reserves the right:

- (a) to commence proceedings in relation to any Dispute in the courts of any country other than England and which have or claim jurisdiction to that Dispute; and
- (b) to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

The Borrower shall not commence any proceedings in any country other than England in relation to a Dispute.

31.4 Process agent

The Borrower irrevocably appoints Nicolaou & Co (for the attention of Antonis Nicolaou) at its registered office for the time being, presently at 25 Heath Drive, Potters Bar, Herts, EN6 1EN, England, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

31.5 Creditor Party rights unaffected

Nothing in this Clause 31 (*Law and Jurisdiction*) shall exclude or limit any right which any Creditor Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

31.6 Meaning of "proceedings" and "Dispute"

In this Clause 31 (*Law and Jurisdiction*), "**proceedings**" means proceedings of any kind, including an application for a provisional or protective measure and a "**Dispute**" means 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.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
LENDERS AND COMMITMENTS

Lender	Lending Office	Commitment (US Dollars)
BNP PARIBAS	16, rue de Hanovre 75002 Paris France Fax: +33 (0) 142984355 e-mail: <u>tgmo.shipping@bnpparibas.com</u>	\$165,000,000

SCHEDULE 2
GUARANTORS

A	B	C	D	E	G
SHIP	SHIP-OWNING COMPANY	COUNTRY OF INCORPORATION	IMO REGISTERED OWNER NUMBER	REGISTERED OFFICE ADDRESS	SHARES
OCEANIS	Panama Campania Armadora SA	Panama	4064563	Aquilino de la Guardia Street No.8, IGRA Building, Panama, Republic of Panama	500 registered shares of no par value
ALCYON	Buenos Aires Campania Armadora SA	Panama	4064515	Capital Plaza Building, 8th Floor, Ave. Roberto Motta, Costa del Este, Panama, Republic of Panama	100 registered shares of \$100 par value each
NIREFS	Skyvan Shipping Company SA	Panama	4061281	Edificio Torre Universal, Ave. Federico Boyd, Calle 51, Piso No. 11, 12 (Penthouse), Panama, Republic of Panama	100 registered shares of \$100 par value each
TRITON	Husky Trading SA	Panama	4064550	Capital Plaza Building, 8th Floor, Ave. Roberto Motta, Costa del Este, Panama, Republic of Panama	100 registered shares of \$100 par value each
DIONE	Chorrera Campania Armadora SA	Panama	5028515	Tower Financial Center, 16th floor, 50th Street and Elvira Mendez, Panama, Republic of Panama	100 registered shares of \$100 par value each
DANAE	Eaton Marine SA	Panama	5043110	Beatriz M. de Cabal Street, Proconsa Building II, 8 th Floor, Panama, Republic of Panama	100 registered shares of \$100 par value each
NORFOLK	Silver Chandra Shipping	Cyprus	5335277	284, Arch. Makarios III Avenue,	1,000 registered shares of €1 par

	Company Limited			FORTUNA COURT, BLOCK B, 2nd Floor, 3105, Limassol, Cyprus	value each
PROTEFS	Cypres Enterprises Corp.	Panama	4093975	PH Torre Panama, 15 Floor, Boulevard Costa del Este and Avenida la Rotonda, Costa del Este, Panama City, Republic of Panama	100 registered shares of \$100 par value each
THETIS	Changame Campania Armadora SA	Panama	4064546	55 th Street, El Cangrejo, No. 225, Panama, Republic of Panama	100 registered shares of \$100 par value each
ERATO	Urbina Bay Trading SA	Panama	4094559	Capital Plaza Building, 8th Floor, Ave. Roberto Motta, Costa del Este, Panama, Republic of Panama	100 registered shares of \$100 par value each
CALIPSO	Darien Campania Armadora SA	Panama	4094562	Tower Financial Center, 16th floor, 50th Street and Elvira Mendez, Panama, Republic of Panama	100 registered shares of \$100 par value each
CLIO	Texford Maritime SA	Panama	4094576	Beatriz M. de Cabal Street, Proconsa Building II, 8th Floor, Panama, Republic of Panama	100 registered shares of \$100 par value each
SALT LAKE CITY	Marfort Navigation Company Limited	Cyprus	5334265	284, Arch. Makarios III Avenue, FORTUNA COURT, BLOCK B, 2nd Floor, 3105, Limassol, Cyprus	1,000 registered shares of €1 par value each
NAIAS	Ailuk Shipping Company Inc.	Marshall Islands	5248110	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960	500 registered shares with a par value of \$0.01 each
SIDERIS GS	Jaluit Shipping Company Inc.	Marshall Islands	5267352	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960	500 registered shares with a par value of \$0.01 each

SEMIRIO	Kili Shipping Company Inc.	Marshall Islands	5296509	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960	500 registered shares with a par value of \$0.01 each
BOSTON	Lib Shipping Company Inc.	Marshall Islands	5305865	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960	500 registered shares with a par value of \$0.01 each
ALCMENE	Majuro Shipping Company Inc.	Marshall Islands	5566463	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960	500 registered shares with a par value of \$0.01 each

**SCHEDULE 3
DRAWDOWN NOTICE**

To: **BNP PARIBAS**

16, rue de Hanovre

75002 Paris

France

Attention: [[TGMO Shipping] Loans Administration]

[•]

- 1 We refer to the loan agreement (the "**Loan Agreement**") dated [•] 2015 and made between ourselves, as Borrower, the Lenders referred to therein, the Swap Bank and BNP Paribas as Agent, Security Trustee and Bookrunner in connection with a facility of up to US\$165,000,000. Terms defined in the Loan Agreement have their defined meanings when used in this Drawdown Notice.
- 2 We request to borrow the Loan as follows:
 - (a) Amount: US\$ [•];
 - (b) Drawdown Date: [•];
 - (c) [Duration of the first Interest Period shall be [•] months;] and
 - (d) Payment instructions: account in our name and numbered [•] with [•] of [•].
- 3 We represent and warrant that:
 - (a) the representations and warranties in Clause 10 (*Representations and Warranties*) of the Loan Agreement would remain true and not misleading if repeated on the date of this notice with reference to the circumstances now existing; and
 - (b) no Event of Default or Potential Event of Default has occurred or will result from the borrowing of the Loan.
- 4 This notice cannot be revoked without the prior consent of the Majority Lenders.

[Name of Signatory]

Director
for and on behalf of
DIANA SHIPPING INC.

SCHEDULE 4

CONDITION PRECEDENT DOCUMENTS PART A

The following are the documents referred to in paragraph (a) of Clause 9.1 (*Documents, fees and no default*) required before service of the first Drawdown Notice.

- 1 A duly executed original of each Finance Document (and of each document required to be delivered by each Finance Document) other than those referred to in Part B.
- 2 Copies of the certificate of incorporation and constitutional documents of the Borrower, each Collateral Guarantor or any other Security Party.
- 3 Copies of resolutions of the shareholders and directors of each Collateral Guarantor, of the executive committee of the directors of the Borrower, or the shareholders and directors of any other Security Party authorising the execution of each of the Finance Documents to which the Borrower, a Collateral Guarantor or any other Security Party is a party and, in the case of the Borrower, authorising named officers to give the Drawdown Notice and other notices under this Agreement.
- 4 The original of any power of attorney under which any Finance Document is executed on behalf of the Borrower, a Collateral Guarantor or any other Security Party.
- 5 Copies of all consents which the Borrower, a Collateral Guarantor or any Security Party requires to enter into, or make any payment under, any Finance Document.
- 6 The originals of any mandates or other documents required in connection with the opening or operation of each Earnings Account and the Liquidity Reserve Account (including but not limited to two certified forms of identification in respect of each signatory of each Earnings Account and the Liquidity Reserve Account and of two directors of the Borrower and each Collateral Guarantor) and all other information required by the Creditor Parties or any of them in relation to their "know your customer" regulations including, but not limited to, all applicable laws of the European Union, Switzerland and United States of America in connection with the Borrower, each Collateral Guarantor and any other Security Party (whether in connection with the opening of the Earnings Account or the Liquidity Reserve Account or otherwise).
- 7 Documentary evidence that the agent for service of process named in Clause 31 (*Law and Jurisdiction*) has accepted its appointment.
- 8 Favourable legal opinions from lawyers appointed by the Agent on such matters concerning the laws of the Marshall Islands, English, Switzerland, Bahamas, Greece and Cyprus and such other relevant jurisdictions as the Agent may require.
- 9 If the Agent so requires, in respect of any of the documents referred to above, a certified English translation prepared by a translator approved by the Agent.

PART B

The following are the documents referred to in paragraph (b) of Clause 9.1 (*Documents, fees and no default*).

- 1 A duly executed original of the Mortgage, of the General Assignment and any Charterparty Assignment relating to each Ship (and of each document to be delivered by each of them).
- 2 Documentary evidence that:
 - (a) each Ship is definitively and permanently registered in the name of the relevant Collateral Guarantor under the laws of an Approved Flag State;
 - (b) each Ship is in the absolute and unencumbered ownership of the relevant Collateral Guarantor save as contemplated by the Finance Documents;
 - (c) each Ship maintains the Approved Classification with the Approved Classification Society free of all overdue recommendations and conditions of such Approved Classification Society;
 - (d) the Mortgage relating to each Ship has been duly registered against that Ship as a valid first preferred or, as the case may be, priority ship mortgage in accordance with the laws of the relevant Approved Flag State; and
 - (e) each Ship is insured in accordance with the provisions of this Agreement and all requirements therein in respect of insurances have been complied with, including agreed form letters of undertaking of the insurance brokers and club managers, certificates of entry and/or cover notes with respect to that Ship.
- 3 Documents establishing that the each Ship will, as from the Drawdown Date, be managed by the Approved Manager on terms acceptable to the Lenders, together with:
 - (a) the Approved Manager's Undertakings in respect of each Ship;
 - (b) copies of the Approved Manager's documents of compliance (DOC) and the safety management certificate (SMC) (as defined in the ISM Code) in respect of each Ship certified as true and in effect by the Borrower and the Approved Manager; and
 - (c) a copy of the International Ship Security Certificate in respect of each Ship certified as true and in effect by the Collateral Guarantor owning that Ship and the Approved Manager.
- 4 A valuation of each Ship (at the expense of the Borrower) addressed to the Agent, stated to be for the purposes of this Agreement and prepared by an Approved Broker no earlier than 15 days prior to the Drawdown Date prepared in accordance with Clause 16 (Security cover) which shows the value of the Ships in an amount acceptable to the Agent.
- 5 Favourable legal opinions from lawyers appointed by the Agent on such matters concerning the law of the Approved Flag State, English, Switzerland, Marshall Islands, Bahamas, Greece and Cyprus and such other relevant jurisdictions as the Agent may require.
- 6 A favourable opinion from an independent insurance consultant acceptable to the Agent on such matters relating to the insurances for the each Ship as the Agent may require (all fees and expenses incurred in relation to the appointment of the marine insurance broker for the purpose of issuing such opinion shall be for the account of the Borrower).
- 7 If the Agent so requires, in respect of any of the documents referred to above, a certified English translation prepared by a translator approved by the Agent.

Each of the documents specified in paragraphs 2, 3, 5 and 10 of Part A and every other copy document delivered under this Schedule shall be certified as a true and up to date copy by a director, the secretary (or equivalent officer) or the legal advisors of the Borrower.

SCHEDULE 5
TRANSFER CERTIFICATE

The Transferor and the Transferee accept exclusive responsibility for ensuring that this Certificate and the transaction to which it relates comply with all legal and regulatory requirements applicable to them respectively.

To: BNP Paribas for itself and for and on behalf of the Borrower, each Security Party, the Security Trustee and each Lender, as defined in the Loan Agreement referred to below.

[•]

1 This Certificate relates to a Loan Agreement (the "**Loan Agreement**") dated [•] 2015 and made between (1) Diana Shipping Inc. (the "**Borrower**"), (2) the banks and financial institutions named therein as Lenders, (3) BNP Paribas as Swap Bank, (4) BNP Paribas as Agent, (5) BNP Paribas as Security Trustee and (6) BNP Paribas as Bookrunner for a loan facility of up to US\$165,000,000.

2 In this Certificate, terms defined in the Loan Agreement shall, unless the contrary intention appears, have the same meanings and:

"**Relevant Parties**" means each Borrower, each Security Party, each Lender, the Swap Bank, the Agent and the Security Trustee;

"**Transferor**" means [full name] of [lending office]; and

"**Transferee**" means [full name] of [lending office].

3 The effective date of this Certificate is [•] **Provided that** this Certificate shall not come into effect unless it is signed by the Agent on or before that date.

4 The Transferor assigns to the Transferee absolutely all rights and interests (present, future or contingent) which the Transferor has as Lender under or by virtue of the Loan Agreement and every other Finance Document in relation to [•] per cent. of its Contribution, outstanding to the Transferor (or its predecessors in title) which is set out below:

Contribution	Amount transferred
--------------	--------------------

5 By virtue of this Transfer Certificate and clause 26 of the Loan Agreement, the Transferor is discharged [entirely from its Commitment which amounts to \$[•]] [from [•] per cent. of its Commitment, which percentage represents \$[•]] and the Transferee acquires a Commitment of \$[•].]

6 The Transferee undertakes with the Transferor and each of the Relevant Parties that the Transferee will observe and perform all the obligations under the Finance Documents which clause 26 of the Loan Agreement provides will become binding on it upon this Certificate taking effect.

- 7 The Agent, at the request of the Transferee (which request is hereby made) accepts, for the Agent itself and for and on behalf of every other Relevant Party, this Certificate as a Transfer Certificate taking effect in accordance with clause 26 of the Loan Agreement.
- 8 The Transferor:
- (a) warrants to the Transferee and each Relevant Party that:
 - (i) the Transferor has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which are in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferor;
 - (b) warrants to the Transferee that the Transferor is absolutely entitled, free of encumbrances, to all the rights and interests covered by the assignment in paragraph 4 above; and
 - (c) undertakes with the Transferee that the Transferor will, at its own expense, execute any documents which the Transferee reasonably requests for perfecting in any relevant jurisdiction the Transferee's title under this Certificate or for a similar purpose.
- 9 The Transferee:
- (a) confirms that it has received a copy of the Loan Agreement and each of the other Finance Documents;
 - (b) agrees that it will have no rights of recourse on any ground against either the Transferor, the Agent, the Security Trustee or any Lender or the Swap Bank in the event that:
 - (i) any of the Finance Documents prove to be invalid or ineffective;
 - (ii) the Borrower or any Security Party fails to observe or perform its obligations, or to discharge its liabilities, under any of the Finance Documents;
 - (iii) it proves impossible to realise any asset covered by a Security Interest created by a Finance Document, or the proceeds of such assets are insufficient to discharge the liabilities of the Borrower or Security Party under the Finance Documents;
 - (c) agrees that it will have no rights of recourse on any ground against the Agent, the Security Trustee or any Lender or the Swap Bank in the event that this Certificate proves to be invalid or ineffective;
 - (d) warrants to the Transferor and each Relevant Party that:
 - (i) it has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which it needs to take or obtain in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferee; and
 - (e) confirms the accuracy of the administrative details set out below regarding the Transferee.
- 10 The Transferor and the Transferee each undertake with the Agent and the Security Trustee severally, on demand, fully to indemnify the Agent and/or the Security Trustee in respect of any claim, proceeding, liability or expense (including all legal expenses) which they or either of them may incur in connection with this Certificate or any matter arising out of it, except such as are shown to have been mainly and directly caused by the gross and culpable negligence or dishonesty of the Agent's or the Security Trustee's own officers or employees.

- 11 The Transferee shall repay to the Transferor on demand so much of any sum paid by the Transferor under paragraph 10 above as exceeds one-half of the amount demanded by the Agent or the Security Trustee in respect of a claim, proceeding, liability or expense which was not reasonably foreseeable at the date of this Certificate; but nothing in this paragraph shall affect the liability of each of the Transferor and the Transferee to the Agent or the Security Trustee for the full amount demanded by it.

[Name of Transferor]

[Name of Transferee]

By:

By:

Date:

Date:

Agent

Signed for itself and for and on behalf of itself as
Agent and for every other Relevant Party BNP
PARIBAS

By:

Date:

Administrative Details of Transferee

Name of Transferee:

Lending Office:

Contact Person
(Loan Administration Department):

Telephone:

Fax:

Contact Person
(Credit Administration Department): Telephone:

Fax:

Account for payments:

Note: This Transfer Certificate alone may not be sufficient to transfer a proportionate share of the Transferor's interest in the security constituted by the Finance Documents in the Transferor's or Transferee's jurisdiction. It is the responsibility of each Lender to ascertain whether any other documents are required for this purpose.

SCHEDULE 6
DESIGNATION NOTICE

To: BNP Paribas
16, rue de Hanovre
75002 Paris
France
as Agent

Attention: [•]

[date]

Dear Sirs

Loan Agreement dated [•] 2015 (the "Loan Agreement") and made between (i) ourselves as Borrower, (ii) the Lenders, (iii) the Swap Bank, (iv) and yourselves as Agent, Security Trustee and as Bookrunner.

We refer to:

- 1 the Loan Agreement;
- 2 the Master Agreement dated as of [•] made between ourselves and the Swap Bank; and
- 3 a Confirmation delivered pursuant to the said Master Agreement dated [•] and addressed by the Swap Bank to us.

In accordance with the terms of the Loan Agreement, we hereby give you notice of the said Confirmation and hereby confirm that the Transaction evidenced by it will be designated as a "Designated Transaction" for the purposes of the Loan Agreement and the Finance Documents.

Yours faithfully

for and on behalf of

DIANA SHIPPING INC.

SCHEDULE 7

SHIPS

A	B	C	D	E	F	G	H	I
SHIP	SHIP- OWNING COMPAN Y	FLAG	YEAR BUILT	TYPE and CAPACITY (DWT)	TYPE	IMO NUMBER	Approved Classificati on Society	Approved Classification
OCEANIS	Panama Campania Armadora SA	Bahamas	2001	75,211	Panamax	9225055	DNV GL	100 AS, ESP IW RSD DBC, Bulk Carrier, Strengthened for Heavy Cargo (holds 2,4 & 6 may be empty)
ALCYON	Buenos Aires Campania Armadora SA	Bahamas	2001	75,247	Panamax	9225029	DNV GL	100 AS, ESP IW RSD DBC, Bulk Carrier, Strengthened for Heavy Cargo (holds 2,4 & 6 may be empty)
NIREFS	Skyvan Shipping Company SA	Bahamas	2001	75,311	Panamax	9215933	Lloyd's Register	100 A1, Bulk Carrier, Strengthened for Heavy Cargoes, Hold Nos: 2,4 & 6 may be empty, Ship Right (SDA, FDA, CM), ESP, ESN, *IWS, LI, Descriptive Note: Ship Right SCM pt Higher Tensile Steel
TRITON	Husky Trading SA	Bahamas	2001	75,336	Panamax	9225043	DNV GL	100 AS, ESP IW RSD DBC, Bulk Carrier, Strengthened for Heavy Cargo, Holds 2,4 & 6 may be empty
DIONE	Chorrera Campania Armadora SA	Greece	2001	75,172	Panamax	9213363	Lloyd's Register	100 A1, Bulk Carrier, Strengthened for Heavy Cargoes Hold Nos 2,4 and 6 may be empty). ESP, ShipRight (SDA, FDA, CM), ESN, *ISW, LI
DANAE	Eaton Marine SA	Greece	2001	75,106	Panamax	9212125	Germanisch er Lloyd	100 AS, ESP IW RSD DBC C1D11, Bulk Carrier,

								Strengthened for Heavy Cargo (holds 2,4 & 6 may be empty)
NORFOLK	Silver Chandra Shipping Company Limited	Cyprus	2002	164,218	Capesize	9225809	BUREAU VERITAS	Bulk Carrier ESP Heavy Cargo Nonhomload (any hold may be empty), Unrestricted navigation
PROTEFS	Cypres Enterprises Corp.	Bahamas	2004	73,630	Panamax	9286633	DNV GL	100 AS, ESP IW RSD DBC DG, Bulk Carrier, Strengthened for Heavy Cargo (holds 2,4 & 6 may be empty)
THETIS	Changame Campania Armadora SA	Bahamas	2004	73,583	Panamax	9283992	BUREAU VERITAS	Bulk Carrier ESP, Unrestricted navigation
ERATO	Urbina Bay Trading SA	Bahamas	2004	74,444	Panamax	9283631	BUREAU VERITAS	Bulk Carrier ESP Heavy Cargo; Nonhomload, Unrestricted navigation
CALIPSO	Darien Campania Armadora SA	Bahamas	2005	73,691	Panamax	9297929	DNV GL	100 AS, Bulk Carrier ESP RSD IW DBC Strengthened for Heavy Cargo (holds 2,4 & 6 may be empty)
CLIO	Texford Maritime SA	Bahamas	2005	73,691	Panamax	9297931	BUREAU VERITAS	Bulk Carrier ESP Heavy Cargo Nonhomload (holds 2,4 & 6 may be empty), Unrestricted navigation
SALT LAKE CITY	Marfort Navigation Company Limtied	Cyprus	2005	171,810	Capesize	9314129	BUREAU VERITAS	Bulk Carrier BC-A (Holds 2-4- 6-8 may be empty) ESP, Unrestricted navigation
NAIAS	Ailuk Shipping Company Inc.	Marshall Islands	2006	73,546	Panamax	9330800	BUREAU VERITAS	Bulk Carrier ESP- Nonhomload, Holds 2-4-6 may be empty), Unrestricted navigation
SIDERIS GS	Jaluit Shipping Company Inc.	Marshall Islands	2006	174,186	Capesize	9406881	BUREAU VERITAS	Bulk Carrier ESP, Unrestricted navigation
SEMIRIO	Kili Shipping	Marshall	2007	174,261	Capesize	9406893	BUREAU	Bulk Carrier ESP,

	Company Inc.	Islands					VERITAS	Unrestricted navigation
BOSTON	Lib Shipping Company Inc.	Marshall Islands	2007	117,828	Capesize	9445966	BUREAU	Bulk Carrier BC-A (Holds 2, 4,

							VERITAS	6, 8 may be empty) ESP, Unrestricted navigation
ALCMENE	Majuro Shipping Company Inc.	Marshall Islands	2010	93,193	Post Panamax	9568586	BUREAU VERITAS	Bulk Carrier CSR BC-A (Holds 2, 4 & 6 may be empty) ESP GRAB [20], Unrestricted navigation

SCHEDULE 8

FORM OF COMPLIANCE CERTIFICATE

To: BNP Paribas
16, rue de Hanovre
75002 Paris
France

Date: [•]

Dear Sirs,

We refer to a loan agreement dated [•] 2015 (the "**Loan Agreement**") made between (1) Diana Shipping Inc. as borrower (the "**Borrower**"), (2) BNP Paribas as swap bank and (3) yourselves and agent, security trustee and bookrunner.

Words and expressions defined in the Loan Agreement shall have the same meaning when used in this compliance certificate.

We enclose with this certificate a copy of the unaudited consolidated financial statements of the Group (as published in the relevant press release) for the 6-month period ended on [•]/and the audited consolidated annual financial statements of the Group for the Financial Year ended on [•]. The financial statements (i) have been prepared in accordance with all applicable laws and GAAP consistently applied and (ii) give a true and fair view of the state of affairs of the Borrower, each Collateral Guarantor and the Group at the date of the financial statements and of their profit for the period to which the enclosed financial statements relate.

The Borrower and each Collateral Guarantor represent that no Event of Default or Potential Event of Default has occurred as at the date of this certificate [except for the following matter or event [*set out all material details of matter or event*]]. In addition as of [•], the Borrower and each Collateral Guarantor confirms compliance with the financial covenants set out in Clause 11.2 (***Financial Covenants***) of the Loan Agreement and clause 16.1 (*Minimum required security cover*) for the [6-month period][Financial Year] ending as at the date to which the enclosed financial statements are prepared.

We now certify that, based on the calculations enclosed herein, as at [•]:

- (a) the Market Value Adjusted Net Worth of the Group is \$[•];
- (b) the ratio of Consolidated Net Debt to Consolidated Market Adjusted Assets less the aggregate amount of Cash and Cash Equivalents is [•]; and
- (c) the aggregate of all Cash and Cash Equivalents is [•].

This Certificate shall be governed by, and construed in accordance with, English law.

Chief Financial Officer

DIANA SHIPPING INC.

EXECUTION PAGE

BORROWER

SIGNED by) /s/ Andreas N. Michalopoulos
ANDREAS NIKOLAOS MICHALOPOULOS)
for and on behalf of)
DIANA SHIPPING INC.)
in the presence of:)

NADINE AKLEH
SOLICITOR
WATSON FARLEY & WILLIAMS
348 SYNGROU AVENUE
176 74 KALLITHEA
ATHENS - GREECE

LENDERS

SIGNED by) /s/ Vassiliki Georgopoulos
VASSILIKI GEORGOPOULOS)
for and on behalf of)
BNP PARIBAS)
in the presence of:)

NADINE AKLEH
SOLICITOR
WATSON FARLEY & WILLIAMS
348 SYNGROU AVENUE
176 74 KALLITHEA
ATHENS - GREECE

AGENT

SIGNED by) /s/ Vassiliki Georgopoulos
VASSILIKI GEORGOPOULOS)
for and on behalf of)
BNP PARIBAS)
in the presence of:)

NADINE AKLEH
SOLICITOR
WATSON FARLEY & WILLIAMS
348 SYNGROU AVENUE
176 74 KALLITHEA
ATHENS - GREECE

BOOKRUNNER

SIGNED by) /s/ Vassiliki Georgopoulos
VASSILIKI GEORGOPOULOS)
for and on behalf of)
BNP PARIBAS)
in the presence of:)

NADINE AKLEH
SOLICITOR
WATSON FARLEY & WILLIAMS
348 SYNGROU AVENUE
176 74 KALLITHEA

ATHENS - GREECE

SECURITY TRUSTEE

SIGNED by

VASSILIKI GEORGOPOULOS

for and on behalf of

BNP PARIBAS

in the presence of:

)

)

)

)

)

/s/ Vassiliki Georgopoulos

NADINE AKLEH

SOLICITOR

WATSON FARLEY & WILLIAMS

348 SYNGROU AVENUE

176 74 KALLITHEA

ATHENS - GREECE

SWAP BANK

SIGNED by)	/s/ Vassiliki Georgopoulos
VASSILIKI GEORGOPOULOS)	
for and on behalf of)	
BNP PARIBAS)	
in the presence of:)	

NADINE AKLEH
SOLICITOR
WATSON FARLEY & WILLIAMS
348 SYNGROU AVENUE
176 74 KALLITHEA
ATHENS - GREECE

Private & Confidential

**THE ENTITIES LISTED IN SCHEDULE 1
as Borrowers**

And

**ING BANK N.V., LONDON BRANCH
as Arranger**

with

**ING BANK N.V., LONDON BRANCH
as Agent**

**ING BANK N.V., LONDON BRANCH
as Security Agent**

guaranteed by

DIANA SHIPPING INC.

FACILITY AGREEMENT

Loan Facility of up to \$39,682,500

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THIS AGREEMENT is dated 30 September 2015, and made between:

- (1) **THE ENTITIES** listed in Schedule 1 (*The original parties*) as borrowers (the **Borrowers**);
- (2) **DIANA SHIPPING INC.** as guarantor (the **Guarantor**);
- (3) **ING BANK N.V., LONDON BRANCH**, as arranger (the **Arranger**);
- (4) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (*The original parties*) as lenders (the **Original Lenders**);
- (5) **ING BANK N.V.**, as hedging provider (the **Hedging Provider**);
- (6) **ING BANK N.V., LONDON BRANCH**, as agent for the other Finance Parties (the **Agent**); and
- (7) **ING BANK N.V., LONDON BRANCH**, as security agent for the other Finance Parties (the **Security Agent**).

IT IS AGREED as follows:

SECTION 1 - INTERPRETATION

1 Definitions and interpretation

1.1 Definitions

In this Agreement and (unless otherwise defined in the relevant Finance Document) the other Finance Documents:

Account means any bank account (including without limitation, the Earnings Accounts), deposit or certificate of deposit opened, made or established in accordance with clause 26 (*Bank accounts*).

Account Bank means, in relation to any Account, ING Bank N.V., London Branch or another bank or financial institution approved by the Majority Lenders at the request of the Borrowers.

Account Holder(s) means, in relation to any Account, the Obligor(s) in whose name(s) that Account is held.

Account Security means, in relation to an Account, a deed or other instrument by the relevant Account Holder(s) in favour of the Security Agent and/or the other Finance Parties in an agreed form conferring a Security Interest over that Account.

Accounting Reference Date means 31 December or such other date as may be approved by the Majority Lenders.

Advance means each of Advance A or Advance B, and:

- (a) in relation to Ship A, it means Advance A; or
- (b) in relation to Ship B, it means Advance B,

and **Advances** means any or all of them.

Advance A means a borrowing of a part of the Total Commitments by the Borrowers up to the Ship Commitment in respect of Ship A made or (as the context may require) to be made available in relation to Ship A, or (as the context may require) the outstanding principal amount of such borrowing.

Advance B means a borrowing of a part of the Total Commitments by the Borrowers up to the Ship Commitment in respect of Ship B made or (as the context may require) to be made available in relation to Ship B, or (as the context may require) the outstanding principal amount of such borrowing.

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.

Agent includes any person who may be appointed as such under clause 34.12 (*Resignation of the Agent*).

Approved Brokers means each of H. Clarkson and Company Ltd of London, Fearnleys AS, E.A. Gibson Shipbrokers London, Arrow Sale & Purchase (UK) Limited, Galbraith's Ltd London, Braemar Seascope Ltd London, Maersk Brokers K/S, R.S. Platou Shipbrokers Oslo, Simpson Spence & Young (London) Ltd., and VesselsValue.Com or any other independent firm of shipbrokers agreed in writing from time to time between the Borrowers and the Agent (acting on the instructions of the Majority Lenders).

Auditors means one of Ernst & Young, PricewaterhouseCoopers or Deloitte or another approved firm.

Available Facility means, at any relevant time, such part of the Total Commitments (drawn and undrawn) which is available for borrowing under this Agreement at such time in accordance with clause 4 (*Conditions of Utilisation*).

Balloon Instalment means, in relation to each Advance, the balloon instalment in respect of such Advance referred to in clause 6.2 (*Scheduled repayment of Advances*).

Basel II Accord means the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 as updated prior to, and in the form existing on, the date of this Agreement, excluding any amendment thereto arising out of the Basel III Accord.

Basel II Approach means, in relation to any Finance Party, either the Standardised Approach or the relevant Internal Ratings Based Approach (each as defined in the Basel II Accord) adopted by that Finance Party (or any of its Affiliates) for the purposes of implementing or complying with the Basel II Accord.

Basel II Regulation means:

- (a) any law or regulation implementing the Basel II Accord (including the relevant provisions of CRD IV and CRR) to the extent only that such law or regulation re-enacts and/or implements the requirements of the Basel II Accord but excluding any provision of such law or regulation implementing the Basel III Accord; and
- (b) any Basel II Approach adopted by a Finance Party or any of its Affiliates.

Basel III Accord means, together:

- (a) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (b) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement - Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and

- (c) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

Basel III Increased Cost means an Increased Cost which is attributable to the implementation or application of or compliance with any Basel III Regulation (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates).

Basel III Regulation means any law or regulation implementing the Basel III Accord (including the relevant provisions of CRD IV and CRR) save and to the extent that it re-enacts a Basel II Regulation.

Break Costs means the amount (if any) by which:

- (a) the interest which a Lender should have received for the period from the date of receipt of all or any part of its participation in the Loan or Unpaid Sum to the last day of the current Interest Period in respect of the Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period; exceeds:
- (b) the amount which that Lender would be able to obtain by placing an amount equal to *the* principal amount or Unpaid Sum received by it on deposit with a leading bank in the Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

Builder means, in relation to Ship A, the person specified as such in Schedule 2 (*Ship Information*) in respect of such Ship.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Athens and New York.

Change of Control occurs if at any time:

- (a) a Borrower ceases to be a direct or indirect wholly-owned Subsidiary of the Guarantor; or
- (b) the Permitted Holders cease to own legally and beneficially, either directly or indirectly, at least 5% of each of (i) the issued and outstanding share capital and (ii) the issued and outstanding voting share capital, of the Guarantor; or
- (c) any person or persons acting in concert (other than the Permitted Holders) own legally and beneficially, either directly or indirectly, more shares and/or more voting shares in the Guarantor, than the Permitted Holders.

Charged Property means all of the assets of the Obligors which from time to time are, or are expressed or intended to be, the subject of the Security Documents.

Charter means, in relation to a Ship, any charter commitment in relation to that Ship, which is entered during the Facility Period between the relevant Owner as owner and any person as charterer or counterparty of such Owner thereunder, and which is capable of lasting at least 13 months (taking into account any options to extend or renew contained therein) and **Charters** means, together, any or all of them.

Charter Assignment means, in relation to a Ship and its Charter Documents, an assignment by the relevant Owner of its interest in such Charter Documents in favour of the Security Agent in the agreed form.

Charter Documents means, in relation to a Ship, the Charter (if any) of that Ship, any documents supplementing it and any guarantee or security given by any person for the Charterer's obligations under it.

Charterer means, in relation to a Ship and a Charter of that Ship, the charterer or counterparty of the Owner of such Ship under that Charter.

Classification means, in relation to a Ship, the highest classification available to vessels of this type (being on the date of this Agreement the classification specified in respect of such Ship in Schedule 2 (*Ship information*)) with the relevant Classification Society or another classification approved by the Majority Lenders as its classification, at the request of the relevant Owner.

Classification Society means, in relation to a Ship, the classification society specified in respect of such Ship in Schedule 2 (*Ship information*) or another classification society (being a member of the International Association of Classification Societies (IACS) or, if such association no longer exists, any similar association nominated by the Agent) approved by the Majority Lenders as its Classification Society, at the request of the relevant Owner.

Code means the US Internal Revenue Code of 1986.

Commitment means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading "Commitment" in Schedule 1(*The original parties*) and the amount of any other Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

to the extent:

- (i) not cancelled, reduced or transferred by it under this Agreement; and
- (ii) not deemed to be zero pursuant to clauses 33.2.2 to 33.2.5(*Disenfranchisement on Debt Purchase Transactions entered into by Guarantor Affiliates*).

Compliance Certificate means a certificate substantially in the form set out in Schedule 7 (*Form of Compliance Certificate*) or otherwise approved.

Confidential Information means all information relating to an 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 45(*Confidentiality*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (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.

Confirmation shall have, in relation to any Hedging Transaction, the meaning given to it in the Hedging Master Agreement.

Constitutional Documents means, in respect of an Obligor, such Obligor's memorandum and articles of association, articles of incorporation, by-laws or other constitutional documents including as referred to in any certificate relating to an Obligor delivered pursuant to Schedule 3 (*Conditions precedent*).

Contract means, in relation to a Ship, means the contract referred to as such specified in Schedule 2 (*Ship Information*) between the relevant Builder or (as the case may be) Seller and the relevant Owner, relating to the purchase of such Ship thereunder and **Contracts** means all of them.

Contract Price means, in relation to a Ship, the purchase price of that Ship payable under the Contract for such Ship, being on the date of this Agreement in the amount specified in Schedule 2 (*Ship Information*) in respect of the relevant Ship.

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

CRR means the regulation 575/2013 of the European Union on prudential requirements for credit institutions and investment firms.

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.

Deed of Covenant means, in relation to a Ship in respect of which the Mortgage is in account current form, a first deed of covenant (including a first assignment of its interest in the Ship's Insurances, Earnings and Requisition Compensation) in respect of such Ship by the relevant Owner in favour of the Security Agent and/or any of the other Finance Parties.

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 Finance Documents or any combination of them) be an Event of Default.

Defaulting Lender means any Lender:

- (a) which has failed to make its participation in an Advance available or has notified the Agent that it will not make its participation in an Advance available by the Utilisation Date of that Advance in accordance with clause 5.4 (Lenders' participation);
- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing,

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
- (A) administrative or technical error; or
- (B) a Payment Disruption Event; and, payment is made within 3 Business Days of its due date; or
- (ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

Delivery means, in relation to a Ship, the delivery and acceptance of the Ship by the relevant Owner under the relevant Contract.

Designated Person means a person:

- (a) that is, or is owned or controlled by a person or entity that is listed on the "Specially Designated National and Blocked Persons" List maintained by OFAC, and the list of persons sanctioned by the United States Department of State, as published in the Federal Register, or any similar list maintained by any other Sanctions Authority;
- (b) located in or organized under the laws of, or the government of any jurisdiction targeted by Sanctions after the date hereof, or a person that is otherwise the target of Sanctions;
- (c) to the best of Obligors' knowledge and belief, acting or purporting to act on behalf of any of the persons listed in paragraphs (a) and (b) above; or
- (d) with which any relevant Finance Party is prohibited from dealing with or otherwise engaging in any transaction pursuant to any Sanctions.

Disposal Repayment Date means in relation to:

- (e) a Total Loss of a Mortgaged Ship, the applicable Total Loss Repayment Date; or
- (f) a sale of a Mortgaged Ship (including a reversal of sale by the relevant Owner returning the relevant Ship to the relevant Seller under any relevant provisions of the relevant Contract, if applicable) by the relevant Owner, the date upon which such sale is completed by the transfer of title to the purchaser in exchange for payment of all or part of the relevant purchase price.

Earnings means, in relation to a Ship and a person, all money at any time payable to that person for or in relation to the use or operation of such Ship including (without limitation) freight, hire and passage moneys, money payable to that person for the provision of services by or from such Ship or under any charter commitment, requisition for hire compensation, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach and payments for termination or variation of any charter commitment.

Earnings Account means any Account designated as an "**Earnings Account**" under clause 26 (*Bank accounts*) and **Earnings Accounts** means all of them.

Environmental Claims means:

- (a) enforcement, clean-up, removal or other governmental or regulatory action or orders or claims instituted or made pursuant to any Environmental Laws or resulting from a Spill; or
- (b) any claim made by any other person relating to a Spill.

Environmental Incident means any Spill from any vessel in circumstances where:

- (a) any Ship or its owner, operator or manager may be liable for Environmental Claims arising from the Spill (other than Environmental Claims arising and fully satisfied before the date of this Agreement); and/or
- (b) any Ship may be arrested or attached in connection with any such Environmental Claim.

Environmental Laws means all laws, regulations and conventions concerning pollution or protection of human health or the environment.

Event of Default means any event or circumstance specified as such in clause 30 (*Events of Default*).

Facility means the term loan facility made available under this Agreement as described in clause 2 (*The Facility*).

Facility Office means:

- (a) in respect of a Lender, the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office through which it will perform its obligations under this Agreement; and
- (b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for Tax purposes.

Facility Period means the period from and including the date of this Agreement to and including the date on which the Agent notifies the Borrowers that the Total Commitments have reduced to zero and all indebtedness of the Obligors under the Finance Documents has irrevocably and unconditionally been fully paid and discharged.

FATCA means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or a 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 2017; 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 2017,

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 dated on or about the date of this Agreement between (inter alios) the Arranger and the Borrowers and/or the Guarantor (or the Agent and the Borrowers and/or the Guarantor) setting out any of the fees referred to in clause 11 (*Fees*).

Final Repayment Date means, subject to clause 37.7 (*Business Days*) and in respect of an Advance, the earlier of (a) 31 December 2022 and (b) the date falling 81 months after the First Repayment Date for that Advance.

Finance Documents means this Agreement, any Fee Letter, any Utilisation Request, any Compliance Certificate, the Hedging Contracts, the Hedging Master Agreement, the Security Documents, any Transfer Certificate and any other document designated as such by the Agent and the Borrowers.

Finance Party means the Agent, the Security Agent, the Arranger, the Hedging Provider or a Lender.

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (a) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (b) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (c) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (d) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (e) any Treasury Transaction (and, when calculating the value of that Treasury 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 Treasury Transaction, that amount) shall be taken into account);
- (f) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (g) any amount raised by the issue of redeemable shares which are redeemable (other than at the option of the issuer) before the last Final Repayment Date or are otherwise classified as borrowings under GAAP;
- (h) any amount of any liability under an advance or deferred purchase agreement if (a) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (b) the agreement is in respect of the supply of assets or services and payment is due more than 180 days after the date of supply;
- (i) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under GAAP; and

- (j) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

First Repayment Date means, subject to clause 37.7 (*Business Days*) and in respect of an Advance, the date falling three (3) months after the Utilisation Date of such Advance.

Flag State means, in relation to a Ship, the country specified in respect of such Ship in Schedule 2 (*Ship information*), or such other state or territory as may be approved by all the Lenders, at the request of the relevant Owner, as being the **Flag State** of such Ship for the purposes of the Finance Documents.

Fleet Vessel means each Mortgaged Ship and any other vessel owned or managed by any Group Member.

GAAP means the most recent and up to date US GAAP at any relevant time.

General Assignment means, in relation to a Ship in respect of which the Mortgage is not in account current form, a first assignment of its interest in the Ship's Insurances, Earnings and Requisition Compensation, by the relevant Owner in favour of the Security Agent and/or any other Finance Parties in the agreed form.

Group means the Guarantor and its Subsidiaries (including, without limitation, the Borrowers) for the time being and, for the purposes of clause 19.1 (*Financial statements*) and clause 20 (*Financial covenants*), any other entity required to be treated as a subsidiary in the Guarantor's consolidated accounts in accordance with GAAP and/or any applicable law.

Group Member means any Obligor and any other entity which is part of the Group.

Guarantee means the obligations of the Guarantor under clause 17 (*Guarantee and indemnity*).

Guarantor means Diana Shipping Inc., a corporation incorporated in the Republic of the Marshall Islands, whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Republic of the Marshall Islands MH96960 and includes its successors in title.

Guarantor Affiliate means the Guarantor, each of its Affiliates, any trust of which the Guarantor or any of its Affiliates is a trustee, any partnership of which the Guarantor or any of its Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, the Guarantor or any of its Affiliates.

Hedging Contract means any Hedging Transaction between the Borrowers and the Hedging Provider pursuant to the Hedging Master Agreement and otherwise on approved terms and includes the Hedging Master Agreement and any Confirmations from time to time exchanged under it and governed by its terms relating to that Hedging Transaction and any contract in relation to such a Hedging Transaction constituted and/or evidenced by them and **Hedging Contracts** means all of them.

Hedging Contract Security means a deed or other instrument by the Borrowers in favour of the Security Agent in the agreed form conferring a Security Interest over any Hedging Contracts.

Hedging Exposure means, as at any relevant date, the aggregate of the amount certified by the Hedging Provider to the Agent to be the net amount in dollars:

- (a) in relation to all Hedging Contracts that have been closed out on or prior to the relevant date, that is due and owing by the Borrowers to the Hedging Provider in respect of such Hedging Contracts on the relevant date; and
- (b) in relation to all Hedging Contracts that are continuing on the relevant date, that would be payable by the Borrowers to the Hedging Provider under (and calculated in accordance with) the early termination provisions of the Hedging Contracts as if an Early Termination Date (as

defined in the Hedging Master Agreement) had occurred on the relevant date in relation to all such continuing Hedging Contracts.

Hedging Master Agreement means the agreement made or (as the context may require) to be made between the Borrowers and the Hedging Provider pursuant to clause 29 (*Hedging Contracts*), comprising an ISDA Master Agreement and Schedule thereto in the agreed form.

Hedging Transaction has the meaning given to the term "Transaction" in the Hedging Master Agreement.

Holding Company means, in relation to a company or corporation or other person, any other company or corporation or other person in respect of which it is a Subsidiary.

Increased Costs has the meaning given to it in clause 13.1 (*Increased Costs*). **Indemnified Person** means:

- (a) each Finance Party and each Receiver and any attorney, agent or other person appointed by them under the Finance Documents;
- (b) each Affiliate of those persons; and
- (c) any officers, directors, employees, advisers, representatives or agents of any of the above persons.

Insolvency Event in relation to a Finance Party means that the Finance Party:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
 - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the Banking Act 2009;
- (g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

- (h) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (i) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (i) above; or
- (k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

Insurance Notice means, in relation to a Ship, a notice of assignment in the form scheduled to such Ship's General Assignment or Deed of Covenant or in another approved form.

Insurances means, in relation to a Ship:

- (a) all policies and contracts of insurance; and
- (b) all entries in a protection and indemnity or war risks or other mutual insurance association

in the name of such Ship's Owner or the joint names of its Owner and any other person in respect of or in connection with such Ship and/or its Owner's Earnings from the Ship and includes all benefits thereof (including the right to receive claims and to return of premiums, and which the Obligors undertake shall be taken out in accordance with the requirements of clause 24 (*Insurance*)).

Interbank Market means the London interbank market.

Interest Period means, in relation to an Advance or any part thereof, each period determined in accordance with clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with clause 8.3 (*Default interest*).

Interpolated Screen Rate means in relation to LIBOR and the Loan or any part of the same or any Unpaid Sum, the rate which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the relevant Interest Period for the Loan (or the relevant part of it) or the relevant Unpaid Sum; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the relevant Interest Period for the Loan (or the relevant part of it) or the relevant Unpaid Sum,

each as of 11:00 am on the relevant Quotation Day.

Last Availability Date means, in relation to each Advance, 31 December 2015 or such later date as may be approved by all the Lenders.

Legal Reservations means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for, or indemnify a person against, non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction.

Lender means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with clause 32(*Changes to the Lenders*), which in each case has not ceased to be a Party in accordance with the terms of this Agreement. **LIBOR** means, in relation to the Loan or any part of it or any Unpaid Sum:
 - (a) the applicable Screen Rate; or
 - (b) if no Screen Rate is available for the relevant Interest Period, the Interpolated Screen Rate for the Loan (or the relevant part of it) or that Unpaid Sum; or
 - (c) if:
 - (i) no Screen Rate is available for the relevant currency; or
 - (ii) no Screen Rate is available for the relevant Interest Period and it is not possible to calculate an Interpolated Screen Rate for the Loan (or the relevant part of it) or that Unpaid Sum, the Reference Bank Rate, as of 11:00 a.m. on the Quotation Day for the offering of deposits in dollars for a period comparable to the Interest Period for the Loan or relevant part of it or Unpaid Sum and if that rate is less than zero, LIBOR shall be deemed to be zero.

Loan means the aggregate amount of the loan made or to be made available under the Facility (comprising the Advances) or the principal amount outstanding for the time being of such loan.

Losses means any costs, expenses (including, but not limited to, legal fees), payments, charges, losses, demands, liabilities, taxes (including VAT), claims, actions, proceedings, penalties, fines, damages, judgments, orders or other sanctions.

Loss Payable Clauses means, in relation to a Ship, the provisions concerning payment of claims under the Ship's Insurances in the form scheduled to such Ship's General Assignment or Deed of Covenant or in another approved form.

Major Casualty means any casualty to a vessel for which the total insurance claim, inclusive of any deductible, exceeds or may exceed the Major Casualty Amount.

Major Casualty Amount means, in relation to a Ship, the amount specified as such against the name of that Ship in Schedule 2 (*Ship information*) or the equivalent in any other currency.

Majority Lenders means:

- (a) if no part of the Loan is then outstanding, a Lender or Lenders whose Commitments aggregate more than 66.67% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66.67% of the Total Commitments immediately prior to the reduction); or
- (b) at any other time, a Lender or Lenders whose participations in the Loan aggregate more than 66.67% of the Loan.

Management Agreement means, in relation to a Ship, the agreement between the relevant Owner and the Manager relating to the appointment of the Manager in respect of such Ship.

Manager means, in relation to a Ship, Diana Shipping Services S.A. of Edificio Universal, Piso 12, Avenida Federico Boyd, Panama, appointed in accordance with clause 22.3 (*Manager*) or Diana Wilhelmsen Management Limited of 21 Vasili Michailidi street, 3026 Limassol, Cyprus, if subsequently appointed pursuant to clause 22.12 (*Change of Manager*) or any other company (subject to such company providing a Manager's Undertaking in relation to such Ship) which is so appointed and the Agent may, with the authorisation of the Majority Lenders, approve from time to time, in each case as the manager of that Ship in respect of commercial and technical services and includes its successors in title.

Manager's Undertaking means, in relation to a Ship, an undertaking by any manager of the Ship to the Security Agent in the agreed form pursuant to clause 22.3 (*Manager*).

Margin means 1.65% per annum.

Material Adverse Effect means, in the reasonable opinion of the Majority Lenders, a material adverse effect on:

- (a) the business, operations, property, performance, prospects or condition (financial or otherwise) of any Obligor or of the Group taken as a whole; or
- (b) the ability of an Obligor to perform its obligations under any of the Finance Documents; or
- (c) the legality, validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or purporting to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Finance Party under any of the Finance Documents.

Minimum Value means the amount in dollars which is at any relevant time 125% of the aggregate of (a) the Loan and (b) the Hedging Exposure at that time.

Mortgage means, in relation to a Ship, a first priority or (as the case may be) first preferred mortgage of the Ship in the agreed form by the relevant Owner in favour of the Security Agent and/or any of the other Finance Parties.

Mortgage Period means, in relation to a Mortgaged Ship, the period from the date the Mortgage over that Ship is executed and registered until the date such Mortgage is released and discharged or, if earlier, its Total Loss Repayment Date.

Mortgaged Ship means, at any relevant time, any Ship which has been delivered to the relevant Owner under the relevant Contract and is subject to a Mortgage and/or whose Earnings, Insurances and Requisition Compensation are subject to a Security Interest under the Finance Documents.

Non-Consenting Lender is a Lender who does not agree to a waiver, consent or amendment where:

- (a) the Borrowers or the Agent have requested the Lenders to consent to a departure from, or waiver of, any provision of the Finance Documents or to agree to any amendment thereto;
- (b) the waiver, consent or amendment in question requires the agreement of all the Lenders;
- (c) a period of not less than 30 days has elapsed from the date the waiver, consent or amendment was requested;
- (d) the Majority Lenders have agreed to such waiver, consent or amendment; and
- (e) the Borrowers have notified such Lender that they will treat it as a Non-Consenting Lender.

Notifiable Debt Purchase Transaction has the meaning given to that term in clauses 33.2.2 to 33.2.5 (*Disenfranchisement on Debt Purchase Transactions entered into by Guarantor Affiliates*).

Obligors means the parties to the Finance Documents (other than Finance Parties) and **Obligor** means any one of them.

Original Financial Statements means the audited consolidated financial statements of the Guarantor and its Subsidiaries for the financial year ended 31 December 2014.

Original Jurisdiction means, in relation to an Original Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the date of this Agreement or, in the case of any other Obligor, as at the date on which that Obligor becomes an Obligor.

Original Obligor means each party to this Agreement and the Original Security Documents (other than a Finance Party).

Original Security Documents means:

- (a) the Mortgages over each of the Ships;
- (b) the Deeds of Covenant in relation to each of the Ships in respect of which the Mortgage is in account current form;
- (c) the General Assignments in relation to each of the Ships in respect of which the Mortgage is not in account current form;
- (d) the Charter Assignment in relation to each Ship's Charter Documents;
- (e) the Account Security in relation to each Account;
- (f) the Share Security in relation to each Borrower;
- (g) the Hedging Contract Security; and
- (h) any Manager's Undertaking in relation to each Ship.

Owner means, in relation to a Ship, the Borrower specified against the name of that Ship in Schedule 2(*Ship information*).

Participating Member State means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

Party means a party to this Agreement.

Payment 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.

Permitted Holders means collectively:

- (a) the individual disclosed in writing by the Obligors to the Arranger and the Original Lenders on or before the date of this Agreement as being the ultimate beneficial owner of no less than 5% of each of (i) the issued and outstanding share capital and (ii) the issued and outstanding voting share capital, of each of the Guarantor;
- (b) his direct lineal descendants;
- (c) the personal estate of any of the above persons; and
- (d) any trust created for the benefit of one or more of the above persons and their respective estates.

Permitted Maritime Liens means, in relation to a Ship:

- (a) unless a Default is continuing, any ship repairer's or outfitter's possessory lien in respect of such Ship for an amount not exceeding the Major Casualty Amount for such Ship;
- (b) any lien on such Ship for master's, officer's or crew's wages outstanding in the ordinary course of its trading;
- (c) any lien on such Ship for salvage;
- (d) liens arising by operation of law for not more than 2 months' prepaid hire under any charter commitment in relation to a Ship not prohibited by this Agreement;
- (e) liens for master's disbursements incurred in the ordinary course of trading;
- (f) any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of a Ship and which has arisen for payments which are not more than 2 months overdue;
- (g) any Security Interest created in favour of a plaintiff or defendant in any proceedings or arbitration as security for costs and expenses while an Obligor is actively prosecuting or defending such proceedings or arbitration in good faith; and
- (h) Security Interests arising by operation of law in respect of taxes which are not overdue for payment or in respect of taxes being contested in good faith by appropriate steps and, in each case, in respect of which appropriate reserves have been made.

Permitted Security Interests means, in relation to any Mortgaged Ship, any Security Interest over it which is:

- (a) granted by the Finance Documents; or
- (b) a Permitted Maritime Lien; or
- (c) is approved by the Majority Lenders.

Pollutant means and includes crude oil and its products, any other polluting, toxic or hazardous substance and any other substance whose release into the environment is regulated or penalised by Environmental Laws.

Quotation Day means, in relation to any period for which an interest rate is to be determined, two Business Days before the first day of that period unless market practice differs in the Interbank Market for a currency, in which case the Quotation Day for that currency shall be determined by the Agent in accordance with market practice in the Interbank Market (and if quotations would normally be given by leading banks in the Interbank Market on more than one day, the Quotation Day will be the last of those days).

Receiver means a receiver or a receiver and manager or an administrative receiver appointed in relation to the whole or any part of any Charged Property under any relevant Security Document.

Reference Bank Rate means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by each Reference Bank as the rate at which the relevant Reference Bank could borrow funds in the Interbank Market, in the relevant currency and for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period.

Reference Banks means, in respect of LIBOR, ING Bank N.V. and/or such other banks as may be appointed by the Agent in consultation with the Borrowers.

Registry means, in relation to each Ship, such registrar, commissioner or representative of the relevant Flag State who is duly authorised and empowered to register the relevant Ship, the relevant Owner's title to such Ship and the relevant Mortgage under the laws of its Flag State.

Relevant Jurisdiction means, in relation to an Obligor:

- (a) its Original Jurisdiction of incorporation;
- (b) any jurisdiction where any Charged Property or other material assets owned by it are situated;
- (c) any jurisdiction where it conducts its business; and
- (d) any jurisdiction in which a Security Interest created by that Obligor must or should be registered in order to ensure its validity or priority.

Repayment Date means, in relation to an Advance:

- (a) the First Repayment Date for that Advance;
- (b) each of the dates falling at 3 monthly intervals thereafter up to but not including the Final Repayment Date for that Advance; and
- (c) the Final Repayment Date for that Advance, being the due dates of the repayment instalments for that Advance referred to in clause 6.2(*Scheduled repayment of the Advances*).

Repeating Representations means each of the representations and warranties set out in clause 18 (*Representations*) other than clauses 18.11 (*No insolvency*), 18.12 (*No filing or stamp taxes*), 18.13 (*Tax*).

Representative means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

Requisition Compensation means, in relation to a Ship, any compensation paid or payable by a government entity for the requisition for title, confiscation or compulsory acquisition of such Ship.

Sanctions means any economic or financial sanctions regulations, trade embargoes or restrictive measures administered, enacted or enforced by any Sanctions Authority.

Sanctions Authority means (i) the US government (including but not limited to OFAC and the United States Department of State), (ii) the United Nations, (iii) the European Union or (iv) the United Kingdom.

Sanctioned Country means any country or territory which is subject to general trade, economic or financial sanctions embargoes imposed, administered or enforced by a Sanctions Authority.

Sanctions List means any of the lists of specifically designated nationals or designated persons or entities (or equivalent) held by a Sanctions Authority, each as amended, supplemented or substituted from time to time.

SBI means SBI Bellcoso Shipping Company of Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Republic of the Marshall Islands MH96960.

Screen Rate means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over to administration of that rate) for dollars and the relevant period displayed on the appropriate pages LIBOR 01 or LIBOR 02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page is replaced or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrowers and the Lenders.

Security Agent includes any person as may be appointed security agent and trustee for the other Finance Parties under this Agreement.

Security Documents means:

- (a) the Original Security Documents;
- (b) any other document as may be executed to guarantee and/or secure any amounts owing to the Finance Parties under this Agreement or any other Finance Document.

Security Interest means a mortgage, charge, pledge, lien, assignment, trust, hypothecation or other security interest of any kind securing any obligation of any person or any other agreement or arrangement having a similar effect.

Security Value means, at any time, the amount in dollars which, at that time, is the aggregate of

- (a) the Vessel Values of all of the Mortgage Ships which have not then become a Total Loss and
- (b) the value of any additional security then held by the Security Agent or any other Finance Party provided under clause 25(*Minimum security value*), in each case as most recently determined in accordance with this Agreement.

Selection Notice means a notice substantially in the form set out in Schedule 5 (*Selection Notice*) given in accordance with clause 9 (*Interest Periods*).

Seller means, in relation to Ship B, the person specified as such in Schedule 2 (*Ship information*) in respect of such Ship.

Shareholder means, in relation to a Borrower, the person named in Schedule 1 (*The original parties*) as shareholder of that Borrower.

Share Security means, in relation to each Borrower, the document constituting a first Security Interest in respect of all the shares of such Borrower executed by the relevant Shareholder of that Borrower in favour of the Security Agent in the agreed form.

Ship A means the vessel described as such in Schedule 2 (*Ship Information*). **Ship B** means the vessel described as such in Schedule 2 (*Ship Information*).

Ship Commitment means, in relation to a Ship, the amount specified as such in respect of such Ship in Schedule 2 (*Ship information*), as cancelled or reduced pursuant to any provision of this Agreement.

Ship Representations means each of the representations and warranties set out in clauses 18.28 (*Ship status*) and 18.29 (*Ship's employment*).

Ships means each of the ships described in Schedule 2 (*Ship information*), being each of the Ship A and the Ship B, and:

- (a) in relation to Advance A, it means Ship A; or
- (b) in relation to Advance B, it means Ship B, and **Ship** means any of them.

Spill means any actual or threatened spill, release or discharge of a Pollutant into the environment.

Subsidiary of a person means any other person:

- (a) directly or indirectly controlled by such person; or
- (b) of whose dividends or distributions on ordinary voting share capital such person is entitled to receive more than 50%.

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) and **Taxation** shall be construed accordingly.

Total Commitments means the aggregate of the Commitments, being \$39,682,500 at the date of this Agreement (being the aggregate of the Ship Commitment for Ship A and the Ship Commitment for Ship B).

Total Loss means, in relation to a Ship, its:

- (a) actual, constructive, compromised or arranged total loss; or
- (b) requisition for title, confiscation or other compulsory acquisition by a government entity; or
- (c) hijacking, piracy, theft, condemnation, capture, seizure, arrest or detention for more than 30 days.

Total Loss Date means, in relation to the Total Loss of a vessel:

- (a) in the case of an actual total loss, the date it happened or, if such date is not known, the date on which the vessel was last reported;
- (b) in the case of a constructive, compromised, agreed or arranged total loss, the earliest of:
 - (i) the date notice of abandonment of the vessel is given to its insurers; or
 - (ii) if the insurers do not admit such a claim, the date later determined by a competent court of law to have been the date on which the total loss happened; or
 - (iii) the date upon which a binding agreement as to such compromised or arranged total loss has been entered into by the vessel's insurers;
- (c) in the case of a requisition for title, confiscation or compulsory acquisition, the date it happened; and

- (d) in the case of hijacking, piracy, theft, condemnation, capture, seizure, arrest or detention, the date 30 days after the date upon which it happened.

Total Loss Repayment Date means, where a Mortgaged Ship has become a Total Loss after its Delivery, the earlier of:

- (a) the date 120 days after its Total Loss Date; and
- (b) the date upon which insurance proceeds or Requisition Compensation for such Total Loss are paid by insurers or the relevant government entity.

Transaction Security means the Security Interests created by the Finance Documents.

Transfer Certificate means a certificate substantially in the form set out in Schedule 6 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrowers or, at any time after the occurrence of an Event of Default, required by the Agent.

Transfer Date means, in relation to an assignment pursuant to a Transfer Certificate, the later of:

- (a) the proposed Transfer Date specified in the Transfer Certificate; and
- (b) the date on which the Agent executes the Transfer Certificate.

Treasury Transaction means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

Trust Property means, collectively:

- (a) all moneys duly received by the Security Agent under or in respect of the Finance Documents;
- (b) any portion of the balance on any Account held by or charged to the Security Agent at any time;
- (c) the Security Interests, guarantees, security, powers and rights given to the Security Agent under and pursuant to the Finance Documents including, without limitation, the covenants given to the Security Agent in respect of all obligations of any Obligor;
- (d) all assets paid or transferred to or vested in the Security Agent or its agent or received or recovered by the Security Agent or its agent in connection with any of the Finance Documents whether from any Obligor or any other person; and
- (e) all or any part of any rights, benefits, interests and other assets at any time representing or deriving from any of the above, including all income and other sums at any time received or receivable by the Security Agent or its agent in respect of the same (or any part thereof).

Unpaid Sum means any sum due and payable but unpaid by an Obligor under the Finance Documents.

US Tax Obligor means:

- (a) a Borrower if it is resident for tax purposes in the United States of America; or
- (b) an Obligor some or all of whose payments under the Finance Documents are from sources within the United States for US federal income tax purposes.

Utilisation means the making of an Advance.

Utilisation Date means, in respect of a Utilisation, the date on which that Utilisation is made.

Utilisation Request means a notice substantially in the form set out in Schedule 4 (*Utilisation Request*).

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 Value means, in respect of a Mortgaged Ship, the value most recently attributed to that Mortgaged Ship as most recently determined pursuant to valuations undertaken in accordance with clause 19.2 (*Provision and contents of Compliance Certificate and valuations*) or clause 25 (*Minimum security value*) and **Vessel Values** means the aggregate of the valuations of all the Mortgaged Ships.

1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in any of the Finance Documents to:

- (a) Sections, clauses and Schedules are to be construed as references to the Sections and clauses of, and the Schedules to, the relevant Finance Document and references to a Finance Document include its Schedules;
- (b) a **Finance Document** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as it may from time to time be amended, restated, novated or replaced, however fundamentally;
- (c) words importing the plural shall include the singular and vice versa;
- (d) a time of day is to London time;
- (e) any person includes its successors in title, permitted assignees or transferees;
- (f) the knowledge, awareness and/or beliefs (and similar expressions) of any Obligor shall be construed so as to mean the knowledge, awareness and beliefs of the director and officers of such Obligor, having made due and careful enquiry;
- (g) two or more persons are **acting in concert** if pursuant to an agreement or understanding (whether formal or informal) they actively co-operate, through the acquisition (directly or indirectly) of shares in an entity by any of them, either directly or indirectly to obtain or consolidate control of that entity;
- (h) **agreed form** means:
 - (i) where a Finance Document has already been executed by all of the relevant parties, such Finance Document in its executed form;
 - (ii) prior to the execution of a Finance Document, the form of such Finance Document separately agreed in writing between the Agent (acting on the instructions of all the Lenders) and the Borrowers, whether before or after the date of this Agreement, as the form in which that Finance Document is to be executed or another form approved at the request of the Borrowers or, if not so agreed or approved, in the form reasonably required by the Agent;
- (i) **approved by the Majority Lenders** or **approved by the Lenders** means approved in writing by the Agent acting on the instructions of the Majority Lenders or, as the case may be, all of the Lenders (on such conditions as they may respectively impose) and otherwise

approved means approved in writing by the Agent acting on the instructions of the Majority Lenders (on such conditions as the Agent (acting on the instructions of the Majority Lenders) may impose) and **approval** and **approve** shall be construed accordingly;

- (j) **assets** includes present and future properties, revenues and rights of every description;
- (k) **anauthorisation** means any authorisation, consent, concession, approval, resolution, licence, exemption, filing, notarisation or registration;
- (l) **charter commitment** means, in relation to a vessel, any charter or contract for the use, employment or operation of that vessel or the carriage of people and/or cargo or the provision of services by or from it and includes any agreement for pooling or sharing income derived from any such charter or contract;
- (m) **control** of an entity means:
 - (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - A) cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of that entity; or
 - B) appoint or remove all, or the majority, of the directors or other equivalent officers of that entity; or
 - C) give directions with respect to the operating and financial policies of that entity with which the directors or other equivalent officers of that entity are obliged to comply; and/or
 - (ii) the holding beneficially of more than 50% of the issued share capital of that entity (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital) (and, for this purpose, any Security Interest over share capital shall be disregarded in determining the beneficial ownership of such share capital);

and **controlled** shall be construed accordingly;

- (n) the term **disposal** or **dispose** means a sale, transfer or other disposal (including by way of lease or loan but not including by way of loan of money) by a person of all or part of its assets, whether by one transaction or a series of transactions and whether at the same time or over a period of time, but not the creation of a Security Interest;
- (o) **dollar, \$** and **USD** means the lawful currency of the United States of America;
- (p) the **equivalent** of an amount specified in a particular currency (the **specified currency amount**) shall be construed as a reference to the amount of the other relevant currency which can be purchased with the specified currency amount in the London foreign exchange market at or about 11 am. on the date the calculation falls to be made for spot delivery, as conclusively determined by the Agent (with the relevant exchange rate of any such purchase being the **Agent's spot rate of exchange**);
- (q) **agovernment entity** means any government, state or agency of a state;
- (r) **agroup of Lenders** includes all the Lenders;
- (s) **aguarantee** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

- (t) **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;
- (u) **month** means a period starting on one day in a calendar month and ending on 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, that period shall end on the next Business Day in that month (if there is one) or on the immediately preceding Business Day (if there is not); and
 - (ii) if there is no numerically corresponding day in that month, that period shall end on the last Business Day in that month,

and the above rules in paragraphs (i) to (ii) will only apply to the last month of any period;

- (v) **anobligation** means any duty, obligation or liability of any kind;
- (w) something being in the **ordinary course of business** of a person means something that is in *the* ordinary course of that person's current day-to-day operational business (and not merely anything which that person is entitled to do under its Constitutional Documents);
- (x) **pay, prepay or repay** in clause 28 (*Business restrictions*) includes by way of set-off, combination of accounts or otherwise;
- (y) **a person** includes any individual, firm, company, corporation, government entity or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- (z) **aregulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation and includes (without limitation) any Basel II Regulation or Basel III Regulation;
- (aa) **right** means any right, privilege, power or remedy, any proprietary interest in any asset and any other interest or remedy of any kind, whether actual or contingent, present or future, arising under contract or law, or in equity;
- (bb) **trustee, fiduciary and fiduciary duty** has in each case the meaning given to such term under applicable law;
- (cc) (i) the **liquidation, winding up, dissolution, or administration** of person or (ii) a **receiver or administrative receiver or administrator** in the context of insolvency proceedings or security enforcement actions in respect of a person shall be construed so as to include any equivalent or analogous proceedings or any equivalent and analogous person or appointee (respectively) under the law of the jurisdiction in which such person is established or incorporated or any jurisdiction in which such person carries on business including (in respect of proceedings) the seeking or occurrences of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors;
- (dd) an entity is a **wholly-owned subsidiary** of another entity if it has no shareholders or members except that other entity and that other entity's wholly-owned Subsidiaries or persons acting on behalf of that other entity or its wholly-owned Subsidiaries;
- (ee) a provision of law is a reference to that provision as amended or re-enacted; and
- (ff) **alaw** includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the United States of America,

any state thereof, Council of the European Union, the European Commission, the United Nations or its Security Council.

1.2.2 Where in this Agreement a provision includes a monetary reference level in one currency, unless a contrary indication appears, such reference level is intended to apply equally to its equivalent in other currencies as of the relevant time for the purposes of applying such reference level to any other currencies.

1.2.3 Section, clause and Schedule headings are for ease of reference only.

1.2.4 Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

1.2.5 A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been waived or remedied to the satisfaction of the Agent acting on the instructions of the Lenders.

1.2.6 Unless a contrary indication appears, in the event of any inconsistency between the terms of this Agreement and the terms of any other Finance Document when dealing with the same or similar subject matter, the terms of this Agreement shall prevail.

1.3 Third party rights

1.3.1 Unless expressly provided to the contrary in a Finance Document for the benefit of a Finance Party or another Indemnified Person, a person who is not a party to a Finance Document 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 the relevant Finance Document.

1.3.2 Any Finance Document may be rescinded or varied by the parties to it without the consent of any person who is not a party to it (unless otherwise provided by this Agreement).

1.3.3 An Indemnified Person who is not a party to a Finance Document may only enforce its rights under that Finance Document through a Finance Party and if and to the extent and in such manner as the Finance Party may determine.

1.4 Finance Documents

Where any other Finance Document provides that this clause 1.4 shall apply to that Finance Document, any other provision of this Agreement which, by its terms, purports to apply to all or any of the Finance Documents and/or any Obligor shall apply to that Finance Document as if set out in it but with all necessary changes.

1.5 Conflict of documents

The terms of the Finance Documents (other than any Hedging Contracts and other than as relates to the creation and/or perfection of security) are subject to the terms of this Agreement and, in the event of any conflict between any provision of this Agreement and any provision of any Finance Document (other than any Hedging Contracts and other than in relation to the creation and/or perfection of security) the provisions of this Agreement shall prevail.

SECTION 2 - THE FACILITY

2 The Facility

2.1 The Facility

2.1.1 Subject to the terms of this Agreement the Lenders make available to the Borrowers a term loan facility in an aggregate amount equal to the Total Commitments.

2.2 Finance Parties' rights and obligations

2.2.1 The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

2.2.2 The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.

2.2.3 A Finance Party may, except as otherwise stated in the Finance Documents (including clauses 34.26(*All enforcement action through the Security Agent*)) and 35.2 (*Finance Parties acting together*), separately enforce its rights under the Finance Documents.

2.3 Borrowers' rights and obligations

2.3.1 The obligations of each Borrower under this Agreement are joint and several. Failure by a Borrower to perform its obligations under this Agreement shall constitute a failure by all of the Borrowers.

2.3.2 Each Borrower irrevocably and unconditionally jointly and severally with each other Borrower:

- (a) agrees that it is responsible for the performance of the obligations of each other Borrower under this Agreement;
- (b) acknowledges and agrees that it is a principal and original debtor in respect of all amounts due from the Borrowers under this Agreement; and
- (c) agrees with each Finance Party that, if any obligation of another Borrower under this Agreement is or becomes unenforceable, invalid or illegal for any reason it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any and all Losses it incurs as a result of another Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by that other Borrower under this Agreement. The amount payable under this indemnity shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

2.3.3 The obligations of each Borrower under the Finance Documents shall continue until all amounts which may be or become payable by the Borrowers under or in connection with the Finance Documents have been irrevocably and unconditionally paid or discharged in full, regardless of any intermediate payment or discharge in whole or in part.

2.3.4 If any discharge, release or arrangement (whether in respect of the obligations of a Borrower or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Borrowers under this Agreement will continue or be reinstated as if the discharge, release or arrangement had not occurred.

2.3.5 The obligations of each Borrower under the Finance Documents shall not be affected by an act, omission, matter or thing which, but for this clause (whether or not known to it or any Finance

Party), would reduce, release or prejudice any of its obligations under the Finance Documents 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 other Obligor;
- (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;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

2.3.6 Each Borrower 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 Borrower under any Finance Document. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

2.3.7 Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably and unconditionally paid or discharged 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 Borrower will be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any money received from any Borrower or on account of any Borrower's liability under any Finance Document.

2.3.8 Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs (on such terms as it may require), no Borrower shall exercise any rights (including rights of set-off) which it may have by reason of performance by it of its obligations under the Finance Documents:

- (a) to be indemnified by another Obligor;
- (b) to claim any contribution from any other Obligor or any guarantor of any Obligor's obligations under the Finance Documents; and/or
- (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 guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party; and/or

- (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 that Borrower is liable under this Agreement or any of the other Finance Documents; and/or
- (e) to exercise any right of set-off against any other Obligor; and/or
- (f) to claim or prove as a creditor of any other Obligor in competition with any Finance Party.

If a Borrower receives any benefit, payment or distribution in relation to such rights it will promptly pay an equal amount to the Agent for application in accordance with clause 37 (*Payment mechanics*). This only applies 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.

3 Purpose

3.1 Purpose

The Borrowers shall apply all amounts borrowed under the Facility in accordance with this clause 3.

3.2 Use on Delivery

The Ship Commitment for each Ship shall be made available in one Advance solely for the purpose of assisting the relevant Owner to finance part of the Contract Price of that Ship payable on its Delivery by paying the same to the Seller or Builder (as the case may be) or if the relevant Owner has already paid the same to the Seller or the Builder (as the case may be), to reimburse the Owner for such payment.

3.3 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4 Conditions of Utilisation

4.1 Initial conditions precedent

The Borrowers may not deliver a Utilisation Request unless the Agent, or its duly authorised representative, has received all of the documents and other evidence listed in Part 1 of Schedule 3 (*Conditions precedent to any Utilisation*) in form and substance satisfactory to the Agent.

4.2 Conditions precedent on Delivery

The Ship Commitment in respect of a Ship may only be drawn down under this Agreement if, on or before the Utilisation of the relevant Advance for that Ship, the Agent, or its duly authorised representative, has received all of the documents and evidence listed in Part 2 of Schedule 3 (*Conditions precedent on Delivery*) in relation to such Ship in form and substance satisfactory to the Agent.

4.3 Notice to Lenders

The Agent shall notify the Borrowers and the Lenders promptly upon receiving and being satisfied with all of the documents and evidence delivered to it under this clause 4 in form and substance satisfactory to it. Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives any such notification, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.4 Further conditions precedent

The Lenders will only be obliged to comply with clause 5.4 (*Lenders' participation*) if on the date of a Utilisation Request and on the proposed Utilisation Date in relation to the Advance for a Ship:

- (a) no Default is continuing or would result from the proposed Utilisation;
- (b) the Repeating Representations and, in relation to the first Utilisation, all of the other representations set out in clause 18(*Representations*) (except the Ship Representations), are true;
- (c) no events, facts, conditions or circumstances shall exist or have arisen or occurred (and neither the Agent nor any Lender or the Hedging Provider shall have become aware of other events, facts, conditions or circumstances not previously known to it), which the Agent (acting on the instructions of the Majority Lenders) shall determine, have had or could reasonably be expected to have, a Material Adverse Effect;
- (d) the Ship Representations are true so far as they relate to the Ship relating to the Utilisation being made; and
- (e) no Total Loss has occurred in relation to a Ship.

4.5 Waiver of conditions precedent

The conditions in this clause 4 are inserted solely for the benefit of the Finance Parties and may be waived on their behalf in whole or in part and with or without conditions by the Agent acting on the instructions of the Majority Lenders.

SECTION 3 - UTILISATION

5 Utilisation

5.1 Delivery of a Utilisation Request

The Borrowers may utilise the Facility by delivery to the Agent of a duly completed Utilisation Request not later than 11:00 a.m. three Business Days before the proposed Utilisation Date.

5.2 Completion of a Utilisation Request

5.2.1 A Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

- (a) the proposed Utilisation Date in respect of an Advance is a Business Day falling not later than the Last Availability Date for that Advance;
- (b) the currency and amount of the Utilisation comply with clause 5.3(*Currency and amount*);
- (c) the proposed Interest Period complies with clause 9(*Interest Periods*); and
- (d) it identifies the purpose for the Utilisation and that purpose complies with clause 3(*Purpose*) and it identifies the Ship Commitment to which it relates.

5.2.2 The Ship Commitment in respect of a Ship may only be drawn down in a single amount in one Advance.

5.3 Currency and amount and the conditions of the Utilisations

5.3.1 The currency specified in a Utilisation Request must be dollars.

5.3.2 The total amount available and advanced under all Advances shall not exceed the Total Commitments.

5.3.3 The total amount available and advanced under an Advance for a Ship shall not exceed:

- (a) in the case of Ship A, the lower of (i) \$27,950,000 and (ii) the amount in dollars which is equal to 65% of the market value of that Ship as determined pursuant to the valuations of that Ship obtained under Part 2 of Schedule 3(*Conditions precedent*); and
- (b) in the case of Ship B, the lower of (i) \$11,732,500 and (ii) the amount in dollars which is equal to 65% of the market value of that Ship as determined pursuant to the valuations of that Ship obtained under Part 2 of Schedule 3(*Conditions precedent*).

5.3.4 Only one Advance under one Utilisation may be made available in respect of each Ship and the relevant Ship Commitment.

5.4 Lenders' participation

5.4.1 If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Advance available by the relevant Utilisation Date through its Facility Office.

5.4.2 The amount of each Lender's participation in each Advance will be equal to the proportion borne by its Commitment to the Total Commitments immediately prior to making the Advance.

5.4.3 The Agent shall promptly notify each Lender of the amount of each Advance and the amount of its participation in such Advance, in each case by 11:00 a.m. on the Quotation Day.

5.4.4 The Agent shall pay all amounts received by it in respect of each Advance (and its own participation in it, if any) to the Borrowers or the account of any of them or to the relevant Seller, in each case in accordance with the instructions contained in the relevant Utilisation Request.

5.5 Condition subsequent

The Borrowers shall, within fifteen (15) days following each Utilisation for an Advance, provide a duly executed acknowledgement of the notice of assignment as required by any Charter Assignment for the Ship relevant to such Advance.

SECTION 4 - REPAYMENT, PREPAYMENT AND CANCELLATION

6 Repayment

6.1 Repayment

The Borrowers shall repay on each Repayment Date for an Advance such part of that Advance as is required to be repaid by clause 6.2 (*Scheduled repayment of Advances*).

6.2 Scheduled repayment of Advances

6.2.1 To the extent not previously reduced, each Advance shall be repaid by instalments on each Repayment Date for that Advance by the amount specified in the table below (the **Repayment Table**) (as revised by clause 6.3 (*Adjustment of scheduled repayments*)):

Repayment Date	Advance A Amount \$	Advance B Amount \$
First	465,834	293,313
Second	465,834	293,313
Third	465,834	293,313
Fourth	465,834	293,313
Fifth	465,834	293,313
Sixth	465,834	293,313
Seventh	465,834	293,313
Eighth	465,834	293,313
Ninth	465,834	293,313
Tenth	465,834	293,313
Eleventh	465,834	293,313
Twelfth	465,834	293,313
Thirteenth	465,834	293,313
Fourteenth	465,834	293,313
Fifteenth	465,834	293,313
Sixteenth	465,834	293,313
Seventeenth	465,834	293,313
Eighteenth	465,834	293,313
Nineteenth	465,834	293,313
Twentieth	465,834	293,313

Repayment Date	Advance A Amount \$	Advance B Amount \$
Twenty first	465,834	293,313
Twenty second	465,834	293,313
Twenty third	465,834	293,313
Twenty fourth	465,834	293,313
Twenty fifth	465,834	293,313
Twenty sixth	465,834	293,313
Twenty seventh	465,834	293,313
Twenty eighth	15,372,482	3,813,049
TOTAL	27,950,000	11,732,500

6.2.2 The twenty eighth instalment of Advance A referred to above is comprised of two parts, a repayment instalment in the amount of \$465,834 and a balloon instalment in the amount of \$14,906,648.

6.2.3 The twenty eighth instalment of Advance B referred to above is comprised of two parts, a repayment instalment in the amount of \$293,313 and a balloon instalment in the amount of \$3,519,736.

6.2.4 On the Final Repayment Date for each Advance (without prejudice to any other provision of this Agreement), the relevant Advance shall be repaid in full.

6.3 Adjustment of scheduled repayments

If the Total Commitments in respect of an Advance have been partially reduced under this Agreement and/or any part of any Advance is prepaid (other than under clause 6.2 (*Scheduled repayment of Advances*)) before any Repayment Date for that Advance, the amount of the instalments (including the relevant Balloon Instalment) by which the relevant Advance shall be repaid under clause 6.2 (*Scheduled repayment of Advances*) on any such Repayment Date for that Advance (as reduced by any earlier operation of this clause 6.3) shall be reduced pro rata to such reduction or prepayment in relation to that Advance, except that:

- (a) in the case of a reduction under clause 7.3(*Voluntary cancellation*) or a prepayment under clause 7.4 (*Voluntary prepayment*) of an Advance, where the reduction or, as the case may be, prepayment, shall be treated as reducing the said instalments of the relevant Advance (including the relevant Balloon Instalment) either in inverse chronological order of maturity or pro rata, at the Borrowers' option; and
- (b) in the case of a reduction or prepayment under clause 7.6.2(b)(*Sale or Total Loss*) or clause 25.12 (b) (*Security shortfall*) of an Advance, where the reduction or (as the case may be) prepayment, shall be treated as reducing the said instalments (including the Balloon Instalment) in inverse chronological order of maturity.

6.4 Revision of table

At the time of a Utilisation and at the time of any reduction in the amount of the Total Commitments and/or prepayment of an Advance, the Agent shall be entitled to produce a revised Repayment Table and deliver the same to the Borrowers and the Lenders showing the amount of each instalment to be repaid on each Repayment Date for any Advance and any such revised Repayment Table shall, in the absence of manifest error, be binding on each of the Parties.

7 Illegality, prepayment and cancellation

7.1 Illegality

If it becomes unlawful and/or contrary to, or declared by any Sanctions Authority to be contrary to, Sanctions in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in the Loan or any part of it or if it becomes unlawful and/or contrary to, or declared by any Sanctions Authority to be contrary to, Sanctions for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Borrowers, the Commitment of that Lender will be immediately cancelled and the remaining Total Commitments shall each be reduced accordingly; and
- (c) the Borrowers shall repay that Lender's participation in the Loan on the last day of the Interest Period occurring after the Agent has notified the Borrowers or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law).

7.2 Change of control

If there is a Change of Control, the Borrowers shall notify the Agent of the same upon its occurrence, and the Agent, upon becoming notified by any Party of a Change of Control may, and if instructed by any one Lender shall, by notice to the Borrowers:

- (a) cancel the Total Commitments, with effect from the date specified in that notice; and/or
- (b) declare that all or part of the Loan be payable within 10 Business Days' of such notice, in which case the Borrowers shall repay the Loan in full together with all amounts outstanding under this Agreement and the other Finance Documents within 10 Business Days of such notice.

7.3 Voluntary cancellation

The Borrowers may, if they give the Agent not less than three (3) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being an amount that reduces Total Commitments in respect of that Advance by a minimum amount equal to a repayment instalment falling due under clause 6.2 (*Scheduled repayment of Advances*) or a multiple of such amount) of the Available Facility which is undrawn at the proposed date of cancellation. Upon any such cancellation the Total Commitments shall be reduced by the same amount.

7.4 Voluntary prepayment

The Borrowers may, if they give the Agent not less than three (3) Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice, prepay the whole or any part of an Advance (being an amount that reduces that Advance by a minimum amount equal to a repayment instalment falling due under clause 6.2 (*Scheduled repayment of Advances*) or a multiple of such amount), on the last day of an Interest Period in respect of the amount to be prepaid or on any other date subject to payment of any Break Costs and the other provisions of this Agreement.

7.5 Right of *replacement* or cancellation and prepayment in relation to a single *Lender/Right* of cancellation in relation to a Defaulting Lender

7.5.1 If:

- (a) any sum payable to any Lender by an Obligor is required to be increased under clause 12.2(*Tax gross-up*); or

- (b) any Lender claims indemnification from the Borrowers under clause 12.3(*Tax indemnity*) or clause 13.1(*Increased costs*); or
 - (c) any Lender becomes a Non-Consenting Lender, the Borrowers may, whilst the circumstance giving rise to the requirement for that increase or indemnification or the relevant Lender becoming a Non-Consenting Lender continues for a maximum period of 30 days, give the Agent notice of cancellation of the Commitment of that Lender and their intention to procure the repayment of that Lender's participation in the Loan or give the Agent notice of their intention to replace that Lender in accordance with clause 7.5.4.
- 7.5.2 On receipt of a notice referred to in clause 7.5.1 above, the Commitment of that Lender shall immediately be reduced to zero and (unless the Commitment of the relevant Lender is replaced in accordance with clause 7.5.4) the remaining Total Commitments shall each be reduced accordingly.
- 7.5.3 On the last day of each Interest Period which ends after the Borrowers have given notice under clause 7.5.1 above in relation to a Lender (or, if earlier, the date specified by the Borrowers in that notice), the Borrowers shall repay that Lender's participation in the Loan.
- 7.5.4 The Borrowers may, in the circumstances set out in clause 7.5.1, on 10 Business Days' prior notice to the Agent and that Lender, replace that Lender by requiring that Lender to transfer (and, to the extent permitted by law, that Lender shall transfer) pursuant to clause 32(*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 selected by the Borrowers which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with clause 32 (*Changes to the Lenders*) for a purchase price in cash or other cash payment payable at the time of the transfer equal to the aggregate of:
- (a) the outstanding principal amount of such Lender's participation in the Loan;
 - (b) all accrued interest owing to such Lender to the extent that the Agent has not given a notification under clause 32.9(*Pro-rata interest settlement*);
 - (c) the Break Costs which would have been payable to such Lender pursuant to clause 10.4(*Break Costs*) had the Borrowers prepaid in full that Lender's participation in the Loan on the date of the transfer; and
 - (d) all other amounts payable to that Lender under the Finance Documents on the date of the transfer.
- 7.5.5 The replacement of a Lender pursuant to clause 7.5.4 shall be subject to the following conditions:
- (a) the Borrowers shall have no right to replace the Agent;
 - (b) neither the Agent nor any Lender shall have any obligation to find a replacement Lender;
 - (c) in no event shall the Lender replaced under clause 7.5.4 be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and
 - (d) the Lender shall only be obliged to transfer its rights pursuant to clause 7.5.4 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.
- 7.5.6 A Lender shall perform the checks described in clause 7.5.5(d) above as soon as reasonably practicable following delivery of a notice referred to in clause 7.5.4 above and shall notify the Agent and the Borrowers when it is satisfied that it has complied with those checks.

- 7.5.7 If any Lender becomes a Defaulting Lender, the Borrowers may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent 10 Business Days' notice of cancellation of the Commitment of that Lender.
- 7.5.8 On the notice referred to in clause 7.5.7 above becoming effective, the undrawn Commitment of the Defaulting Lender shall immediately be reduced to zero and (unless the Commitment of the relevant Lender is replaced in accordance with clause 43.5(*Replacement of a Defaulting Lender*)) the remaining Total Commitments shall each be reduced accordingly.
- 7.5.9 The Agent shall, as soon as practicable after receipt of a notice referred to in clause 7.5.7 above, notify all Lenders.
- 7.6 Sale or Total Loss
- 7.6.1 If a Ship becomes a Total Loss before its Ship Commitment has become available for borrowing under this Agreement, the Total Commitments shall immediately be reduced by the Ship Commitment for such Ship and such Ship Commitment shall be reduced to zero.
- 7.6.2 On the Disposal Repayment Date of a Mortgaged Ship, the Ship Commitment shall be reduced to zero and the Total Commitments shall be reduced accordingly, and the Borrowers shall prepay the Loan by an amount equal to the higher of:
- (a) the full amount of the Advance relevant to such Ship; and
 - (b) such amount as shall ensure that, immediately after such prepayment, the Security Value shall be no less than the Minimum Value.
- 7.6.3 Any such prepayment shall be applied in reduction of the Advance relevant to the Ship lost or sold **until is prepaid in full and, as to balance, in reduction of the other Advance.**
- 7.7 Automatic cancellation
- Any part of the Total Commitments relating to an Advance which has not become available by the Last Availability Date for that Advance shall be automatically cancelled at close of business in London on the Last Availability Date for that Advance.
- 7.8 Restrictions
- 7.8.1 Any notice of cancellation or prepayment given by any Party under this clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- 7.8.2 Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- 7.8.3 The Borrowers may not re-borrow any part of the Facility which is repaid or prepaid.
- 7.8.4 The Borrowers shall not repay or prepay all or any part of the Loan or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- 7.8.5 No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- 7.8.6 If the Agent receives a notice under this clause 7 it shall promptly forward a copy of that notice to either the Borrowers or the affected Lender, as appropriate.
- 7.8.7 If the Total Commitments are partially reduced under this Agreement (other than under clause 7.1(*Illegality*) and clause 7.5 (*Right of replacement or cancellation and prepayment in relation to a single Lender/Right of cancellation in relation to a Defaulting Lender*)), the Commitments of all the

Lenders shall be reduced rateably and in all cases where the Total Commitments are partially reduced under this Agreement (other than in relation to a cancellation of all of the Ship Commitment for a Ship) the remaining Ship Commitments shall be reduced rateably.

- 7.8.8 If an Advance is partially prepaid under this Agreement (other than under clause 7.1(*Illegality*) and clause 7.5 (*Right of replacement or cancellation and prepayment in relation to a single Lender/Right of cancellation in relation to a Defaulting Lender*)), the amount prepaid shall reduce the participation of all the Lenders in that Advance rateably.
- 7.8.9 Any prepayment under this Agreement shall be made, where applicable, together with payment to the Hedging Provider of any amount falling due to the Hedging Provider under a Hedging Contract as a result of the termination or close out of that Hedging Contract or any Hedging Transaction under it in accordance with clause 29.2(*Unwinding of Hedging Contracts*) in relation to that prepayment.

SECTION 5 - COSTS OF UTILISATION

8 Interest

8.1 Calculation of interest

The rate of interest on each Advance for each Interest Period relating to it is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) LIBOR for that Interest Period.

8.2 Payment of interest

The Borrowers shall pay accrued interest on each Advance on the last day of each Interest Period for such Advance (and, if an Interest Period is longer than three months, on the dates falling at three monthly intervals after the first day of that Interest Period).

8.3 Default interest

8.3.1 If an Obligor fails to pay any amount payable by it under a Finance Document (other than a Hedging Contract) on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to clause 8.3.2 below, is 2 percentage points higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted the Loan for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing in accordance with this clause 8.3 shall be immediately payable by the Obligors on demand by the Agent.

8.3.2 If any overdue amount consists of all or part of the Loan which became due on a day which was not the last day of an Interest Period relating to the Loan or the relevant part of it:

- (a) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to the Loan; and
- (b) the rate of interest applying to the overdue amount during that first Interest Period shall be 2 percentage points higher than the rate which would have applied if the overdue amount had not become due.

8.3.3 Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

8.4 Notification of rates of interest

The Agent shall notify the Lenders and the Borrowers of the determination of a rate of interest under this Agreement.

9 Interest Periods

9.1 Selection of Interest Periods

9.1.1 The Borrowers may select an Interest Period for an Advance in the Utilisation Request for that Advance or (if that Advance has already been borrowed) in a Selection Notice.

9.1.2 Each Selection Notice is irrevocable and must be delivered to the Agent by the Borrowers not later than 11:00 a.m. three Business Days before the last day of the then current Interest Period.

- 9.1.3 If the Borrowers fail to deliver a Selection Notice to the Agent in accordance with clause 9.1.2, the relevant Interest Period will, subject to clause 9.2(*Interest Periods overrunning Repayment Dates*), be 3 months.
- 9.1.4 Subject to this clause 9, the Borrowers may select an Interest Period of three, six or twelve months or any other period agreed between the Borrowers and the Agent on the instructions of all the Lenders.
- 9.1.5 No Interest Period in respect of an Advance shall extend beyond the Final Repayment Date for that Advance.
- 9.1.6 The first Interest Period for an Advance shall start on the Utilisation Date for such Advance and each subsequent Interest Period for such Advance shall start on the last day of its preceding Interest Period.

9.2 Interest Periods overrunning Repayment Dates

If the Borrowers select an Interest Period in respect of an Advance which would overrun any later Repayment Date for that Advance, the relevant Advance shall be divided into parts corresponding to the amounts by which the relevant Advance is scheduled to be reduced under clause 6.2 (*Scheduled repayment of Advances*) on each of the Repayment Dates for that Advance falling during such Interest Period (each of which shall have a separate Interest Period ending on the relevant Repayment Date for that Advance) and to the balance of that Advance (which shall have the Interest Period selected by the Borrowers).

9.3 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

10 Changes to the calculation of interest

10.1 Absence of quotations

Subject to clause 10.2 (*Market Disruption Event*), if LIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by 11:00 a.m. on the Quotation Day, the applicable LIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

10.2 Market Disruption Event

10.2.1 If a Market Disruption Event occurs in relation to an Advance for any Interest Period, then the rate of interest on each Lender's share of that Advance for the Interest Period shall be the rate per annum which is the sum of:

- (a) the Margin; and
- (b) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Advance from whatever source it may reasonably select.

10.2.2 If a Market Disruption Event occurs the Agent shall, as soon as is practicable, notify the Borrowers.

10.2.3 In this Agreement **Market Disruption Event** means that:

- (a) at or about noon on the Quotation Day for the relevant Interest Period LIBOR is to be determined by reference to the Reference Banks and none or only one of the Reference Banks supplies a rate to the Agent to determine LIBOR for the relevant Interest Period; or
- (b) before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in the Loan equal or exceed 30% of the Loan) or, if prior to the first Utilisation Date, whose Commitments equal or exceed 30% of the Total Commitments) that the cost to it of funding its participation in the Loan from whatever source it may reasonably select would be in excess of LIBOR.

10.3 Alternative basis of interest or funding

10.3.1 If a Market Disruption Event occurs and the Agent or the Borrowers so require, the Agent and the Borrowers shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.

10.3.2 Any alternative basis agreed pursuant to clause 10.3.1 above shall, with the prior consent of all the Lenders be binding on all Parties.

10.4 Break Costs

10.4.1 The Borrowers shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of the Loan or Unpaid Sum being paid by the Borrowers on a day other than the last day of an Interest Period for the Loan or Unpaid Sum or relevant part of it.

10.4.2 Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

11 Fees

11.1 Commitment commission

11.1.1 The Borrowers shall pay to the Agent (for the account of each Lender) a fee in dollars computed at the rate of 0.6% per annum on the undrawn and uncanceled portion of that Lenders Commitment under the Facility calculated from the date of this Agreement (the **start date**).

11.1.2 The Borrowers shall pay the accrued commitment commission on the date falling three months after the start date, on the last day of each successive period of three months thereafter until the Last Availability Date to occur, on the Last Availability Date to occur and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

11.1.3 No commitment commission is payable to the Agent (for the account of a Lender) on the undrawn portion of the Commitment of that Lender under the Facility for any day on which that Lender is a Defaulting Lender.

11.2 Arrangement Fee

The Obligors shall pay to the Agent (for distribution to the Arranger and the Lenders in a manner agreed between the Arranger and the Lenders in the Arranger's discretion) an arrangement fee in the amount and at the times agreed in a Fee Letter.

SECTION 6 - ADDITIONAL PAYMENT OBLIGATIONS

12 Tax gross-up and indemnities

12.1 Definitions

12.1.1 In this Agreement:

Protected Party means a Finance Party or, in relation to clause 14.5 (*Indemnity concerning security*) and clause 14.8 (*Interest*) insofar as it relates to interest on any amount demanded by that Indemnified Person under clause 14.5 (*Indemnity concerning security*), any Indemnified Person, which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

Tax Deduction means a deduction or withholding for or on account of Tax from a payment under a Finance Document (other than a Hedging Contract) other than a FATCA Deduction.

12.1.2 Unless a contrary indication appears, in this clause 12 a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

12.1.3 This clause 12.1 shall not apply in respect of any payments under any Hedging Contract, where the gross-up provisions of the Hedging Master Agreement itself shall apply.

12.2 Tax gross-up

12.2.1 Each Obligor shall make all payments to be made by it under any Finance Document without any Tax Deduction, unless a Tax Deduction is required by law.

12.2.2 The Borrowers shall, promptly upon any of them becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction), notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrowers and that Obligor.

12.2.3 If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor under the relevant Finance Document shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

12.2.4 If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

12.2.5 Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party (including by way of receipts) that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

12.2.6 This clause 12.2 shall not apply in respect of any payments under any Hedging Contract, where the gross-up provisions of the Hedging Master Agreement itself shall apply.

12.3 Tax indemnity

12.3.1 Each Obligor who is a Party shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

12.3.2 Clause 12.3.1 above shall not apply:

- (a) with respect to any Tax assessed on a Finance Party:
- (i) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
- (ii) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party;

- (b) to the extent a loss, liability or cost is compensated for by an increased payment under clause 12.2(*Tax gross-up*);
- (c) to the extent a loss, liability or cost is compensated for by a payment under clause 12.4(*Indemnities on after Tax basis*); or
- (d) to the extent a loss, liability or cost relates to a FATCA Deduction required to be made by a Party.

12.3.3 A Protected Party making, or intending to make a claim under clause 12.3.1 above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrowers and the Guarantor.

12.3.4 A Protected Party shall, on receiving a payment from an Obligor under this clause 12.3, notify the Agent.

12.4 Indemnities on after Tax basis

12.4.1 If and to the extent that any sum payable to any Protected Party by the Borrowers under any Finance Document by way of indemnity or reimbursement proves to be insufficient, by reason of any Tax suffered thereon, for that Protected Party to discharge the corresponding liability to a third party, or to reimburse that Protected Party for the cost incurred by it in discharging the corresponding liability to a third party, the Borrowers shall pay that Protected Party such additional sum as (after taking into account any Tax suffered by that Protected Party on such additional sum) shall be required to make up the relevant deficit.

12.4.2 If and to the extent that any sum (the **Indemnity Sum**) constituting (directly or indirectly) an indemnity to any Protected Party but paid by the Borrowers to any person other than that Protected Party, shall be treated as taxable in the hands of the Protected Party, the Borrowers shall pay to that Protected Party such sum (the **Compensating Sum**) as (after taking into account any Tax suffered by that Protected Party on the Compensating Sum) shall reimburse that Protected Party for any Tax suffered by it in respect of the Indemnity Sum.

12.4.3 For the purposes of this clause 12.4 a sum shall be deemed to be taxable in the hands of a Protected Party if it falls to be taken into account in computing the profits or gains of that Protected Party for the purposes of Tax and, if so, that Protected Party shall be deemed to have suffered Tax on the relevant sum at the rate of Tax applicable to that Protected Party's profits or gains for the period in which the payment of the relevant sum falls to be taken into account for the purposes of such Tax.

12.5 FATCA Information

12.5.1 Subject to clause 12.5.3 below, each Party shall, within ten Business Days of a reasonable request by another Party:

- (a) confirm to that other Party whether it is:
 - (i) a FATCA Exempt Party; or
 - (ii) not a FATCA Exempt Party;
- (b) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
- (c) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.

12.5.2 If a Party confirms to another Party pursuant to clause 12.5.1(a) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.

12.5.3 Clause 12.5.1 above shall not oblige any Finance Party to do anything, and paragraph (c) of clause

12.5.1 above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:

- (a) any law or regulation;
- (b) any fiduciary duty; or
- (c) any duty of confidentiality.

12.5.4 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 paragraphs (a) and (b) of clause 12.5.1 above (including, for the avoidance of doubt, paragraph (c), where it applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

12.5.5 If a Borrower is a US Tax Obligor, or where the Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of:

- (a) where a Borrower is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;
- (b) where a Borrower is a US Tax Obligor and the relevant Lender is a New Lender, the relevant Transfer Date; or
- (c) the date a new US Tax Obligor accedes as a Borrower; or
- (d) where a Borrower is not a US Tax Obligor, the date of a request from the Agent,

supply to the Agent:

- (i) a withholding certificate on Form W-8 or Form W-9 or any other relevant form; or

- (ii) any withholding statement and other documentation, authorisations and waivers as the Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.

The Agent shall provide any withholding certificate, withholding statement, documentation, authorisations and waivers it receives from a Lender pursuant to this paragraph 12.5.5 to the Borrowers.

12.5.6 If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Agent by a Lender pursuant to paragraph 12.5.5 above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Agent). The Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the relevant Borrower.

12.5.7 The Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph 12.5.5 or 12.5.6 above without further verification. The Agent shall not be liable for any action taken by it under or in connection with paragraph 12.5.5 or 12.5.6 above or this paragraph 12.5.7.

12.5.8 Without prejudice to any other term of this Agreement, if a Lender fails to supply any withholding certificate, withholding statement, document, authorisation, waiver or information in accordance with paragraph 12.5.5 above, or any withholding certificate, withholding statement, document, authorisation, waiver or information provided by a Lender to the Agent is or becomes materially inaccurate or incomplete, then such Lender shall indemnify the Agent, within three Business Days of demand, against any cost, loss, Tax or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (including any related interest and penalties) in acting as Agent under the Finance Documents as a result of such failure.

12.6 FATCA Deduction

12.6.1 Each Party may make any FATCA Deduction it is required by FATCA to make, 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.

12.6.2 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 Borrowers, the Agent and the other Finance Parties and the Agent shall notify the other Finance Parties.

12.7 Stamp taxes

The Borrowers shall pay and, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

12.8 Value added tax

12.8.1 All amounts set out, or expressed in a Finance Document to be payable by any party to a Finance Party which (in whole or in part) constitute the consideration for a supply or supplies for VAT purposes shall be deemed to be exclusive of any VAT which is chargeable on such supply or supplies, and accordingly, subject to clause 12.8.3 below, if VAT is or becomes chargeable on any supply made by any Finance Party to any party under a Finance Document, that party shall pay to the 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 such VAT (and such Finance Party shall promptly provide an appropriate VAT invoice to such party).

12.8.2 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 to a Finance Document other than the Recipient (the **Subject Party**) is required by the terms of any Finance Document to pay an amount equal to the consideration for such supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

- (a) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Subject 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 (a) applies) promptly pay to the Subject 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
- (b) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Subject 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.

12.8.3 Where a Finance Document requires any party to it to reimburse or indemnify a Finance Party for any cost or expense, that party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment of in respect of such VAT from the relevant tax authority.

12.8.4 Any reference in this clause 12.8 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term "representative member" to have the same meaning as in the Value Added Tax Act 1994).

12.8.5 In relation to any supply made by a Finance Party to any party under a Finance Document, if reasonably requested by such Finance Party, that party must promptly provide such Finance Party with details of that party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

13 Increased Costs

13.1 Increased Costs

13.1.1 Subject to clause 13.3 (Exceptions), the Borrowers shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Cost incurred by that Finance Party or any of its Affiliates which:

- (a) arises 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) is a Basel III Increased Cost; and/or
- (c) results from the implementation or application of or compliance with the Basel III Accord, CRR or CRD IV or any law or regulation that implements or applies the Basel III Accord, CRR or CRD IV.

13.1.2 In this Agreement **Increased Costs** means:

- (a) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (b) an additional or increased cost; or

- (c) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

13.2 Increased Cost claims

13.2.1 A Finance Party intending to make a claim pursuant to clause 13.1 (*Increased Costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall notify the Borrowers.

13.2.2 Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

13.3 Exceptions

13.3.1 Clause 13.1 (*Increased Costs*) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by an Obligor;
- (b) compensated for by clause 12.3 (*Tax indemnity*) (or would have been compensated for under clause 12.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in clause 12.3.2 applied);
- (c) attributable to a FATCA Deduction required to be made by a Party; or
- (d) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

13.3.2 In this clause 13.3, a reference to a **Tax Deduction** has the same meaning given to the term in clause 12.1 (*Definitions*).

14 Other indemnities

14.1 Currency indemnity

14.1.1 If any sum due from an Obligor under the Finance Documents (a **Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **First Currency**) in which that Sum is payable into another currency (the **Second Currency**) for the purpose of:

- (a) making or filing a claim or proof against that Obligor; and/or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall, as an independent obligation, within three Business Days of demand by a Finance Party, indemnify each Finance Party to whom that Sum is due against any Losses arising out of or as a result of the conversion including any discrepancy between (i) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (ii) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

14.1.2 Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

14.2 Mandatory cost

The Borrowers shall, on demand by the Agent, pay to the Agent for the account of the relevant Lender, such amount which any Lender certifies in a notice to the Agent setting out its calculations

in reasonably sufficient detail and its good faith determination of the amount necessary to compensate it for complying with:

- (a) in the case of a Lender lending from a Facility Office in a Participating Member State, the minimum reserve requirements (or other requirements having the same or similar purpose) of the European Central Bank or any other authority or agency which replaces all or any of its functions) in respect of loans made from that Facility Office; and
- (b) in the case of any Lender lending from a Facility Office in the United Kingdom, any reserve asset, special deposit or liquidity requirements (or other requirements having the same or similar purpose) of the Bank of England (or any other governmental authority or agency) and/or paying any fees to the Financial Conduct Authority and/or the Prudential Regulation Authority (or any other governmental authority or agency which replaces all or any of their functions), which, in each case, is referable to that Lender's participation in the Loan.

14.3 Other indemnities

14.3.1 The Borrowers shall (or shall procure that another Obligor will), within three Business Days of demand by a Finance Party, indemnify each Finance Party against any and all Losses incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any and all Losses arising as a result of clause 36(*Sharing among the Finance Parties*);
- (c) funding, or making arrangements to fund, its participation in the Loan requested by the Borrowers in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
- (d) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by the Borrowers.

14.3.2 The Borrowers shall (or shall procure that another Obligor will), within three Business Days of demand by an Indemnified Person, indemnify each Indemnified Person against any and all Losses, joint or several that may be incurred by or asserted or awarded against any Indemnified Person, 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 this Agreement (or the transactions contemplated hereby) or any use made or proposed to be made with the proceeds of the Facility (including an Environmental Claim made or asserted against such Indemnified Person if such Environmental Claim would not have been, or been capable of being, made or asserted against such Indemnified Person if the Finance Parties had not entered into any of the Finance Documents and/or exercised any of their rights, powers and discretions thereby conferred and/or performed any of their obligations thereunder and/or been involved in any of the transactions contemplated by the Finance Documents). This indemnity shall apply whether or not such claims, investigation, litigation or proceedings is brought by any Obligor, any other Group Member, any of their shareholders, their Affiliates, or creditors, or an Indemnified Person or any other person, or an Indemnified Person is otherwise a party thereto, except to the extent such Losses are found in a final non-appealable judgement by a court of competent jurisdiction to have resulted from such Indemnified Person's gross negligence or wilful misconduct. Each Indemnified Person may enforce and enjoy the benefit of this clause 14.3.2 under the Third Parties Act.

14.4 Indemnity to the Agent and the Security Agent

The Borrowers shall promptly indemnify the Agent and the Security Agent against:

14.4.1 any and all Losses incurred by the Agent or the Security Agent (acting reasonably) as a result of:

- (a) without prejudice to clause 34.7.2(a) as extended to the Security Agent by clause 34.22(*Application of certain clauses to Security Agent*) investigating any event which it reasonably believes is a Default;
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
- (c) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; or
- (d) any action taken by the Agent or the Security Agent or any of their representatives, agents or contractors in connection with any powers conferred by any Security Document to enforce any Security Interest thereunder or to remedy any breach of any Obligor's obligations under the Finance Documents; and

14.4.2 any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent or the Security Agent (otherwise than by reason of the Agent's or the Security Agent's gross negligence or wilful default) (or, in the case of any cost, loss or liability pursuant to clause 37.11(*Disruption to payment systems etc.*) notwithstanding the Agent's or the Security Agents negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent or the Security Agent under the Finance Documents.

14.5 Indemnity concerning security

14.5.1 The Borrowers shall (or shall procure that another Obligor will) promptly indemnify each Indemnified Person against any and all Losses incurred by it in connection with:

- (a) any failure by the Borrowers to comply with clause 16(*Costs and expenses*);
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
- (c) the taking, holding, protection or enforcement of the Security Documents;
- (d) the exercise or purported exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and/or any other Finance Party and each Receiver by the Finance Documents or by law unless and to the extent that it was caused by its gross negligence or wilful default;
- (e) any claim (whether relating to the environment or otherwise) made or asserted against the Indemnified Person which would not have arisen but for the execution or enforcement of one or more Finance Documents (unless and to the extent it is caused by the gross negligence or wilful default of that Indemnified Person); or
- (f) any breach by any Obligor of any of its obligations expressed to be assumed by it in the Finance Documents.

14.5.2 The Security Agent may, in priority to any payment to the other Finance Parties, indemnify itself out of the Trust Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 14.5 and shall have a lien on the Security Documents and the proceeds of the enforcement of those Security Documents for all monies payable to it.

14.6 Continuation of indemnities

The indemnities by the Borrowers in favour of the Indemnified Persons contained in this Agreement shall continue in full force and effect notwithstanding any breach by any Finance Party or the Borrowers of the terms of this Agreement, the repayment or prepayment of the Loan, the cancellation of the Total Commitments or the repudiation by the Agent or the Borrowers of this Agreement.

14.7 Third Parties Act

Each Indemnified Person may rely on the terms of clause 14.5 (*Indemnity concerning security*) and clauses 12 (*Tax gross-up and indemnities*) and 14.8 (*Interest*) insofar as it relates to interest on any amount demanded by that Indemnified Person under clause 14.5 (*Indemnity concerning security*), subject to clause 1.3 (*Third party rights*) and the provisions of the Third Parties Act.

14.8 Interest

Moneys becoming due by the Borrowers to any Indemnified Person under the indemnities contained in this clause 14 or elsewhere in this Agreement shall be paid on demand made by such Indemnified Person and shall be paid together with interest on the sum demanded from the date of demand therefor to the date of reimbursement by the Borrowers to such Indemnified Person (both before and after judgment) at the rate referred to in clause 8.3 (*Default interest*).

14.9 Exclusion of liability

No Indemnified Person will be in any way liable or responsible to any Obligor (whether as mortgagee in possession or otherwise) who is a Party or is a party to a Finance Document to which this clause applies for any loss or liability arising from any act, default, omission or misconduct of that Indemnified Person, except to the extent caused by its own gross negligence or wilful default. Any Indemnified Person may rely on this clause 14.9 subject to clause 1.3 (*Third party rights*) and the provisions of the Third Parties Act.

14.10 Fax and email indemnity

The Borrowers shall indemnify each Finance Party against any and all Losses together with any VAT thereon which any of the Finance Parties may sustain or incur as a consequence of any fax or email communication purporting to originate from the Borrowers to the Agent or the Security Agent being made or delivered fraudulently or without proper authorisation (unless such Losses are the direct result of the gross negligence or wilful default of the relevant Finance Party or the Agent or the Security Agent).

14.11 Waiver

In no event shall any of the Finance Parties be liable on any theory of liability for any special, indirect, consequential or punitive damages and the Obligors hereby waive, release and agree (for and on behalf of themselves and on behalf of the other Group Members and their respective Affiliates and shareholders) not to sue upon any such claim for any such damages, whether or not accrued and whether or not known or suspected to exist in their favour.

15 Mitigation by the Lenders

15.1 Mitigation

15.1.1 Each Finance Party shall, in consultation with the Borrowers, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of clause 7.1 (*Illegality*), clause 12 (*Tax gross-up and indemnities*) or clause 13 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

15.1.2 Clause 15.1.1 does not in any way limit the obligations of any Obligor under the Finance Documents.

15.2 Limitation of liability

15.2.1 The Borrowers shall promptly indemnify each Finance Party for all costs and expenses incurred by that Finance Party as a result of steps taken by it under clause 15.1 (*Mitigation*).

15.2.2 A Finance Party is not obliged to take any steps under clause 15.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

16 Costs and expenses

16.1 Transaction expenses

The Borrowers shall promptly within five Business Days of demand pay the Agent, the Arranger, the Hedging Provider and the Security Agent the amount of all costs and expenses (including fees, costs and expenses of legal advisers and insurance and other consultants and advisers) reasonably incurred by any of them (and by any Receiver) in connection with the negotiation, preparation, printing, execution, syndication, registration and perfection and any release, discharge or reassignment of:

- (a) this Agreement, the Hedging Master Agreement and any other documents referred to in this Agreement and the Original Security Documents;
- (b) any other Finance Documents executed or proposed to be executed after the date of this Agreement including any executed to provide additional security under clause 25 (*Minimum security value*); or
- (c) any Security Interest expressed or intended to be granted by a Finance Document, whether or not the transactions contemplated under the Finance Documents are consummated.

16.2 Amendment costs

If an Obligor requests an amendment, waiver or consent, the Borrowers shall, within five Business Days of demand by the Agent, reimburse the Agent for the amount of all costs and expenses (including fees, costs and expenses of legal advisers and insurance and other consultants and advisers) reasonably incurred by the Agent or by the Security Agent (and by any Receiver) in responding to, evaluating, negotiating or complying with that request or requirement.

16.3 Enforcement, preservation and other costs

The Borrowers shall on demand by a Finance Party, pay to each Finance Party the amount of all costs and expenses (including fees, costs and expenses of legal advisers and insurance and other consultants, brokers, surveyors and advisers) incurred by that Finance Party in connection with:

- (a) the enforcement of, or the preservation of any rights under, any Finance Document and any proceedings initiated by or against any Indemnified Person and as a consequence of holding the Charged Property or enforcing those rights and any proceedings instituted by or against any Indemnified Person as a consequence of taking or holding the Security Documents or enforcing those rights;
- (b) any valuation carried out under clause 25 (*Minimum security value*); or
- (c) any inspection carried out under clause 23.8 (*Inspection and notice of drydocking*) or any survey carried out under clause 23.16 (*Survey report*) or any inspection carried out under clause 21.15 (*Inspection*).

SECTION 7 - GUARANTEE

17 Guarantee and indemnity

17.1 Guarantee and indemnity

The Guarantor hereby irrevocably and unconditionally:

- (a) guarantees to the Security Agent (as trustee for the Finance Parties) and the other Finance Parties punctual performance by each other Obligor of all such Obligor's obligations under the Finance Documents;
- (b) undertakes with the Security Agent (as trustee for the Finance Parties) and the other Finance Parties that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with the Security Agent (as trustee for the Finance Parties) and the other Finance Parties that it will, as an independent and primary obligation, indemnify each Finance Party immediately on demand against any cost, loss or liability it incurs (i) if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal where such cost, loss or liability arises as a result of the Borrowers not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by the Borrowers under any Finance Document on the date when it would have been due, or (ii) if as a result (directly or indirectly) of the introduction of or any change in (or the interpretation, administration or application of) any law or regulation, or compliance with any law, regulation or administrative procedure made after entry into this Agreement (**aChange in Law**), there is a change in the currency, the value of the currency or the timing, place or manner in which any obligation guaranteed by the Guarantor is payable. The amount payable by the Guarantor under this indemnity:
 - (i) in respect of paragraph (i) above, shall be the amount it would have had to pay under this clause 17 if the amount claimed had been recoverable on the basis of a guarantee but for any relevant unenforceability, invalidity or illegality; and
 - (ii) in respect of paragraph (ii) above, shall include (1) the difference between (x) the amount (if any) received by the Agent and the other Finance Parties from the Borrowers and (y) the amount that the Borrowers were obliged to pay under the original express terms of the Finance Documents in the currency specified in the Finance Documents, disregarding any Change in Law (the Original Currency), and (2) all further costs, losses and liabilities suffered or incurred by the Agent and the other Finance Parties as a result of a Change in Law.

For the purposes of (1)(x) above, if payment was not received by the Agent or the other Finance Parties in the Original Currency, the amount received by the Agent and the other Finance Parties shall be deemed to be that payment's equivalent in the Original Currency converted, actually or notionally at the Agent's discretion, on the day of receipt at the then prevailing spot rate of exchange of the Agent or if, in the Agent's opinion, it could not reasonably or properly have made a conversion on the day of receipt of the equivalent of that payment in the Original Currency, that payment's equivalent as soon as the Agent could, in its opinion, reasonably and properly have made a conversion of the Original Currency with the currency of payment.

If the Original Currency no longer exists, the Guarantor shall make such payment in such currency as is, in the reasonable opinion of the Agent, required, after taking into account any payments by the Borrowers, to place the Agent and the other Finance Parties in a position reasonably comparable to that it would have been in had the Original Currency continued to exist,

17.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

17.3 Reinstatement

If any payment is made by an Obligor, or any discharge, release or arrangement is given by a Finance Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) in whole or in part on the basis of any payment, security or other disposition, and the same is avoided or reduced or must be restored in, or as a result of, insolvency, liquidation, administration or any other similar event or otherwise, then:

- (a) the liability of each Obligor under this clause 17 shall continue as if the payment, discharge, release, arrangement, avoidance or reduction had not occurred; and
- (b) each Finance Party shall be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, release, arrangement, avoidance or reduction had not occurred.

17.4 Waiver of defences

The obligations of the Guarantor under this clause 17 will not be affected by an act, omission, matter or thing (whether or not known to it or any Finance Party) which, but for this clause, would reduce, release or prejudice any of its obligations under this clause 17 including (without limitation):

- (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 other Obligor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

17.5 Immediate recourse

The 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 the Guarantor under this clause 17. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

17.6 Appropriations

Until all amounts which may *be* or become payable by the Obligor under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this clause 17.

17.7 Deferral of Guarantor's rights

Until all amounts which may be or become payable by the Obligor under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, the Guarantor shall not 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 17:

- (a) to be indemnified by another 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 the Guarantor has given a guarantee, undertaking or indemnity under clause 17(*Guarantee and Indemnity*);
- (e) to exercise any right of set-off against any other Obligor; and/or
- (f) to claim or prove as a creditor of any other Obligor in competition with any Finance Party.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it will promptly pay an equal amount to the Agent for application in accordance with clause 37 (*Payment mechanics*). This only applies until all amounts which may be or become payable by the Obligor under or in connection with the Finance Documents have been irrevocably paid in full.

17.8 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.

17.9 Guarantor's rights and obligations

The obligations of the Guarantor under the Finance Documents shall continue until all amounts which may be or become payable by the Guarantor under or in connection with the Finance Documents have been irrevocably and unconditionally paid or discharged in full, regardless of any intermediate payment or discharge in whole or in part.

SECTION 8 - REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

18 Representations

Each Obligor who is a Party makes and repeats the representations and warranties set out in this clause 18 to each Finance Party at the times specified in clause 18.36 (*Times when representations are made*).

18.1 Status

18.1.1 Each Obligor is duly incorporated and validly existing under the laws of the jurisdiction of its incorporation as a limited liability company or corporation and (except in relation to Obligors incorporated in the Republic of the Marshall Islands or the Republic of Panama) has no centre of main interests, permanent establishment or place of business outside the jurisdiction in which it is incorporated.

18.1.2 Each Obligor and each other Group Member has power and authority to carry on its business as it is now being conducted and to own its property and other assets.

18.1.3 No Obligor is a US Tax Obligor.

18.2 Binding obligations

Subject to the Legal Reservations, the obligations expressed to be assumed by each Obligor in each Finance Document, any Charter Document or any Contract to which it is, or is to be, a party are or, when entered into by it, will be legal, valid, binding and enforceable obligations and each Security Document to which an Obligor is, or will be, a party, creates or will create the Security Interests which that Security Document purports to create and those Security Interests are or will be valid and effective.

18.3 Power and authority

18.3.1 Each Obligor has power to enter into, perform and deliver and comply with its obligations under, and has taken all necessary action to authorise its entry into, each Finance Document, any Charter Document or any Contract to which it is or is to be a party.

18.3.2 No limitation on any Obligor's powers to borrow, create security or give guarantees will be exceeded as a result of any transaction under, or the entry into of, any Finance Document, any Charter Document or any Contract to which such Obligor is, or is to be, a party.

18.4 Non-conflict

The entry into and performance by each Obligor of, and the transactions contemplated by the Finance Documents, the Charter Documents and the Contract to which it is, or is to be a party and the granting of the Security Interests purported to be created by the Security Documents do not and will not conflict with:

- (a) any law or regulation applicable to any Obligor;
- (b) the Constitutional Documents of any Obligor; or
- (c) any agreement or other instrument binding upon any Obligor,

or constitute a default or termination event (however described) under any such agreement or instrument or result in the creation of any Security Interest (save for a Permitted Maritime Lien or under a Security Document) on any Obligor's assets, rights or revenues.

18.5 Validity and admissibility in evidence

18.5.1 All authorisations required or desirable:

- (a) to enable each Obligor lawfully to enter into, exercise its rights and comply with its obligations under each Finance Document and any Charter Document or any Contract to which it is, or is to be, a party;
- (b) to make each Finance Document and any Charter Document or any Contract to which it is, or is to be, a party admissible in evidence in its Relevant Jurisdiction; and
- (c) to ensure that each of the Security Interests created under the Security Documents has the priority and ranking contemplated by them,

have been obtained or effected and are in full force and effect except any authorisation or filing referred to in clause 18.12 (*No filing or stamp taxes*), which authorisation or filing will be promptly obtained or effected within any applicable period.

18.5.2 All authorisations necessary for the conduct of the business, trade and ordinary activities of each Obligor have been obtained or effected and are in full force and effect if failure to obtain or effect those authorisations might have a Material Adverse Effect.

18.6 Governing law and enforcement

18.6.1 The choice of English law or any other applicable law as the governing law of any Finance Document, any Charter Document or any Contract will be recognised and enforced in each Obligor's Relevant Jurisdiction.

18.6.2 Any judgment obtained in England in relation to an Obligor will be recognised and enforced in each Obligor's Relevant Jurisdictions.

18.7 Information

18.7.1 Any Information is true and accurate in all material respects at the time it was given or made.

18.7.2 There are no facts or circumstances or any other information which could make the Information incomplete, untrue, inaccurate or misleading in any material respect.

18.7.3 The Information does not omit anything which could make the Information incomplete, untrue, inaccurate or misleading in any material respect.

18.7.4 All opinions, projections, forecasts or expressions of intention contained in the Information and the assumptions on which they are based have been arrived at after due and careful enquiry and consideration and were believed to be reasonable by the person who provided that Information as at the date it was given or made.

18.7.5 For the purposes of this clause 18.7, **Information** means: any information provided by any Obligor to any of the Finance Parties in connection with the Finance Documents, the Charter Documents or the Contracts or the transactions referred to in them (including any information memorandum).

18.8 Original Financial Statements

18.8.1 The Original Financial Statements were prepared in accordance with GAAP consistently applied.

18.8.2 The Original Financial Statements give a true and fair view of the consolidated financial condition and results of operations of the Guarantor and the Group during the relevant financial year.

18.8.3 There has been no material adverse change in the assets, business, financial condition or operations of any Obligor (or the assets, business, operations or consolidated financial condition of the Guarantor or the Group taken as a whole), since the date of the Original Financial Statements.

18.9 Pari passu ranking

Each Obligor's payment obligations under the Finance Documents to which it is, or is to be, a party 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.

18.10 Ranking and effectiveness of security

Subject to the Legal Reservations and any filing, registration or notice requirements which is referred to in any legal opinion delivered to the Agent under clause 4.1 (*Initial conditions precedent*), the security created by the Security Documents has (or will have when the Security Documents have been executed) the priority which it is expressed to have in the Security Documents, the Charged Property is not subject to any Security Interest other than Permitted Security Interests and such security will constitute perfected security on the assets described in the Security Documents.

18.11 No insolvency

No corporate action, legal proceeding or other procedure or step described in clause 30.10 (*Insolvency proceedings*) or creditors' process described in clause 30.11 (*Creditors' process*) has been taken or, to the knowledge of any Obligor, threatened in relation to a Group Member and none of the circumstances described in clause 30.9 (*Insolvency*) applies to any Group Member.

18.12 No filing or stamp taxes

Under the laws of each Obligor's Relevant Jurisdictions it is not necessary that any Finance Document, any Charter Document or any Contract to which it is, or is to be, party 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 any such Finance Document, any Charter Document or any Contract or the transactions contemplated by the Finance Documents, the Charter Documents or any Contract, except any filing, recording or enrolling or any tax or fee payable in relation to any Finance Document which is referred to in any legal opinion delivered to the Agent under clause 4.1 (*Initial conditions precedent*) and which will be made or paid promptly after the date of the relevant Finance Document or the Charter Documents or any Contract.

18.13 Tax

18.13.1 No Obligor is required to make any deduction for or on account of Tax from any payment it may make under any Finance Document to which it is, or is to be, a party and no other party is required to make any such deduction from any payment it may make under any, Charter Document or Contract.

18.13.2 The execution or delivery or performance by any Party of the Finance Documents will not result in any Finance Party:

- (a) having any liability in respect of Tax in any Flag State; or
- (b) having or being deemed to have a place of business in any Flag State or any Relevant Jurisdiction of any Obligor.

18.14 No Default

18.14.1 No Default is continuing or is reasonably likely to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Finance Document or any Charter Document or Contract.

18.14.2 No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other

agreement or instrument which is binding on any Obligor or any other Group Member or to which any Obligor's (or any other Group Member's) assets are subject which might have a Material Adverse Effect.

18.14.3 No other events, conditions, facts or circumstances exist or have arisen or occurred since 31 December 2014, which have had or could reasonably be expected to have a Material Adverse Effect.

18.15 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency (including, without limitation, investigative proceedings) which, if adversely determined, might reasonably be expected to have a Material Adverse Effect, have (to the best of any Obligor's knowledge and belief) been started or threatened against any Obligor or any other Group Member.

18.16 No breach of laws

18.16.1 No Obligor or other Group Member has breached any law or regulation which might have a Material Adverse Effect.

18.16.2 No labour dispute is current or, to the best of any Obligor's knowledge and belief (having made due and careful enquiry), threatened against any Obligor or other Group Member which may have a Material Adverse Effect.

18.16.3 No Obligor or other Group Member has breached any of the Obligors' general risk management policy, which breach might have a Material Adverse Effect.

18.17 Environmental matters

18.17.1 No Environmental Law applicable to any Ship and/or any Obligor has been violated in a manner or circumstances which might have, a Material Adverse Effect.

18.17.2 All consents, licences and approvals required under such Environmental Laws have been obtained and are currently in force.

18.17.3 No Environmental Claim has been made or, to the best of any Obligor's knowledge and belief (having made due and careful enquiry), threatened or is pending against any Obligor or any Ship where that claim might have a Material Adverse Effect, and there has been no Environmental Incident which has given, or might give, rise to such a claim.

18.18 Tax compliance

18.18.1 No Obligor or other Group Member is materially overdue in the filing of any Tax returns or overdue in the payment of any amount in respect of Tax.

18.18.2 No claims or investigations are being, or are to the best of their knowledge likely to be, made or conducted against any Obligor or other Group Member with respect to Taxes such that a liability of, or claim against, any Obligor or other Group Member is reasonably likely to arise and which might have a Material Adverse Effect.

18.19 Anti-corruption law

Each Obligor has conducted its businesses in compliance with applicable anti-corruption and anti-bribery laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

18.20 Security and Financial Indebtedness

18.20.1 No Security Interest exists over all or any of the present or future assets of any Obligor in breach of this Agreement.

18.20.2 No Obligor has any Financial Indebtedness outstanding in breach of this Agreement.

18.20.3 No Security Interest exists over any of the shares of a Borrower or over any of the rights deriving from or related to such shares.

18.21 Legal and beneficial ownership

18.21.1 Ownership of assets Each Obligor is the sole legal and beneficial owner of the respective assets over which it purports to grant a Security Interest under the Security Documents.

18.21.2 Ownership of shares

- (a) Each Borrower is a direct or indirect wholly-owned Subsidiary of the Guarantor.
- (b) No less than 5% of the issued share capital of, and all of the issued voting share capital of, the Guarantor is legally and ultimately beneficially owned by the Permitted Holders.

18.22 Shares

The shares of each Obligor are fully paid and not subject to any option to purchase or similar rights. The Constitutional Documents of each Obligor do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Security Documents. There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of each Obligor (including any option or right of pre-emption or conversion).

18.23 Accounting Reference Date

The financial year-end of each Obligor and each other Group Member is the Accounting Reference Date.

18.24 No adverse consequences

18.24.1 It is not necessary under the laws of the Relevant Jurisdictions of any Obligor:

- (a) in order to enable any Finance Party to enforce its rights under any Finance Document; or
- (b) by reason of the execution of any Finance Document or the performance by any Obligor of its obligations under any Finance Document to which it is, or is to be, a party,

that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in any of such Relevant Jurisdictions.

18.24.2 No Finance Party is or will be deemed to be resident, domiciled or carrying on business in any Relevant Jurisdiction by reason only of the execution, performance and/or enforcement of any Finance Document.

18.25 Copies of documents

The copies of the Charter Documents, the Contracts and the Constitutional Documents of the Obligors delivered to the Agent under clause 4 (*Conditions of Utilisation*) or under any other provision of this Agreement will be true, complete and accurate copies of such documents and

include all amendments and supplements to them as at the time of such delivery and no other agreements or arrangements exist between any of the parties to any Charter Document or Contract which would materially affect the transactions or arrangements contemplated by any Charter Document or Contract or modify or release the obligations of any party under that Charter Document or Contract.

18.26 No breach of any Contract or any Charter Document

No Obligor nor (so far as the Obligors are aware) any other person is in breach of any Charter Document or Contract to which it is a party nor has anything occurred which entitles or may entitle any party to any Charter Document or Contract to rescind or terminate it or decline to perform their obligations under it.

18.27 No immunity

No Obligor or any of its assets is immune to any legal action or proceeding.

18.28 Ship status

Each Ship will on the first day of the relevant Mortgage Period be:

- (a) registered in the name of the relevant Owner through the relevant Registry as a ship under the laws and flag of the relevant Flag State;
- (b) operationally seaworthy and in every way fit for service;
- (c) classed with the relevant Classification, free of all requirements and recommendations of the relevant Classification Society; and
- (d) insured in the manner required by the Finance Documents.

18.29 Ship's employment

Each Ship shall, on the first day of the relevant Mortgage Period, be free of any other charter commitment which, if entered into after that date, would require approval under the Finance Documents.

18.30 Address commission

There are no rebates, commissions or other payments in connection with any Contract or any Charter other than those referred to in it.

18.31 No Money Laundering

In relation to the borrowing by the Borrowers of the Loan or any part of it, the performance and discharge of the Obligors' obligations and liabilities under the Finance Documents, and the transactions and other arrangements effected or contemplated by this Agreement and the Finance Documents, the Obligors are acting for their own account and the foregoing will not involve or lead to a contravention of any law, official requirement or other regulatory measure or procedure which has been implemented by any relevant regulatory authority or otherwise to combat Money Laundering (as defined in clause 21.16 (*Bribery and corruption*)).

18.32 Use of proceeds

The proceeds of Utilisations have been used exclusively for the purposes specified in clause 3 (*Purpose*).

18.33 Maintenance of properties

Each Obligor has maintained in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its business.

18.34 Sanctions

18.34.1 No Obligor nor any member of the Group:

- (a) is a Designated Person;
- (b) has violated or is violating any applicable Sanctions;
- (c) is using or will use the proceeds of the Loan for the purpose of financing or making funds available directly or indirectly to any person or entity which is currently listed on any Sanctions List or currently located in a Sanctioned Country, to the extent such financing or provision of funds would be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions; or
- (d) is contributing or will contribute or otherwise make available the proceeds of the Loan to any other person or entity for the purpose of financing the activities of any person or entity which is currently listed on a Sanctions List or currently located (or ordinarily resident) in a Sanctioned Country, to the extent such contribution or provision of proceeds would currently be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions.

18.35 No corrupt practices

No Advance will be used by any Obligor for and no Obligor shall engage in:

- (a) Corrupt Practices, Fraudulent Practices, Collusive Practices or Coercive Practices, including the procurement or the execution of any contract for goods or works relating to its functions;
- (b) the Financing of Terrorism.

For the purposes of this clause 18.35 and clause 19.9 (*Money Laundering*), the following definitions shall apply:

Collusive Practice means an arrangement between two or more parties without the knowledge, but designed to improperly influence the actions, of another party.

Corrupt Practice means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to improperly influence the actions of another party.

Coercive Practice means impairing or harming or threatening to impair or harm, directly or indirectly, any party or its property or to improperly influence the actions of that party.

Financing of Terrorism means the act of providing or collecting funds with the intention that they be used, or in the knowledge that they are to be used, in order to carry out terrorist acts.

Fraudulent Practice means any action, including misrepresentation, to obtain a financial or other benefit or avoid an obligation, by deception

18.36 Times when representations are made

18.36.1 All of the representations and warranties set out in this clause 18 (other than Ship Representations) are deemed to be made and repeated on the dates of:

- (a) this Agreement;

- (b) each Utilisation Request; and
- (c) each Utilisation.

18.36.2 The Repeating Representations are also deemed to be made and repeated on the first day of each Interest Period.

18.36.3 All of the Ship Representations are deemed to be made and repeated on the first day of the Mortgage Period for the relevant Ship.

18.36.4 Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances then existing at the date the representation or warranty is deemed to be made.

19 Information undertakings

Each Obligor who is a Party undertakes that this clause 19 will be complied with throughout the Facility Period.

In this clause 19:

Annual Financial Statements means the audited consolidated financial statements for a financial year of the Guarantor delivered pursuant to clause 19.1.1 (*Financial statements*).

Semi-Annual Financial Statements means the unaudited consolidated financial statements for each financial half-year of a financial year of the Guarantor (in the form in which they are published in the relevant press release) delivered pursuant to clause 19.1.1 (*Financial statements*).

19.1 Financial statements

19.1.1 The Obligors shall supply to the Agent:

- (a) the audited consolidated financial statements of the Guarantor for each financial year as soon as the same become available, but in any event within 180 days after the end of each financial year; and
- (b) the unaudited consolidated financial statements of the Guarantor (in the form in which they are published in the relevant press release) for each financial half-year of the Guarantor as soon as the same become available, but in any event within 120 days after the end of each such financial half-year.

19.2 Provision and contents of Compliance Certificate and valuations

19.2.1 The Obligors shall supply to the Agent:

- (a) with each set of Annual Financial Statements and Semi-Annual Financial Statements, a Compliance Certificate;
- (b) with each set of Annual Financial Statements, valuations of each Ship, each made in accordance with clause 25(*Minimum security value*) at the cost and expense of the Borrowers; and
- (c) valuations of each Fleet Vessel, as and when required by the Agent following receipt of a Compliance Certificate provided that the Agent (acting reasonably) requests the same (and for such purposes, the provisions of such clause 25(*Minimum security value*) shall apply to each such valuation of a Fleet Vessel and this paragraph (c) mutatis mutandis as if each such Fleet Vessel were a Mortgaged Ship).

19.2.2 A determination by the Guarantor of the market value of each Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with clause 20.2(*Financial condition*) and shall be signed by two authorised signatories of the Guarantor and, if requested by the Agent in its absolute discretion shall include a computation by the Guarantor of the market value of each Fleet Vessel.

19.3 Requirements as to financial statements

19.3.1 The Borrowers shall procure that each set of Annual Financial Statements shall be audited by the Auditors.

19.3.2 Each set of financial statements delivered pursuant to clause 19.1(*Financial statements*) shall:

- (a) be prepared in accordance with GAAP; and
- (b) give a true and fair view of (in the case of Annual Financial Statements) for any financial year), or fairly represent (in other cases), the financial condition and operations of the Guarantor and its Subsidiaries (including the Group), as at the date as at which those financial statements were drawn up.

19.3.3 The Borrowers shall procure that each set of financial statements delivered pursuant to clause 19.1

(*Financial statements*) shall be prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements, unless, in relation to any set of financial statements, the Borrowers notify the Agent that there has been a change in GAAP or the accounting practices and the Auditors deliver to the Agent:

- (a) a description of any change necessary for those financial statements to reflect the GAAP or accounting practices and reference periods upon which corresponding Original Financial Statements were prepared; and
- (b) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether clause 20(*Financial covenants*) has been complied with and to make an accurate comparison between the financial position indicated in those financial statements and the Original Financial Statements.

Any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

19.4 Year-end

The Borrowers shall procure that each financial year-end of each Obligor and each Group Member falls on the Accounting Reference Date.

19.5 Information: miscellaneous

The Borrowers shall supply to the Agent:

- (a) at the same time as they are dispatched, copies of all documents dispatched by the Guarantor to its shareholders generally (or any class of them) or dispatched by the Guarantor or any Obligors to its creditors generally (or any class of them);
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any Group Member, and which, if adversely determined, might have a Material Adverse Effect or which would involve a liability, or a potential or alleged liability, exceeding \$1,000,000 (or its equivalent in other currencies);
- (c) promptly, such information as the Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Security Documents;

- (d) promptly upon becoming aware of them, details of any claim, action, suit, proceeding or investigation with respect to Sanctions against it, any other Group Member, any of their respective direct or indirect owners, Subsidiaries, any of their joint ventures or any of their respective directors, officers, employees, agents or representatives promptly upon becoming aware of the same; and
- (e) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any Group Member as any Finance Party through the Agent may reasonably request.

19.6 Notification of Default

19.6.1 The Borrowers shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon any Obligor becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

19.6.2 If required by the Agent, the Borrowers shall supply to the Agent a certificate as to whether a Default is continuing (and if it is, the steps, if any, being taken to remedy it).

19.7 Sufficient copies

The Borrowers, if so requested by the Agent, shall deliver sufficient copies of each document to be supplied under the Finance Documents to the Agent to distribute to each of the Lenders and the Hedging Provider.

19.8 "Know your customer" checks

19.8.1 If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any internal policy or any law or regulation made after the date of this Agreement;
- (b) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or
- (c) a proposed assignment or transfer by a Lender or the Hedging Provider of any of its rights and/or obligations under this Agreement or any Hedging Contract to a party that is not already a Lender or the Hedging Provider prior to such assignment or transfer,

obliges the Agent, the Security Agent, the Hedging Provider or any Lender (or, in the case of paragraph (c) above, any prospective new Lender or Hedging Provider) 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 Agent, the Security Agent, or any Lender or the Hedging Provider supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender or the Hedging Provider) or any Lender, the Security Agent or the Hedging Provider (for itself or, in the case of the event described in paragraph (c) above, on behalf of any prospective new Lender, the Security Agent, the Agent or the Hedging Provider) in order for the Agent, the Security Agent, such Lender or the Hedging Provider or, in the case of the event described in paragraph (c) above, any prospective new Lender or the Hedging Provider 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.

19.8.2 Each Finance Party shall promptly upon the request of the Agent or the Security Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent or the Security Agent (for itself) in order for it to carry out and be satisfied with the results of all necessary "know your customer" or other similar checks under all internal policies, applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

19.9 Money Laundering

The Borrowers will:

19.9.1 provide the Agent with information, certificates and any documents required by the Agent or any other Finance Party to ensure compliance with any law official requirement or other regulatory measure or procedure implemented to combat Money Laundering (as defined in clause 21.16(*Bribery and corruption*)) throughout the Facility Period; and 19.9.2 notify the Agent as soon as it becomes aware of any matters evidencing that a breach of any law official requirement or other regulatory measure or procedure implemented to combat Money Laundering (as defined in clause 21.16 (*Bribery and corruption*) may or is about to occur or that the person(s) who have or will receive the commercial benefit of this Agreement have changed from the date hereof.

20 Financial covenants

Each Obligor who is a Party undertakes that this clause 20 will be complied with throughout the Facility Period.

20.1 Financial definitions

In clauses 20.2 (*Financial condition*) and 20.3 (*Financial testing*):

Cash and Cash Equivalents means, at any relevant time, the aggregate of:

- (a) cash in hand or on deposit with any bank; and
- (b) any other instrument, security or investment approved by the Majority Lenders, which are free from any Security Interest (other than Security Interests in favour of the Finance Parties) and/or restrictions and to which any Group Member is beneficially entitled at that time and which are readily available to Group Members and capable of being applied against Financial Indebtedness, as demonstrated by the then most recent Financial Statements.

Financial Statements means any of the Annual Financial Statements or the Semi Annual Financial Statements of the Guarantor referred to and defined as such in clause 19.1 (*Financial statements*).

Fleet Market Value means, as of the date of calculation, the aggregate of:

- (a) the Vessel Values of the Mortgaged Ships; and
- (b) the aggregate market value of all other Fleet Vessels (other than the Mortgaged Ships), as shown in the most recent Compliance Certificate delivered to the Agent under clause 19.2(*Provision and contents of Compliance Certificate and valuations*) or, if the Agent has requested valuations of such vessels following receipt of the most recent Compliance Certificate under clause 19.2 (*Provision and contents of Compliance Certificate and valuations*), as determined by reference to such valuations which are to be made in accordance with the provisions of clause 25 (*Minimum security value*) which shall apply for the purposes of this paragraph mutatis mutandis to each Fleet Vessel as if each such vessel were a Ship.

Fleet Vessels means each of the Fleet Vessels as defined in clause 1.1 (*Definitions*) (including, but not limited to, the Ships but excluding vessels under construction) but only to the extent owned by the Group Members and **Fleet Vessel** means any of them.

Market Value Adjusted Net Worth means, at any relevant time and in relation to any Measurement Period, the Total Market Value Adjusted Assets less Total Debt.

Measurement Period means each financial year of the Guarantor and each financial half-year of the Guarantor for which Financial Statements are to be delivered to the Agent under clause 19.1 (*Financial statements*).

Total Debt means, at any relevant time and in relation to any Measurement Period, the "Total Liabilities" of the Group on a consolidated basis as demonstrated by the then most recent Financial Statements.

Total Market Value Adjusted Assets means, at any relevant time and in relation to any Measurement Period, the amount of the "Total Assets" of the Group as demonstrated by the then most recent Financial Statements adjusted to reflect the difference between the book values of all Fleet Vessels and the Fleet Market Value.

20.2 Financial condition

Each Obligor who is a Party shall ensure that:

- (a) **Market Value Adjusted Net Worth:** at any time and in respect of each Measurement Period the Tangible Net Worth:
 - (i) shall not be less than \$150,000,000; and
 - (ii) shall be higher than 25% of the Total Market Value Adjusted Assets.
- (b) **Minimum liquidity:** at all times the Cash and Cash Equivalents shall be not less than \$500,000 multiplied by the number of the Fleet Vessels.

20.3 Financial testing

The financial covenants set out in clause 20.2 (*Financial condition*) shall be calculated in accordance with GAAP on a consolidated basis and tested by reference to each of the Financial Statements of the Group delivered pursuant to, and defined as such in, clause 19.1 (*Financial statements*) and/or each Compliance Certificate delivered pursuant to clause 19.2 (*Provision and contents of Compliance Certificate and valuations*).

21 General undertakings

Each Obligor who is a Party undertakes with each Finance Party that this clause 21 will be complied with throughout the Facility Period.

21.1 Use of proceeds

The proceeds of the Utilisations will be used exclusively for the purposes specified in clause 3 (*Purpose*).

21.2 Authorisations

Each Obligor will promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Agent of,

any authorisation required under any law or regulation of a Relevant Jurisdiction to:

- (i) enable it to perform its obligations under the Finance Documents, the Charter Documents and the Contracts;

- (ii) ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document, Charter Document or Contract; and
- (iii) carry on its business, where failure to do so has, or is reasonably likely to have, a Material Adverse Effect.

21.3 Compliance with laws

21.3.1 Each Obligor and each other Group Member will comply in all respects with its Constitutional Documents and all laws and regulations (including Environmental Laws) to which it may be subject.

21.3.2 Each Obligor and each other Group Member shall:

- (a) conduct its business in compliance with applicable anti-corruption laws; and
- (b) maintain policies and precedents designed to promote and achieve compliance with such laws.

21.4 Tax compliance

21.4.1 Each Obligor and each other Group Member shall pay and discharge all Taxes imposed upon it or its assets within such time period as may be allowed by law without incurring penalties unless and only to the extent that:

- (a) such payment is being contested in good faith;
- (b) adequate reserves are being maintained for those Taxes and the costs required to contest them which have *been* disclosed in its latest financial statements delivered to the Agent under clause 19.1 (*Financial statements*); and
- (c) such payment can be lawfully withheld.

21.5 Change of business

Except as approved by the Majority Lenders, no substantial change will be made to the general nature of the business of the Borrowers, the Guarantor, the other Obligors or the Group taken as a whole from that carried on at the date of this Agreement.

21.6 Merger

21.6.1 Except as approved by the Majority Lenders, no Borrower, will enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction or change its legal name.

21.6.2 Except as approved by the Majority Lenders, the Guarantor, will not enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction or change its legal name, unless following such amalgamation, demerger, merger, consolidation or corporate reconstruction or change its legal name, the Guarantor is to remain as the surviving entity.

21.7 Further assurance

21.7.1 Each Obligor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Agent may reasonably specify (and in such form as the Agent may reasonably require):

- (a) to perfect the Security Interests created or intended to be created by that Obligor under or evidenced by the Security Documents (which may include the execution of a mortgage, charge, assignment or other security over all or any of the assets which are, or are intended to be, the subject of the Security Documents) or for the exercise of any rights, powers and remedies of the Security Agent or any other Finance Party provided by or pursuant to the Finance Documents or by law;

- (b) to confer on the Security Agent and/or any other Finance Party Security Interests over any property and assets of that Obligor located in any jurisdiction equivalent or similar to the Security Interest intended to be conferred by or pursuant to the Security Documents;
- (c) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Documents; and/or
- (d) to facilitate the accession by a New Lender to any Security Document following an assignment in accordance with clause 32.1(*Assignments and transfers by the Lenders*).

21.7.2 Each Obligor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security Interest conferred or intended to be conferred on the Security Agent and/or any other Finance Party by or pursuant to the Finance Documents.

21.8 Negative pledge in respect of Charged Property or Borrowers' shares

21.8.1 Except as approved by the Majority Lenders and for Permitted Maritime Liens, no Obligor will grant or allow to exist any Security Interest over any Charged Property.

21.8.2 No Obligor will grant or allow to exist any Security Interest over any of the shares in any of the Borrowers or over any of the rights deriving from or related to such shares.

21.9 Environmental matters

21.9.1 The Obligors shall notify the Agent as soon as reasonably practicable of any Environmental Claim being made against any Obligor or any Ship which, if successful to any extent, might have a Material Adverse Effect and of any Environmental Incident which may give rise to such a claim and they will keep the Agent regularly and promptly informed in reasonable detail of the nature of, and response to, any such Environmental Incident and the defence to any such claim.

21.9.2 The Obligors will procure that all Environmental Laws (and any consents, licences or approvals obtained under them) applicable to Ships will not be violated in a way which might have a Material Adverse Effect.

21.10 Maintenance of satisfactory properties and insurances

21.10.1 Each Obligor shall maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its business.

21.10.2 Each Obligor shall maintain insurances (in addition to the Insurances required to be maintained under clause 24(*Insurance*)) on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.

21.11 Pari passu

Each Obligor will ensure that its obligations under the Finance Documents shall, without prejudice to the security intended to be created by the Security Documents, at all times rank at least pari passu with all its other present and future unsecured and unsubordinated Indebtedness with the exception of any obligations which are mandatorily preferred by law and not by contract.

21.12 Syndication

The Guarantor will provide reasonable assistance to the Arranger in the preparation of the primary syndication of the Facility and will comply with all reasonable requests for information from potential syndicate members prior to completion of syndication (as and when such completion is determined by the Agent to have occurred).

21.13 Sanctions

21.13.1 Each Obligor shall procure that each Group Member:

- (a) will comply in all respects with Sanctions;
- (b) will not contribute or otherwise make available the proceeds of the Loan, directly or indirectly, to any person or entity (whether or not related to any Group Member) for the purpose of financing the activities of any person or entity which is currently listed on a Sanctions List or currently located in a Sanctioned Country, to the extent such financing or provision of funds would be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions; and
- (c) shall not fund all or part of any repayment under the Loan out of proceeds directly derived from transactions which would be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions.

21.13.2 No Obligor nor any other Group Member will be a Designated Person.

21.14 Borrowers' own account

Each Obligor will ensure that any borrowing by it and/or the performance of its obligations hereunder and under the other Finance Documents to which it is a party will be for its own account and will not involve any breach by it of any law, or regulatory measure relating to Money Laundering (as defined in clause 21.16 (*Bribery and corruption*)).

21.15 Inspection

Each Obligor who is a party undertakes with the Finance Parties that, from the date of this Agreement and so long as any moneys are owing under any of the Finance Documents, upon the request of the Agent following an Event of Default, it shall provide the Finance Parties or any of their representatives, professional advisors and contractors with access to, and permit inspection of, books and records of any Group Member, in each case at reasonable times and upon reasonable notice.

21.16 Bribery and corruption

21.16.1 No Obligor shall engage in:

- (a) Corrupt Practices, Fraudulent Practices, Collusive Practices or Coercive Practices, including the procurement or the execution of any contract for goods or works relating to its functions;
- (b) Money Laundering or acted in breach of any applicable law relating to Money Laundering; or
- (c) the Financing of Terrorism.

21.16.2 Without prejudice to the generality of clause 21.16.1:

- (a) no Obligor or other Group Member will directly or indirectly use the proceeds of the Facility for any purpose which would breach the Bribery Act 2010 or the United States Foreign Corrupt Practices Act of 1977;
- (b) the Obligor shall procure that each Group Member:
 - (i) conducts its businesses in compliance with the Bribery Act 2010 or the United States Foreign Corrupt Practices Act of 1977; and
 - (ii) maintains policies and procedures designed to promote and achieve compliance with such laws.

21.16.3 For the purposes of this clause 21.16 and clause 19.9(*Money Laundering*), the following definitions shall apply:

Collusive Practice means an arrangement between two or more parties without the knowledge, but designed to improperly influence the actions, of another party.

Corrupt Practice means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to improperly influence the actions of another party.

Coercive Practice means impairing or harming or threatening to impair or harm, directly or indirectly, any party or its property or to improperly influence the actions of that party.

Financing of Terrorism means the act of providing or collecting funds with the intention that they be used, or in the knowledge that they are to be used, in order to carry out terrorist acts.

Fraudulent Practice means any action, including misrepresentation, to obtain a financial or other benefit or avoid an obligation, by deception.

Money Laundering means:

- (a) the conversion or transfer of property, knowing it is derived from a criminal offence, for the purpose of concealing or disguising its illegal origin or of assisting any person who is involved in the commission of the crime to evade the legal consequences of its actions;
- (b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property knowing that it is derived from a criminal offence; or
- (c) the acquisition, possession or use of property knowing at the time of its receipt that it is derived from a criminal offence.

21.17 Use of proceeds

The Obligors shall not, and shall procure that each other Group Member and any Affiliate of any of them shall not, permit or authorise any other person to, directly or indirectly, use, lend, make payments of, contribute or otherwise make available, all or any part of the proceeds of the Facility or other transactions contemplated by this Agreement to fund or facilitate trade, business or other activities in any manner that could result in any Obligor or a Finance Party being in breach of any Sanctions.

22 Dealings with Ships

Each Borrower undertakes that this clause 22 will be complied with in relation to each Mortgaged Ship throughout the relevant Ship's Mortgage Period.

22.1 Ship's name and registration

- (a) The Ship's name shall only be changed after prior notice of at least 10 Business Days to the Agent.
- (b) The Ship shall be registered with the relevant Registry under the laws of its Flag State. Except with approval, the Ship 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 45 days before the date it is due to expire and the Agent shall be notified of that renewal at least 30 days before the date it is due to expire.
- (c) Nothing will be done and no action will be omitted if that might result in such registration being forfeited or imperilled or the Ship being required to be registered under the laws of another state of registry.

22.2 Sale or other disposal of Ship

Except with approval of the Agent (acting on the instructions of all the Lenders), an Owner will not sell, or agree to, transfer, abandon or otherwise dispose of its Ship or any share or interest in it if the net proceeds of sale would be insufficient to discharge the prepayment obligations of the Borrowers in respect of such sale under clause 7.6 (*Sale or Total Loss*). Where no approval is required under this clause, the Borrowers shall provide advance notice to the Agent of any such proposed sale and such sale shall be subject to the provisions of the same clause 7.6 (*Sale or Total Loss*).

22.3 Manager

A manager of the Ship (other than Diana Shipping Services S.A. of Panama and subject to clause 22.12 (*Change of Manager*)) shall not be appointed unless that manager and the terms of its appointment are approved and it and the relevant Owner have delivered a duly executed Manager's Undertaking to the Security Agent. The relevant Owner shall not agree to any change to the terms of appointment of a manager which have been approved unless such change is approved by the Majority Lenders.

22.4 Copy of Mortgage on board

A properly certified copy of the relevant Mortgage shall be kept on board the Ship with its papers and shown to anyone having business with the Ship which might create or imply any commitment or Security Interest over or in respect of the Ship (other than a lien for crew's wages and salvage) and to any representative of the Agent or the Security Agent.

22.5 Notice of Mortgage

A framed printed notice of the Ship's Mortgage shall be prominently displayed in the navigation room and in the Master's cabin of the Ship. The notice must be in plain type and read as follows:

"NOTICE OF MORTGAGE

This Ship is subject to a first mortgage in favour of **[here insert name of mortgagee]** of **[here insert address of mortgagee]**. Under the said mortgage and related documents, neither the Owner nor any charterer nor the Master of this Ship has any right, power or authority to create, incur or permit to be imposed upon this Ship any commitments or encumbrances whatsoever other than for crew's wages and salvage".

No-one will have any right, power or authority to create, incur or permit to be imposed upon the Ship any lien whatsoever other than for crew's wages and salvage.

22.6 Conveyance on default

Where the Ship is (or is to be) sold in exercise of any power conferred by the Security Documents, the relevant Owner shall, upon the Agent's request, immediately execute such form of transfer of title to the Ship as the Agent may require.

22.7 Chartering

22.7.1 Except with approval by the Majority Lenders, the relevant Owner shall not enter into any charter commitment for the Ship, which is:

- (a) a bareboat or demise charter;
- (b) capable of lasting more than 13 months;
- (c) on terms as to payment or amount of hire which are materially less beneficial to it than the terms which at that time could reasonably be expected to be obtained on the open market for

vessels of the same age and type as the Ship under charter commitments of a similar type and period; or

- (d) to another Group Member.

22.7.2 Without prejudice to the rights of the Finance Parties under clause 21.7.1 above and any other provisions of the Finance Documents, the Borrowers shall advise the Agent promptly of any proposed Charter of a Ship and:

- (a) forthwith after its execution deliver a certified copy of each such Charter to the Agent;
- (b) forthwith following demand by the Agent procure that the relevant Owner executes in favour of the Security Agent a Charter Assignment of any such Charter and any notice of assignment required in connection therewith and promptly following the occurrence of an Event of Default, procure the service of any such notice of assignment on the relevant Charterer and procure the acknowledgement of such notice by the relevant Charterer; and
- (c) pay on demand by the Agent all legal and other costs properly incurred by the Agent or the Security Agent in connection with each such Charter Assignment.

22.8 Merchant use

The relevant Owner shall use the Ship only as a civil merchant trading ship.

22.9 Sharing of Earnings

Except with approval by the Majority Lenders, the relevant Owner shall not enter into any arrangement under which its Earnings from the Ship may be shared with anyone else.

22.10 Payment of Earnings

The relevant Owner's Earnings from the Ship shall be paid in the way required by the Ship's General Assignment or Deed of Covenant. If any Earnings are held by brokers or other agents, they shall be paid to the Security Agent or the Agent (as the case may be), if it requires this after the Earnings have become payable to it under the Ship's General Assignment or Deed of Covenant.

22.11 Lay up

Except with approval, no Ship shall be laid up or deactivated. If approval has been obtained for a Ship to be laid up or deactivated, the relevant Owner and the other Obligors shall make sure that a safe, sustainable and socially and environmentally responsible dismantling of such Ship shall take place.

22.12 Change of Manager

Notwithstanding clause 22.3 (*Manager*), the relevant Owner may, at its sole discretion, at any time during the Facility Period, change the Manager of its Ship from Diana Shipping Services S.A. to Diana Wilhelmsen Management Limited (**DWM**) Provided that:

- (a) the Borrowers deliver to the Agent a Manager's Undertaking duly executed by DWM to the Security Agent on the date of the change of the Manager together with any notices of assignment of insurances;
- (b) the Borrowers deliver to the Agent a certified true copy of a duly executed management agreement between the relevant Owner and the Manager in a form acceptable to the Agent in its absolute discretion;
- (c) the Borrowers have provided the Agent with such documentation and other evidence relating to DWM required by it to enable the Lenders to carry out and be satisfied with all necessary

"know your customer" or other similar checks under all internal policies, applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents; and

- (d) DWM has provided corporate authorities regarding the execution of its management agreement and such new Manager's Undertaking in a form acceptable to the Agent in its absolute discretion, and the Agent has obtained a legal opinion by Cyprus counsel in relation to the execution of the same by DWM.

23 Condition and operation of Ships

Each Borrower undertakes with each Finance Party that this clause 23 will be complied with in relation to each Mortgaged Ship throughout the relevant Ship's Mortgage Period.

23.1 Defined terms

In this clause 23 and in Schedule 3 (*Conditions precedent*): **applicable code** means any code or prescribed procedures required to be observed by the Ship 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 Ship's Flag State or which for any other reason apply to the Ship or to its condition or operation at any relevant time. **applicable operating certificate** means any certificates or other document relating to the Ship or its condition or operation required to be in force under any applicable law or any applicable code.

23.2 Repair

The Ship shall be kept in a good, safe and efficient state of repair. The quality of workmanship and materials used to repair the Ship or replace any damaged, worn or lost parts or equipment shall *be* sufficient to ensure that the Ship's value is not reduced.

23.3 Modification

Except with approval by the Majority Lenders, the structure, type or performance characteristics of the Ship shall not be modified in a way which could or might materially alter the Ship or materially reduce its value.

23.4 Removal of parts

Except with approval by the Majority Lenders, no material part of the Ship or any equipment shall be removed from the Ship if to do so would materially reduce its value (unless at the same time it is replaced with equivalent parts or equipment owned by the relevant Owner free of any Security Interest except under the Security Documents).

23.5 Third party owned equipment

Except with approval by the Majority Lenders, equipment owned by a third party shall not be installed on the Ship if it cannot be removed without risk of causing damage to the structure or fabric of the Ship or incurring significant expense.

23.6 Maintenance of class; compliance with laws and codes

The Ship's class shall be the relevant Classification with the relevant Classification Society and neither the Classification nor the Classification Society of the Ship shall be changed without approval. The Ship and every person who owns, operates or manages the Ship shall comply with all applicable laws and the requirements of all applicable codes and regulations (including but not

limited to all Environmental Laws and all Sanctions). There shall be kept in force and on board the Ship 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 Ship or to be in such person's custody.

23.7 Surveys

The Ship shall be submitted to continuous 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 Agent if it so requests.

23.8 Inspection and notice of drydockings

The Agent and/or surveyors or other persons appointed by it for such purpose shall be allowed to board the Ship at all reasonable times (but only once per calendar year in the absence of an Event of Default) to inspect it and given all proper facilities needed for that purpose. The Agent shall be given reasonable advance notice of any intended drydocking of the Ship (whatever the purpose of that drydocking).

23.9 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 Ship, its Earnings or Insurances shall be promptly paid and discharged.

23.10 Release from arrest

The Ship, its Earnings and Insurances shall promptly be released from any arrest, detention, attachment or levy, and any legal process against the Ship shall be promptly discharged, by whatever action is required to achieve that release or discharge.

23.11 Information about Ship

The Agent shall promptly be given any information which it may reasonably require about the Ship or its employment, position, use or operation, including details of towages and salvages, and copies of all its charter commitments entered into by or on behalf of any Owner and copies of any applicable operating certificates.

23.12 Notification of certain events

The Agent shall promptly be notified of:

- (a) any damage to the Ship where the cost of the resulting repairs may exceed the Major Casualty Amount for such Ship;
- (b) any occurrence which may result in the Ship becoming a Total Loss;
- (c) any requisition of the Ship for hire;
- (d) any Environmental Incident involving the Ship and Environmental Claim being made in relation to such an incident;
- (e) any withdrawal or threat to withdraw any applicable operating certificate;
- (f) the issue of any operating certificate required under any applicable code;
- (g) the receipt of notification that any application for such a certificate has been refused;

- (h) any requirement or recommendation made in relation to the Ship by any insurer or the Ship's Classification Society or by any competent authority which is not, or cannot be, complied with in the manner or time required or recommended; and
- (i) any arrest, hijacking or detention of the Ship or any exercise or purported exercise of a lien or other claim on the Ship or its Earnings or Insurances.

23.13 Payment of outgoings

All tolls, dues and other outgoings whatsoever in respect of the Ship and its Earnings and Insurances shall *be* paid promptly. Proper accounting records shall be kept of the Ship and its Earnings.

23.14 Evidence of payments

The Agent, when it requires it, shall be given satisfactory evidence that:

- (a) the wages and allotments and the insurance and pension contributions of the Ship's crew are being promptly and regularly paid;
- (b) all deductions from its crew's wages in respect of any applicable Tax liability are being properly accounted for; and
- (c) the Ship's master has no claim for disbursements other than those incurred by him in the ordinary course of trading on the voyage then in progress.

23.15 Repairers' liens

Except with approval by the Majority Lenders, the Ship shall not be put into any other person's possession for work to be done on the Ship if the cost of that work will exceed or is likely to exceed the Major Casualty Amount for the Ship unless that person gives the Security Agent a written undertaking in approved terms not to exercise any lien on the Ship or its Earnings for any of the cost of such work.

23.16 Survey report

As soon as reasonably practicable after the Agent reasonably requests it, the Agent shall be given a report on the seaworthiness and/or safe operation of the Ship, from surveyors or inspectors approved by the Agent (acting on the instructions of the Majority Lenders). If any recommendations are made in such a report they shall be complied with in the way and by the time recommended in the report.

23.17 Lawful use

The Ship 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 or prohibited goods;
- (c) in a way which may make it liable to be condemned by a prize court or destroyed, seized or confiscated; or
- (d) if there are hostilities in any part of the world (whether war has been declared or not), in carrying contraband goods

and the persons responsible for the operation of the Ship shall take all necessary and proper precautions to ensure that this does not happen, including participation in industry or other

voluntary schemes available to the Ship and in which leading operators of ships operating under the same flag or engaged in similar trades generally participate at the relevant time.

23.18 War zones

No Ship shall enter or remain in any zone which has been declared a war zone by any government entity or that Ship's war risk insurers except if any requirements of the Agent and/or that Ship's insurers necessary to ensure that such Ship remains properly insured in accordance with the Finance Documents (including any requirement for the payment of extra insurance premiums) are complied with.

24 Insurance

Each Borrower undertakes that this clause 24 shall be complied with in relation to each Mortgaged Ship and its Insurances throughout the relevant Ship's Mortgage Period.

24.1 Insurance terms

In this clause 24:

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 clause 24.2(a).

minimum hull cover means, in relation to a Mortgaged Ship, an amount equal at the relevant time to 120 per cent of such proportion of the aggregate of (a) the Loan and (b) the Hedging Exposure at such time as is equal to the proportion which the market value of such Ship bears to the aggregate value of all the Mortgaged Ships.

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).

24.2 Coverage required

The Ship (including its hull and machinery, hull interest, freight interest, disbursements and/or increased value) shall at all times be insured at the Ship's Owner's cost:

- (a) against (i) fire and usual marine risks (including excess risks) and (ii) war risks (including war protection and indemnity risks and terrorism, piracy and confiscation risks) on an agreed value basis, in each case, for at least its minimum hull cover and no less than its market 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 Ship (but, in relation to liability for oil pollution, for an amount of not less than \$1,000,000,000) and a freight demurrage and defence cover;
- (c) against such other risks and matters which the Agent notifies it that it considers reasonable for a prudent shipowner or operator to insure against at the time of that notice; and

- (d) on terms which comply with the other provisions of this clause 24.

24.3 Placing of cover

The insurance coverage required by clause 24.2 (*Coverage required*) shall be:

- (a) in the name of the Ship's Owner and any Manager and (in the case of the Ship's hull cover) no other person (other than the Security Agent and any other Finance Party if required by the Agent) (unless such other person is approved and, if so required by the Agent, has duly executed and delivered a first priority assignment of its interest in the Ship's Insurances to the Security Agent or the other Finance Parties in an approved form and provided such supporting documents and opinions in relation to that assignment as the Agent requires);
- (b) if the Agent so requests, in the joint names of the Ship's Owner and the Security Agent and any other Finance Party (and, to the extent reasonably practicable in the insurance market, without liability on the part of the Security Agent or such other Finance Party for premiums or calls);
- (c) in dollars or another approved currency;
- (d) arranged through approved brokers or direct with approved insurers or protection and indemnity or war risks associations; and
- (e) on approved terms and with approved insurers or associations.

24.4 Deductibles

The aggregate amount of any excess or deductible under the Ship's hull cover shall not exceed an approved amount.

24.5 Mortgagee's insurance

The Borrowers shall promptly reimburse to the Agent the cost (as conclusively certified by the Agent) of taking out and keeping in force in respect of the Ship and the other Mortgaged Ships on terms approved by the Agent (acting on the instructions of the Majority Lenders), or in considering or making claims under:

- (a) a mortgagee's interest insurance and a mortgagee's additional perils (all P&I risks) cover for the benefit of the Finance Parties for an aggregate amount up to 120% of the aggregate of (a) the Loan and (b) the Hedging Exposure at such time; and
- (b) any other insurance cover which the Agent reasonably requires in respect of any Finance Party's interests and potential liabilities (whether as mortgagee of the Ship or beneficiary of the Security Documents).

24.6 Fleet liens, set off and cancellations

If the Ship's hull cover also insures other vessels, the Security Agent shall either be given an undertaking in approved 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 Ship any premiums due in respect of any of such other vessels insured (other than other Mortgaged Ships); or
- (b) cancel that cover because of non-payment of premiums in respect of such other vessels,

or the Borrowers shall ensure that hull cover for the Ship and any other Mortgaged Ships is provided under a separate policy from any other vessels.

24.7 Payment of premiums

All premiums, calls, contributions or other sums payable in respect of the Insurances shall be paid punctually and the Agent shall be provided with all relevant receipts or other evidence of payment upon request.

24.8 Details of proposed renewal of Insurances

At least 14 days before any of the Ship's Insurances are due to expire, the Agent shall be notified of the names of the brokers, insurers and associations proposed to be used for the renewal of such Insurances and the amounts, risks and terms in, against and on which the Insurances are proposed to be renewed.

24.9 Instructions for renewal

At least seven days before any of the Ship's Insurances are due to expire, instructions shall be given to brokers, insurers and associations for them to be renewed or replaced on or before their expiry.

24.10 Confirmation of renewal

The Ship's Insurances shall be renewed upon their expiry in a manner and on terms which comply with this clause 24 and confirmation of such renewal given by approved brokers or insurers to the Agent at least seven days (or such shorter period as may be approved) before such expiry.

24.11 P&I guarantees

Any guarantee or undertaking required by any protection and indemnity or war risks association in relation to the Ship shall be provided when required by the association.

24.12 Insurance documents

The Agent shall be provided with pro forma copies of all insurance policies and other documentation issued by brokers, insurers and associations in connection with the Ship's Insurances as soon as they are available after they have been placed or renewed and all insurance policies and other documents relating to the Ship's Insurances shall be deposited with any approved brokers or (if not deposited with approved brokers) the Agent or some other approved person.

24.13 Letters of undertaking

Unless otherwise approved where the Agent (upon the instructions of the Majority Lenders) is satisfied that equivalent protection is afforded by the terms of the relevant Insurances and/or any applicable law and/or a letter of undertaking provided by another person, on each placing or renewal of the Insurances, the Agent shall be provided promptly with letters of undertaking in an approved 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.

24.14 Insurance Notices and Loss Payable Clauses

The interest of the Security Agent or any other Finance Parties as assignees of the Insurances shall be endorsed on all insurance policies and other documents by the incorporation of a Loss Payable Clause and an Insurance Notice in respect of the Ship and its Insurances signed by its Owner and, unless otherwise approved, each other person assured under the relevant cover (other than the Security Agent or any other Finance Party, if it is itself an assured).

24.15 Insurance correspondence

If so required by the Agent, the Agent shall promptly be provided with copies of all written communications between the assureds and brokers, insurers and associations relating to any of the Ship's Insurances as soon as they are available.

24.16 Qualifications and exclusions

All requirements applicable to the Ship's Insurances shall be complied with and the Ship's Insurances shall only be subject to approved exclusions or qualifications.

24.17 Independent report

If the Agent requires and obtains a detailed report from an approved independent firm of marine insurance brokers giving their opinion on the adequacy of the Ship's Insurances then the Borrowers shall reimburse the Agent for the cost of obtaining that report.

24.18 Collection of claims

All documents and other information and all assistance required by the Agent to assist it and/or the Security Agent in trying to collect or recover any claims under the Ship's Insurances shall be provided promptly.

24.19 Employment of Ship

24.19.1 The Ship shall only be employed or operated in conformity with the terms of the Ship's 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).

24.19.2 The Ship shall not enter or remain in any zone which has been declared a war, conditional or excluded zone by any government entity or the Ship's insurers for war risks and/or allied perils (including piracy) unless:

- (a) appropriate insurances have been taken out by the relevant Owner; and
- (b) any requirements of the Agent and/or the Ship's insurers necessary to ensure that the Ship remains properly insured in accordance with the Finance Documents (including any requirement for the payment of extra insurance premiums) have been complied with.

24.20 Declarations and returns

If any of the Ship's Insurances are on terms that require a declaration, certificate or other document to be made or filed before the Ship sails to, or operates within, an area, those terms shall be complied with within the time and in the manner required by those Insurances.

24.21 Application of recoveries

All sums paid under the Ship's 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.

24.22 Settlement of claims

Any claim under the Ship's Insurances for a Total Loss or Major Casualty shall only be settled, compromised or abandoned with prior approval.

24.23 Change in insurance requirements

If the Agent gives notice to the Borrowers to change the terms and requirements of this clause 24 (which the Agent may only do, in such manner as it considers appropriate, as a result in changes of circumstances or practice after the date of this Agreement), this clause 24 shall be modified in the manner so notified by the Agent on the date 14 days after such notice from the Agent is received.

25 Minimum security value

Each Borrower undertakes that this clause 25 will be complied with throughout the Facility Period.

25.1 Valuation of assets

For the purpose of the Finance Documents, the value at any time of any Mortgaged Ship or a Ship before its Delivery or any other Fleet Vessel, or any other asset over which additional security is provided under this clause 25 will be its value as most recently determined in accordance with this clause 25 or, if no such values of a Mortgaged Ship have been obtained under this clause 25, its value determined under any valuation made pursuant to Part 2 of Schedule 3 (*Conditions Precedent on Delivery*).

25.2 Valuation frequency

Valuation of each Mortgaged Ship or each Ship before its Delivery and each such other asset in accordance with this clause 25 may be required by the Agent at any time (but in any event not less frequently than once per calendar year together with the Compliance Certificate delivered with the Annual Financial Statements, as defined in clause 19 (*Information undertakings*)).

25.3 Expenses of valuation

The Borrowers shall bear, and reimburse to the Agent where incurred by the Agent, all costs and expenses of providing:

- (a) one set of valuations of each Mortgaged Ship made under this clause 25 once per calendar year and any other valuations of each Ship and each Fleet Vessel made and delivered under clause 19.2(*Provision and contents of Compliance Certificate and valuations*) (which shall not include the costs and expenses of providing any valuations required under clause 4 (*Conditions of Utilisation*) which shall also be for the account of the Borrowers);
- (b) in addition to those referred to in (a) above, any sets of valuations of the Mortgaged Ships carried out at any time when (i) an Event of Default has occurred or (ii) a Mortgaged Ship becomes a Total Loss or is sold or (iii) such valuations show that the Security Value is less than the Minimum Value; and
- (c) in addition to those referred to in (a) and (b) above, any sets of valuations of the Ships obtained under clause 4(*Conditions of Utilisation*) in connection with any Utilisation.

25.4 Valuations procedure

The value of any Ship before its Delivery and the value of any Mortgaged Ship and any other Fleet Vessel shall be determined in accordance with, and by valuers approved and appointed in accordance with, this clause 25. Additional security provided under this clause 25 shall be valued in such a way, on such a basis and by such persons (including the Agent itself) as may be approved by the Majority Lenders or as may be agreed in writing by the Borrowers and the Agent (on the instructions of the Majority Lenders).

25.5 Currency of valuation

Valuations shall be provided by valuers in dollars or, if a valuer is of the view that the relevant type of vessel is generally bought and sold in another currency, in that other currency. If a valuation is

provided in another currency, for the purposes of this Agreement it shall be converted into dollars at the Agent's spot rate of exchange for the purchase of dollars with that other currency as at the date to which the valuation relates.

25.6 Basis of valuation

Each valuation will be addressed to the Agent in its capacity as such, it will be no more than 15 days' old and made:

- (a) without physical inspection (unless required by the Agent) (acting on the instructions of the Majority Lenders);
- (b) on the basis of a sale for prompt delivery for a price payable in full in cash on delivery at arm's length on normal commercial terms between a willing buyer and a willing seller; and
- (c) without taking into account the benefit of any charter commitment.

25.7 Information required for valuation

The Borrowers shall promptly provide to the Agent and any such valuer any information which they reasonably require for the purposes of providing such a valuation.

25.8 Approved Brokers

All valuers must be Approved Brokers. The Agent may from time to time notify the Borrowers and the Lenders of any additional independent ship brokers which have been approved by the Borrowers and the Agent (acting on the instructions of the Majority Lenders) as Approved Brokers for the purposes of this clause 25.

25.9 Appointment of Approved Brokers

When a valuation is required for the purposes of this clause 25, the Borrowers shall promptly appoint the relevant Approved Brokers to provide such a valuation. If the Borrowers fail to do so promptly, the Agent may appoint the relevant Approved Brokers to provide that valuation.

25.10 Number of valuers

Each valuation must be carried out by one (1) Approved Broker who shall be nominated by the Borrowers. If the Borrowers fail promptly to nominate such Approved Broker then the Agent may nominate that Approved Broker.

25.11 Differences in valuations

If any Approved Broker provides a range of values for a Ship or (as the case may be) Mortgaged Ship or Fleet Vessel, its value for the purpose of the Finance Documents will be the mean average of the values comprising such range.

25.12 Security shortfall

If at any time the Security Value is less than the Minimum Value, the Agent may, and shall, if so directed by the Majority Lenders, by notice to the Borrowers require that such deficiency be remedied. The Borrowers shall then within 30 days of receipt of such notice ensure that the Security Value equals or exceeds the Minimum Value. For this purpose, the Borrowers may at their option either:

- (a) provide additional security over other assets approved by the Majority Lenders in accordance with this clause 25 (including in the form of charged and/or pledged dollar cash deposits); and/or

- (b) prepay part of the Loan under clause 7.4(*Voluntary prepayment*). Any such amount prepaid shall be applied in reduction of all outstanding Advances pro rata between them.

25.13 Creation of additional security

The value of any additional security which the Borrowers offer to provide to remedy all or part of a shortfall in the amount of the Security Value will only be taken into account for the purposes of determining the Security Value if and when:

- (a) that additional security, its value and the method of its valuation have been approved by the Majority Lenders, it being agreed that cash collateral provided in pledged and/or charged dollar cash deposits or in the form of letters of credit denominated in dollars shall always be acceptable to the Lenders, and shall be valued at par;
- (b) a Security Interest over that security has been constituted in favour of the Security Agent or (if appropriate) the Finance Parties in an approved form and manner;
- (c) this Agreement has been unconditionally amended in such manner as the Agent requires in consequence of that additional security being provided; and
- (d) the Agent, or its duly authorised representative, has received such documents and evidence it may require in relation to that amendment and additional security including documents and evidence of the type referred to in Schedule 3(*Conditions precedent*) in relation to that amendment and additional security and its execution and (if applicable) registration.

26 Chartering undertakings

Each Borrower undertakes that this clause 26 will be complied with in relation to each Mortgaged Ship and its Charter Documents throughout the Facility Period.

26.1 Variations

Except with approval by the Majority Lenders, the Charter Documents shall not be materially varied (and, for the avoidance of doubt, any assignment, transfer or novation of a Charter Document, whether from the relevant Owner or the relevant Charterer, without approval shall constitute a variation), and the relevant Owner shall not grant any consent to the relevant Charterer in respect of any such variation.

26.2 Releases and waivers

Except with approval by the Majority Lenders, there shall be no release by the relevant Owner of any obligation of any other person under the Charter Documents (including by way of novation, assignment or transfer), no waiver of any breach of any such obligation and no consent to anything which would otherwise be such a breach.

26.3 Termination by Owner

Except with approval by the Majority Lenders, the relevant Owner shall not terminate or rescind any Charter Document or withdraw the Ship from service under the Charter or take any similar action.

26.4 Charter performance

The relevant Owner shall perform its obligations under the Charter Documents and use its best endeavours to ensure that each other party to them performs their obligations under the Charter Documents.

26.5 Notice of assignment

The relevant Owner shall, give notice of assignment of the Charter Documents to the other parties to such documents in the form specified by the Charter Assignment for the relevant Charter and Ship and, following the occurrence of an Event of Default, shall ensure that the Agent receives a copy of that notice acknowledged by each addressee in the form specified therein as soon as practically possible after the relevant Charter Assignment has been executed and in any event in accordance with clause 22.7.2.

26.6 Payment of Charter Earnings

All Earnings which the relevant Owner is entitled to receive under the Charter Documents shall be paid in the manner required by the Security Documents.

27 Bank accounts

Each Borrower undertakes that this clause 27 will be complied with throughout the Facility Period.

27.1 Earnings Account

27.1.1 Each Owner shall be the holder(s) of one or more Accounts with an Account Bank which is designated as an "Earnings Account" for the purposes of the Finance Documents.

27.1.2 The Earnings of the Mortgaged Ships and all moneys payable to each Owner under each Ship's Insurance and any net amount payable to the Borrowers under any Hedging Contract shall be paid by the persons from whom they are due to an Earnings Account unless required to be paid to the Security Agent or any other Finance Parties under the relevant Finance Documents.

27.1.3 The relevant Account Holder(s) shall not withdraw amounts standing to the credit of an Earnings Account except as permitted by clause 27.1.4.

27.1.4 If there is no continuing Default, the relevant Account Holder(s) may withdraw any amounts from such Earnings Account for the following purposes:

- (a) payments then due to Finance Parties under the Finance Documents;
- (b) payments to another Account;
- (c) payments of the proper costs and expenses of insuring, repairing, operating and maintaining any Mortgaged Ship (including management fees under any Management Agreement);
- (d) payments of the proper and reasonable expenses of administering the Borrowers' affairs;
- (e) payments to purchase other currencies in amounts and at times required to make payments referred to above in the currency in which they are due; and
- (f) payments of dividends to the extent permitted by clause 28.12(*Distributions and other payments*).

27.2 Other provisions

27.2.1 An Account may only be designated for the purposes described in this clause 27 if:

- (a) such designation is made in writing by the Agent and acknowledged by the Borrowers and specifies the names and addresses of the relevant Account Bank and the Account Holder(s) and the number and any designation or other reference attributed to the Account;
- (b) an Account Security has been duly executed and delivered by the relevant Account Holder(s) in favour of the Security Agent or the other Finance Parties;

- (c) any notice required by the Account Security to be given to an Account Bank has been given to, and acknowledged by, the Account Bank in the form required by the relevant Account Security; and
- (d) the Agent, or its duly authorised representative, has received such documents and evidence it may require in relation to the Account and the Account Security including documents and evidence of the type referred to in Schedule 3(*Conditions precedent*) in relation to the Account and the relevant Account Security.

27.2.2 The rates of payment of interest and other terms regulating any Account will be a matter of separate agreement between the relevant Account Holder(s) and Account Bank. If an Account is a fixed term deposit account, the relevant Account Holder(s) may select the terms of deposits until the relevant Account Security has become enforceable and the Security Agent directs otherwise.

27.2.3 The relevant Account Holder(s) shall not close any Account or alter the terms of any Account from those in force at the time it is designated for the purposes of this clause 27 or waive any of its rights in relation to an Account except with approval.

27.2.4 The relevant Account Holder(s) shall deposit with the Security Agent all certificates of deposit, receipts or other instruments or securities relating to any Account, notify the Security Agent of any claim or notice relating to an Account from any other party and provide the Agent with any other information it may request concerning any Account.

27.2.5 Each of the Agent and the Security Agent agrees that if it is an Account Bank in respect of an Account then there will be no restrictions on creating a Security Interest over that Account as contemplated by this Agreement and it shall not (except with the approval of the Majority Lenders) exercise any right of combination, consolidation or set-off which it may have in respect of that Account in a manner adverse to the rights of the other Finance Parties.

28 Business restrictions

Except as otherwise approved by the Majority Lenders each Obligor undertakes that throughout the Facility Period this clause 28 will be complied with by and in respect of each Group Member to which each of the provisions below is expressed to apply.

28.1 General negative pledge

28.1.1 In this clause 28.1, **Quasi-Security** means an arrangement or transaction described in clause

28.1.2 No Borrower shall permit any Security Interest to exist, arise or be created or extended over all or any part of its assets.

28.1.3 (Without prejudice to clauses 28.2(*Financial Indebtedness*) and 28.6 (*Disposals*)), no Borrower shall:

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby that asset is or may be leased to, or re-acquired by, any other Group Member other than pursuant to disposals permitted under clause 28.6(*Disposals*);
- (b) sell, transfer, factor or otherwise dispose of any of its receivables on recourse terms (except for the discounting of bills or notes in the ordinary course of business);
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

28.1.4 Clauses 28.1.2 and 28.1.3 above do not apply to any Security Interest or (as the case may be)

Quasi-Security, listed below:

- (a) those granted or expressed to be granted by any of the Security Documents; and
- (b) in relation to a Mortgaged Ship, Permitted Maritime Liens.

28.2 Financial Indebtedness

No Borrower shall incur or permit to exist, any Financial Indebtedness owed by it to anyone else except:

- (a) Financial Indebtedness incurred under the Finance Documents and Hedging Contracts for Hedging Transactions entered into pursuant to clause 29.1(*Hedging*);
- (b) Financial Indebtedness owed to another Borrower or the Guarantor or any other Group Member or any other Affiliate or shareholder (provided that any such Financial Indebtedness owed by a Borrower is unsecured and subordinated to the Finance Documents and any claims thereunder are assigned to the Finance Parties, in each case on approved terms and by documents in agreed form);
- (c) Financial Indebtedness owed to trade creditors of an Obligor given in the ordinary course of its business;
- (d) Financial Indebtedness permitted under clause 28.3(*Guarantees*); and
- (e) Financial Indebtedness permitted under clause 28.4(*Loans and credit*).

28.3 Guarantees

No Borrower shall give or permit to exist, any guarantee by it in respect of indebtedness of any person or allow any of its indebtedness to be guaranteed by anyone else except:

- (a) guarantees in favour of its own trade creditors given in the ordinary course of its business; and
- (b) guarantees which are Financial Indebtedness permitted under clause 28.2(*Financial Indebtedness*).

28.4 Loans and credit

No Borrower shall make, grant or permit to exist any loans or any credit by it to anyone else other than:

- (a) loans or credit to another Borrower or the Guarantor or any other Group Member permitted under clause 28.2(*Financial Indebtedness*); and
- (b) trade credit granted by it to its customers on normal commercial terms in the ordinary course of its trading activities.

28.5 Bank accounts and other financial transactions

No Borrower shall:

- (a) maintain any current or deposit account with a bank or financial institution except for the Accounts and the deposit of money, operation of current accounts and the conduct of electronic banking operations through the Accounts;
- (b) hold cash in any account other than the Accounts;
- (c) enter into any obligations under any operating leases relating to assets (for the avoidance of doubt any restrictions on the Borrowers to enter into a charter commitment in respect of the Ships are governed by clause 22.7(*Chartering*)); or
- (d) be party to any banking or financial transaction, whether on or off balance sheet, that is not expressly permitted under this clause 28.

28.6 Disposals

28.6.1 No Borrower shall enter into a single transaction or a series of transactions, whether related or not and whether voluntarily or involuntarily, to dispose of any asset except for any of the following disposals so long as they are not prohibited by any other provision of the Finance Documents:

- (a) disposals of assets made in (and on terms reflecting) the ordinary course of trading of the disposing entity;
- (b) disposals of obsolete assets, or assets which are no longer required for the purpose of the business of the relevant Borrower, in each case for cash on normal commercial terms and on an arm's length basis;
- (c) disposals permitted by clauses 28.1(*General negative pledge*) or 28.2 (*Financial Indebtedness*) or 22.2 (*Sale or other disposal of Ship*);
- (d) dealings with its own trade creditors with respect to book debts in the ordinary course of trading; and
- (e) the application of cash or cash equivalents in the acquisition of assets or services in the ordinary course of its business.

28.7 Contracts and arrangements with Affiliates

No Obligor shall be party to any arrangement or contract with any of its Affiliates unless such arrangement or contract is on an arm's length basis.

28.8 Subsidiaries

No Borrower shall establish or acquire a company or other entity.

28.9 Acquisitions and investments

No Borrower shall acquire any person, business, assets or liabilities or make any investment in any person or business or enter into any joint-venture arrangement except:

- (a) acquisitions of assets in the ordinary course of business (not being new businesses or vessels);
- (b) the incurrence of liabilities in the ordinary course of its business;
- (c) any loan or credit not otherwise prohibited under this Agreement; or

- (d) pursuant to any Finance Documents, Contracts or Charter Documents to which it is party.

28.10 Reduction of capital

- (a) No Obligor (other than the Guarantor) shall redeem or purchase or otherwise reduce any of its equity or any other share capital or any warrants or any uncalled or unpaid liability in respect of any of them or reduce the amount (if any) for the time being standing to the credit of its share premium account or capital redemption or other undistributable reserve in any manner.
- (b) The Guarantor shall not redeem or purchase or otherwise reduce any of its equity or any other share capital or any warrants or any uncalled or unpaid liability in respect of any of them or reduce the amount (if any) for the time being standing to the credit of its share premium account or capital redemption or other undistributable reserve in any manner except if (i) no Default is continuing at the time of such redemption, purchase or reduction and (ii) no Default would result from such redemption, purchase or reduction.

28.11 Increase in capital

No Borrower shall issue shares or other equity interests to anyone other than its shareholder being always a Subsidiary of the Guarantor.

28.12 Distributions and other payments

None of the Obligors who are Parties shall:

- (a) declare or pay (including by way of set-off, combination of accounts or otherwise) any dividend or redeem or make any other distribution or payment (whether in cash or in specie), including any interest and/or unpaid dividends, in respect of its equity or any other share capital or any warrants for the time being in issue; or
- (b) make any payment (including by way of set-off, combination of accounts or otherwise) by way of interest, or repayment, redemption, purchase or other payment, in respect of any shareholder loan, loan stock or similar instrument,

except if (i) no Default is continuing at the time of the declaration or payment of any such dividend, distribution or other payment and (ii) no Default would result from the declaration or payment of the same.

29 Hedging Contracts

Each Borrower undertakes that this clause 29 will be complied with throughout the Facility Period.

29.1 Hedging

29.1.1 If, at any time during the Facility Period, the Borrowers wish to enter into any Treasury Transaction so as to hedge all or any part of their exposure under this Agreement to interest rate fluctuations, they shall advise the Agent in writing. Each of the Borrowers agrees that it shall not enter into a speculative hedging transaction (which would include hedging transactions which are (i) not entered into to hedge a real risk or exposure which the Borrowers or any of them have under this Agreement or (ii) entered into by the Borrowers or any of them for the main purpose of financial losses or gains) under any Treasury Transaction with the Hedging Provider.

29.1.2 Any such Treasury Transaction shall be concluded by the Borrowers only, with the Hedging Provider on the terms of the Hedging Master Agreement.

29.1.3 If and when any such Treasury Transaction has been concluded, it shall constitute a Hedging Contract for the purposes of the Finance Documents.

29.2 Unwinding of Hedging Contracts

If, at any time, and whether as a result of any repayment, prepayment (in whole or in part) of the Loan or any cancellation (in whole or in part) of any Commitment or otherwise, the aggregate notional principal amount under all Hedging Transactions in respect of the Loan entered into by the Borrowers exceeds or will exceed the amount of the Loan outstanding at that time after such prepayment or cancellation, then (unless otherwise approved by the Majority Lenders) the Borrowers shall immediately wholly or partially reverse, offset, unwind or otherwise terminate one or more of the Hedging Transactions (any reversing or offsetting a Hedging Transaction made not by way of cash settlement to be made only at the Hedging Provider's discretion) as are necessary to ensure that the aggregate notional principal amount under the remaining continuing Hedging Transactions equals, and will in the future be equal to, the amount of the Loan at that time and as scheduled to be repaid from time to time thereafter pursuant to clause 6.2 (*Scheduled repayment of Advances*).

29.3 Variations

Except with approval or as required by clause 29.2 (*Unwinding of Hedging Contracts*), the Hedging Master Agreement and the Hedging Contracts shall not be varied.

29.4 Releases and waivers

Except with approval, there shall be no release by the Borrowers of any obligation of any other person under the Hedging Contracts (including by way of novation), no waiver of any breach of any such obligation and no consent to anything which would otherwise be such a breach.

29.5 Termination of Hedging Contracts by Borrowers

Except with approval, no Borrower shall terminate or rescind any Hedging Contract or close out or unwind any Hedging Transaction except in accordance with clause 29.2 (*Unwinding of Hedging Contracts*) for any reason whatsoever.

29.6 Assignment of Hedging Contracts by the Borrowers

Except with approval or pursuant to the Hedging Contract Security, the Borrowers shall not assign or otherwise dispose of their rights under any Hedging Contract.

29.7 Performance of Hedging Contracts by the Borrowers

Each of the Borrowers shall perform its obligations under the Hedging Contracts to which it is party.

29.8 Information concerning Hedging Contracts

The Borrowers shall provide the Agent with any information it may request concerning any Hedging Contract, including all reasonable information, accounts and records that may be necessary or of assistance to enable the Agent to verify the amounts of all payments and any other amounts payable under the Hedging Contracts.

30 Events of Default

Each of the events or circumstances set out in clauses 30.1 (*Non-payment*) to 30.22 (*Breach of Ministerial Decision*) is an Event of Default.

30.1 Non-payment

An Obligor does not pay on the due date, any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable.

30.2 Hedging Contracts

30.2.1 An Event of Default or Potential Event of Default (in each case as defined in the Hedging Master Agreement) has occurred and is continuing under any Hedging Contract.

30.2.2 An Early Termination Date (as defined in the Hedging Master Agreement) has occurred or been or become capable of being effectively designated under any Hedging Contract.

30.2.3 A person entitled to do so gives notice of such an Early Termination Date under any Hedging Contract except with approval or as may be required by clause 29.2(*Unwinding of Hedging Contracts*).

30.2.4 Any Hedging Contract is terminated, cancelled, suspended, rescinded or revoked or otherwise ceases to remain in full force and effect for any reason except with approval or as may be required by clause 29.2(*Unwinding of Hedging Contracts*).

30.3 Financial covenants and Sanctions

The Obligors do not comply with clause 20 (*Financial covenants*) and/or clause 21.13 (*Sanctions*).

30.4 Value of security

The Borrowers do not comply with clause 25 (*Minimum security value*).

30.5 Insurance

30.5.1 The Insurances of a Mortgaged Ship are not placed and kept in force in the manner required by clause 24(*Insurance*).

30.5.2 Any insurer either:

- (a) cancels any such Insurances; or
- (b) disclaims liability under them by reason of any mis-statement or failure or default by any person.

30.6 Other obligations

30.6.1 An Obligor does not comply with any provision of the Finance Documents (other than those referred to in clauses 30.1(*Non-payment*), 30.2 (*Hedging Contracts*), 30.3 (*Financial covenants and Sanctions*), 30.4 (*Value of security*), 30.5 (*Insurance*) and any other provision of this clause 30).

30.6.2 No Event of Default under clause 30.6.1 above will occur if the Agent (acting on the instructions of the Majority Lenders) considers that the failure to comply is capable of remedy and the failure is remedied within ten (10) Business Days of the Agent giving notice to the Borrowers.

30.7 Misrepresentation

Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been materially incorrect or misleading when made or deemed to be made.

30.8 Cross default

30.8.1 Any Financial Indebtedness of any Group Member is not paid when due nor within any originally applicable grace period.

- 30.8.2 Any Financial Indebtedness of any Group Member is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- 30.8.3 Any commitment for any Financial Indebtedness of any Group Member is cancelled or suspended by a creditor of that Group Member as a result of an event of default (however described).
- 30.8.4 The counterparty to a Treasury Transaction entered into by any Group Member becomes entitled to terminate that Treasury Transaction early by reason of an event of default (however described).
- 30.8.5 Any creditor of any Group Member becomes entitled to declare any Financial Indebtedness of that Group Member due and payable prior to its specified maturity as a result of an event of default (however described).
- 30.8.6 No Event of Default will occur under this clause 30.8 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within clauses 30.8.1 to 30.8.5 above in relation to any Group Member is less than \$10,000,000 (or its equivalent in any other currency or currencies).

30.9 Insolvency

- 30.9.1 A Group Member is unable or admits inability to pay its debts as they fall due, is deemed to, or is declared to, be unable to pay its debts under applicable law, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 30.9.2 The value of the assets of the Guarantor is less than its liabilities (taking into account contingent and prospective liabilities).
- 30.9.3 A moratorium is declared in respect of any indebtedness of any Group Member. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

30.10 Insolvency proceedings

- 30.10.1 Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Group Member (other than a solvent liquidation or reorganisation of any Group Member which is not an Obligor);
- (b) a composition, compromise, assignment or arrangement with any creditor of any Group Member;
- (c) the appointment of a liquidator (other than in respect of a solvent liquidation of a Group Member which is not an Obligor), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Group Member or any of its assets (including the directors of any Group Member requesting a person to appoint any such officer in relation to it or any of its assets); or
- (d) enforcement of any Security Interest over any assets of any Group Member,

or any analogous procedure or step is taken in any jurisdiction.

- 30.10.2 Clause 30.10.1 shall not apply to any winding-up petition (or analogous procedure or step) which is frivolous or vexatious and is discharged, stayed or dismissed within seven days of commencement or, if earlier, the date on which it is advertised.

30.11 Creditors' process

30.11.1 Any expropriation, attachment, sequestration, distress, execution or analogous process affects any asset or assets of any Group Member having an aggregate value in excess of \$1,000,000 and is not discharged within seven (7) days.

30.11.2 Any judgment or order having an aggregate value for an amount in excess of \$1,000,000 is made against any Group Member and is not stayed or complied with within seven (7) days.

30.12 Unlawfulness and invalidity

30.12.1 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.

30.12.2 Any obligation or obligations of any Obligor under any Finance Documents are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.

30.12.3 Any Finance Document or any Security Interest created or expressed to be created or evidenced by the Security Documents ceases to be in full force and effect or is alleged by a party to it (other than a Finance Party) to be ineffective for any reason.

30.12.4 Any Security Document does not create legal, valid, binding and enforceable security over the assets charged under that Security Document or the ranking or priority of such security is adversely affected.

30.13 Cessation of business

Any Group Member suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business provided however that if a Group Member (other than an Owner) sells a vessel it owns in the ordinary course of its business and becomes dormant it shall not constitute a breach of this clause 30.13.

30.14 Expropriation

The authority or ability of any Group Member to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Group Member or any of its assets.

30.15 Repudiation and rescission of Finance Documents

An Obligor (or any other relevant party) repudiates or purports to repudiate a Finance Document or evidences an intention to rescind or purports to rescind a Finance Document.

30.16 Litigation

Any litigation, alternative dispute resolution, arbitration or administrative proceeding is taking place, or threatened against any Group Member (including, without limitation, investigative proceedings) or any of its assets, rights or revenues which, if adversely determined, might have a Material Adverse Effect.

30.17 Material Adverse Effect

Any event or circumstance or series of events (including any Environmental Incident or any change of law) occurs which the Majority Lenders reasonably believe has, or might have, or is reasonably likely to have, a Material Adverse Effect.

30.18 Security enforceable

Any Security Interest (other than a Permitted Maritime Lien) in respect of Charged Property becomes enforceable.

30.19 Arrest of Ship

Any Mortgaged Ship is arrested, confiscated, seized, taken in execution, impounded, forfeited, detained in exercise or purported exercise of any possessory lien or other claim and the relevant Owner fails to procure the release of such Ship within a period of 30 days thereafter (or such longer period as may be approved).

30.20 Ship registration

Except with approval, the registration of any Mortgaged Ship under the laws and flag of its Flag State is cancelled or terminated or, where applicable, not renewed at least forty five (45) days prior to expiry of such registration or, if such Ship is only provisionally registered on the date of its Mortgage, such Ship is not permanently registered under such laws within 90 days of such date.

30.21 Political risk

The Flag State of any Mortgaged Ship or any Relevant Jurisdiction of an Obligor becomes involved in hostilities or civil war or there is a seizure of power in the Flag State or any such Relevant Jurisdiction by unconstitutional means if, in any such case, such event or circumstance, in the reasonable opinion of the Agent, has or is reasonably likely to have, a Material Adverse Effect and, within 14 days of notice from the Agent to do so, such action as the Agent may require to ensure that such event or circumstance will not have such an effect has not been taken by the Borrowers.

30.22 Breach of Ministerial Decision

If the Hellenic Republic is the Flag State of a Mortgaged Ship, the relevant Owner commits any breach of or varies the Ministerial Decision (as defined in the relevant Mortgage) with respect to that Mortgaged Ship or cancels or varies such Ministerial Decision except with approval.

30.23 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrowers:

- (a) cancel the Total Commitments at which time they shall immediately be cancelled; and/or
- (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; and/or
- (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 Agent on the instructions of the Majority Lenders; and/or
- (d) declare that no withdrawals be made from any Account; and/or
- (e) exercise or direct the Security Agent and/or any other beneficiary of the Security Documents to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

31 Position of Hedging Provider

31.1 Rights of Hedging Provider

The Hedging Provider is a Finance Party and as such, will be entitled to share in the security constituted by the Security Documents in respect of any liabilities of the Borrowers under the Hedging Contracts with the Hedging Provider in the manner and to the extent contemplated by the Finance Documents.

31.2 No voting rights

The Hedging Provider shall not be entitled to vote on any matter where a decision of the Lenders alone is required under this Agreement, whether before or after the termination or close out of the Hedging Contracts with the Hedging Provider, provided that the Hedging Provider shall be entitled to vote on any matter where a decision of all the Finance Parties is expressly required.

31.3 Acceleration and enforcement of security

Neither the Agent nor the Security Agent or any other beneficiary of the Security Documents shall be obliged, in connection with any action taken or proposed to be taken under or pursuant to clause 30 (*Events of Default*) or pursuant to the other Finance Documents, to have any regard to the requirements of the Hedging Provider except to the extent that the Hedging Provider is also a Lender.

31.4 Close out of Hedging Contracts

31.4.1 The Parties agree that at any time on and after any Event of Default the Agent (acting on the instructions of the Majority Lenders) shall be entitled, by notice in writing to a Hedging Provider, to instruct such Hedging Provider to terminate and close out any Hedging Transactions (or part thereof) with the Hedging Provider. The Hedging Provider will terminate and close out the relevant Hedging Transactions (or parts thereof) and/or the relevant Hedging Contracts in accordance with such notice immediately upon receipt of such notice.

31.4.2 The Hedging Provider shall not be entitled to terminate or close out any Hedging Contract or any Hedging Transaction under it prior to its stated maturity except:

- (a) in accordance with a notice served by the Agent under clause 31.4.1; or
- (b) if the Borrowers have not paid amounts due under the Hedging Contract and such amounts remain unpaid for a period of 30 days after the due date for payment and the Agent (acting on the instructions of the Majority Lenders) consents to such termination or close out; or
- (c) if the Agent takes any action under clause 30.23(*Acceleration*); or
- (d) if the Loan and other amounts outstanding under the Finance Documents (other than amounts outstanding under the Hedging Contracts) have been repaid by the Borrowers in full.

31.4.3 If there is a net amount payable to any Borrower under a Hedging Transaction or a Hedging Contract upon its termination and close out, the Hedging Provider shall forthwith pay that net amount (together with interest earned on such amount) to the Security Agent for application in accordance with clause 34.24(*Order of application*).

SECTION 9 - CHANGES TO PARTIES

32 Changes to the Lenders

32.1 Assignments and transfers by the Lenders

Subject to this clause 32, a Lender (the **Existing Lender**) may assign any of its rights to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the **New Lender**).

32.2 Conditions of assignment or transfer

32.2.1 The consent of the Borrowers is required for an assignment or transfer by an Existing Lender, unless the assignment or transfer is:

- (a) to another Lender or an Affiliate of a Lender; or
- (b) made at a time when an Event of Default is continuing.

32.2.2 The consent of the Borrowers to an assignment or transfer must not be unreasonably withheld or delayed. The Borrowers will be deemed to have given their consent 5 days after the Existing Lender or the Agent has requested it unless consent is expressly refused by the Borrowers within that time.

32.2.3 The consent of the Agent shall also be required for an assignment by a Lender (such consent not to be unreasonably withheld or delayed).

32.2.4 An assignment will only be effective:

- (a) on receipt by the Agent of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the Borrowers and the other Finance Parties as it would have been under if it was an Original Lender;
- (b) on the New Lender entering into any documentation required for it to accede as a party to any Security Document to which the Original Lender is a party in its capacity as a Lender and, in relation to such Security Documents, completing any filing, registration or notice requirements;
- (c) if an assignment takes effect after there has been a Utilisation, the assignment of an Existing Lender's participation in each Utilisation under the Facility shall take effect in respect of the same fraction of each such Utilisation;
- (d) if the aggregate amount of the Commitment and participation in the Loan which are the subject of the assignment is more than \$10,000,000 (or such other amount as the Agent and the Borrowers may agree);
- (e) on the New Lender having submitted to the Agent all necessary "know your customer" information and documentation and the performance by the Agent of all "know your customer" or other checks under all applicable laws and regulations relating to any person that it is required to carry out in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender; and
- (f) if that Existing Lender assigns equal fractions of its Commitment and participation in the Loan and each Utilisation (if any) under the Facility.

32.2.5 Each New Lender, by executing the relevant Transfer Certificate, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with the Finance Documents on or prior to the date on which the assignment and/or transfer becomes effective in accordance with the Finance Documents and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

32.3 Fee and expenses

32.3.1 The New Lender shall, on the date upon which an assignment takes effect, pay to the Agent (for its own account) a fee of \$3,500 and shall, promptly on demand, pay the Agent and the Security Agent the amount of:

- (a) all costs and expenses (including legal fees) reasonably incurred by the Agent or the Security Agent in connection with any such assignment; and
- (b) any cost, loss or liability the Agent or the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any such assignment.

32.4 Costs and expenses relating to security

32.4.1 The New Lender shall, promptly on demand, pay to the Agent and the Security Agent the amount of:

- (a) all costs and expenses (including legal fees) reasonably incurred by the Agent or the Security Agent to facilitate the accession by the New Lender to, or assignment or transfer to the New Lender of, any Finance Document and/or the benefit of any Finance Document and any appropriate registration of any such accession or assignment or transfer; and
- (b) any cost, loss or liability the Agent or the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any such accession, assignment or transfer.

32.5 Limitation of responsibility of Existing Lenders

32.5.1 Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

- (a) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
- (b) the financial condition of any Obligor;
- (c) the performance and observance by any Obligor or any other person of its obligations under the Finance Documents or any other documents;
- (d) the application of any BaselIII Regulation or any Basel III Regulation to the transactions contemplated by the Finance Documents; or
- (e) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document, and any representations or warranties implied by law are excluded.

32.5.2 Each New Lender confirms to the Existing Lender and the other Finance Parties that it:

- (a) has made (and shall continue to make) its own independent investigation and assessment of:

- (i) the financial condition and affairs of the Obligors and their related entities in connection with its participation in this Agreement; and
- (ii) the application of any Basel II Regulation or any Basel III Regulation to the transactions contemplated by the Finance Documents; and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Finance Document;
- (b) will continue to make its own independent appraisal of the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents; and
- (c) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

32.5.3 Nothing in any Finance Document obliges an Existing Lender to:

- (a) accept a re-assignment from a New Lender of any of the rights assigned under this clause 32; or
- (b) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or by reason of the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents or otherwise.

32.6 Procedure for transfer

32.6.1 Subject to the conditions set out in clause 32.2(*Conditions of assignment*) an assignment may be effected in accordance with clause 32.6.4 below when (a) the Agent executes an otherwise duly completed Transfer Certificate and (b) the Agent executes any document required under clause 32.2.3 which it may be necessary for it to execute in each case delivered to it by the Existing Lender and the New Lender duly executed by them and, in the case of any such other document, any other relevant person. The Agent shall, as soon as reasonably practicable after receipt by it of a Transfer Certificate and any such other document each duly completed, appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate and such other document.

32.6.2 The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

32.6.3 For the avoidance of doubt, the Obligors and the other Finance Parties irrevocably authorise the Agent to execute any Transfer Certificate on their behalf without any consultations with them.

32.6.4 Subject to clause 32.9(*Pro rata interest settlement*), on the Transfer Date:

32.6.5 the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents expressed to be the subject of the assignment in the Transfer Certificate;

32.6.6 the Existing Lender will be released by each Obligor and the other Finance Parties from the obligations owed by it (the **Relevant Obligations**) and expressed to be the subject of the release in the Transfer Certificate (but the obligations owed by the Obligors under the Finance Documents shall not be released); and

32.6.7 the New Lender shall become a Party to the Finance Documents as a "Lender" for the purposes of all the Finance Documents and will be bound by obligations equivalent to the Relevant Obligations.

32.6.8 Lenders may utilise procedures other than those set out in this clause 32.6(*Procedure for transfer*) to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with clause 32.6 (*Procedure for transfer*) to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders or the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in clause 32.2 (*Conditions of assignment*).

32.7 Copy of Transfer Certificate to Borrowers

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate and any other document required under clause 32.2.3, send a copy of that Transfer Certificate and such documents to the Borrowers.

32.8 Security over Lenders' rights

In addition to the other rights provided to Lenders under this clause 32.8, each Lender may without consulting with or obtaining consent from an Obligor, at any time charge, assign or otherwise create a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities, except that no such charge, assignment or Security Interest shall:
 - (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
 - (ii) require any payments to be made by an Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

32.9 Pro rata interest settlement

If the Agent has notified the Lenders that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders then (in respect of any assignment pursuant to clause 32.6 (*Procedure for transfer*) 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):

32.9.1 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

32.9.2 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 32.9, have been payable to it on that date, but after deduction of the Accrued Amounts.

33 Changes to the Obligors/Restriction on Debt Purchase Transactions

33.1 Changes to the Obligors

Except with the prior written consent of all the Lenders, no Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

33.2 Prohibition on Debt Purchase Transactions by the Group

33.2.1 The Obligors shall not, and the Guarantor shall procure that each Group Member shall not, enter into any Debt Purchase Transaction or be a Lender or beneficially own all or any part of the share capital of a company that is a Lender or a party to a Debt Purchase Transaction of the type referred to in paragraphs (b) or (c) of the definition of Debt Purchase Transaction.

Disenfranchisement on Debt Purchase Transactions entered into by Guarantor Affiliates

33.2.2 For so long as a Guarantor 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:

- (a) in ascertaining the Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments 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
- (b) for the purposes of clause 43.2(*Exceptions*), such Guarantor 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 (unless, in the case of a person not being a Guarantor Affiliate, it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).

33.2.3 Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Guarantor Affiliate (a **Notifiable Debt Purchase Transaction**), such notification to be substantially in the form set out in Part 1 of Schedule 8 (*Forms of Notifiable Debt Purchase Transaction Notice*).

33.2.4 A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party:

- (a) is terminated; or
- (b) ceases to be with a Guarantor Affiliate, such notification to be substantially in the form set out in Part 2 of Schedule 8(*Forms of Notifiable Debt Purchase Transaction Notice*).

33.2.5 Each Guarantor Affiliate that is a Lender agrees that:

- (a) 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 Agent or, unless the Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and
- (b) in its capacity as Lender, unless the 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 Agent or one or more of the Lenders.

SECTION 10 - THE FINANCE PARTIES

34 Roles of Agent, Security Agent and Arranger

34.1 Appointment of the Agent

34.1.1 Each other Finance Party (other than the Security Agent) appoints the Agent to act as its agent under and in connection with the Finance Documents.

34.1.2 Each such other Finance Party (other than the Security Agent) authorises the Agent:

- (a) to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions; and
- (b) to execute each of the Security Documents and all other documents that may be approved by the Majority Lenders for execution by it.

34.2 Instructions to Agent

34.2.1 The Agent shall:

- (a) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
 - (i) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
 - (ii) in all other cases, the Majority Lenders; and
- (b) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (a) above.

34.2.2 The 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 Agent may refrain from acting unless and until it receives those instructions or that clarification.

34.2.3 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 Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.

34.2.4 The 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.

34.2.5 In the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.

34.2.6 The Agent is not authorised to act on behalf of a Lender or the Hedging Provider (without first obtaining that Lender's or the Hedging Provider's consent) in any legal or arbitration proceedings relating to any Finance Document. This clause 34.2.6 shall not apply to any legal

or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Security Documents.

34.3 Duties of the Agent

34.3.1 The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

34.3.2 The Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.

34.3.3 Without prejudice to clause 32.7(*Copy of Transfer Certificate to Borrowers*), clause 34.3.2 shall not apply to any Transfer Certificate.

34.3.4 Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

34.3.5 If the 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.

34.3.6 If the Agent is aware of the non-payment of any principal, interest, commitment commission or other fee payable to a Finance Party (other than the Agent or an Arranger or the Security Agent for their own account) under this Agreement it shall promptly notify the other Finance Parties.

34.3.7 The 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).

34.4 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document or the transactions contemplated by the Finance Documents.

34.5 No fiduciary duties

34.5.1 Nothing in this Agreement constitutes the Agent or the Arranger as a trustee or fiduciary of any other person.

34.5.2 None of the Agent, the Security Agent or the Arranger shall be bound to account to any Lender or the Hedging Provider for any sum or the profit element of any sum received by it for its own account or have any obligations to the other Finance Parties beyond those expressly stated in the Finance Documents.

34.6 Business with the Group

The Agent, the Security Agent or the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Obligor or other Group Member of their Affiliates and shall not be obliged to account to the other Finance Parties for any profits.

34.7 Rights and discretions of the Agent

34.7.1 The Agent may:

- (a) rely on any representation, communication, notice or document (including, without limitation, any notice given by a Lender pursuant to clauses 33.2.3 and 33.2.4(*Disenfranchisement on Debt Purchase Transactions entered into by Guarantor Affiliates*)) believed by it to be genuine, correct and appropriately authorised;

- (b) assume that:
 - (i) 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
 - (ii) unless it has received notice of revocation, that those instructions have not been revoked; and
- (c) rely on a certificate from any person:
 - (i) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (ii) 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 (i) above, may assume the truth and accuracy of that certificate.

34.7.2 The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the other Finance Parties) that:

- (a) no Default has occurred (unless it has actual knowledge of a Default arising under clause 30.1(*Non-payment*));
- (b) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised;
- (c) any notice or request made by a Borrower (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors; and
- (d) no Notifiable Debt Purchase Transaction:
 - (i) has been entered into;
 - (ii) has been terminated; or
 - (iii) has ceased to be with a Guarantor Affiliate.

34.7.3 The Agent may engage, and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts in the conduct of its obligations and responsibilities under the Finance Documents.

34.7.4 Without prejudice to the generality of clause 34.7.3 or clause 34.7.5, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be desirable.

34.7.5 The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by 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.

34.7.6 The Agent may act in relation to the Finance Documents through its officers, employees and agents and the Agent shall not:

- (a) be liable for any error of judgment made by any such person; or

- (b) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part, of any such person, unless such error or such loss was directly caused by the Agent's gross negligence or wilful default.

34.7.7 Unless a Finance Document expressly provides otherwise, the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

34.7.8 Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent, nor the Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality. The Agent and the Arranger may do anything which in its opinion, is necessary or desirable to comply with any law or regulation of any jurisdiction.

34.7.9 Without prejudice to the generality of clause 34.7.7, the Agent may disclose the identity of a Defaulting Lender to the other Finance Parties and the Borrowers and shall disclose the same upon the written request of the Majority Lenders.

34.7.10 Notwithstanding any provision of any Finance Document to the contrary, the 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.

34.7.11 Neither the Agent nor the Arranger shall be obliged to request any certificate, opinion or other information under clause 19(*Information undertakings*) unless so required in writing by a Lender or the Hedging Provider, in which case the Agent shall promptly make the appropriate request of the Borrowers if such request would be in accordance with the terms of this Agreement.

34.8 Responsibility for documentation and other matters

Neither the Agent nor the Arranger is responsible or liable for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Obligor or any other person given 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 or of any representations in any Finance Document or of any copy of any document delivered under any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, or any Charter Document or any Contract or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document, any Charter Document or any Contract;
- (c) the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents;
- (d) any loss to the Trust Property arising in consequence of the failure, depreciation or loss of any Charged Property or any investments made or retained in good faith or by reason of any other matter or thing;
- (e) accounting to any person for any sum or the profit element of any sum received by it for its own account;

- (f) the failure of any Obligor or any other party to perform its obligations under any Finance Document, any Charter Document or any Contract or the financial condition of any such person;
- (g) ascertaining whether all deeds and documents which should have been deposited with it (or the Security Agent and/or any other beneficiary of a Security Document) under or pursuant to any of the Security Documents have been so deposited;
- (h) investigating or making any enquiry into the title of any Obligor to any of the Charged Property or any of its other property or assets;
- (i) failing to register any of the Security Documents with the Registrar of Companies or any other public office;
- (j) failing to register any of the Security Documents in accordance with the provisions of the documents of title of any Obligor to any of the Charged Property;
- (k) failing to take or require any Obligor to take any steps to render any of the Security Documents effective as regards property or assets outside England or Wales or to secure the creation of any ancillary charge under the laws of the jurisdiction concerned;
- (l) (unless it is the same entity as the Security Agent) the failure of the Security Agent and/or any other beneficiary of a Security Document failing to perform or discharge any of its duties or obligations under the Security Documents;
- (m) 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 any applicable law or regulation relating to insider dealing or otherwise;
- (n) making any investigation in respect of or in any way be liable whatsoever for the existence, accuracy or sufficiency of any legal or other opinions, reports, certificates or investigations delivered or obtained or required to be delivered or obtained at any time in connection herewith;
- (o) any unsuitability, inadequacy or unfitness of any Charged Property as security for the Loan and shall not be obliged to make any investigation into, and shall be entitled to assume, the suitability, adequacy and fitness of the Charged Property as security for the Loan; or
- (p) any damage to or any unauthorised dealing with the Charged Property nor shall it have any responsibility or liability arising from the fact that the Charged Property, or documents relating thereto, may be registered in its name or held by it or any other bank or agent selected by the Agent or the Security Agent.

34.9 No duty to monitor

The 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.

34.10 Exclusion of liability

34.10.1 Without limiting clause 34.10.2 (and without prejudice to any other provision of the Finance Documents excluding or limiting the liability of the Agent) the Agent will not be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:

- (a) 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 Charged Property, unless directly caused by its gross negligence or wilful default. For the avoidance of doubt and notwithstanding anything contained in the Finance Documents, the Agent shall not in any event be liable for any indirect or consequential loss (including, without limitation, loss of profit, business or goodwill) regardless of whether it was informed of the likelihood of such loss and irrespective of whether any such claim is made for breach of contract, in tort or otherwise;
- (b) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Charged Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Charged Property, unless directly caused by the gross negligence or wilful default of the Agent and in the course of the exercise or non-exercise by it of any right, power, authority or discretion given to it expressly under a Finance Document; or
- (c) without prejudice to the generality of paragraphs (a) and (b) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
- (d) any act, event or circumstance not reasonably within its control; or
- (e) 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 Payment 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.

34.10.2 No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the 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 Agent may rely on this clause 34.10 subject to clause 1.3(*Third party rights*) and the provisions of the Third Parties Act.

34.10.3 The 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 Agent if the 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 Agent for that purpose.

34.10.4 Nothing in this Agreement shall oblige the Agent or the Arranger to carry out:

- (a) any "know your customer" or other checks in relation to any person; or
- (b) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender or the Hedging Provider and each Lender and the Hedging Provider confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

34.10.5 Without prejudice to any provision of any Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any Finance Document or the Charged Property shall be limited to the amount of actual loss which has been finally

judicially determined to have been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the 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 Agent has been advised of the possibility of such loss or damages.

34.11 Lenders' indemnity to the Agent

34.11.1 Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against:

- (a) any Losses for negligence or any other category of liability whatsoever incurred by the Agent in the circumstances contemplated pursuant to clause 37.11(*Disruption to payment systems etc.*) notwithstanding the Agent's negligence, gross negligence, or any other category of liability whatsoever but not including any claim based on the fraud of the Agent); and
- (b) any other Losses (otherwise than by reason of the Agent's gross negligence or wilful default) including the costs of any person engaged in accordance with clause 34.7(*Rights and discretions of the Agent*) and any Receiver in acting as its agent under the Finance Documents,

in each case incurred by the Agent in acting as such under the Finance Documents (unless the Agent has *been* reimbursed by an Obligor pursuant to a Finance Document or out of the Trust Property) and this clause 34.11 as applied in favour of the Security Agent pursuant to clause 34.22 (*Application of certain clauses to Security Agent*) shall be without prejudice to any right to indemnity by law given to trustees generally and any other indemnity in the Security Agent's favour in any other Finance Document.

The indemnities contained in this clause 34.11 shall survive the termination or discharge of this Agreement.

34.11.2 Subject to clause 34.11.3, the Borrowers shall immediately on demand reimburse any Lender for any payment that Lender makes to the Agent pursuant to clause 34.11.1.

34.11.3 Clause 34.11.2 shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent to an Obligor.

34.12 Resignation of the Agent

34.12.1 The Agent may resign without giving any reason therefor and appoint one of its Affiliates as successor by giving notice to the Lenders, the Hedging Provider, the Security Agent and the Borrowers.

34.12.2 Alternatively the Agent may resign without giving any reason therefor by giving 30 days notice to the other Finance Parties and the Borrowers, in which case the Majority Lenders (after consultation with the Borrowers) may appoint a successor Agent.

34.12.3 If the Majority Lenders have not appointed a successor Agent in accordance with clause

34.12.2 above within 20 days after notice of resignation was given, the retiring Agent (after consultation with the Borrowers) may appoint a successor Agent.

34.12.4 If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under clause 34.12.3, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this clause 34 and any

other term of this Agreement dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to any agency fees payable under this Agreement which are consistent with the successor Agent's normal fee rates and those amendments will (subject to approval by the Majority Lenders, which approval shall not be unreasonably withheld or delayed) bind the Parties.

34.12.5 The retiring Agent shall, either at the Lenders' expense if it has been required to resign pursuant to clause 34.13(*Replacement of the Agent*) or otherwise at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents. The Borrowers shall, within three Business Days of demand, reimburse the retiring 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,

34.12.6 The Agent's resignation notice shall only take effect upon the appointment of a successor but where the Agent has indicated that it wishes to resign but no successor has been appointed it shall not, unless it otherwise agrees, be obliged to carry out any further agency function under this Agreement.

34.12.7 The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under clause 34.12.5) but shall remain entitled to the benefit of clause 14.4(*Indemnity to the Agent and the Security Agent*) and this clause 34 (and any agency fees for the account of the retiring 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.

34.12.8 Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent or the Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any Sanctions, law or regulation or a breach of a fiduciary duty or duty of confidentiality.

34.13 Replacement of the Agent

34.13.1 After consultation with the Borrowers, the Majority Lenders may, by giving 30 days' notice to the Agent replace the Agent by appointing a successor Agent.

34.13.2 The retiring Agent shall make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

34.13.3 The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under clause 34.13.2) but shall remain entitled to the benefit of clause 14.4(*Indemnity to the Agent and the Security Agent*) and this clause 34 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).

34.13.4 Any successor 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.

34.14 Confidentiality

34.14.1 In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its department, division or team directly responsible for the management of the Finance Documents which shall be treated as a separate entity from any other of its divisions, departments or teams.

34.14.2 If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

34.14.3 Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent, nor the Arranger is obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty.

34.15 Relationship with the Lenders and the Hedging Provider

34.15.1 Subject to clause 32.9(*Pro rata interest settlement*) the Agent may treat the person shown in its records as Lender or as the Hedging Provider at the opening of business (in the place of its principal office as notified to the Finance Parties from time to time) as the Lender or (as the case may be) the Hedging Provider acting through its Facility Office:

- (a) entitled to or liable for any payment due under any Finance Document on that day; and
- (b) 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 or (as the case may be) the Hedging Provider to the contrary in accordance with the terms of this Agreement.

34.15.2 Any Lender or the Hedging Provider may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender or (as the case may be) the Hedging Provider under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under clause 39.5(*Electronic communication*)) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender or (as the case may be) the Hedging Provider for the purposes of clause 39.2 (*Addresses*) and clause 39.5 (*Electronic communication*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender or (as the case may be) the Hedging Provider.

34.15.3 Each Lender and the Hedging Provider shall supply the Agent with any information that the Agent may reasonably specify as being necessary or desirable to enable the Agent or the Security Agent to perform its functions as Agent or Security Agent. Each Lender and the Hedging Provider shall deal with the Security Agent exclusively through the Agent and shall not deal directly with the Security Agent.

34.16 Credit appraisal by the Lenders and the Hedging Provider

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender and the Hedging Provider confirms to each other Finance Party 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 Obligor and other Group Member;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, any Charter Document or any Contract and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document, any Charter Document or any Contract;

- (c) the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents;
- (d) whether any Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the 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;
- (e) the adequacy, accuracy and/or completeness of any information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, any Charter Document or any Contract, 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, any Charter Document or any Contract; and
- (f) the right of title of any person to, or the value or sufficiency of, any part of the Charged Property, the priority of the Security Documents or the existence of any Security Interest affecting the Charged Property.

34.17 Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Agent shall (in consultation with the Borrowers) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

34.18 Agent's management time and additional remuneration

Any amount payable to the Agent under clause 14.4 (*Indemnity to the Agent and the Security Agent*), clause 16 (*Costs and expenses*) and clause 34.11 (*Lenders' indemnity to the Agent*) (and in the case of the Security Agent, as extended to it by virtue of clause 34.22 (*Application of certain clauses to Security Agent*)) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrowers and the Lenders, and is in addition to any fee paid or payable to the Agent under clause 11 (*Fees*).

34.19 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

34.20 Common parties

Although the Agent and the Security Agent may from time to time be the same entity, that entity will have entered into the Finance Documents (to which it is party) in its separate capacities as agent for the Finance Parties and (as appropriate) security agent and trustee for the Finance Parties. Where any Finance Document provides for the Agent or Security Agent to communicate with or provide instructions to the other, while they are the same entity, such communication or instructions will not be necessary.

34.21 Security Agent

34.21.1 Each other Finance Party appoints the Security Agent to act as its agent and (to the extent permitted under any applicable law) trustee under and in connection with the Security Documents and confirms that the Security Agent shall have a lien on the Security Documents and the proceeds of the enforcement of those Security Documents for all monies payable to the beneficiaries of those Security Documents.

34.21.2 Each other Finance Party authorises the Security Agent:

- (a) to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions; and
- (b) to execute each of the Security Documents and all other documents that may be approved by the Agent and/or the Majority Lenders for execution by it.

34.21.3 The Security Agent accepts its appointment under clause 34.21(*Security Agent*) as trustee of the Trust Property with effect from the date of this Agreement and declares that it holds the Trust Property on trust for itself, the other Finance Parties (for so long as they are Finance Parties) on and subject to the terms set out in clauses 34.21 (*Security Agent*) - 34.28 (*Indemnity from Trust Property*) (inclusive) and the Security Documents to which it is a party.

34.22 Application of certain clauses to Security Agent

34.22.1 Clauses 34.7(*Rights and discretions of the Agent*), 34.8 (*Responsibility for documentation and other matters*), clause 34.9 (*No duty to monitor*), 34.10 (*Exclusion of liability*), clause 34.11 (*Lenders' indemnity to the Agent*), 34.12 (*Resignation of the Agent*), clause 34.13 (*Replacement of the Agent*), 34.14 (*Confidentiality*), 34.15 (*Relationship with the Lenders and the Hedging Provider*), 34.16 (*Credit appraisal by the Lenders and the Hedging Provider*), 34.18 (*Agent's management time and additional remuneration*) and 34.19 (*Deduction from amounts payable by the Agent*) shall each extend so as to apply to the Security Agent in its capacity as such and for that purpose each reference to the "Agent" in these clauses shall extend to include in addition a reference to the "Security Agent" in its capacity as such and, in clause 34.7 (*Rights and discretions of the Agent*), references to the Lenders and a group of Lenders shall refer to the Agent.

34.22.2 In addition, clause 34.12(*Resignation of the Agent*) and clause 34.13 (*Replacement of the Agent*) shall, for the purposes of their application to the Security Agent pursuant to clause 34.22.1, have the following additional sub-clause inserted after them:

At any time after the appointment of a successor, the retiring Security Agent shall do and execute all acts, deeds and documents reasonably required by its successor to transfer to it (or its nominee, as it may direct) any property, assets and rights previously vested in the retiring Security Agent pursuant to the Security Documents and which shall not have vested in its successor by operation of law. All such acts, deeds and documents shall be done or, as the case may be, executed at the cost of the retiring Security Agent (except where the Security Agent is retiring under clause 34.12.5 as extended to it by clause 34.22.1, in which case such costs shall be borne by the Lenders (in proportion (if no part of the Loan is then outstanding) to their share of the Total Commitments or (at any other time) to their participations in the Loan)).

34.22.3 Clause 34.7(*Rights and discretions of the Agent*) shall, for the purposes of its application to the Security Agent pursuant to clause 34.22.1 shall read as follows:

"The Security Agent may, at the cost of the Borrowers, 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), whether or not liability thereunder is limited by reference to monetary cap or otherwise, 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."

34.22.4 Clause 34.10(*Exclusion of liability*) shall, for the purposes of its application to the Security Agent pursuant to clause 34.22.1 shall include the following after sub clause 34.10.1(b):

"(c) any shortfall which arises on the enforcement or realisation of the Transaction Security."

34.22.5 Clause 34.14(*Confidentiality*) shall, for the purposes of its application to the Security Agent pursuant to clause 34.22.1, be read and construed as to refer to "its agency and trust

department" instead of "its department, division or team directly responsible for the management of the Finance Documents".

34.22.6 Without prejudice to the generality of any other provision of this Agreement or any other Security Document, the entry into possession of the Charged Property shall not render the Security Agent or any Receiver liable to account as mortgagee in possession thereunder (or its equivalent in any other applicable jurisdiction) or take any action which would expose it to any liability in respect of Environmental Claims in respect of which it has not been indemnified and/or secured and/or pre-funded to its satisfaction or to be liable for any loss on realisation or for any default or omission on realisation or for any default or omission for which a mortgagee in possession might be liable unless such loss, default or omission is caused by its own gross negligence or wilful default.

34.22.7 The Security Agent shall not be bound to take any steps to ascertain whether any event, condition or act, the happening of which would cause a right or remedy to become exercisable by the Security Agent or any agent under this Agreement or the other Security Documents has happened or to monitor or supervise the observance and performance by the Borrowers, any agent or any of the other parties thereto of their respective obligations thereunder and, until it shall have actual knowledge or express notice to the contrary, the Security Agent shall be entitled to assume that no such event, condition or act has happened and that the Borrowers, the agents and the other parties thereto are observing and performing all their respective obligations thereunder.

34.23 Instructions to Security Agent

34.23.1 The Security Agent shall:

- (a) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent in accordance with any instructions given to it by the Agent; and
- (b) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (a) above even though it may subsequently be found that there was a defect on the giving of such instruction.

34.23.2 The Security Agent shall be entitled to (but not obliged to) request instructions, or clarification of any instruction, from the Agent 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.

34.23.3 Unless a contrary indication appears in a Finance Document, any instructions given to the Security Agent by the Agent shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.

34.23.4 The Security Agent may refrain from acting in accordance with any instructions of the Agent until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any associated VAT or other applicable tax) which it may incur in complying with those instructions.

34.23.5 For the avoidance of doubt, no provision of this Agreement shall require the Security Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity and/or security and/or prefunding against such risk or liability is not assured to it.

34.23.6 In the absence of instructions, the Security Agent may act (or refrain from acting) as it considers to be in the best interest of the Finance Parties.

34.23.7 The Security Agent is not authorised to act on behalf of a Lender or the Hedging Provider (without first obtaining that Lender's or the Hedging Provider's consent) in any legal or arbitration proceedings relating to any Finance Document. This clause 34.23.7 shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Security Documents.

34.23.8 The Security Agent shall have no responsibility whatsoever to the Borrowers, the Agent, or any Finance Party as regards any deficiency which might arise because the Security Agent is subject to any Tax in respect of all or any of the Charged Property, the income therefrom or the proceeds thereof.

34.23.9 Until the delivery of an enforcement notice pursuant to clause 30.23(*Acceleration*), the moneys standing to the credit of any accounts comprised in the Security Documents shall be dealt with in accordance with the provisions of this Agreement and the Security Documents and the Security Agent shall not be responsible in such circumstances or at any other time for any liabilities (howsoever described) suffered by any person, whether by reason of depreciation in value or by fluctuation in exchange rates or otherwise.

34.24 Order of application

34.24.1 The Security Agent agrees to apply the Trust Property and each other beneficiary of the Security Documents agrees to apply all moneys received by it in the exercise of its rights under the Security Documents, in accordance with the following respective claims:

- (a) **first**, as to a sum equivalent to the amounts payable to the Security Agent under the Finance Documents (excluding any amounts received by the Security Agent pursuant to clause 34.11 (*Lenders' indemnity to the Agent*)) as extended to the Security Agent pursuant to clause 34.22 (*Application of certain clauses to Security Agent*)), for the Security Agent absolutely;
- (b) **secondly**, as to a sum equivalent to the amounts payable to the Agent under the Finance Documents (excluding any amounts received by the Agent pursuant to clause 34.11 (*Lenders' indemnity to the Agent*)), for the Agent absolutely;
- (c) **thirdly**, as to a sum equivalent to the aggregate amount then due and owing to the other Finance Parties (including the Hedging Provider) under the Finance Documents (including Hedging Contracts), for those Finance Parties absolutely for application between them in accordance with clause 37.5 (*Partial payments*);
- (d) **fourthly**, until such time as the Security Agent is satisfied that all obligations owed to the Finance Parties (including the Hedging Provider) have been irrevocably and unconditionally discharged in full, held by the Security Agent on a suspense account for payment of any further amounts owing to those Finance Parties (including the Hedging Provider) under the Finance Documents (including any Hedging Contracts), and further application in accordance with this clause 34.24.1 as and when any such amounts later fall due;
- (e) **fifthly**, to such other persons (if any) as are legally entitled thereto in priority to the Obligors; and
- (f) **sixthly**, as to the balance (if any), for the Obligors by or from whom or from whose assets the relevant amounts were paid, received or recovered or other person entitled to them.

34.24.2 The Security Agent and each other beneficiary of the Security Documents shall make each application as soon as is practicable after the relevant moneys are received by, or otherwise become available to, it save that (without prejudice to any other provision contained in any of the Security Documents) the Security Agent (acting on the instructions of the Agent), any other beneficiary of the Security Documents or any receiver or administrator may credit any moneys received by it to a suspense account for so long and in such manner as the Security Agent, such other beneficiary of the Security Documents or such receiver or administrator may from

time to time determine with a view to preserving the rights of the Finance Parties or any of them to prove for the whole of their respective claims against the Borrowers or any other person liable.

34.24.3 The Security Agent and/or any other beneficiary of the Security Documents shall obtain a good discharge in respect of the amounts expressed to be due to the other Finance Parties as referred to in this clause 34.24 by paying such amounts to the Agent for distribution in accordance with clause 37(*Payment mechanics*).

34.25 Powers and duties of the Security Agent as trustee of the security

In its capacity as trustee in relation to the Trust Property, the Security Agent:

- (a) shall, without prejudice to any of the powers, discretions and immunities conferred upon trustees by law (and to the extent not inconsistent with the provisions of this Agreement or any of the Security Documents), have all the same powers and discretions as a natural person acting as the beneficial owner of such property and/or as are conferred upon the Security Agent by this Agreement and/or any Security Document but so that the Security Agent may only exercise such powers and discretions to the extent that it is authorised to do so by the provisions of this Agreement;
- (b) shall (subject to clause 34.24(*Order of application*)) be entitled (in its own name or in the names of nominees) to invest moneys from time to time forming part of the Trust Property or otherwise held by it as a consequence of any enforcement of the security constituted by any Finance Document which, in the reasonable opinion of the Security Agent, it would not be practicable to distribute immediately, by placing the same on deposit in the name or under the control of the Security Agent as the Security Agent may think fit without being under any duty to diversify the same and the Security Agent shall not be responsible for any loss due to interest rate or exchange rate fluctuations except for any loss arising from the Security Agent's gross negligence or wilful default and shall not be liable to account for an amount of interest greater than the standard amount that would be payable to an independent customer;
- (c) may, in the conduct of its obligations under and in respect of the Security Documents instead of acting personally, employ and pay any agent (whether being a lawyer or any other person) to transact or concur in transacting any business and to do or concur in doing any acts required to be done by the Security Agent (including the receipt and payment of money) or may delegate to any person on any terms (including the power to sub-delegate) and on the basis that (i) any such agent or delegate engaged in any profession or business shall be entitled to be paid all usual professional and other charges for business transacted and acts done by him or any partner or employee of his or her in connection with such employment and (ii) the Security Agent shall not be bound to supervise, or be responsible for any loss incurred by reason of any act or omission of, any such agent or delegate if the Security Agent shall have exercised reasonable care in the selection of such agent;
- (d) may place all deeds and other documents relating to the Trust Property which are from time to time deposited with it pursuant to the Security Documents in any safe deposit, safe or receptacle selected by the Security Agent or with any firm of solicitors or company whose business includes undertaking the safe custody of documents selected by the Security Agent and may make any such arrangements as it thinks fit for allowing Obligors access to, or its solicitors or auditors possession of, such documents when necessary or convenient and the Security Agent shall not be responsible for any loss incurred in connection with any such deposit, access or possession if it has exercised reasonable care in the selection of a safe deposit, safe, receptacle or firm of solicitors or company;
- (e) may, unless and to the extent the express provisions of any Security Document provide otherwise, do any act or thing in the exercise of any of its duties under the Finance Documents which in its absolute discretion (in the absence of any instructions of the

Agent as to the doing of such act or thing) it deems advisable for the protection and benefit of all the Finance Parties;

- (f) may, unless the express provisions of any such Security Document provide otherwise, if authorised by the Agent of, amend or vary the terms of or waive breaches of or defaults under, or otherwise excuse performance of any provision of, or grant consents under any of the Security Documents to which it is a party, any such amendment, variation, waiver or consent so authorised to be binding on all the parties hereto and that Security Agent to be under no liability whatsoever in respect thereof;
- (g) shall not be bound to disclose to any other person (including but not limited to any other Finance Party) (i) any confidential information or (ii) any other information, if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (h) shall have no responsibility to make any payment, deduction or withholding of any Tax or governmental charge as a result of the Security Agent (i) holding the Transaction Security or (ii) enforcing the Transaction Security;
- (i) shall not have, or be deemed to have, any relationship of trust or agency with any Obligor; and
- (j) 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) and the role and functions of the Security Agent under this Agreement shall be purely mechanical and administrative in nature and, subject to the terms of this Agreement, acting on the instructions of the Agent.

34.25.2 The rights, powers and discretions conferred upon the Security Agent by this Agreement 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 general law or otherwise. 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 allowed by law, 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.

34.26 All enforcement action through the Security Agent

34.26.1 None of the other Finance Parties shall have any independent power to enforce any of those Security Documents which are executed in favour of the Security Agent only, or to exercise any rights, discretions or powers or to grant any consents or releases under or pursuant to such Security Documents or otherwise have direct recourse to the security and/or guarantees constituted by such Security Documents except through the Security Agent.

34.26.2 None of the other Finance Parties shall have any independent power to enforce any of those Security Documents which are executed in their favour or to exercise any rights, discretions or powers or to grant any consents or releases under or pursuant to such Security Documents or otherwise have direct recourse to the security and/or guarantees constituted by such Security Documents except with the prior written consent of the Agent (acting through the Security Agent and on the instructions of the Majority Lenders). If any Finance Party (other than the Security Agent) is a party to any Security Document it shall promptly upon being requested by the Agent to do so grant a power of attorney or other sufficient authority to the Security Agent to enable the Security Agent to exercise any rights, discretions or powers or to grant any consents or releases under such Security Document.

34.27 Co-operation to achieve agreed priorities of application

The other Finance Parties shall co-operate with each other and with the Security Agent and any receiver or administrator under the Security Documents in realising the property and assets subject to the Security Documents and in ensuring that the net proceeds realised under the Security Documents after deduction of the expenses of realisation are applied in accordance with clause 34.24 (*Order of application*).

34.28 Indemnity from Trust Property

34.28.1 In respect of all liabilities, costs or expenses for which the Obligors are liable under this Agreement, the Security Agent and each Affiliate of the Security Agent and each officer or employee of the Security Agent or its Affiliate (each a **Relevant Person**) shall be entitled to be indemnified out of the Trust Property in respect of all liabilities, damages, costs, claims, charges or expenses whatsoever properly incurred or suffered by such Relevant Person:

- (a) in the execution or exercise or bona fide purported execution or exercise of the trusts, rights, powers, authorities, discretions and duties created or conferred by or pursuant to the Finance Documents;
- (b) as a result of any breach by an Obligor of any of its obligations under any Finance Document;
- (c) in respect of any Environmental Claim made or asserted against a Relevant Person which would not have arisen if the Finance Documents had not been executed; and
- (d) in respect of any matter or thing done or omitted in any way in accordance with the terms of the Finance Documents relating to the Trust Property or the provisions of any of the Finance Documents.

34.28.2 The rights conferred by this clause 34.28 are without prejudice to any right to indemnity by law given to trustees generally and to any provision of the Finance Documents entitling the Security Agent or any other person to an indemnity in respect of, and/or reimbursement of, any liabilities, costs or expenses incurred or suffered by it in connection with any of the Finance Documents or the performance of any duties under any of the Finance Documents. Nothing contained in this clause 34.28 shall entitle the Security Agent or any other person to be indemnified in respect of any liabilities, damages, costs, claims, charges or expenses to the extent that the same arise from such person's own gross negligence or wilful misconduct.

34.29 Finance Parties to provide information

The other Finance Parties shall provide the Security Agent with such written information as it may reasonably require for the purposes of carrying out its duties and obligations under the Security Documents and, in particular, with such necessary directions in writing so as to enable the Security Agent to make the calculations and applications contemplated by clause 34.24 (*Order of application*) above and to apply amounts received under, and the proceeds of realisation of, the Security Documents as contemplated by the Security Documents, clause 37.5 (*Partial payments*) and clause 34.24 (*Order of application*).

34.30 No Reliance on Security Agent

It is understood and agreed by each Finance Party (other than the Security Agent) that it has itself been, and will continue to be, solely responsible for making its own independent appraisal of and investigations into the financial condition, creditworthiness, condition, affairs, status and nature of each Obligor and, accordingly, each other Finance Party warrants to the Security Agent that it has not relied and will not hereafter rely on the Security Agent:

- (a) to check or enquire on its behalf into the adequacy, accuracy or completeness of any information provided to it by the Obligors or any other person in connection with any of the Finance Documents, the Charged Property or the transactions therein contemplated

(whether or not such information has been or is hereafter circulated to such Finance Party *by* the Security Agent);

- (b) to check or enquire on its behalf into the adequacy, accuracy or completeness of any communication delivered to it under any of the Finance Documents, the Charged Property, any legal or other opinions, reports, valuations, certificates, appraisals or other documents delivered or made or required to be delivered or made at any time in connection with any of the Finance Documents, the Charged Property, any security to be constituted thereby or any other report or other document, statement or information circulated, delivered or made, whether orally or otherwise and whether before, on or after the date of this Agreement;
- (c) to check or enquire on its behalf into the due execution, delivery, validity, legality, adequacy, suitability, performance, enforceability or admissibility in evidence of any of the Finance Documents, the Charged Property or any other document referred to in paragraph (b) above or of any guarantee, indemnity or security given or created thereby or any obligations imposed thereby or assumed thereunder;
- (d) to check or enquire on its behalf into the ownership, value, existence or sufficiency of any Charged Property, the priority of any of the Security Interests, the right or title of any person in or to any property comprised therein or the existence of any encumbrance affecting the same; or
- (e) to assess or keep under review on its behalf the identity, financial condition, creditworthiness, condition, affairs, status or nature of any Obligor or other Group Member.

34.31 Release to facilitate enforcement and realisation

Each Finance Party acknowledges that pursuant to any enforcement action by the Security Agent (or a Receiver) carried out on the instructions of the Agent it may be desirable for the purpose of such enforcement and/or maximising the realisation of the Charged Property being enforced against, that any rights or claims of or by the Security Agent (for the benefit of the Finance Parties) and/or any Finance Parties against any Obligor and/or any Security Interest over any assets of any Obligor (in each case) as contained in or created by any Finance Document, other than such rights or claims or security being enforced, be released in order to facilitate such enforcement action and/or realisation and, notwithstanding any other provision of the Finance Documents, each Finance Party hereby irrevocably authorises the Security Agent (acting on the instructions of the Agent or the Majority Lenders or all the Lenders (as the case may be), as required under the Finance Documents) to grant any such releases to the extent necessary to fully effect such enforcement action and realisation including, without limitation, to the extent necessary for such purposes to execute release documents in the name of and on behalf of the Finance Parties. Where the relevant enforcement is by way of disposal of shares in a Borrower, the requisite release shall include releases of all claims (including under guarantees) of the Finance Parties and/or the Security Agent against that Borrower and of all Security Interests over the assets of that Borrower.

34.32 Undertaking to pay

Each Obligor which is a Party undertakes with the Security Agent on behalf of the Finance Parties that it will, on demand by the Security Agent, pay to the Security Agent all money from time to time owing, and discharge all other obligations from time to time incurred, by it under or in connection with the Finance Documents.

34.33 Additional trustees

The Security Agent shall have power by notice in writing to the other Finance Parties and the Borrowers to appoint any person approved by the Borrowers (such approval not to be unreasonably withheld or delayed) either to act as separate trustee or as co-trustee jointly with the Security Agent:

- (a) if the Security Agent reasonably considers such appointment to be in the best interests of the Finance Parties;
- (b) for the purpose of conforming with any legal requirement, restriction or condition in any jurisdiction in which any particular act is to be performed; or
- (c) for the purpose of obtaining a judgment in any jurisdiction or the enforcement in any jurisdiction against any person of a judgment already obtained,

and any person so appointed shall (subject to the provisions of this Agreement) have such rights (including as to reasonable remuneration), powers, duties and obligations as shall be conferred or imposed by the instrument of appointment. The Security Agent shall have power to remove any person so appointed. At the request of the Security Agent, the other parties to this Agreement shall forthwith execute all such documents and do all such things as may be required to perfect such appointment or removal and each such party irrevocably authorises the Security Agent in its name and on its behalf to do the same. Such a person shall accede to this Agreement as a Security Agent to the extent necessary to carry out their role on terms satisfactory to the Security Agent and (subject always to the provisions of this Agreement) have such trusts, powers, authorities, liabilities and discretions (not exceeding those conferred on the Security Agent by this Agreement and the other Finance Documents) and such duties and obligations as shall be conferred or imposed by the instrument of appointment (being no less onerous than would have applied to the Security Agent but for the appointment). The Security Agent shall not be bound to supervise, or be responsible for any loss incurred by reason of any act or omission of, any such person if the Security Agent shall have exercised reasonable care in the selection of such person.

34.34 Non-recognition of trust

It is agreed by all the parties to this Agreement that:

- (a) in relation to any jurisdiction the courts of which would not recognise or give effect to the trusts expressed to be constituted by this clause 34, the relationship of the Security Agent and the other Finance Parties shall be construed as one of principal and agent, but to the extent permissible under the laws of such jurisdiction, all the other provisions of this Agreement shall have full force and effect between the parties to this Agreement; and
- (b) the provisions of this clause 34 insofar as they relate to the Security Agent in its capacity as trustee for the Finance Parties and the relationship between themselves and the Security Agent as their trustee may be amended by agreement between the other Finance Parties and the Security Agent. The Security Agent may amend all documents necessary to effect the alteration of the relationship between the Security Agent and the other Finance Parties and each such other party irrevocably authorises the Security Agent in its name and on its behalf to execute all documents necessary to effect such amendments.

34.35 Security Agent's Ongoing Fees

34.35.1 The Borrowers shall pay to the Agent and the Security Agent certain fees in accordance with clause 11 (*Fees*).

34.35.2 If:

- (a) a Default has occurred; or
- (b) the Security Agent considers it expedient and/or necessary or is requested by the Borrowers or any Finance Party or group of Finance Parties to undertake duties which the Security Agent considers to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Finance Documents (which for the avoidance of doubt shall include any amendments to the Finance Documents and the time incurred in relation thereto),

the Borrowers shall pay to the Security Agent any additional remuneration (together with any applicable taxes thereon) which shall be calculated by reference to its hourly rates in force from time to time.

34.36 Insurance by Security Agent

Where the Security Agent is named on any insurance policy (including the Insurances) as an insured party and/or loss payee, the Security Agent shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Agent shall have requested it to do so in writing and the Security Agent shall have failed to do so within 14 days after receipt of that request. The Security Agent shall have no obligation to, nor any liability for any failure to, insure any of the Charged Property.

34.37 Custodians and nominees

The Security Agent may (to the extent legally permitted) appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets 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.

34.38 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 of the Obligor has 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.

34.39 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any applicable jurisdiction and the Security Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

34.40 Interest on Demand

If the Borrowers fail to pay any amount payable by them to the Security Agent under this Agreement 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 such sum) at the rate which is two per cent. (2%) per annum over the rate at which the Security Agent was being offered, by prime banks in the London interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for such period(s) as the Security Agent may from time to time select.

34.41 Release of Security

If the Agent, with the approval of all the other Finance Parties, shall determine that all of the amounts owing under the Finance Documents and all other obligations the discharge of which is secured by any of the Security Documents have been fully and finally discharged and none of the Finance Parties is under any commitment, obligation or liability (whether actual or contingent) to make advances or provide other financial accommodation to the Borrowers under or pursuant to this Agreement or any other Finance Document, the trusts herein set out shall be wound up and the Security Agent shall, at the request and cost of the Borrowers and acting on the instructions of the Agent, release, without recourse or warranty, all of the security then held by it, whereupon the Security Agent, the Agent, the Hedging Provider, the Lenders and the

Obligors shall be released from their obligations hereunder (save for those which arose prior to such winding up).

35 Conduct of business by the Finance Parties

35.1 Finance Parties tax affairs

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.

35.2 Finance Parties acting together

Notwithstanding clause 2.2 (*Finance Parties' rights and obligations*), if the Agent makes a declaration under clause 30.23 (*Acceleration*) the Agent shall, in the names of all the Finance Parties, take such action on behalf of the Finance Parties and conduct such negotiations with the Borrowers and any other Group Members and generally administer the Facility in accordance with the wishes of the Majority Lenders. All the Finance Parties shall be bound by the provisions of this clause and no Finance Party shall be entitled to take action independently against any Obligor or any of its assets without the prior consent of the Majority Lenders.

This clause shall not override clause 34 (*Roles of Agent, Security Agent and Arranger*) as it applies to the Security Agent.

35.3 Majority Lenders

35.3.1 Where any Finance Document provides for any matter to be determined by reference to the opinion of, or to be subject to the consent, approval or request of, the Majority Lenders or for any action to be taken on the instructions of the Majority Lenders (**majority decision**), such majority decision shall (as between the Lenders) only be regarded as having been validly given or issued by the Majority Lenders if all the Lenders shall have received prior notice of the matter on which such majority decision is required and the relevant majority of Lenders shall have given or issued such majority decision. However (as between any Obligor and the Finance Parties) the relevant Obligor shall be entitled (and bound) to assume that such notice shall have been duly received by each Lender and that the relevant majority shall have been obtained to constitute Majority Lenders when notified to this effect by the Agent whether or not this is the case.

35.3.2 If, within ten Business Days of the Agent despatching to each Lender a notice requesting instructions (or confirmation of instructions) from the Lenders or the agreement of the Lenders to any amendment, modification, waiver, variation or excuse of performance for the purposes of, or in relation to, any of the Finance Documents, the Agent has not received a reply specifically giving or confirming or refusing to give or confirm the relevant instructions or, as the case may be, approving or refusing to approve the proposed amendment, modification, waiver, variation or excuse of performance, then (irrespective of whether such Lender responds at a later date) the Agent shall treat any Lender which has not so responded as having indicated a desire to be bound by the wishes of 66.67 per cent. of those Lenders (measured in terms of the Total Commitments of those Lenders) which have so responded.

35.3.3 For the purposes of clause 35.3.2, any Lender which notifies the Agent of a wish or intention to abstain on any particular issue shall be treated as if it had not responded.

35.3.4 Clauses 35.3.2 and 35.3.3 shall not apply in relation to those matters referred to in, or the subject of, clause 43.2(*Exceptions*).

35.4 Conflicts

35.4.1 Each Borrower acknowledges that the Arranger and its parent undertaking, subsidiary undertakings and fellow subsidiary undertakings (together an **Arranger Group**) may be providing debt finance, equity capital or other services (including financial advisory services) to other persons with which the Borrowers may have conflicting interests in respect of the Facility or otherwise.

35.4.2 No member of an Arranger Group shall use confidential information gained from any Obligor by virtue of the Facility or its relationships with any Obligor in connection with their performance of services for other persons. This shall not, however, affect any obligations that any member of an Arranger Group has as Agent in respect of the Finance Documents. The Borrowers also acknowledge that no member of an Arranger Group has any obligation to use or furnish to any Obligor information obtained from other persons for their benefit.

35.4.3 The terms **parent undertaking**, **subsidiary undertaking** and **fellow subsidiary undertaking** when used in this clause have the meaning given to them in sections 1161 and 1162 of the Companies Act 2006.

36 Sharing among the Finance Parties

36.1 Payments to Finance Parties

If a Finance Party (a **Recovering Finance Party**) receives or recovers any amount from an Obligor other than in accordance with clause 37 (*Payment mechanics*) (a **Recovered Amount**) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with clause 37(*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the **Sharing Payment**) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with clause 37.5 (*Partial payments*).

36.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the **Sharing Finance Parties**) in accordance with clause 37.5 (*Partial payments*) towards the obligations of that Obligor to the Sharing Finance Parties.

36.3 Recovering Finance Party's rights

On a distribution by the Agent under clause 36.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

36.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the **Redistributed Amount**); and
- (b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

36.5 Exceptions

36.5.1 This clause 36 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this clause, have a valid and enforceable claim against the relevant Obligor.

36.5.2 A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings in accordance with the terms of this Agreement, if:

- (a) it notified that other Finance Party of the legal or arbitration proceedings; and
- (b) the taking legal or arbitration proceedings was in accordance with the terms of this Agreement; and

that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 11 - ADMINISTRATION

37 Payment mechanics

37.1 Payments to the Agent

37.1.1 On each date on which an Obligor or a Lender is required to make a payment under a Finance Document (other than a Hedging Contract), that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

37.1.2 Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London as specified by the Agent) with such bank as the Agent, in each case specifies.

37.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to clause 37.3 (*Distributions to an Obligor*) and clause 37.4 (*Clawback*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London as specified by that Party).

37.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with clause 38 (*Set-off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

37.4 Clawback

37.4.1 Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

37.4.2 If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

37.5 Partial payments

37.5.1 If the Agent receives a payment for application against amounts due under the Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under those Finance Documents in the following order:

- (a) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses (ignoring any fees payable under clause 11 (*Fees*)) of the Agent, the Security Agent or the Arranger under those Finance Documents;

- (b) **secondly**, in or towards payment to the Lenders pro rata of any amount owing to the Lenders under clause 34.11 (*Lenders' indemnity to the Agent*) including any amount resulting from the indemnity to the Security Agent under clause 34.22 (*Application of certain clauses to Security Agent*); and
- (c) **thirdly**, in or towards payment of any principal, accrued interest, fee, commission or any other sums due but unpaid under the Finance Documents (including the Hedging Contracts), to the Hedging Provider and the Lenders (and pro rata as between them).

37.5.2 The Agent shall, if so directed by all the Lenders and the Hedging Provider, vary the order set out in paragraphs (b) to (c) of clause 37.5.1.

37.5.3 Clauses 37.5.1 and 37.5.2 above will override any appropriation made by an Obligor.

37.6 No set-off by Obligors

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

37.7 Business Days

37.7.1 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

37.7.2 During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

37.8 Payments on demand

For the purposes of clause 30.1 (*Non-payment*) and subject to the Agent's right to demand interest under clause 8.3 (*Default interest*), payments on demand shall be treated as paid when due if paid within three Business Days of demand.

37.9 Currency of account

37.9.1 Subject to clauses 37.9.2 to 37.9.3, dollars is the currency of account and payment for any sum due from an Obligor under any Finance Document.

37.9.2 A repayment of all or part of the Loan or an Unpaid Sum and each payment of interest shall be made in dollars on its due date.

37.9.3 Each payment in respect of the amount of any costs, expenses or Taxes or other losses shall be made in dollars and, if they were incurred in a currency other than dollars, the amount payable under the Finance Documents shall be the equivalent in dollars of the relevant amount in such other currency on the date on which it was incurred.

37.9.4 All moneys received or held by the Security Agent or by a Receiver under a Security Document in a currency other than dollars may be sold for dollars and the Obligor which executed that Security Document shall indemnify the Security Agent against the full cost in relation to the sale. Neither the Security Agent nor such Receiver will have any liability to that Obligor in respect of any loss resulting from any fluctuation in exchange rates after the sale.

37.10 Change of currency

37.10.1 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

- (a) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrowers); and
- (b) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).

37.10.2 If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrowers) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

37.11 Disruption to Payment Systems etc.

If either the Agent determines (in its discretion) that a Payment Disruption Event has occurred or the Agent is notified by the Borrowers that a Payment Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Borrowers, consult with the Borrowers with a view to agreeing with the Borrowers such changes to the operation or administration of the Facility as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Borrowers in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the 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 Agent and the Borrowers shall (whether or not it is finally determined that a Payment 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 43(*Amendments and grant of waivers*);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this clause 37.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

38 Set-off

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. For the purpose of this clause the term "Finance Party" includes each of the relevant Finance Party's holding companies and subsidiaries and each subsidiary of the relevant Finance Party's holding companies (as defined in the Companies Act 2006).

39 Notices

39.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

39.2 Addresses

The address, and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Obligor or Finance Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of any Obligor which is a Party, that identified with its name in Schedule 1 (*The original parties*);
- (b) in the case of any Obligor which is not a Party, that identified in any Finance Document to which it is a party;
- (c) in the case of the Security Agent, the Agent and any other original Finance Party that identified with its name in Schedule 1 (*The original parties*); and
- (d) in the case of each Lender or other Finance Party, that notified in writing to the Agent on or prior to the date on which it becomes a Party in the relevant capacity,

or, in each case, any substitute address, fax number, or department or officer as an Obligor or Finance Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

39.3 Delivery

39.3.1 Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) 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 39.2 (*Addresses*), if addressed to that department or officer.

39.3.2 Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified in Schedule 1 (*The original parties*) (or any substitute department or officer as the Agent or the Security Agent shall specify for this purpose).

39.3.3 All notices from or to an Obligor shall be sent through the Agent.

39.3.4 Any communication or document made or delivered to the Borrowers in accordance with this clause will be deemed to have been made or delivered to each of the Obligors.

39.4 Notification of address and fax number

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to clause 39.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

39.5 Electronic communication

39.5.1 Any communication *to be* made between the Agent and a Lender, the Hedging Provider or an Obligor under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including by way of the Agent's Intralinks or Debt domain system or other electronic website designated by the Agent), if the Agent and the relevant Lender, the Hedging Provider or an Obligor:

- (a) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
- (b) 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
- (c) notify each other of any change to their address or any other such information supplied by them.

39.5.2 Any electronic communication made between the Agent and a Lender or the Hedging Provider or an Obligor will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender or the Hedging Provider or an Obligor to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.

39.5.3 All Lenders, the Hedging Provider and the Obligors confirm that they have consented to the use of the Agent's Intralinks or Debt domain systems as an accepted method of communication under or in connection with the Finance Documents and agree that the Intralinks or Debt domain system will be the primary method of communication between the Agent, the Lenders, the Hedging Provider or the Obligors. The Lenders, the Hedging Provider and the Obligors acknowledge that a communication via Intralinks or Debt domain will be effective once the communication is posted to Intralinks or Debt domain by the Agent.

39.6 English language

39.6.1 Any notice given under or in connection with any Finance Document shall be in English.

39.6.2 All other documents provided under or in connection with any Finance Document shall be:

- (a) in English; or
- (b) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

40 Calculations and certificates

40.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

40.2 Certificates and determinations

Any certification or determination by the Agent of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

40.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Interbank Market differs, in accordance with that market practice.

41 Partial invalidity

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

42 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Finance Documents are cumulative and not exclusive of any rights or remedies provided by law.

43 Amendments and grant of waivers

43.1 Required consents

43.1.1 Subject to clauses 43.2(*Exceptions*) and 43.3 (*All Lenders matters*), any term of the Finance Documents may be amended or waived with the consent of the Agent (acting on the instructions of the Majority Lenders and, if it affects the rights and obligations of the Security Agent or the Agent, the consent of the Agent or the Security Agent) and any such amendment or waiver agreed or given by the Agent will be binding on the other Finance Parties.

43.1.2 The Agent may (or, in the case of the Security Documents, instruct the Security Agent to) effect, on behalf of any Finance Party, any amendment or waiver permitted by this clause.

43.1.3 Each Obligor agrees to any such amendment or waiver permitted by this clause 43 which is agreed to by the Borrowers. This includes any amendment or waiver which would, but for this clause 43.1.3, require the consent of the Guarantor.

43.2 Exceptions

43.2.1 No amendment or waiver may be made before the date falling ten Business Days after the terms of that amendment or waiver have been notified by the Agent to the Lenders. The Agent shall notify the Lenders reasonably promptly of any amendments or waivers proposed by the Borrowers.

43.2.2 Without prejudice to the generality of sub-clauses 34.7.3, 34.7.4 and 34.7.5 of clause 34.7(*Rights and discretions of Agent*), the Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.

43.2.3 Amendments to or waivers in respect of a Hedging Contract may only be agreed by the Hedging Provider.

43.2.4 An amendment or waiver which relates to the rights or obligations of the Agent, the Security Agent or the Arranger in their respective capacities as such (and not just as a Lender) may not be effected without the consent of the Agent, Security Agent or the Arranger (as the case may be).

43.2.5 Notwithstanding clauses 43.1(*Required consents*), 43.2.3 and 43.2.4 and 43.3.1 (*An amendment, waiver or discharge or release or a consent of, or in relation to, the terms of any Finance Document that has the effect of changing or which relates to*) the Agent may make technical amendments to the Finance Documents arising out of manifest errors on the face of the Finance Documents, where such amendments would not prejudice or otherwise be adverse to the interests of any Finance Party without any reference or consent of the Finance Parties.

43.3 All Lenders matters

43.3.1 An amendment, waiver or discharge or release or a consent of, or in relation to, the terms of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of "Change of Control" in clause 1.1 (*Definitions*) or clause 7.2(*Change of control*);
- (b) the definition of "Majority Lenders" in clause 1.1(*Definitions*);
- (c) the definition of "Last Availability Date" in clause 1.1(*Definitions*);
- (d) an extension to the date of payment of any amount under the Finance Documents;
- (e) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable or the rate at which they are calculated;
- (f) an increase in, or an extension of, any Commitment or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders pro rata under a Facility;
- (g) a change to the Borrowers or any other Obligor;
- (h) any provision which expressly requires the consent or approval of all the Lenders;
- (i) clause 2.2(*Finance Parties' rights and obligations*), clause 32 (*Changes to the Lenders*), clause 36.1 (*Payments to Finance Parties*), clause 46 (*Governing law*), clause 47 (*Enforcement*) or this clause 43;
- (j) the order of distribution under clause 37.5(*Partial payments*);
- (k) the order of distribution under clause 34.24(*Order of application*);
- (l) the currency in which any amount is payable under any Finance Document;
- (m) the nature or scope of the Charged Property or the manner in which the proceeds of enforcement of the Security Documents are distributed;
- (n) the nature or scope of the guarantee and indemnity granted under clause 17(*Guarantee and Indemnity*); or
- (o) the circumstances in which the security constituted by the Security Documents are permitted or required to be released under any of the Finance Documents, shall not be made without the prior consent of all the Lenders.

43.4 Disenfranchisement of Defaulting Lenders

43.4.1 For so long as a Defaulting Lender has any Commitment, in ascertaining the Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitment has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents, that Defaulting Lender's Commitment will be reduced by the amount of its Commitment.

43.4.2 For the purposes of this clause 43.4, the Agent may assume that the following Lenders are Defaulting Lenders:

- (a) any Lender which has notified the Agent that it has become a Defaulting Lender; and
- (b) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of **Defaulting Lender** has occurred, unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

43.5 Replacement of a Defaulting Lender

43.5.1 The Borrowers may, at any time a Lender has become and continues to be a Defaulting Lender,

by giving 10 Business Days' prior written notice to the Agent and such Lender replace such Lender by requiring such Lender to (and, to the extent permitted by law such Lender shall) transfer pursuant to clause 32 (*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 Borrowers, and which is acceptable to the Agent (acting reasonably) and which confirms its willingness to assume and does assume all the obligations or all the relevant obligations of the transferring Lender (including the assumption of the transferring Lender's participations or unfunded participations (as the case may be) on the same basis as the transferring Lender) for a purchase price in cash payable at the time of transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents (or at any other purchase price approved by all of the other Lenders who are not Defaulting Lenders at the time).

43.5.2 Any transfer of rights and obligations of a Defaulting Lender pursuant to this clause shall be subject to the following conditions:

- (a) the Borrowers shall have no right to replace the Agent or the Security Agent;
- (b) neither the Agent nor the Defaulting Lender shall have any obligation to the Borrowers to find a Replacement Lender;
- (c) the transfer must take place no later than 20 Business Days after the notice referred to in clause 43.5.1 above; and
- (d) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents.

43.6 Releases

Except with the approval of all the Lenders or as is expressly permitted or required by the Finance Documents, the Agent shall not have authority to authorise the Security Agent to release:

- (a) any Charged Property from the security constituted by any Security Document; or
- (b) any Obligor from any of its guarantee or other obligations under any Finance Document.

44 Counterparts

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

45 Confidentiality

45.1 Confidential Information

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by clause 45.2 (*Disclosure of Confidential Information*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

45.2 Disclosure of Confidential Information

Any Finance Party may disclose (without the consent of the Obligors) to any of its Affiliates, employees (including service and settlement employees) or any of its employees, officers, directors, representatives or advisers, and to any other person:

- (a) in the case of a Lender, to (or through) whom that Lender assigns (or may potentially assign) all or any of its rights and obligations under the Finance Documents;
- (b) in the case of a Lender, to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to clause 32.8(*Security over Lenders' rights*);
- (c) in the case of a Lender, with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Finance Documents or any Obligor;
- (d) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation;
- (e) in order to preserve or enforce any rights any Finance Party may have under the Security Documents;
- (f) which is a rating agency (including its professional advisers) or such Finance Party's professional advisers (including auditors, lawyers, accountants, surveyors, valuers, insurers, insurance advisers and brokers); or
- (g) in the case of the Security Agent, in the course of the performance of its functions under the Finance Documents,

any information about any Obligor, the Group, the Facility and the Finance Documents as that Finance Party shall consider appropriate; and any Finance Party may disclose (with the consent of the Borrowers) to any other person not included in paragraphs (a) - (f) above, any information about any Obligor, the Group, the Facility and the Finance Documents as that Finance Party shall consider appropriate.

45.3 Disclosure to numbering service providers

45.3.1 Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facility and/or one or more Obligors the following information:

- (a) names of Obligors;
- (b) country of domicile of Obligors;
- (c) place of incorporation of Obligors;
- (d) date of this Agreement;

- (e) clause 46(*Governing law*);
- (f) the names of the Agent and the Arranger;
- (g) date of each amendment and restatement of this Agreement;
- (h) amount of Total Commitments;
- (i) currency of the Facility;
- (j) type of the Facility;
- (k) ranking of the Facility;
- (l) the term of the Facility;
- (m) changes to any of the information previously supplied pursuant to paragraphs (a) to (l) above; and
- (n) such other information agreed between such Finance Party and the Borrowers,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

45.3.2 The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

45.3.3 The Borrowers represent that none of the information set out in clauses 45.3.1(a) to 45.3.1(n) above is, nor will at any time be, unpublished price-sensitive information.

45.3.4 The Agent shall notify the Borrowers and the other Finance Parties of:

- (a) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facility and/or one or more Obligors; and
- (b) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or one or more Obligors by such numbering service provider.

45.4 Entire agreement

This clause 45 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

45.5 Inside information

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

45.6 Continuing obligations

The obligations in this clause 45 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

SECTION 12 - GOVERNING LAW AND ENFORCEMENT

46 Governing law

This Agreement and any non-contractual obligations connected with it are governed by English law.

47 Enforcement

47.1 Jurisdiction of English courts

47.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement or any non-contractual obligations connected with it (including a dispute regarding the existence, validity or termination of this Agreement) (a **Dispute**).

47.1.2 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.

47.1.3 This clause 47.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

47.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, each Obligor which is a Party:

- (a) irrevocably appoints the person named in Schedule 1 (*The original parties*) as that Obligor's English process agent as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document;
- (b) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned; and
- (c) if any person appointed as process agent for an Obligor is unable for any reason to act as agent for service of process, that Obligor must immediately (and in any event within ten days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Schedule 1
The original parties
Borrowers

Name:	Ujae Shipping Company Inc.
Jurisdiction of incorporation	Republic of the Marshall Islands
Registration number (or equivalent, if any)	66390
English process agent (if not incorporated in England)	Nicolaou & Co, 25 Heath Drive, Potters Bar, Herts, EN6 1EN, United Kingdom
Registered office	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Marshall Islands
Address for service of notices	c/o Diana Shipping Services S.A., Pendelis 16, 175 64 Palaio Faliro, Athens, Greece
Shareholder	Diana Shipping Inc.

Name:	Rairok Shipping Company Inc.
Jurisdiction of incorporation	Republic of the Marshall Islands
Registration number (or equivalent, if any)	66389
English process agent (if not incorporated in England)	Nicolaou & Co, 25 Heath Drive, Potters Bar, Herts, EN6 1EN, United Kingdom
Registered office	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Marshall Islands
Address for service of notices	c/o Diana Shipping Services S.A., Pendelis 16, 175 64 Palaio Faliro, Athens, Greece
Shareholder	Diana Shipping Inc.

Guarantor

Name:	Diana Shipping Inc.
Jurisdiction of incorporation	Republic of the Marshall Islands
Registration number (or equivalent, if any)	13671
English process agent (if not incorporated in England)	Nicolaou & Co, 25 Heath Drive, Potters Bar, Herts, EN6 1EN, United Kingdom
Registered office	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Marshall Islands
Address for service of notices	do Diana Shipping Services S.A., Pendelis 16, 175 64 Palaio Faliro, Athens, Greece

The Original Lenders

Name	ING Bank N.V., London Branch
Commitment \$	39,682,500
Total \$	39,682,500

The Agent

Name	ING Bank N.V., London Branch
Facility Office, address, fax number and attention details for notices and account details for payments	<p>Address: 60 London Wall London EC2M 5TQ England</p> <p>Email: Rory.Hussey@uk.ing.com / Olga.Terentieva@uk.ing.com</p> <p>Attention: Rory Hussey / Olga Terentieva</p>

The Security Agent

Name	ING Bank N.V., London Branch
Facility Office, address, fax number and attention details for notices and account details for payments	<p>Address: 60 London Wall London EC2M 5TQ England</p> <p>Email: Rory.Hussey@uk.ing.com / Olga.Terentieva@uk.ing.com</p> <p>Attention: Rory Hussey / Olga Terentieva</p>

The Hedging Provider

Name	ING Bank N.V.
Facility Office, address, fax number and attention details for notices and account details for payments	<p>Foppingadreef 7 P.O. Box 1800 NL-1000 BV Amsterdam The Netherlands Att: Operations / Derivatives / TRC 00.13 Fax +31-20-501-3381 Tel: +31-20-563-8222 Email: Trade.Processing.Derivatives.AMS@INGBank.com (For all purposes, with the exception of Confirmations / notifications to specific branches) Foppingadreef 7 P.O. Box 1800 NL-1000 BV Amsterdam The Netherlands Att: Financial Markets / Operations / Forex / Money Markets / TRC 01.003 Fax +31-20-501-3161 Tel: +31-20-563-8241 Swift code: INGB NL 2A (For FX only)</p>
	<p>Foppingadreef 7 P.O. Box 1800 NL-1000 BV Amsterdam The Netherlands Att: Head of Legal Financial Markets (For notices/communications in relation to Sections 5, 6 and 7 of the ISDA)</p>

The Arranger

Name	ING Bank N.V., London Branch
Facility Office, address, fax number and attention details for notices and account details for payments	Address: 60 London Wall London EC2M 5TQ England Email: Rory.Hussey@uk.ing.com / Olga.Terentieva@uk.ing.com Attention: Rory Hussey / Olga Terentieva

Schedule 2
Ship information
Ship A

Hull No.:	1364
Name of Ship:	<i>New Orleans</i>
Owner:	Ujae Shipping Company Inc.
Builder:	China Shipbuilding Trading Company, Limited and Shanghai Waigaoqiao Shipbuilding Co., Ltd
IMO Number:	9743265
Date and description of Contract:	Shipbuilding Contract made between the Builder and SBI dated 31 December 2013 as amended by addendum no.1 thereto dated 31 December 2013 and addendum no.2 dated 9 March 2015, as novated by a deed of novation dated 12 May 2015 made between the Builder, SBI and the relevant Owner
Contract Price:	\$56,468,840
Ship Commitment:	\$27,950,000
Flag State:	Republic of the Marshall Islands
Classification:	+A1 (E), Bulk Carrier, BC-A (holds 2,4,6 & 8 may be empty), CSR, AB-CM, +AMS, +ACCU, RW,TCM, CPS, PMA, ESP,UWILD, BWT, GRAB[25], GP
Classification Society:	American Bureau of Shipping
Major Casualty Amount:	\$1,000,000

Ship B

Name of Ship:	<i>Medusa (ex Torm Island)</i>
Owner:	Rairok Shipping Company Inc.
Seller:	Ambitious Lines S.A. of 20 Federico Boyd Ave. and 51 st Street, P.O. Box 4493, Panama 5, Republic of Panama
IMO Number:	9461130
Date and description of Contract:	Memorandum of agreement made between the Seller and the relevant Owner dated 27 April 2015 as amended by addendum no.1 dated 20 May 2015
Contract Price:	\$18,050,000
Ship Commitment:	\$11,732,500
Flag State:	Republic of the Marshall Islands
Classification:	NS* (CSR, Bulk Carrier-Type A, BC-XII, GRAB 20)(ESP)(IWS) (PSCM) MNS* Descriptive Notes: (Strengthened for heavy cargo loading where hold nos. 2,4 & 6 may be empty)
Classification Society:	Nippon Kaiji Kyokai
Major Casualty Amount:	\$1,000,000

Schedule 3
Conditions precedent

Part 1

Conditions precedent to any Utilisation

- 1 Original Obligor's corporate documents
 - (a) A copy of the Constitutional Documents of each Original Obligor.
 - (b) A copy of a resolution of the board of directors of each Original Obligor (or any committee of such board empowered to approve and authorise the following matters):
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents, any Contract or any Charter(**Relevant Documents**) to which it is a party and resolving that it executes the Relevant Documents;
 - (ii) authorising a specified person or persons to execute the Relevant Documents 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, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Relevant 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 any committee referred to in paragraph (b) above and conferring authority on that committee.
 - (d) A certified copy of the passport of each person authorised by the resolution referred to in paragraph (b) above.
 - (e) A copy of a resolution signed by all the holders of the issued shares in each Original Obligor (except the Guarantor), approving the terms of, and the transactions contemplated by, the Relevant Documents to which such Obligor is a party.
 - (f) A certificate of the Guarantor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guaranteeing or similar limit binding on any Original Obligor to be exceeded.
 - (g) A copy of any power of attorney under which any person is to execute any of the Relevant Documents on behalf of any Original Obligor.
 - (h) A certificate of an authorised signatory of the relevant Original Obligor certifying that each copy document relating to it specified in this Part of this Schedule is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement and that any such resolutions or power of attorney have not been revoked.
 - (i) A goodstanding certificate from the Marshall Islands competent authority in respect of each Original Obligor not more than 30 days before the first Utilisation is made.
- 2 Legal opinions
 - (a) A legal opinion of Norton Rose Fulbright Greece, addressed to the Arranger, the Security Agent and the Agent on matters of English law, substantially in the form approved by the Agent.

- (b) A legal opinion of the legal advisers to the Arranger, the Security Agent and the Agent for each jurisdiction in which an Obligor is incorporated substantially in the form approved by the Agent.

3 Other documents and evidence

- (a) Evidence that any process agent referred to in clause 47.2(*Service of process*) or any equivalent provision of any other Finance Document entered into on or before the first Utilisation Date, if not an Original Obligor, has accepted its appointment.
- (b) A copy of any other authorisation or other document, opinion or assurance which the Agent (acting on the instructions of the Majority Lenders) considers to be necessary or desirable (if it has notified the Borrowers accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.
- (c) The Original Financial Statements.
- (d) Any Fee Letter duly executed and evidence that the fees, commissions, costs and expenses then due from the Borrowers pursuant to clause 11(*Fees*) and clause 16 (*Costs and expenses*) have been paid or will be paid by the first Utilisation Date.

4 Bank Accounts

Evidence that any Account required to be established under clause 26 (*Bank accounts*) have been opened and established, that any Account Security in respect of such Account has been executed and delivered by the relevant Account Holder(s) in favour of the Security Agent and/or any of the other Finance Parties and that any notice required to be given to an Account Bank under that Account Security has been given to it and acknowledged by it in the manner required by that Account Security and that an amount has been credited to it.

5 Contracts

A copy, certified by an approved person to be a true and complete copy, of the Contract for each Ship.

6 Hedging Master Agreement and Hedging Contract Security

Evidence that:

- (a) the Hedging Master Agreement has been executed by the Borrowers and the Hedging Provider;
- (b) the Borrowers have executed the Hedging Contract Security in favour of the Security Agent; and
- (c) if applicable, any notice required to be given to the Hedging Provider under the Hedging Contract Security has been given to it and acknowledged by it in the manner required by the Hedging Contract Security.

7 Share Security

The Share Security in respect of each Borrower duly executed by the relevant Shareholder together with all letters, transfers, certificates and other documents required to be delivered under each such Share Security.

8 "Know your customer" information

Such documentation and information as any Finance Party may reasonably request through the Agent or as the Security Agent may reasonably require (including specimen signatures) to

comply with "know your customer" or similar identification procedures under all laws and regulations applicable to that Finance Party.

Part 2
Conditions precedent on Delivery

1 Corporate documents

- (a) A certificate of an authorised signatory of the relevant Owner certifying that each copy document relating to it specified in Part 1 of this Schedule remains correct, complete and in full force and effect as at a date no earlier than a date approved for this purpose and that any resolutions or power of attorney referred to in Part 1 of this Schedule in relation to it have not been revoked or amended.
- (b) A certificate of an authorised signatory of each other Obligor which is party to any of the Original Security Documents required to be executed at or before Delivery of the relevant Ship certifying that each copy document relating to it specified in Part 1 of this Schedule remains correct, complete and in full force and effect as at a date no earlier than a date approved for this purpose and that any resolutions or power of attorney referred to in Part 1 of this Schedule in relation to it have not been revoked or amended.

2 Security

- (a) The Mortgage and Deed of Covenant or General Assignment, in respect of the relevant Ship.
- (b) If the relevant Ship is subject to a Charter on the relevant Utilisation Date, a copy of that Charter and any related Charter Documents and a Charter Assignment in respect of such Charter Documents for the relevant Ship.
- (c) Any Manager's Undertaking required pursuant to the Finance Documents duly executed by the relevant Manager of the relevant Ship.
- (d) Duly executed notices of assignment and acknowledgements of those notices as required by any of the above Security Documents or this Agreement, save for any acknowledgements required under any Charter Assignment.

3 Delivery and registration of Ship

Evidence that the relevant Ship:

- (a) is legally and beneficially owned by the relevant Owner and registered in the name of the relevant Owner free from any Security Interests (other than Security Interests created under the Finance Documents) through the relevant Registry as a ship under the laws and flag of the relevant Flag State;
- (b) is classed with the relevant Classification free of all requirements and overdue recommendations of the relevant Classification Society; and
- (c) is insured in the manner required by the Finance Documents.

4 Mortgage registration

Evidence that the Mortgage in respect of the relevant Ship has been registered with first priority against the relevant Ship through the relevant Registry under the laws and flag of the relevant Flag State.

5 Insurance

In relation to the relevant Ship's Insurances:

- (a) an opinion from insurance consultants appointed by the Agent on such Insurances;

- (b) evidence that such Insurances have been placed in accordance with clause 24(*Insurance*); and
- (c) evidence that approved brokers, insurers and/or associations have issued or will issue letters of undertaking in favour of the Security Agent in an approved form in relation to the **Insurances**.

6 ISM and ISPS Code

Copies of:

- (a) the document of compliance issued in accordance with the ISM Code to the person who is the operator of the relevant Ship for the purposes of that code;
- (b) the safety management certificate in respect of the relevant Ship issued in accordance with the ISM Code (or evidence that such certificate is to be issued shortly after Delivery of the relevant Ship);
- (c) the international ship security certificate in respect of the relevant Ship issued under the ISPS Code (or evidence that such certificate is to be issued shortly after Delivery of the relevant Ship);
- (d) if so requested by the Agent, any other certificates issued under any applicable code required to be observed by the relevant Ship or in relation to its operation under any applicable law.

7 Value of security

Valuations of the relevant Ship dated not more than 15 days before the relevant Utilisation Date of the Advance relevant to such Ship, each prepared by one (1) Approved Broker, made on the basis of, and in accordance with, clause 25 (*Minimum security value*), in each case made at the cost and expense of the Borrowers.

8 Fees and expenses

Evidence that the fees, commissions, costs and expenses that are due from the Borrowers pursuant to clause 11 (*Fees*) and clause 16 (*Costs and expenses*) have been paid or will be paid by the relevant Utilisation Date.

9 Environmental matters

Copies of the relevant Ship's certificate of financial responsibility and vessel response plan required under United States law and evidence of their approval by the appropriate United States government entity and (if requested by the Agent) an environmental report in respect of the relevant Ship from an approved person.

10 Management Agreement

Where a manager has been approved in accordance with clause 22.3 (*Manager*), a copy, certified by the legal counsel of the Borrowers or an approved person to be a true and complete copy, of the Management Agreement in respect of the relevant Ship, in form and substance satisfactory to the Majority Lenders in their absolute discretion.

11 Delivery

Evidence that the relevant Ship is ready to be delivered to, and accepted by, the relevant Owner under the relevant Contract in all respects.

12 Contract Price

Evidence that the full purchase price of the relevant Ship will have been paid upon the relevant Utilisation being made and that the relevant Seller will not have any lien or other right to detain the relevant Ship on its Delivery.

13 Delivery documents

Copies certified by the legal counsel of the Borrowers or another approved person, of the bill of sale evidencing the Contract Price of the relevant Ship, the protocol of delivery and acceptance of such Ship, commercial invoices of such Ship and any other delivery documents to be exchanged between the relevant Borrower and the relevant Seller under the relevant Contract on such Ship's Delivery, each duly executed and exchanged.

14 Equity

Any funds required to pay the remaining part of the balance of the Contract Price of the relevant Ship which is not being financed by the relevant Advance, have been deposited with the Agent at least one (1) day before the Utilisation Date.

15 Legal Opinions

A legal opinion of the legal advisers to the Arranger, the Security Agent and the Agent in England and also for each jurisdiction in which an Obligor is incorporated and/or which is or is to be the Flag State of the relevant Ship, substantially in the form approved by the Agent.

16 Process Agent

Evidence that any process agent referred to in clause 47.2 (*Service of process*) or any equivalent provision of any other Finance Document entered into on or before the relevant Utilisation Date, if not an Original Obligor, has accepted its appointment.

Schedule 4
Utilisation Request

From: **Ujae Shipping Company Inc.**

and

Rairok Shipping Company Inc.

To: **ING Bank N.V., London Branch** as Agent

Dated:

[•]

Dear Sirs

\$39,682,500 Facility Agreement dated [•] 2015 (the "Agreement")

- 1 We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2 We wish to borrow Advance [A] [B] on the following terms:
Proposed Utilisation Date: [•] (or, if that is not a Business Day, the next Business Day)
Amount: \$[•]
- 3 We confirm that each condition specified in clause 4.4(*Further conditions precedent*) (including in relation to no Default and accuracy of representations and warranties) is satisfied on the date of this Utilisation Request.
- 4 This Advance is part of the Ship Commitment for Ship [A] [B] and the purpose of this Advance is **[specify purpose complying with clause 3 of the Agreement]** and its proceeds should be credited to [•] **[specify account]**.
- 5 We request that the first Interest Period for the said Advance be [•] months.
- 6 This Utilisation Request is irrevocable.

Yours faithfully

authorised signatory for

UJAE SHIPPING COMPANY INC.

and

RAIROK SHIPPING COMPANY INC.

Schedule 5
Selection Notice

From: **Ujae Shipping Company Inc.**

and

Rairok Shipping Company Inc.

To: **ING Bank N.V., London Branch** as Agent

Dated:

[●]

Dear Sirs

\$39,682,500 Facility Agreement dated [●] 2015 (the "Agreement")

- 1 We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
- 2 We request that the next Interest Period for Advance [●] be [A] [B] months.
- 3 This Selection Notice is irrevocable.

Yours faithfully

authorised signatory for

UJAE SHIPPING COMPANY INC.

and

RAIROK SHIPPING COMPANY INC.

Schedule 6
Form of Transfer Certificate

To: [●], as Agent

From: [The Existing Lender] (the Existing Lender) and [The New Lender] (the New Lender)

Dated:

\$39,682,500 Facility Agreement dated [●] 2015 (the "Agreement")

- 1 We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
- 2 We refer to clause 32.6(*Procedure for transfer*):
 - (a) The Existing Lender and the New Lender agree to the Existing Lender assigning to the New Lender all or part of the Existing Lender's Commitment rights and assuming the Existing Lender's obligations referred to in the Schedule in accordance with clause 32.6(*Procedure for transfer*) and the Existing Lender assigns and agrees to assign such rights to the New Lender with effect from the Transfer Date]
 - (b) The proposed Transfer Date is [s].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 39.2(*Addresses*) are set out in the Schedule.
- 3 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in clause 32.5.3.
- 4 The New Lender confirms that it is [not] a Guarantor Affiliate.
- 5 This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
- 6 [*Consider including reference to accession to an intercreditor agreement, mortgage or other Finance Documents to which Lenders may need to be party and checklist of steps necessary for the New Lender to obtain the benefit of the Security Documents.*]
- 7 This Transfer Certificate and any non-contractual obligations connected with it are governed by English law.
- 8 This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

Note: The execution of this Transfer Certificate alone may not assign a proportionate share of the Existing Lender's interest in the Security Interests constituted by the Security Documents in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect an assignment of such a share in the Existing Lender's interest in the Security Interests constituted by the Security Documents in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

The Schedule

Commitment/rights to be assigned and obligations to be assumed

[insert relevant details]

Facility Office address, fax number

and attention details for notices and account details for payments

[insert relevant details]

[Existing Lender]

[New Lender]

By: By:

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed to be as stated above.

[Agent]

By:

Schedule 7
Form of Compliance Certificate

To: **ING Bank N.V., London Branch** as Agent
From: **Diana Shipping Inc.**
Dated:

[•]

Dear Sirs

\$39,682,500 Facility Agreement dated [•] 2015 (the "Agreement")

- 1 We refer to the Agreement. This is a Compliance Certificate. Terms defined in clause 20.1 (*Financial definitions*) of the Agreement and otherwise in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
- 2 I/We confirm that, as at the end of the Measurement Period ended on [•]:
 - (a) **Market Value Adjusted Net Worth:** the Market Value Adjusted Net Worth was \$[•], calculated [as shown in Appendix A] and compared against a minimum required amount of \$[•].
 - (b) **Minimum liquidity:** the Group's Cash and Cash Equivalents are \$[•] calculated [as shown in Appendix B] and compared against the minimum required amount of \$[•].
- 3 We confirm that the Security Value is \$[•] calculated [as shown in Appendix C], compared against a Minimum Value of \$[•].
- 4 [We confirm that no Default is continuing.][**If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.**]

Signed by:

DIANA SHIPPING INC.

Schedule 8
Forms of Notifiable Debt Purchase Transaction Notice

Form of Notice on Entering into Notifiable Debt Purchase Transaction

To: **ING Bank N.V., London Branch** as Agent

From: [The Lender]

Dated:

Dear Sirs

\$39,682,500 Facility Agreement dated [•] 2015 (the "Agreement")

- 1 We refer to clause 33.2.3(*Disenfranchisement on Debt Purchase Transactions entered into by Guarantor Affiliates*) of the Facility Agreement. Terms 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
-------------------	---

[•]	<i>[insert amount (of Commitment) to which the relevant Debt Purchase Transaction applies]</i>
-----	--

[Lender]

By:

**Form of Notice on Termination of Notifiable Debt Purchase Transaction / Notifiable Debt
Purchase Transaction ceasing to be with Guarantor Affiliate**

To: ING Bank N.V., London Branch as Agent

From: [The Lender]

Dated:

\$39,682,500 Facility Agreement dated [●] 2015 (the "Agreement")

- 1 We refer to clause 33.2.3 (Disenfranchisement on Debt Purchase Transactions entered into by Guarantor Affiliates) of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this notice unless given a different meaning in this notice.
- 2 A Notifiable Debt Purchase Transaction which we entered into and which we notified you of in a notice dated [●] has [terminated]/[ceased to be with a Guarantor Affiliate].
- 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 (Base Currency)
-------------------	---

[●]	<i>[insert amount (of Commitment) to which the relevant Debt Purchase Transaction applies]</i>
-----	--

[Lender]

By

SIGNATURES

BORROWER

UJAE SHIPPING COMPANY INC.

By Ioannis Zafirakis

/s/ Ioannis Zafirakis

RAIROK SHIPPING COMPANY INC.

By Anastasios Margaronis

/s/ Anastasios Margaronis

THE GUARANTOR

DIANA SHIPPING INC.

EXECUTED as a DEED

By Andreas Michalopoulos

/s/ Andreas Michalopoulos

in the presence of:

/s/ Emmanouil Chamilothis

Witness Name: Emmanouil Chamilothis

Address: Attorney

Occupation: Norton Rose Fullbright Greece

THE ARRANGER

ING BANK N.V., LONDON BRANCH

By Irini Proukaki
Solicitor
Norton Rose Fullbright Greece

/s/ Irini Proukaki

THE AGENT

ING BANK N.V., LONDON BRANCH

By Irini Proukaki
Solicitor
Norton Rose Fullbright Greece

/s/ Irini Proukaki

THE SECURITY AGENT

ING BANK N.V., LONDON BRANCH

By Irini Proukaki
Solicitor
Norton Rose Fullbright Greece

/s/ Irini Proukaki

THE ORIGINAL LENDERS

ING BANK N.V., LONDON BRANCH

By Irini Proukaki
Solicitor
Norton Rose Fullbright Greece

/s/ Irini Proukaki

THE HEDGING PROVIDER

ING BANK N.V.

By Irini Proukaki
Solicitor
Norton Rose Fullbright Greece

/s/ Irini Proukaki

US\$75,734,900 Secured Loan Agreement Hulls nos. H2548 & H2549 & DY6006

Dated 7 January 2016

**Aster shipping company Inc.
Aerik shipping company Inc.
Houk shipping company Inc.
(as Borrowers)**

- and -

**The Export-Import Bank of China
(as Lenders)**

- and -

**The Export-Import Bank of China
(as Arrangers)**

- and -

**The Export-Import Bank of China
(as Agent)**

- and -

**The Export-Import Bank of China
(as Security Agent)**

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Loan Agreement

Dated: 7 January 2016

Between:

- (1) **Aster Shipping Company Inc., Aerik Shipping Company Inc. and Houk Shipping Company Inc.**, each a company incorporated under the laws of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH96960, Marshall Islands (together the "**Borrowers**" and each a "**Borrower**") jointly and severally; and
- (2) the banks listed in Schedule 1, Part 1 (*The Lenders and the Commitments*), each acting as lender through its office at the address indicated against its name in Schedule 1, Part I (together the "**Lenders**" and each a "**Lender**"); and
- (3) the banks listed in Schedule 1, Part 2 (*The Arrangers*), each acting as arranger through its office at the address indicated against its name in Schedule 1, Part 2 (together the "**Arrangers**" and each an "**Arranger**"); and
- (4) **The Export-Import Bank Of China**, acting as agent through its office at No. 30, Fu Xing Men Nei Street, Xicheng District, Beijing 100031, The People's Republic of China (in that capacity the "**Agent**"); and
- (5) **The Export-Import Bank Of China**, acting as security agent through its office at No. 30, Fu Xing Men Nei Street, Xicheng District, Beijing 100031, The People's Republic of China (in that capacity the "**Security Agent**").

Whereas:

- (A) Each Borrower has agreed to purchase the relevant Vessel from the relevant Builder on the terms of the relevant Building Contract and intends to register that Vessel under an Approved Flag.
- (B) Each of the Lenders has agreed to advance to the Borrowers on a joint and several basis its Commitment (aggregating, with all the other Commitments up to the Maximum Loan Amount) in three (3) Tranches to assist the Borrowers to finance part of the acquisition cost of the Vessels.

It is agreed as follows:

1 Definitions and Interpretation

1.1 In this Agreement:

"**Account Holder**" means DNB Bank ASA acting through its branch at 8th Floor, The Walbrook Building, 25 Walbrook, London EC4N 8AF or any other bank or financial institution which at any time, with the Security Agent's prior written consent, holds the Earnings Account.

"**Administration**" has the meaning given to it in paragraph 1.1.3 of the ISM Code.

"**Annex VI**" means Annex VI (Regulations for the Prevention of Air Pollution from Ships) to the International Convention for the Prevention of Pollution from Ships 1973 (as modified in 1978 and 1997).

"**Approved Brokers**" means together, H. Clarkson and Company Ltd of London, England, Arrow Research Ltd. of London, England, Astrup Fearnley A/S of Oslo, Norway, R.S. Platou Shipbrokers of Oslo, Norway, Braemar Seascope of London, England, Galbraiths Limited of London, England, Simpson Spence & Young of London, England, Maersk Brokers K/S and E.A. Gibson Shipbrokers London and any other independent firm of shipbrokers nominated by the Borrowers and approved by the Agent and "**Approved Broker**" means any one of them.

"**Approved Flag**" means, in respect of each Vessel, the flag of the Marshall Islands.

"**Assignments**" means the first priority deeds of assignment from the Borrowers referred to in Clauses 10.1.2 and 10.1.7 (*Security Documents*).

"**Availability Termination Date**" means 12 March 2017 or such later date as all the Lenders may in their discretion agree.

"**Break Costs**" means all sums payable by the Borrowers from time to time under Clause 8.3 (*Break Costs*).

"**Builder**" means:

- (a) in respect of Vessel A and Vessel B, Jiangnan Shipyard (Group) Co., Ltd., a company incorporated under the laws of the People's Republic of China with its registered office at 988, Changxing Jiangnan Road, Changxing District, Chongming County, Shanghai 201913, the People's Republic of China; and
- (b) in respect of Vessel C, Yangzhou Dayang Shipbuilding Co., Ltd., a company incorporated under the laws of the People's Republic of China with its registered office at Lidian town, Hanjiang District, Yangzhou City, Jiangsu Province 225006, the People's Republic of China,

and "**Builder**" means any one of them.

"**Building Contracts**" means:

- (a) in respect of Vessel A and Vessel B, the two contracts each dated 17 May 2013; and
- (b) in respect of Vessel C, the contract dated 8 January 2014, as amended by an addendum no. 1 dated 21 April 2014.

in each case on the terms and subject to the conditions of which the relevant Builder has agreed to construct the relevant Vessel for, and deliver the relevant Vessel to, the relevant Borrower and "**Building Contract**" means any one of them.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in New York, London, Athens and Beijing.

"**Charter**" means in respect of a Vessel any bareboat charter, time charter or other contract of employment, with a period of duration of more than twelve (12) months

(or which is capable of exceeding twelve (12) months duration (inclusive of any extension options)), in respect of that Vessel entered or to be entered into between the relevant Borrower (as owner) and a charterer and "**Charters**" means all of them.

"**Code**" means the US Internal Revenue Code of 1986.

"**Commitment**" means, in relation to a Lender, the amount of the Loan which that Lender agrees to advance to the Borrowers as its several liability as indicated against the name of that Lender in Schedule 1 (*The Lenders and the Commitments*) and/or, where the context permits, the amount of the Loan advanced by that Lender and remaining outstanding and "**Commitments**" means more than one of them.

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 6 (*Form of Compliance Certificate*).

"**Currency of Account**" means, in relation to any payment to be made to a Finance Party under a Finance Document, the currency in which that payment is required to be made by the terms of that Finance Document.

"**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 Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Delivery Date**" means the date of actual delivery of a Vessel to a Borrower under a Building Contract.

"**Diana**" means Diana Shipping Services S.A. , a company incorporated under the laws of the Republic of Panama with its registered office at Edificio Universal, Piso 12, Avenida Federico Boyd, Panama, Republic of Panama, having its established office in Greece at Pendelis 16, 175 64 Palaio Faliro, Athens, Greece pursuant to the provisions of Greek Law 27/1975.

"**DOC**" means, in relation to the ISM Company, a valid Document of Compliance issued for the ISM Company by the Administration under paragraph 13.2 of the ISM Code.

"**Dollars**", "**\$**" and "**USD**" each means available and freely transferable and convertible funds in the lawful currency of the United States of America.

"**Drawdown Date**" means the date on which the relevant Tranche is advanced under Clause 4 (*Advance*).

"**Drawdown Notice**" means a notice substantially in the form set out in Schedule 4 (*Form of Drawdown Notice*).

"**Earnings**" means (i) all hires, freights, pool income and other sums payable to or for the account of a Borrower in respect of a Vessel including (without limitation) all remuneration for salvage and towage services, demurrage and detention moneys, contributions in general average, compensation in respect of any requisition for hire, and damages and other payments (whether awarded by any court or arbitral tribunal or by agreement or otherwise) for breach, termination or variation of any contract

for the operation, employment or use of a Vessel and (ii) to the extent not included in (i) above all rights, title, interest and benefits of any Charter.

"**Earnings Accounts**" means the bank accounts to be opened in the names of the Borrowers with the Account Holder and designated "Aster Shipping Company Inc. -Earnings Account", "Aerik Shipping Company Inc. - Earnings Account" and "Houk Shipping Company Inc. - Earnings Account" respectively, and "**Earnings Account**" means any one of them.

"**Earnings Account Charges**" means the deeds of charge referred to in Clause 10.1.4 (*Security Documents*) and "**Earnings Account Charge**" means any one of them.

"**Encumbrance**" means a mortgage, charge, assignment, pledge, lien, or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Environmental Laws**" means all local, state, provincial, federal, state local, foreign and international laws, regulations, treaties and conventions (including any amendments and/or protocols thereto) for the time being in force pertaining to the pollution or protection of human health or the environment (including ambient air, surface water, ground water, land surface or subsurface strata and all or any part of navigable waters, waters of the contiguous zone, ocean waters and international waters (howsoever called)), including laws, regulations, treaties and conventions (including any amendments and/or protocols thereto) for the time being in force.

"**Event of Default**" means any of the events or circumstances set out in Clause 13.1 (*Events of Default*).

"**Facility Period**" means the period beginning on the date of this Agreement and ending on the date when the whole of the Indebtedness has been paid in full and the Security Parties have ceased to be under any further actual or contingent liability to the Finance Parties under or in connection with the Finance Documents.

"**Fair Market Value**" means the market value of a Vessel calculated in accordance with Clause 10.13 (*Fair Market Value determination*).

"**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 2017; 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 2017,

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.

"Final Maturity Date" means the earlier of (a) the date falling 180 months after the Drawdown Date of the relevant Tranche and (b) 12 March 2032.

"Finance Documents" means this Agreement, the Security Documents and any other document designated as such by the Agent and the Borrowers and **"Finance Document"** means any one of them.

"Finance Parties" means the Agent, the Arrangers, the Security Agent and the Lenders and **"Finance Party"** means any one of them.

"Financial Indebtedness" means any obligation for the payment or repayment of money, whether present or future, actual or contingent, in respect of:

- (a) moneys borrowed or raised and debit balances at banks;
- (b) any acceptance or documentary credit facilities;
- (c) any bond, note, debenture, loan stock or similar debt instrument;
- (d) any finance leases and hire purchase contracts;
- (e) receivables sold or discounted (other than on a non-recourse basis);
- (f) swaps, forward exchange contracts, futures and other derivatives;
- (g) any other transaction (including without limitation forward sale or purchase agreements) having the commercial effect of a borrowing or raising of money or of any of (b) to (f) above; and
- (h) guarantees in respect of indebtedness of any person falling within any of (a) to (g) above.

"GAAP" means generally accepted accounting principles in the United States of America.

"Guarantee" means the guarantee and indemnity referred to in Clause 10.1.3 (*Security Documents*).

"Guarantor" means Diana Shipping Inc., a company incorporated under the laws of the Republic of the Marshall Islands with its registered address at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 and/or (where the context permits) any other person who shall at any time during the Facility Period give to the Lenders or to the Security Agent on their behalf a guarantee and/or indemnity for the repayment of all or part of the Indebtedness.

"Group" means the Guarantor and its Subsidiaries from time to time (including, but not limited to, the Borrowers) and "member of the Group" shall be construed accordingly.

"IAPPC" means a valid international air pollution prevention certificate for a Vessel issued under Annex VI.

"Indebtedness" means the aggregate from time to time of: the amount of the Loan outstanding; all accrued and unpaid interest on the Loan; and all other sums of any nature (together with all accrued and unpaid interest on any of those sums) payable to any of the Finance Parties under all or any of the Finance Documents.

"Insurances" means all policies and contracts of insurance (including all entries in protection and indemnity or war risks associations) which are from time to time taken out or entered into in respect of or in connection with a Vessel or her increased value or her Earnings and (where the context permits) all benefits under such contracts and policies, including all claims of any nature and returns of premium.

"Interest Payment Date" means each date for the payment of interest in accordance with Clause 7.6 (*Accrual and payment of interest*).

"Interest Period" means each period for the determination and payment of interest selected by the Borrowers or agreed or selected by the Agent pursuant to Clause 6 (*Interest*).

"ISM Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention.

"ISM Company" means, at any given time, the company responsible for a Vessel's compliance with the ISM Code under paragraph 1.1.2 of the ISM Code.

"ISPS Code" means the International Ship and Port Facility Security Code.

"ISPS Company" means, at any given time, the company responsible for a Vessel's compliance with the ISPS Code.

"ISSC" means a valid international ship security certificate for a Vessel issued under the ISPS Code.

"LIBOR" means:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for any Interest Period) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by leading banks in the London interbank market,

at 11.00 a.m. two (2) Business Days before the first day of the relevant Interest Period for the offering of deposits in Dollars in an amount comparable to the Loan (or any relevant part of the Loan) and for a period comparable to the relevant Interest Period and, if any such rate is below zero, LIBOR will be deemed to be zero.

"Loan" means the aggregate amount advanced or to be advanced by the Lenders to the Borrowers under Clause 4 (*Advance*) or, where the context permits, the amount advanced and for the time being outstanding.

"Majority Lenders" means a Lender or Lenders whose Commitments aggregate more than eighty per cent (80%) of the aggregate of all the Commitments.

"Management Agreements" means the agreements for the commercial and/or technical management of the Vessels entered or to be entered into between the Borrowers respectively and the Managers and **"Management Agreement"** means any one of them.

"Managers" means Diana or such other commercial and/or technical managers of the Vessels as nominated by the Borrowers and approved by the Agent.

"Managers' Undertakings" means the letters of undertaking in respect of the Vessels referred to in Clause 10.1.7 (*Security Documents*) and **"Managers' Undertaking"** means any one of them.

"Margin" means two point three per cent (2.3%) per annum.

"Maximum Tranche Amount" means:-

- (a) in respect of Tranche A, an amount not exceeding the lesser of (i) twenty nine million and two hundred and twenty thousand Dollars (\$29,220,000) and (ii) seventy per cent (70%) of the Fair Market Value of Vessel A on the basis of the valuations to be obtained by the Agent pursuant to Clause 3.1 (*Conditions precedent*);
- (b) in respect of Tranche B, an amount not exceeding the lesser of (i) twenty nine million and two hundred and twenty thousand Dollars (\$29,220,000) and (ii) seventy per cent (70%) of the Fair Market Value of Vessel B on the basis of the valuations to be obtained by the Agent pursuant to Clause 3.1 (*Conditions precedent*);
- (c) in respect of Tranche C, an amount not exceeding the lesser of (i) seventeen million and two hundred and ninety four thousand and nine hundred Dollars (\$17,294,900) and (ii) seventy per cent (70%) of the Fair Market Value of Vessel C on the basis of the valuations to be obtained by the Agent pursuant to Clause 3.1 (*Conditions precedent*).

"Maximum Loan Amount" means an aggregate amount not exceeding seventy five million and seven hundred and thirty four thousand and nine hundred Dollars (\$75,734,900).

"Mortgages" means the preferred or statutory (as the context shall require) mortgages referred to in Clause 10.1.1 (*Security Documents*) and **"Mortgage"** means any one of them.

"Negative Share Pledges" means the negative pledges of shares referred to in Clause 10.1.5 (*Security Documents*) and **"Negative Share Pledge"** means any one of them.

"Original Financial Statements" means the audited consolidated financial statements of the Borrowers and the Guarantor for the financial year ended 31 December 2014.

"Palios Family" means, together, each of the following:

- (a) Mr Simeon Palios;
- (b) all the lineal descendants in direct line of Mr Palios;
- (c) a husband or wife or widower or widow of any of the above persons;
- (d) the estates, trusts or legal representatives of which any of the above persons are the beneficiaries; and
- (e) each company legally or beneficially owned or (as the case may be) controlled by one or more of the persons or entities which would fall within paragraphs (a) to (d) of this definition,

and each one of the above shall be referred to as **"a member of the Palios Family"**;

"Party" means a party to this Agreement.

"Permitted Encumbrance" means (a) any Encumbrance which has been disclosed in writing to, and approved in writing by, the Agent on the date of this Agreement, or (b) any Encumbrance in favour of the Security Agent pursuant to the Finance Documents, or (c) any lien on a Vessel for master's, officer's or crew's wages outstanding in the ordinary course of trading, or (d) any lien for salvage, or (e) any ship repairer's or outfitter's possessory lien on a Vessel for a sum not (except with the prior written consent of the Agent) exceeding two million Dollars (\$2,000,000), or (f) any other liens incurred in the ordinary course of business by operation of law and securing Borrowers' overdue obligations of no longer than thirty (30) days from the date of their occurrence or (g) Encumbrances arising by operation of law in respect of taxes which are not overdue for payment in respect of taxes being contested in good faith by appropriate steps and, in each case, in respect of which appropriate reserves have been made.

"Pledgor" means the Guarantor in its capacity as pledgor and shareholder of the Borrowers.

"Prepositioning Date" means the date which is three Business Days before the Delivery Date.

"Proportionate Share" means, at any time, the proportion which a Lender's Commitment (whether or not advanced) then bears to the aggregate Commitments of all the Lenders (whether or not advanced).

"Relevant Documents" means the Finance Documents, the Building Contracts, the Charters, the Management Agreements and the Account Holder's confirmation specified in Part 1 of Schedule 2 (*Conditions precedent*).

"Repayment Date" means the date for payment of any Repayment Instalment in accordance with Clause 5.1 (*Repayment of Tranches*).

"Repayment Instalment" means any instalment of the Loan to be repaid by the Borrowers under Clause 5.1 (*Repayment of Tranches*).

"Requisition Compensation" means all compensation or other money which may from time to time be payable to a Borrower as a result of a Vessel being requisitioned for title or in any other way compulsorily acquired (other than by way of requisition for hire).

"Screen Rate" means, in relation to LIBOR, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters. If such page or the service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Borrowers and the Lenders.

"Security Documents" means the Mortgages, the Assignments, the Guarantee, the Earnings Account Charges, the Negative Share Pledges, the Managers Undertakings and any other agreement or document which may at any time be executed by any person as security for the payment of all or any part of the Indebtedness and **"Security Document"** means any one of them.

"Security Parties" means the Borrowers, the Guarantor, the Pledgor, the Managers and any other person who may at any time during the Facility Period be liable for, or provide security for, all or any part of the Indebtedness, and **"Security Party"** means any one of them.

"SMC" means a valid safety management certificate issued for a Vessel by or on behalf of the Administration under paragraph 13.7 of the ISM Code.

"SMS" means a safety management system for a Vessel developed and implemented in accordance with the ISM Code.

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

company or entity or the power to direct its policies and management, whether by contract or otherwise and "**Subsidiary**" means any one of them.

"**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).

"**Total Loss**" means:

- (a) an actual, constructive, arranged, agreed or compromised total loss of a Vessel; or
- (b) the requisition for title or compulsory acquisition of a Vessel by any government or other competent authority (other than by way of requisition for hire); or
- (c) the capture, seizure, arrest, detention, hijacking, theft, condemnation as prize, confiscation or forfeiture of a Vessel (not falling within (b) above), unless that Vessel is released and returned to the possession of the relevant Borrower within thirty (30) days after the capture, seizure, arrest, detention, hijacking, theft, condemnation as prize, confiscation or forfeiture in question.

"**Tranches**" means Tranche A, Tranche B and Tranche C and "**Tranche**" means any one of them.

"**Tranche A**" means an amount of the Loan advanced or to be advanced by the Lenders to the Borrowers in respect of Vessel A not exceeding the relevant Maximum Tranche Amount or, where the context permits, the amount thereof advanced and for the time being outstanding.

"**Tranche B**" means an amount of the Loan advanced or to be advanced by the Lenders to the Borrowers in respect of Vessel B not exceeding the relevant Maximum Tranche Amount or, where the context permits, the amount thereof advanced and for the time being outstanding.

"**Tranche C**" means an amount of the Loan advanced or to be advanced by the Lenders to the Borrowers in respect of Vessel C not exceeding the relevant Maximum Tranche Amount or, where the context permits, the amount thereof advanced and for the time being outstanding.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrowers.

"**Transfer Date**" means, in relation to any Transfer Certificate, the later of:

- (a) the proposed Transfer Date specified in the Transfer Certificate; and
- (b) the date on which the Agent executes the Transfer Certificate.

"**Trust Property**" means:

- (a) all benefits derived by the Security Agent from Clause 10 (*Security and Application of Moneys*); and
- (b) all benefits arising under (including, without limitation, all proceeds of the enforcement of) each of the Security Documents,

with the exception of any benefits arising solely for the benefit of the Security Agent.

"US" means the United States of America.

"US Tax Obligor" means:

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

"Vessels" means Vessel A, Vessel B and Vessel C and "Vessel" means any one of them.

"Vessel A" means the 208,500 dwt bulk carrier and everything now or in the future belonging to her on board and ashore, currently under construction by the relevant Builder with the Builder's hull number H2548 for Aster Shipping Company Inc. on the terms of the relevant Building Contract and, on delivery to that Borrower, intended to be registered under an Approved Flag in the ownership of that Borrower.

"Vessel B" means the 208,500 dwt bulk carrier and everything now or in the future belonging to her on board and ashore, currently under construction by the relevant Builder with the Builder's hull number H2549 for Aerik Shipping Company Inc. on the terms of the relevant Building Contract and, on delivery to that Borrower, intended to be registered under an Approved Flag in the ownership of that Borrower.

"Vessel C" means one 82,000 dwt bulk carrier and everything now or in the future belonging to her on board and ashore, to be constructed by the relevant Builder within the Builder's Hull number DY6006 for Houk Shipping Company Inc. on the terms of the relevant Building Contract and, on delivery to the Borrower, intended to be registered under an Approved Flag in the ownership of that Borrower.

1.2 In this Agreement:

- 1.2.1 words denoting the plural number include the singular and vice versa;
- 1.2.2 words denoting persons include corporations, partnerships, associations of persons (whether incorporated or not) or governmental or quasi-governmental bodies or authorities and vice versa;
- 1.2.3 references to Recitals, Clauses and Schedules are references to recitals, clauses and schedules to or of this Agreement;
- 1.2.4 references to this Agreement include the Recitals and the Schedules;

- 1.2.5 the headings and contents page(s) are for the purpose of reference only, have no legal or other significance, and shall be ignored in the interpretation of this Agreement;
- 1.2.6 references to any document (including, without limitation, to all or any of the Relevant Documents) are, unless the context otherwise requires, references to that document as amended, supplemented, novated or replaced from time to time;
- 1.2.7 references to "**indebtedness**" include any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.8 references to statutes or provisions of statutes are references to those statutes, or those provisions, as from time to time amended, replaced or re-enacted;
- 1.2.9 references to any Finance Party include its successors, transferees and assignees; and
- 1.2.10 a time of day (unless otherwise specified) is a reference to London time.

1.3 Offer letter

This Agreement supersedes the terms and conditions contained in any correspondence relating to the subject matter of this Agreement exchanged between any Finance Party and the Borrowers or their representatives prior to the date of this Agreement.

2 The Loan and its Purpose

2.1 Amount

Subject to the terms of this Agreement, the Lenders agree to make available to the Borrowers a term loan comprising all the Tranches and not exceeding in aggregate the Maximum Loan Amount.

2.2 Finance Parties' obligations

The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other party to the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

2.3 Purpose

The Borrowers shall apply the Loan for the purposes referred to in Recital (B).

2.4 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed under this Agreement.

3 Conditions of Utilisation

3.1 Conditions precedent

The Borrowers are not entitled to have any Tranche advanced unless the Agent has received all of the documents and other evidence listed in Part 1 of Schedule 2 (*Conditions precedent*), save that references in Section 2 of that Part 1 to "the Vessel" or to any person or document relating to a Vessel shall be deemed to relate solely to any Vessel specified in the relevant Drawdown Notice or to any person or document relating to that Vessel respectively.

3.2 Further conditions precedent

The Lenders will only be obliged to advance a Tranche if on the date of the Drawdown Notice and on the proposed Drawdown Date:

- 3.2.1 no Default has occurred or would result from the advance of that Tranche;
- 3.2.2 the representations made by the Borrowers under Clause 11 (Representations) are true in all material respects; and
- 3.2.3 no event or series of events has occurred which, in the opinion of the Agent, is likely to have a materially adverse effect on the business, assets, financial condition or credit worthiness of a Security Party.

3.3 Tranche limit

The Lenders will only be obliged to advance a Tranche if that Tranche will not exceed the relevant Maximum Tranche Amount nor increase the Loan to a sum in excess of the Maximum Loan Amount Tranche Amount for the relevant Vessel.

3.4 Conditions subsequent

The Borrowers undertake to deliver or to cause to be delivered to the Agent on, or as soon as practicable after, the relevant Drawdown Date or on such other later date as the Agent may agree in its discretion, the additional documents and other evidence listed in Part 2 of Schedule 2 (*Conditions subsequent*), save that references in that Part 2 to "the Vessel" or to any person or document relating to a Vessel shall be deemed to relate solely to any Vessel specified in the relevant Drawdown Notice or to any person or document relating to that Vessel respectively.

3.5 No waiver

If the Lenders in their sole discretion agree to advance a Tranche to the Borrowers before all of the documents and evidence required by Clause 3.1 (*Conditions precedent*) have been delivered to or to the order of the Agent, the Borrowers undertake to deliver all outstanding documents and evidence to or to the order of the Agent no later than the date specified by the Agent (acting on the instructions of all the Lenders).

The advance of a Tranche under this Clause 2.5 shall not be taken as a waiver of the Lenders' right to require production of all the documents and evidence required by Clause 3.1 (*Conditions precedent*).

3.6 Form and content

All documents and evidence delivered to the Agent under this Clause 3 shall:

- 3.6.1 be in form and substance acceptable to the Agent; and
- 3.6.2 if required by the Agent, be certified, notarised, legalised or attested in a manner acceptable to the Agent.

4 Advance

4.1 Drawdown Request

The Borrowers may request a Tranche to be advanced in one amount on any Business Day prior to the relevant Availability Termination Date by delivering to the Agent a duly completed original Drawdown Notice not fewer than six (6) Business Days before the proposed Drawdown Date and any undrawn part of a Tranche shall be cancelled and shall not be available for borrowing by the Borrowers on the earlier of (a) the relevant Drawdown Date, once the Tranche has been advanced and (b) the relevant Availability Termination Date. Any such Drawdown Notice shall be signed by authorised signatories of the Borrowers and, once delivered, is irrevocable.

4.2 Lenders' participation

Subject to Clauses 2 (*The Loan and its Purpose*), 3 (*Conditions of Utilisation*) and 4.3 (*Prepositioning of funds*), the Agent shall promptly notify each Lender of the receipt of a Drawdown Notice, following which each Lender shall advance its Proportionate Share of the relevant Tranche to the Borrowers through the Agent on the relevant Drawdown Date.

4.3 Prepositioning of funds

The Agent shall, subject to the Agent being satisfied that it will receive by no later than the Delivery Date all of the documents and evidence listed in Part 1 of Schedule 3 (*Conditions precedent*) (unless waived pursuant to this Agreement), at the request of the Borrower and in accordance with the terms of the relevant Building Contract and on terms and conditions reasonably acceptable to all the Lenders, preposition on the Prepositioning Date such part of the Loan as is to be used to finance the amount of the instalment of the contract price payable on the Delivery Date of the relevant Vessel under the relevant Building Contract to the Builder as has been received by it from the Lenders.

The prepositioning of such funds shall constitute an advance of the Loan under this Clause 4 (*Advance*).

5 Repayment

5.1 Repayment of Tranches

The Borrowers agree to repay each Tranche to the Agent for the account of the Lenders by 60 quarterly instalments, each in the relevant amount set out below:

Tranche A \$487,000.00

Tranche A	\$487,000.00
Tranche B	\$487,000.00
Tranche C	\$288,248.33

The first instalment shall fall due on whichever of 21 January, 21 April, 21 July or 21 October that next falls not less than six weeks after the Drawdown Date in respect of that Tranche and subsequent instalments shall fall due on each 21 January, 21 April, 21 July or 21 October thereafter. The final instalment shall fall due on the earlier of:

5.1.1 whichever of 21 January, 21 April, 21 July or 21 October that next falls after the 59th instalment; and

5.1.2 the Final Maturity Date in respect of that Tranche.

5.2 Reduction of Repayment Instalments

If the aggregate amount advanced to the Borrowers under a Tranche is less than \$29,220,000 in the case of Tranche A or Tranche B or \$17,294,900 in the case of Tranche C, the amount of each Repayment Instalment in respect of that Tranche shall be reduced pro rata to the amount actually advanced.

5.3 Reborrowing

The Borrowers may not reborrow any part of the Loan which is repaid or prepaid.

6 Prepayment

6.1 Illegality

If it becomes unlawful in any jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its Commitment:

6.1.1 that Lender shall promptly notify the Agent of that event;

6.1.2 upon the Agent notifying the Borrowers, such Lender's Commitment (to the extent not already advanced) will be immediately cancelled; and

6.1.3 the Borrowers shall repay a sum equal to such Lender's Commitment in respect of each Tranche (to the extent already advanced) on the last day of its current Interest Period or, if earlier, the date specified by that Lender in the notice delivered to the Agent and notified by the Agent to the Borrowers (being no earlier than the last day of any applicable grace period permitted by law) and the remaining Repayment Instalments in respect of that Tranche shall be reduced pro rata.

6.2 Voluntary prepayment of Tranches

The Borrowers may prepay the whole or any part of a Tranche (but, if in part, being an amount that reduces that Tranche by an amount which is an integral multiple of the amount of a quarterly instalment in respect of that Tranche pursuant to Clause 5 (*Repayment*)) subject as follows:

- 6.2.1 they give the Agent not less than fifteen (15) Business Days' prior written notice;
- 6.2.2 no prepayment may be made until after the relevant Availability Termination Date; and
- 6.2.3 any prepayment under this Clause 6.2 shall be applied in prepayment of the remaining Repayment Instalments in respect of the relevant Tranche in inverse order of maturity.

6.3 Mandatory prepayment on sale or Total Loss

If a Vessel is sold by a Borrower or becomes a Total Loss, the Borrowers shall, simultaneously with any such sale or on the earlier of the date falling one hundred and twenty (120) days after any such Total Loss and the date on which the proceeds of any such Total Loss are realised, prepay the whole of the outstanding Indebtedness in respect of the Tranche for the Vessel in question.

6.4 Restrictions

Any notice of prepayment given under this Clause 6 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant prepayment is to be made and the amount of that prepayment.

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs without premium or penalty.

If the Agent receives a notice under this Clause 6 it shall promptly forward a copy of that notice to the Borrowers or the Lenders, as appropriate.

7 Interest

7.1 Interest Periods

The period during which each Tranche shall be outstanding under this Agreement shall be divided into consecutive Interest Periods of three (3) months' duration or such other duration as may be agreed between the Borrowers and the Lenders not later than 11.00 a.m. on the third Business Day before the beginning of the Interest Period in question.

7.2 Beginning and end of Interest Periods

Each Interest Period shall start on the Drawdown Date of the relevant Tranche or (if a Tranche is already made) on the last day of the preceding Interest Period and end on whichever of 21 January, 21 April, 21 July or 21 October that next falls after the Drawdown Date of that Tranche or the last day of the preceding Interest Period in the relevant calendar month which shall be a Repayment Date, except that, if there is no numerically corresponding date in that calendar month, the Interest Period shall end on the last Business Day in that month.

7.3 Interest Periods to meet Repayment Dates

If an Interest Period will expire after the next Repayment Date in respect of the relevant Tranche, there shall be a separate Interest Period for a part of that Tranche

equal to the Repayment Instalment due on that next Repayment Date and that separate Interest Period shall expire on that next Repayment Date.

7.4 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).

7.5 Interest rate

During each Interest Period interest shall accrue on the Loan at the rate determined by the Agent to be the aggregate of (a) the Margin and (b) LIBOR.

7.6 Accrual and payment of interest

Interest shall accrue from day to day, shall be calculated on the basis of a 360 day year and the actual number of days elapsed (or, in any circumstance where market practice differs, in accordance with the prevailing market practice) and shall be paid by the Borrowers to the Agent for the account of the Lenders on the last day of each Interest Period and, if the Interest Period is longer than three (3) months, on the dates falling at three (3) monthly intervals after the first day of that Interest Period.

7.7 Default interest

If (a) a Borrower fails to pay any amount payable by it under a Finance Document on its due date or (b) an Event of Default has occurred and is continuing and notice has been given to the Borrowers, interest shall accrue on the overdue amount or on the amount of the Loan respectively from the due date or the date of the notice respectively up to the date of actual payment (both before and after judgment) or the date of remedy of the Event of Default to the Agent's full satisfaction at a rate which is two per cent (2%) higher than the rate which would have been payable if the overdue amount had, during the period of non-payment or Event of Default, constituted the Loan in the currency of the overdue amount for successive Interest Periods, each selected by the Agent (acting reasonably). Any interest accruing under this Clause 7.7 shall be immediately payable by that Borrower on demand by the Agent. If unpaid, any such interest will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

7.8 Alternative interest rate

If either (a) the applicable Screen Rate is not available for any Interest Period and no rates are quoted to the Agent to determine LIBOR for that Interest Period or (b) a Lender or Lenders inform the Agent by written notice that the cost to it or them of obtaining matching deposits from whatever source it or they may reasonably select for any Interest Period would be in excess of LIBOR and that notice is received by the Agent no later than close of business in London on the day LIBOR is determined for that Interest Period:

7.8.1 the Agent shall give notice to the Lenders and the Borrowers of the occurrence of such event; and

7.8.2 the rate of interest on the relevant Lender's Commitment for that Interest Period shall be the rate per annum which is the sum of:

- (a) the Margin; and
- (b) the rate notified to the Agent by that Lender as soon as practicable, and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its Commitment from whatever source it may reasonably select.

7.9 Determinations conclusive

The Agent shall promptly notify the Borrowers of the determination of a rate of interest under this Clause 7 and each such determination shall (save in the case of manifest error) be final and conclusive.

8 Indemnities

8.1 Transaction expenses

The Borrowers will, promptly on the Agent's written demand, pay the Agent (for the account of the Finance Parties) the amount of all costs and expenses (including legal fees and Value Added Tax or any similar or replacement tax if applicable) incurred by the Finance Parties or any of them in connection with:

- 8.1.1 the negotiation, preparation, printing, execution, syndication and distribution of information under this Agreement and registration of the Finance Documents (whether or not any Finance Document is actually executed or registered and whether or not all or any part of the Loan is advanced);
- 8.1.2 any amendment, addendum or supplement to any Finance Document (whether or not completed) (other than any amendment, addendum or supplement to any Finance Document made pursuant to Clause 14 (*Assignment and Sub-Participation*));
- 8.1.3 any other document which may at any time be required by a Finance Party to give effect to any Finance Document or which a Finance Party is entitled to call for or obtain under any Finance Document (including, without limitation, any valuation of the Vessels obtained in accordance with this Agreement and any insurance report); and
- 8.1.4 any discharge, release or reassignment of any of the Security Documents.

8.2 Funding costs

The Borrowers shall indemnify each Finance Party, by payment to the Agent (for the account of that Finance Party) promptly on the Agent's written demand, against all losses and costs incurred or sustained by that Finance Party if, for any reason, a Tranche is not advanced to the Borrowers after the relevant Drawdown Notice has been given to the Agent, or is advanced on a date other than that requested in the

Drawdown Notice (unless, in either case, as a result of any default by a Finance Party).

8.3 Break Costs

The Borrowers shall pay to the Agent (for the account of each Lender) promptly on the Agent's written demand the amount of all costs, losses, premiums or penalties incurred or to be incurred by that Lender as a result of its receiving any prepayment of all or any part of the Loan (whether pursuant to Clause 6 (*Prepayment*) or otherwise) on a day other than the last day of an Interest Period for the Loan or relevant part of the Loan, or any other payment under or in relation to the Finance Documents on a day other than the due date for payment of the sum in question, including (without limitation) any losses or costs incurred or to be incurred in liquidating or re-employing deposits from third parties acquired to effect or maintain all or any part of the Loan.

8.4 Currency indemnity

In the event of a Finance Party receiving or recovering any amount payable under a Finance Document in a currency other than the Currency of Account, and if the amount received or recovered is insufficient when converted into the Currency of Account at the date of receipt to satisfy in full the amount due, the Borrowers shall, promptly on the Agent's written demand, pay to the Agent for the account of the relevant Finance Party such further amount in the Currency of Account as is sufficient to satisfy in full the amount due and that further amount shall be due to the Agent on behalf of the relevant Finance Party as a separate debt under this Agreement.

8.5 Increased costs (subject to Clause 8.6 (*Exceptions to increased costs*))

If, by reason of the introduction of any law, or any change in any law, or any change in the interpretation or administration of any law, or compliance with any request or requirement from any central bank or any fiscal, monetary or other authority occurring after the date of this Agreement (including the implementation or application of or compliance with the Basel II Accord or any other Basel II Regulation or Basel III (whether such implementation, application or compliance is by any central bank or any fiscal, monetary or other authority, a Finance Party or the holding company of a Finance Party)):

- 8.5.1 a Finance Party (or the holding company of a Finance Party) shall be subject to any Tax with respect to payment of all or any part of the Indebtedness (other than Tax on overall net income); or
- 8.5.2 the basis of Taxation of payments to a Finance Party in respect of all or any part of the Indebtedness shall be changed; or
- 8.5.3 any reserve requirements shall be imposed, modified or deemed applicable against assets held by or deposits in or for the account of or loans by any branch of a Finance Party; or
- 8.5.4 the manner in which a Finance Party allocates capital resources to its obligations under this Agreement or any ratio (whether cash, capital

adequacy, liquidity or otherwise) which a Finance Party is required or requested to maintain shall be affected; or

8.5.5 there is imposed on a Finance Party (or on the holding company of a Finance Party) any other condition in relation to the Indebtedness or the Finance Documents;

and the result of any of the above shall be to increase the cost to a Finance Party (or to the holding company of a Finance Party) of that Finance Party making or maintaining its Commitment, or to cause a Finance Party to suffer (in its opinion) a material reduction in the rate of return on its overall capital below the level which it reasonably anticipated at the date of this Agreement and which it would have been able to achieve but for its entering into this Agreement, and/or performing its obligations under this Agreement, or to cause a reduction in any amount due and payable to a Finance Party under any of the Finance Documents, then, subject to Clause 8.6 (*Exceptions to increased costs*), the Finance Party affected shall notify the Agent and the Borrowers shall from time to time pay to the Agent on demand for the account of that Finance Party the amount which shall compensate that Finance Party (or the relevant holding company) for such additional cost or reduced return or reduced amount. A certificate signed by an authorised signatory of that Finance Party setting out the amount of that payment and the basis of its calculation shall be submitted to the Borrowers and shall be conclusive evidence of such amount save for manifest error or on any question of law.

For the purposes of this Clause 8.5:

"Basel II Accord" means the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement;

"Basel II Approach" means, in relation to a Finance Party, either the Standardised Approach or the relevant Internal Ratings Based Approach (each as defined in the Basel II Accord) adopted by that Finance Party (or its holding company) for the purpose of implementing or complying with the Basel II Accord;

"Basel II Regulation" means (a) any law or regulation implementing the Basel II Accord or (b) any Basel II Approach adopted by a Finance Party;

"Basel III" means (a) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated, (b) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement - Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated and (c) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III"; and

"holding company" means, in respect of a Finance Party, the company or entity (if any) within the consolidated supervision of which that Finance Party is included.

8.6 Exceptions to increased costs

Clause 8.5 (*Increased costs*) does not apply to the extent any additional cost or reduced return referred to in that Clause is:

- 8.6.1 compensated for by a payment made under Clause 8.10 (*Taxes*); or
- 8.6.2 compensated for by a payment made under Clause 17.3 (*Grossing-up*); or
- 8.6.3 attributable to a FATCA Deduction required to be made by a Party; or
- 8.6.4 attributable to the wilful breach by the relevant Finance Party (or the holding company of that Finance Party) of any law or regulation.

8.7 Events of Default

The Borrowers shall indemnify each Finance Party from time to time, by payment to the Agent (for the account of that Finance Party) promptly on the Agent's written demand, against all losses, costs, expenses and liabilities incurred or sustained by that Finance Party as a consequence of any Event of Default.

8.8 Enforcement costs

The Borrowers shall pay to the Agent (for the account of each Finance Party) promptly on the Agent's written demand the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document including (without limitation) any losses, costs and expenses which that Finance Party may from time to time sustain, incur or become liable for by reason of that Finance Party being mortgagee of a Vessel and/or a lender to the Borrowers, or by reason of that Finance Party being deemed by any court or authority to be an operator or controller, or in any way concerned in the operation or control, of a Vessel.

8.9 Other costs

The Borrowers shall pay to the Agent (for the account of each Finance Party) promptly on the Agent's written demand the amount of all sums which that Finance Party may pay or become actually or contingently liable for on account of a Borrower in connection with a Vessel (whether alone or jointly or jointly and severally with any other person) including (without limitation) all sums which that Finance Party may pay or guarantees which it may give in respect of the Insurances, any expenses incurred by that Finance Party in connection with the maintenance or repair of a Vessel or in discharging any lien, bond or other claim relating in any way to a Vessel, and any sums which that Finance Party may pay or guarantees which it may give to procure the release of a Vessel from arrest or detention.

8.10 Taxes

The Borrowers shall pay all Taxes to which all or any part of the Indebtedness or any Finance Document may be at any time subject (other than Tax on a Finance Party's

overall net income and FATCA Deductions required to be made by a Party) and shall indemnify the Finance Parties, by payment to the Agent (for the account of the Finance Parties) promptly on the Agent's written demand, against all liabilities, costs, claims and expenses resulting from any omission to pay or delay in paying any such Taxes.

8.11 Mitigation

If circumstances arise which would, or would upon the giving of notice, result in an increased payment required to be made by the Borrowers under Clause 8.5 (*Increased costs (subject to Clause 8.6 (Exceptions to increased costs))*) or Clause 17.3 (*Grossing-up*) then, without in any way limiting the obligations of the Borrowers under either of these clauses, the relevant Finance Party shall use reasonable endeavours to transfer its obligations, liabilities and rights under this Agreement and the other Finance Documents to another of its offices not affected by the circumstances which gave rise to such increased payment.

9 Fees

9.1 Commitment fee

The Borrowers shall pay to the Agent (for the account of the Lenders in proportion to their Commitments) a non-refundable fee computed at the rate of 0.2% per annum on the undrawn Commitment from time to time from the date of this Agreement until the last Availability Termination Date. The accrued commitment fee is payable on the last day of each successive period of three (3) months from the date of this Agreement and on the last Availability Termination Date.

9.2 Arrangement fee

The Borrowers shall pay to the Agent (for its own account) a non-refundable arrangement fee in the amount of \$378,674.50 on the date of this Agreement.

10 Security and Application of Moneys

10.1 Security Documents

As security for the payment of the Indebtedness, the Borrowers shall execute and deliver to the Security Agent or cause to be executed and delivered to the Security Agent the following documents in such forms and containing such terms and conditions as the Security Agent shall require:

10.1.1 first preferred cross-collateralised mortgages over the Vessels;

10.1.2 first priority deeds of assignment of the Insurances, Earnings and Requisition Compensation of the Vessels;

10.1.3 a guarantee and indemnity from the Guarantor;

10.1.4 first priority deeds of charge over the Earnings Accounts and all amounts from time to time standing to the credit of the Earnings Accounts;

10.1.5 first priority negative pledges in respect of all the issued shares of the Borrowers from the Pledgor;

10.1.6 letters of undertaking and subordination (including an assignment of Insurances) in respect of the Vessels from the Managers; and

10.1.7 first priority deeds of assignment of any Charter.

10.2 Earnings Accounts

The Borrowers shall maintain the Earnings Accounts with the Account Holder for the duration of the Facility Period free of Encumbrances and rights of set off other than those created by or under the Finance Documents.

10.3 Earnings

The Borrowers shall procure that all Earnings and any Requisition Compensation are credited to the relevant Earnings Account.

10.4 Application of Earnings Accounts

The Borrowers shall procure that there is transferred from the relevant Earnings Account to the Agent:

10.4.1 on each Repayment Date in respect of a Tranche, the amount of the Repayment Instalment then due; and

10.4.2 on each Interest Payment Date in respect of the relevant Tranche, the amount of interest then due,

and the Borrowers irrevocably authorise the Agent to instruct the Account Holder to make those transfers.

10.5 Borrowers' obligations not affected

If for any reason the amount standing to the credit of the relevant Earnings Account is insufficient to pay any Repayment Instalment or to make any payment of interest when due, the Borrowers' obligation to pay that Repayment Instalment or to make that payment of interest shall not be affected.

10.6 Withdrawals

Unless and until a Default occurs and the Agent shall direct to the contrary, the Borrowers may withdraw sums remaining to the credit of the Earnings Account provided however that Clause 12.2.1 is complied with at any relevant time during the Facility Period.

10.7 Access to information

The Borrowers agree that the Security Agent (and its nominees) may from time to time during the Facility Period review the records held by the Account Holder (whether in written or electronic form) in relation to the Accounts, and irrevocably waives any right of confidentiality which may exist in relation to those records.

10.8 Statements

Without prejudice to the rights of the Security Agent under Clause 9.7 (*Access to information*), the Borrowers will procure that the Account Holder provides to the

Security Agent, no less frequently than once every six calendar months during the Facility Period (unless any Event of Default is continuing, in which case it shall be once every calendar month), written statements of account showing all entries made to the credit and debit of each of the Accounts during the immediately preceding six calendar months or (where an Event of Default is continuing) the preceding calendar month.

10.9 Application after acceleration

From and after the giving of notice to the Borrowers by the Agent under Clause 13.2 (*Acceleration*), the Borrowers shall procure that all sums from time to time standing to the credit of any of the Earnings Accounts are immediately transferred to the Security Agent for application in accordance with Clause 10.9 (*Application of moneys by Security Agent*) and the Borrowers irrevocably authorise the Security Agent to instruct the Account Holder to make those transfers.

10.10 Application of moneys by Security Agent

The Borrowers and the Finance Parties irrevocably authorise the Security Agent to apply all moneys which it receives and is entitled to receive:

- 10.10.1 pursuant to a sale or other disposition of a Vessel or any right, title or interest in a Vessel; or
- 10.10.2 by way of payment of any sum in respect of the Insurances, Earnings or Requisition Compensation; or
- 10.10.3 by way of transfer of any sum from any of the Earnings Accounts; or
- 10.10.4 otherwise under or in connection with any Security Document,

in or towards satisfaction of the Indebtedness in the following order:

- 10.10.5 first, any unpaid fees, costs, expenses and default interest due to the Agent and the Security Agent under all or any of the Finance Documents, such application to be apportioned between the Agent and the Security Agent pro rata to the aggregate amount of such items due to each of them;
- 10.10.6 second, any unpaid fees, costs, expenses (including any sums paid by the Lenders under Clause 15.12 (*Indemnity*)) of the Lenders due under this Agreement, such application to be apportioned between the Lenders pro rata to the aggregate amount of such items due to each of them;
- 10.10.7 third, any accrued but unpaid default interest due to the Lenders under this Agreement, such application to be apportioned between the Lenders pro rata to the aggregate amount of such default interest due to each of them;
- 10.10.8 fourth, any other accrued but unpaid interest due to the Lenders under this Agreement, such application to be apportioned between the Lenders pro rata to the aggregate amount of such interest due to each of them;
- 10.10.9 fifth, any principal of the Loan due and payable but unpaid under this Agreement, such application to be apportioned between the Lenders pro rata to each Lender's Proportionate Share; and

- 10.10.10 sixth, any other sum due and payable to any Finance Party but unpaid under all or any of the Finance Documents, such application to be apportioned between the Finance Parties pro rata to the aggregate amount of any such sum due to each of them;

PROVIDED THAT the balance (if any) of the moneys received shall be paid to the Security Parties from whom or from whose assets those sums were received or recovered or to any other person entitled to them.

10.11 Retention on account

Moneys to be applied by the Security Agent under Clause 10.9 (*Application of moneys by Security Agent*) shall be applied as soon as practicable after the relevant moneys are received by it, or otherwise become available to it, save that (without prejudice to any other provisions contained in any of the Security Documents) the Security Agent or any receiver or administrator may retain any such moneys by crediting them to a suspense account for so long and in such manner as the Security Agent or such receiver or administrator may from time to time determine with a view to preserving the rights of the Finance Parties or any of them to prove for the whole of the Indebtedness (or any relevant part) against the Borrowers or any of them or any other person liable.

10.12 Additional security

If at any time during the Facility Period the aggregate of the Fair Market Value of the Vessels and the value of any additional security (such value to be the face amount of the deposit (in the case of cash), determined conclusively by appropriate advisers appointed by the Agent (in the case of other charged assets), and determined by the Agent in its discretion (in all other cases)) for the time being provided to the Security Agent under this Clause 10.12 is less than one hundred and twenty five per cent (125%) of the amount of the Loan then outstanding, the Borrowers shall, upon the Agent's written request, at the Borrowers' option:

- 10.12.1 pay to the Security Agent or to its nominee a cash deposit in the amount of the shortfall to be held in the Earnings Accounts and secured in favour of the Security Agent as additional security for the payment of the Indebtedness; or
- 10.12.2 give to the Security Agent other additional security in amount and form acceptable to the Security Agent in its discretion; or
- 10.12.3 prepay the Loan in the amount of the shortfall.

Clauses 5.3 (*Reborrowing*), 6.2.3 (*Voluntary prepayment of Tranches*) and 6.4 (*Restrictions*) shall apply, *mutatis mutandis*, to any prepayment made under this Clause 9.12 and the value of any additional security provided shall be determined as stated above.

10.13 Fair Market Value determination

- 10.13.1 For the purposes of Clause 10.12 (*Additional Security*), the Fair Market Value of each Vessel shall be determined by one valuation, or (if a breach of Clause 10.12 (*Additional Security*) or an Event of Default has occurred) by

the average of two (2) valuations, each such valuation to be obtained by one (1), or two (2) (as the case may be) Approved Brokers nominated by the Borrowers approved by the Lenders and appointed by, and reporting to the Agent, each such valuation to be addressed to the Agent and made on the basis of a charter-free sale for prompt delivery for cash at arm's length, on normal commercial terms as between a willing buyer and a willing seller. The Fair Market Value of the Vessels for the purposes of determining the relevant percentage referred to in Clause 10.12 (*Additional Security*) shall be tested no later than the date of each Drawdown Notice in accordance with the provisions of Clause 10.13.2 and on the 31st of December of each calendar year during the Facility Period or, at the Agent's discretion (acting reasonably), at any other time during the Facility Period, each valuation obtained by the Agent pursuant to this Clause 10.12 shall be (a) dated not earlier than thirty (30) days prior to the date the valuations are provided and (b) at the cost of the Borrowers and the Fair Market Value of a Vessel shall be determined by one (1) valuation in accordance to the terms and conditions of this clause, subject to the Lender's right to request a second valuation for each Vessel if the first one is not in line with market level.

10.13.2 For the purposes of Clause 3.1 (*Conditions precedent*), the Fair Market Value of a Vessel shall be determined by the average of two (2) valuations in accordance with the valuation method and on the terms and conditions as set out in Clause 10.13.1.

11 Representations

11.1 Representations

The Borrowers make the representations and warranties set out in this Clause 11.1 to each Finance Party on the date of this Agreement.

11.1.1 **Status** Each Security Party (which is not an individual) is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation and has the power to own its assets and carry on its business as it is being conducted.

11.1.2 **Binding obligations** The obligations expressed to be assumed by each Security Party in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations.

11.1.3 **Non-conflict with other obligations** The entry into and performance by each Security Party of, and the transactions contemplated by, the Finance Documents do not conflict with:

- (a) any law or regulation applicable to that Security Party;
- (b) the constitutional documents of that Security Party; or
- (c) any document binding on that Security Party or any of its assets,

and in borrowing the Loan, the Borrowers are acting for their own account.

11.1.4 **Power and authority** Each Security Party has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

11.1.5 **Validity and admissibility in evidence** All consents, licences, approvals, authorisations, filings and registrations required or desirable:

- (a) to enable each Security Party lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party or to enable each Finance Party to enforce and exercise all its rights under the Finance Documents; and
- (b) to make the Finance Documents to which any Security Party is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect, with the exception only of the registrations referred to in Part 2 of Schedule 2 (*Conditions subsequent*).

11.1.6 **Governing law and enforcement** The choice of a particular law as the governing law of any Finance Document expressed to be governed by that law will be recognised and enforced in the jurisdiction of incorporation of each relevant Security Party, and any judgment obtained in the jurisdiction submitted to in any Finance Document will be recognised and enforced in the jurisdiction of incorporation of each relevant Security Party.

11.1.7 **Deduction of Tax** No Security Party is required under the law of its jurisdiction of incorporation to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

11.1.8 **No filing or stamp taxes** Under the law of jurisdiction of incorporation of each relevant Security Party it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

11.1.9 **No default** No Event of Default is continuing or might be expected to result from the advance of a Tranche.

11.1.10 **No misleading information** Any factual information provided by any Security Party to any Finance Party was true and accurate in all material respects as at the date it was provided.

11.1.11 **Pari passu ranking** The payment obligations of each Security Party under the Finance Documents to which it is a party rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

11.1.12 **No proceedings pending or threatened** No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency

have been started or (to the best of the Borrowers' knowledge threatened) which, if adversely determined, might reasonably be expected to have a materially adverse effect on the business, assets, financial condition or credit worthiness of any Security Party.

11.1.13 **Disclosure of material facts** The Borrowers are not aware of any material facts or circumstances which have not been disclosed to the Agent and which might, if disclosed, have adversely affected the decision of a person considering whether or not to make loan facilities of the nature contemplated by this Agreement available to the Borrowers.

11.1.14 **Completeness of Relevant Documents** The copies of any Relevant Documents provided or to be provided by the Borrowers to the Agent in accordance with Clause 3 (*Conditions of Utilisation*) are, or will be, true and accurate copies of the originals and represent, or will represent, the full agreement between the parties to those Relevant Documents in relation to the subject matter of those Relevant Documents and there are no commissions, rebates, premiums or other payments due or to become due in connection with the subject matter of those Relevant Documents other than in the ordinary course of business or as disclosed to, and approved in writing by, the Agent.

11.1.15 **Environmental compliance** The Borrowers comply with all applicable Environmental Laws, all required governmental approvals and all requirements relating to the establishment of financial responsibility.

11.2 **Repetition** Each representation and warranty in Clause 11.1 (*Representations*) is deemed to be repeated by the Borrowers by reference to the facts and circumstances then existing on the date of each Drawdown Notice and the first day of each Interest Period.

12 Undertakings and Covenants

The undertakings and covenants in this Clause 12 remain in force for the duration of the Facility Period.

12.1 Information undertakings

12.1.1 **Financial statements** The Borrowers shall procure that the Guarantor shall supply to the Agent as soon as the same become available, but in any event within one hundred and eighty (180) days after the end of each of the Guarantor's financial years, the Group's annual audited consolidated financial statements for that financial year, in each case together with a Compliance Certificate, signed by the Chief Finance Officer of the Guarantor, setting out (in reasonable detail) computations as to compliance with Clause 12.1 (*Financial covenants*) and Clause 10.12 (*Additional Security*) as at the date as at which those financial statements were drawn up.

12.1.2 **Requirements as to financial statements** Each set of financial statements delivered by the Guarantor under Clause 12.1.1 (*Financial statements*):

- (a) shall be certified by a director of the Guarantor as fairly representing its financial condition as at the date as at which those financial statements were drawn up; and
- (b) shall be prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements unless, in relation to any set of financial statements, the Guarantor notifies the Agent that there has been a change in GAAP, the accounting practices or reference periods and the Guarantor's auditors deliver to the Agent:
- (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which the Original Financial Statements were prepared; and
- (ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Agent to make an accurate comparison between the financial position indicated in those financial statements and that indicated in the Original Financial Statements.

12.1.3 Interim financial statements The Borrowers shall procure that the Guarantor shall supply to the Agent as soon as the same become available, but in any event within ninety (90) days after the end of each quarter during each of the Guarantor's financial years, the Group's consolidated unaudited quarterly financial statements for that quarter, in each case together with a Compliance Certificate, signed by the Chief Financial Officer of the Guarantor, setting out (in reasonable detail) computations as to compliance with Clause 12.2 (*Financial covenants*) and Clause 10.12 (*Additional Security*) as at the date as at which those financial statements were drawn up.

12.1.4 Information: miscellaneous The Borrowers shall, and shall procure that the Guarantor shall supply to the Agent:

- (a) all documents dispatched by a Borrower or the Guarantor to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, details of any material litigation, arbitration or administrative proceedings which are current, threatened or pending against any Security Party, and which might, if adversely determined, have a materially adverse effect on the business, assets, financial condition or credit worthiness of that Security Party; and
- (c) promptly, such further information regarding the financial condition, business and operations of any Security Party as the Agent may reasonably request and which can be provided to the Agent without breaching any rules of confidentiality including,

without limitation, cash flow analyses and details of the operating costs of any Vessel.

12.1.5 Notification of default

- (a) The Borrowers shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Agent, each Borrower shall supply to the Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

12.1.6 "**Know your customer**" checks If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
- (b) any change in the status of a Borrower after the date of this Agreement; or
- (c) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of (c) 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, the Borrowers shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) (or, in the case of (c) above, on behalf of any prospective new Lender) in order for the Agent or that Lender (or, in the case of (c) 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. Notwithstanding the above, the Agent shall be at liberty at all times during the Facility Period to request the Borrowers to provide the Agent with any documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) in order for the Agent or that Lender to be satisfied it has complied with all "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

12.2 Financial covenants

12.2.1 Each Borrower shall, from the relevant Drawdown Date and throughout the Facility Period, maintain in its Earnings Account a credit balance of not less than two hundred thousand Dollars (\$200,000) for its Vessel.

12.2.2 The Borrowers shall procure that the Guarantor shall (A) maintain from the first Drawdown Date and throughout the Facility Period Cash of not less than five hundred thousand Dollars (\$500,000) for each Fleet Vessel and (B) maintain the following financial ratios on a consolidated basis throughout the Facility Period:

- (a) Adjusted Net Worth shall not be less than one hundred and fifty million Dollars (\$150,000,000); and
- (b) Adjusted Net Worth shall exceed twenty five per cent (25%) of the Total Assets.

For the purposes of this Clause 12.2:

"Accounting Information" means the quarterly consolidated financial statements and/or the annual consolidated financial statements to be provided by the Guarantor to the Agent in accordance with Clauses 12.1.1 and 12.1.3.

"Accounting Period" means each consecutive period of approximately three months falling during the Facility Period (ending on the last day in March, June, September and December of each year) for which quarterly Accounting Information is required to be delivered pursuant to Clause 12.1.3.

"Adjusted Net Worth" means, in respect of an Accounting Period, the amount of Total Assets less Debt.

"Cash" means cash in hand or in bank accounts which is not subject to any charge back or other Encumbrance (save for Encumbrances in favour of the Finance Parties) and to which a Borrower or the Guarantor or any other member of the Group (as the context requires) has free, immediate and direct access.

"Debt" means, in respect of an Accounting Period, in relation to any member of the Group (the **"debtor"**):

- (a) any Financial Indebtedness of the debtor;
- (b) liability of any credit to the debtor from a supplier of goods or services or under any instalment purchase or payment plan or other similar arrangement;
- (c) contingent liabilities of the debtor (including without limitation any taxes or other payments under dispute) which have been or, under GAAP, should be recorded in the notes to the Accounting Information;
- (d) any deferred tax of the debtor; and
- (e) liability under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person who is not a member of

the Group which would fall within (a) to (d) above if the references to the debtor referred to the other person.

"Fleet Vessels" means any vessel directly or indirectly owned by the Group, excluding however any vessels which are at any given time during the Facility Period under construction and not yet delivered to the relevant Subsidiary.

"Total Assets" means, in respect of an Accounting Period, the total assets of the Group determined on a consolidated basis as shown in the then most recent Accounting Information Provided that, for the purposes of determining compliance with the covenants set forth in Clause 12.2.2 the value of attributable to the Fleet Vessels shall be equal to the aggregate Fair Market Value of such Fleet Vessels rather than the value of such Fleet Vessels as stated in the then most recent Accounting Information.

12.2.3 General undertakings

12.2.4 **Authorisations** The Borrowers shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Agent of,

any consent, licence, approval or authorisation required under any law or regulation to enable each Security Party to perform its obligations under the Finance Documents to which it is a party and to ensure the legality, validity, enforceability or admissibility in evidence in the jurisdiction of incorporation of each relevant Security Party of any Finance Document.

12.2.5 Compliance with laws Each Borrower shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

12.2.6 Conduct of business Each Borrower shall carry on and conduct its business in a proper and efficient manner, file all requisite tax returns and pay all tax which becomes due and payable (except where contested in good faith).

12.2.7 Evidence of good standing The Borrowers will from time to time if requested by the Agent provide the Agent with evidence in form and substance satisfactory to the Agent that the Security Parties and all corporate shareholders of any Security Party (other than the Guarantor) remain in good standing.

12.2.8 Negative pledge and no disposals No Borrower shall without the prior written consent of the Agent create nor permit to subsist any Encumbrance or other third party rights (other than a Permitted Encumbrance) over any of its present or future assets or undertaking nor dispose of any of those assets or of all or part of that undertaking.

- 12.2.9 **Merger** No Borrower nor the Guarantor shall without the prior written consent of the Agent enter into any amalgamation, demerger, merger or corporate reconstruction.
- 12.2.10 **Change of business or corporate structure** No Borrower nor the Guarantor shall without the prior written consent of the Lenders make any substantial change to (a) the general nature of its business from that carried on at the date of this Agreement or (b) the corporate structure of the Borrowers as at the date of this Agreement.
- 12.2.11 **No other business** No Borrower shall without the prior written consent of the Agent engage in any business other than the ownership, operation, chartering and management of its Vessel.
- 12.2.12 **No borrowings** No Borrower shall without the prior written consent of the Agent borrow any money (except for the Loan and normal trade credit in the ordinary course of business) nor incur any obligations under leases.
- 12.2.13 **Subordination of shareholder loans** The Borrowers shall procure that any shareholder loans and/or inter company borrowings or other indebtedness permitted by the terms of this Agreement are fully subordinated to the Indebtedness on terms acceptable to the Agent.
- 12.2.14 **No substantial liabilities** Except in the ordinary course of business, no Borrower shall without the prior written consent of the Agent incur any liability to any third party which is in the Agent's opinion of a substantial nature.
- 12.2.15 **No loans or other financial commitments** No Borrower shall without the prior written consent of the Agent make any loan nor enter into any guarantee or indemnity or otherwise voluntarily assume any actual or contingent liability in respect of any obligation of any other person except for loans made or guarantees or indemnities from time to time required by any protection and indemnity or war risks association in the ordinary course of business in connection with the chartering, operation or repair of its Vessel.
- 12.2.16 **No dividends or reduction of share capital** No Borrower shall without the prior written consent of the Agent (A) pay or declare any dividends or make any other distributions to shareholders provided however that a Borrower may pay or declare dividends or make distributions to the Guarantor if no Event of Default has occurred and is continuing at the time of such payment or declaration or distribution or would occur as a result thereof or (B) issue any new shares or (C) reduce its share capital as at the date of this Agreement.
- 12.2.17 **Inspection of records** Each Borrower will permit the inspection of its financial records and accounts from time to time by the Agent or its nominee.

12.2.18 **Transactions with affiliated companies** No Borrower shall without the prior written consent of the Agent, enter into any transactions (except on arm's length terms) with any affiliated companies.

12.2.19 **No change in Relevant Documents** The Borrowers shall procure that, without the prior written consent of the Agent, there shall be no termination of, alteration to, or waiver of any material, in the Agent's opinion, term of, any of the Relevant Documents which are not Finance Documents.

12.2.20 **No change in ownership and control** Each Borrower undertakes that its ownership shall remain at all times a wholly owned direct or indirect Subsidiary of the Guarantor throughout the Facility Period and shall not permit any change thereof without the prior written consent of the Agent.

12.2.21 **Ownership of the Guarantor** The Borrowers shall procure that, at all times during the Facility Period, the Palios Family shall (a) remain the major legal owner or ultimate beneficial owner of the Guarantor (excluding any financial institution acting as a passive investor) and (b) Mr Simeon Palios or Mr Anastasios Margaronis hold an executive position within the management structure of the Guarantor.

12.2.22 **No Subsidiaries** No Borrower shall without the prior written consent of the Agent form or acquire any Subsidiaries.

12.3 Vessel undertakings

12.3.1 **No sale of Vessel** No Borrower shall sell or otherwise dispose of its Vessel or any shares in its Vessel nor agree to do so without the prior written consent of the Agent.

12.3.2 **No chartering after Event of Default** Following the occurrence and during the continuation of an Event of Default no Borrower shall without the prior written consent of the Agent let its Vessel on charter or renew or extend any charter or other contract of employment of its Vessel (nor agree to do so).

12.3.3 **No change in management** Each Borrower shall procure that, without the prior written consent of the Lenders, there shall be no termination of, alteration to, or waiver of any material, in the Agent's opinion, term of, the Management Agreement in respect of its Vessel and no Borrower shall without the prior written consent of the Agent permit the Managers to sub-contract or delegate the commercial or technical management of its Vessel to any third party.

12.3.4 **Registration of Vessel** Each Borrower undertakes to maintain the registration of its Vessel under an Approved Flag for the duration of the Facility Period and not to change its Vessel's flag without the Lenders' prior written consent (such consent not to be unreasonably withheld).

12.3.5 **Evidence of current COFR** Each Borrower will, if and for so long as its Vessel trades in the United States of America and Exclusive Economic Zone (as defined in the United States Oil Pollution Act 1990), obtain and retain a

valid Certificate of Financial Responsibility for its Vessel under that Act, will provide the Agent with evidence of that Certificate, and will comply strictly with the requirements of that Act.

12.3.6 ISM Code compliance Each Borrower will:

- (a) procure that its Vessel remains for the duration of the Facility Period subject to a SMS;
- (b) maintain a valid and current SMC for its Vessel throughout the Facility Period and provide a copy to the Agent;
- (c) procure that the ISM Company maintains a valid and current DOC throughout the Facility Period and provide a copy to the Agent; and
- (d) immediately notify the Agent in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the SMC of its Vessel or of the DOC of the ISM Company.

12.3.7 ISPS Code compliance Each Borrower will:

- (a) for the duration of the Facility Period comply with the ISPS Code in relation to its Vessel and procure that its Vessel and the ISPS Company comply with the ISPS Code;
- (b) maintain a valid and current ISSC for its Vessel throughout the Facility Period and provide a copy to the Agent; and
- (c) immediately notify the Agent in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC of its Vessel.

12.3.8 Annex VI compliance Each Borrower will:

- (a) for the duration of the Facility Period comply with Annex VI in relation to its Vessel and procure that its Vessel's master and crew are familiar with, and that its Vessel complies with, Annex VI;
- (b) maintain a valid and current IAPPC for its Vessel throughout the Facility Period and provide a copy to the Agent; and
- (c) immediately notify the Agent in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the IAPPC of its Vessel.

12.3.9 Class Each Vessel shall be classed with a classification society acceptable to the Lenders and, commencing from the relevant Delivery Date shall be classed on a dual basis with China Classification Society (CCS) and:

- (a) in the case of Vessel A and Vessel B, Bureau Veritas; or
- (b) in the case of Vessel C, Nippon Kaiji Kyokai

with the highest class without any material overdue recommendations or adverse notations and no Borrower shall without the prior written consent of the Lenders change the class of its Vessel.

12.3.10 **Environmental Laws** All Environmental Laws applicable to a Vessel shall be complied with in all material respects and all material consents, licenses and approvals required under such Environmental Laws shall be obtained and complied with in all material respects.

12.3.11 **Assignment of Charter** Each Borrower undertakes, immediately upon the execution of any Charter, to execute and deliver to the Security Agent a specific assignment of that Charter in form and substance satisfactory to the Security Agent together with (i) all other documents required by it, including without limitation all notices of assignment and evidence that those notices will be duly acknowledged by the recipients and (ii) the documents referred to in paragraphs 2(vii), 3 and 4(b) of Schedule 2, Part 1, and such other documents as the Security Agent may reasonably require.

13 Events of Default

13.1 Events of Default

Each of the events or circumstances set out in this Clause 13.1 is an Event of Default.

13.1.1 **Non-payment** The Borrowers do not pay on the due date any amount payable by them under a Finance Document at the place at and in the currency in which it is expressed to be payable.

13.1.2 **Other obligations** A Security Party or any other person (except a Finance Party) does not comply with any provision of any of the Relevant Documents to which that Security Party or person is a party (other than as referred to in Clause 13.1.1 (*Non-payment*)).

No Event of Default under this Clause 13.1.2 will occur if:

- (a) the failure to comply is capable of remedy and does not relate either to the Insurances or to compliance with Clause 10.12 (*Additional security*) and is remedied within ten (10) Business Days of the Agent giving notice to the Borrowers or the Borrowers becoming aware of the failure to comply; or
- (b) the failure to comply relates to a Charter and, if it is capable of remedy is remedied within seven (7) Business Days of the Borrowers becoming aware of such failure to comply.

13.1.3 **Misrepresentation** Any representation, warranty or statement made or deemed to be repeated by a Security Party in any Finance Document or any other document delivered by or on behalf of a Security Party under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be repeated.

13.1.4 Cross default

- (a) Any Financial Indebtedness of any Security Party or any other member of the Group is not paid when due; or
- (b) any Financial Indebtedness of any Security Party or any other member of the Group becomes (whether by declaration or automatically in accordance with the relevant agreement or instrument constituting the same) due and payable prior to the date when it would otherwise have become due (unless as a result of the exercise by the relevant Security Party or any other member of the Group of a voluntary right of prepayment); or
- (c) any creditor of any Security Party or any other member of the Group becomes entitled to declare any such Financial Indebtedness due and payable or any facility or commitment available to any Security Party or other member of the Group relating to Financial Indebtedness is withdrawn, suspended or cancelled by reason of any default (however described) of the person concerned unless the relevant Security Party or any other member of the Group shall have satisfied the Agent that such withdrawal, suspension or cancellation will not affect or prejudice in any way the ability of the relevant Security Party or of the relevant member of the Group to pay its debts as they fall due and fund its commitments or any guarantee given by any Security Party; or
- (d) any other member of the Group in respect of the Financial Indebtedness is not honoured when due and called upon

provided that the amount or aggregate amount at any one time, of all Financial Indebtedness of any Security Party or any other member of the Group in relation to which any of the foregoing events shall have occurred and be continuing, is equal to or greater than fifteen million Dollars (\$15,000,000) or its equivalent in the currency which the same is denominated or payable.

For the avoidance of doubt, for the purpose of this Clause 13.1.4 references to Financial Indebtedness shall exclude the Indebtedness.

13.1.5 Insolvency

- (a) A Security Party is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of the Guarantor is less than its liabilities (taking into account contingent and prospective liabilities other than commitments in respect of vessels under construction and not yet delivered to that Security Party).
- (c) A moratorium is declared in respect of any indebtedness of a Security Party.

13.1.6 **Insolvency proceedings** Any corporate action, legal proceedings or other procedure or step is taken for:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, bankruptcy or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of a Security Party;
- (b) a composition, compromise, assignment or arrangement with any creditor of a Security Party;
- (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager, or trustee or other similar officer in respect of any Security Party or any of its assets; or
- (d) enforcement of any Encumbrance over any assets of a Security Party,

or any analogous procedure or step is taken in any jurisdiction.

13.1.7 **Creditors' process** Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of a Security Party and is not discharged within seven (7) days.

13.1.8 **Change in ownership of a Borrower or the Guarantor** (a) There is any change in the ownership of a Borrower or (b) the Palios Family ceases to be the major legal owner or ultimate beneficial owner of the Guarantor (excluding any financial institution acting as a passive investor), from that advised to the Agent by the Borrowers at the date of this Agreement.

13.1.9 **Repudiation etc** A Security Party or any other person (except a Finance Party) repudiates any of the Relevant Documents to which that Security Party or person is a party or evidences an intention to do so.

No Event of Default under this Clause 13.1.9 will occur if the repudiation is in relation to a Charter and such repudiation is beyond the control of the relevant Borrower and, if it is capable of remedy, is remedied within seven (7) Business Days of the Borrowers becoming aware of such repudiation.

13.1.10 **Impossibility or illegality** Any event occurs which would, or would with the passage of time, render performance of any of the Relevant Documents by a Security Party or any other party to any such document impossible, unlawful or unenforceable by a Finance Party or a Security Party.

No Event of Default under this Clause 13.1.11 will occur if the impossibility or illegality is in relation to a Charter or a Management Agreement and such impossibility or illegality is beyond the control of the relevant Borrower and, if it is capable of remedy, is remedied within seven (7) Business Days of the Borrowers becoming aware of such impossibility or illegality.

13.1.11 **Conditions subsequent** Any of the conditions referred to in Clause 3.4 (*Conditions subsequent*) is not satisfied within the time reasonably required by the Agent.

- 13.1.12 **Revocation or modification of authorisation** Any consent, licence, approval, authorisation, filing, registration or other requirement of any governmental, judicial or other public body or authority which is now, or which at any time during the Facility Period becomes, necessary to enable a Security Party or any other person (except a Finance Party) to comply with any of its obligations under any of the Relevant Documents is not obtained, is revoked, suspended, withdrawn or withheld, or is modified in a manner which the Agent considers is, or may be, prejudicial to the interests of a Finance Party, or ceases to remain in full force and effect.

No Event of Default under this Clause 13.1.12 will occur if the revocation or modification of authorisation is in relation to a Charter or a Management Agreement and such revocation or modification of authorisation is beyond the control of the relevant Borrower and, if it is capable of remedy, is remedied within seven (7) Business Days of the Borrowers becoming aware of such revocation or modification of authorisation.

- 13.1.13 **Curtailement of business** A Security Party ceases, or threatens to cease, to carry on all or a substantial part of its business or, as a result of intervention by or under the authority of any government, the business of a Security Party is wholly or partially curtailed or suspended, or all or a substantial part of the assets or undertaking of a Security Party is seized, nationalised, expropriated or compulsorily acquired.

- 13.1.14 **Reduction of capital** A Security Party reduces its authorised or issued or subscribed capital.

- 13.1.15 **Loss of Vessel** A Vessel suffers a Total Loss or is otherwise destroyed or abandoned, or a similar event occurs in relation to any other vessel which may from time to time be mortgaged to the Security Agent as security for the payment of all or any part of the Indebtedness, except that a Total Loss (which term shall for the purposes of the remainder of this Clause 13.1.12 include an event similar to a Total Loss in relation to any other vessel) shall not be an Event of Default if:

- (a) that Vessel or other vessel is insured in accordance with the Security Documents and a claim for Total Loss is available under the terms of the relevant insurances; and
- (b) no insurer has refused to meet or has disputed the claim for Total Loss and it is not apparent to the Agent in its discretion that any such refusal or dispute is likely to occur; and
- (c) payment of all insurance proceeds in respect of the Total Loss is made in full to the Security Agent within one hundred and twenty (120) days of the occurrence of the casualty giving rise to the Total Loss in question or such longer period as the Agent may in its discretion agree.

- 13.1.16 **Challenge to registration** The registration of a Vessel or a Mortgage is contested or becomes void or voidable or liable to cancellation or termination, or the validity or priority of a Mortgage is contested.

- 13.1.17 **War** The country of registration of a Vessel becomes involved in war (whether or not declared) or civil war or is occupied by any other power and the Agent in its discretion considers that, as a result, the security conferred by any of the Security Documents is materially prejudiced.
- 13.1.18 **Notice of termination** The Guarantor gives notice to the Security Agent to determine its obligations under the Guarantee.
- 13.1.19 **Material adverse change** Any event or series of events occurs which, in the opinion of the Agent, is likely to have a materially adverse effect on the business, assets, financial condition or credit worthiness of a Security Party.
- 13.1.20 **Arrest** A Vessel is arrested or detained or seized by any person other than any government or persons acting on behalf of any government and not released and returned to the possession of the relevant Borrower within fifteen (15) Business Days after the arrest or detention or seizure in question.

13.2 Acceleration

If an Event of Default is continuing the Agent may by notice to the Borrowers cancel any part of the Maximum Loan Amount not then advanced and:

- 13.2.1 declare that the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents are immediately due and payable, whereupon they shall become immediately due and payable; and/or
- 13.2.2 declare that the Loan is payable on demand, whereupon it shall immediately become payable on demand by the Agent.

14 Assignment and Sub-Participation

14.1 Lenders' rights

A Lender may (A) without the Borrowers' prior written consent and so long as such assignment does not result in any additional cost to the Borrowers, assign any of its rights under this Agreement to any of its branches, wholly owned subsidiaries and affiliates or (B) subject to the Borrowers' prior written consent (such consent not to be unreasonably withheld or delayed), assign any of its rights under this Agreement or transfer by novation any of its rights and obligations under this Agreement to any other bank or financial institution or, in each case (for the purpose of a securitisation of that Lender's rights or obligations under the Finance Documents or a similar transaction of broadly equivalent economic effect) to any special purpose vehicle, and may grant sub-participations in all or any part of its Commitment.

14.2 Borrowers' co-operation

The Borrowers will co-operate fully with a Lender in connection with any assignment, transfer or sub-participation by that Lender; will execute and procure the execution of such documents as that Lender may require in that connection; and irrevocably authorise any Finance Party to disclose to any proposed assignee, transferee or sub-participant (whether before or after any assignment, transfer or sub-participation

and whether or not any assignment, transfer or sub-participation shall take place) all information relating to the Security Parties, the Loan, the Relevant Documents and the Vessels which any Finance Party may in its discretion consider necessary or desirable, subject to the execution by the recipients of such information of a confidentiality undertaking substantially in the recommended form of the Loan Market Association at the relevant time.

14.3 Rights of assignee

Any assignee of a Lender shall (unless limited by the express terms of the assignment) take the full benefit of every provision of the Finance Documents benefitting that Lender PROVIDED THAT an assignment will only be effective on notification by the Agent to that Lender and the assignee that the Agent is satisfied it has complied with all necessary "Know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to the assignee.

14.4 Transfer Certificates

If a Lender wishes to transfer any of its rights and obligations under or pursuant to this Agreement, it may do so by delivering to the Agent a duly completed Transfer Certificate, in which event on the Transfer Date:

14.4.1 to the extent that that Lender seeks to transfer its rights and obligations, the Borrowers (on the one hand) and that Lender (on the other) shall be released from further obligations towards the other;

14.4.2 the Borrowers (on the one hand) and the transferee (on the other) shall assume obligations towards the other identical to those released pursuant to Clause 14.4.1 ; and

14.4.3 the Agent, each of the Lenders and the transferee shall have the same rights and obligations between themselves as they would have had if the transferee had been an original party to this Agreement as a Lender with the rights and obligations transferred to it as a result of the transfer

PROVIDED THAT the Agent shall only be obliged to execute a Transfer Certificate once:

- (a) it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to the transferee; and
- (b) the transferee has paid to the Agent for its own account a transfer fee of two thousand Dollars (\$2,000).

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate, send to the Borrowers a copy of that Transfer Certificate.

14.5 Finance Documents

Unless otherwise expressly provided in any Finance Document or otherwise expressly agreed between a Lender and any proposed transferee and notified by that Lender to the Agent on or before the relevant Transfer Date, there shall automatically be

assigned to the transferee with any transfer of a Lender's rights and obligations under or pursuant to this Agreement the rights of that Lender under or pursuant to the Finance Documents (other than this Agreement) which relate to the portion of that Lender's rights and obligations transferred by the relevant Transfer Certificate.

14.6 No assignment or transfer by the Borrowers

No Borrower may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

14.7 Securitisation

A Lender may disclose the size and term of the Loan and the name of each of the Security Parties to any investor or potential investor in a securitisation (or similar transaction of broadly equivalent economic effect) of that Lender's rights or obligations under the Finance Documents.

15 The Agent, the Security Agent and the Lenders

15.1 Appointment

15.1.1 Each Lender appoints the Agent to act as its agent under and in connection with the Finance Documents and each Lender and the Agent appoints the Security Agent to act as its security agent for the purpose of the Security Documents.

15.1.2 Each Lender authorises the Agent and each Lender and the Agent authorises the Security Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent or the Security Agent (as the case may be) under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

15.1.3 Except where the context otherwise requires or where expressly provided to the contrary, references in this Clause 15 to the "**Agent**" shall mean the

15.1.4 Agent and the Security Agent individually and collectively.

15.2 Authority

Each of the other Finance Parties irrevocably authorises the Agent (subject to Clauses 15.4 (*Limitations on authority*) and 15.18 (*Instructions*)):

15.2.1 to execute on its behalf any Finance Document (other than this Agreement) and any variation or amendment of any Finance Document (including this Agreement);

15.2.2 to collect, receive, release or pay any money on its behalf;

15.2.3 acting on the instructions from time to time of the Majority Lenders to give or withhold any waivers, consents or approvals under or pursuant to any Finance Document; and

15.2.4 acting on the unanimous instructions from time to time of the Lenders to exercise, or refrain from exercising, any rights, powers, authorities or discretions (including, without limitation, determining matters to be

acceptable to or agreed by the Agent) under or pursuant to any Finance Document.

The Agent shall have no duties or responsibilities as agent or as security agent other than those expressly conferred on it by the Finance Documents and shall not be obliged to act on any instructions from the Lenders or the Majority Lenders if to do so would, in the opinion of the Agent, be contrary to any provision of the Finance Documents or to any law, or would expose the Agent to any actual or potential liability to any third party.

15.3 Trust

The Security Agent agrees and declares, and each of the other Finance Parties acknowledges, that, subject to the terms and conditions of this Clause 15.3, the Security Agent holds the Trust Property on trust for the Finance Parties absolutely. Each of the other Finance Parties agrees that the obligations, rights and benefits vested in the Security Agent shall be performed and exercised in accordance with this Clause 15.3. The Security Agent shall have the benefit of all of the provisions of this Agreement benefiting it in its capacity as security agent for the Finance Parties, and all the powers and discretions conferred on trustees by the Trustee Act 1925 (to the extent not inconsistent with this Agreement). In addition:

15.3.1 the Security Agent and any attorney, agent or delegate of the Security Agent may indemnify itself or himself out of the Trust Property against all liabilities, costs, fees, damages, charges, losses and expenses sustained or incurred by it or him in relation to the taking or holding of any of the Trust Property or in connection with the exercise or purported exercise of the rights, trusts, powers and discretions vested in the Security Agent or any other such person by or pursuant to the Security Documents or in respect of anything else done or omitted to be done in any way relating to the Security Documents;

15.3.2 the other Finance Parties acknowledge that the Security Agent shall be under no obligation to insure any property nor to require any other person to insure any property and shall not be responsible for any loss which may be suffered by any person as a result of the lack or insufficiency of any insurance; and

15.3.3 the Finance Parties agree that the perpetuity period applicable to the trusts declared by this Agreement shall be the period of 125 years from the date of this Agreement.

The provisions of Part I of the Trustee Act 2000 shall not apply to the Security Agent or the Trust Property.

15.4 Limitations on authority

Except with the prior written consent of all the Lenders, the Agent shall not be entitled to:

15.4.1 release or vary any security given for the Borrowers' obligations under this Agreement; nor

- 15.4.2 waive the payment of any sum of money payable by any Security Party under the Finance Documents; nor
- 15.4.3 reduce the Margin; nor
- 15.4.4 change the meaning of the expression "**Majority Lenders**"; nor
- 15.4.5 change the order of application of any moneys set out in this Agreement; nor
- 15.4.6 exercise, or refrain from exercising, any right, power, authority or discretion, or give or withhold any consent, the exercise or giving of which is, by the terms of this Agreement, expressly reserved to the Lenders or dependent on the instructions of all the Lenders; nor
- 15.4.7 extend the due date for the payment of any sum of money payable by any Security Party under any Finance Document; nor
- 15.4.8 take or refrain from taking any step if the effect of such action or inaction may lead to the increase of the obligations of a Lender under any Finance Document; nor
- 15.4.9 agree to change the currency in which any sum is payable under any Finance Document (other than in accordance with the terms of the relevant Finance Document); nor
- 15.4.10 agree to change this Clause 15.4;

and any amendment or waiver which relates to any of the matters referred to in this Clause 15.4 shall not be entered into by the Agent until all the Lenders have agreed its terms.

15.5 Liability

Neither the Agent nor any of its directors, officers, employees or agents shall be liable to the Lenders for anything done or omitted to be done by the Agent under or in connection with any of the Relevant Documents unless as a result of the Agent's gross negligence or wilful misconduct.

15.6 Acknowledgement

Each Lender acknowledges that:

- 15.6.1 it has not relied on any representation made by Agent or any of the Agent's directors, officers, employees or agents or by any other person acting or purporting to act on behalf of the Agent to induce it to enter into any Finance Document;
- 15.6.2 it has made and will continue to make without reliance on the Agent, and based on such documents and other evidence as it considers appropriate, its own independent investigation of the financial condition and affairs of the Security Parties in connection with the making and continuation of the Loan;

15.6.3 it has made its own appraisal of the creditworthiness of the Security Parties; and

15.6.4 the Agent shall not have any duty or responsibility at any time to provide it with any credit or other information relating to any Security Party unless that information is received by the Agent pursuant to the express terms of a Finance Document.

Each Lender agrees that it will not assert nor seek to assert against any director, officer, employee or agent of the Agent or against any other person acting or purporting to act on behalf of the Agent any claim which it might have against them in respect of any of the matters referred to in this Clause 15.6.

15.7 Limitations on responsibility

The Agent shall have no responsibility to any Security Party or to any Lender on account of:

15.7.1 the failure of a Lender or of any Security Party to perform any of its obligations under a Finance Document; nor

15.7.2 the financial condition of any Security Party; nor

15.7.3 the completeness or accuracy of any statements, representations or warranties made in or pursuant to any Finance Document, or in or pursuant to any document delivered pursuant to or in connection with any Finance Document; nor

15.7.4 the negotiation, execution, effectiveness, genuineness, validity, enforceability, admissibility in evidence or sufficiency of any Finance Document or of any document executed or delivered pursuant to or in connection with any Finance Document.

15.8 The Agent's rights

The Agent may:

15.8.1 assume that all representations or warranties made or deemed repeated by any Security Party in or pursuant to any Finance Document are true and complete, unless, in its capacity as the Agent, it has acquired actual knowledge to the contrary;

15.8.2 assume that no Default has occurred unless, in its capacity as the Agent, it has acquired actual knowledge to the contrary;

15.8.3 rely on any document or notice believed by it to be genuine;

15.8.4 rely as to legal or other professional matters on opinions and statements of any legal or other professional advisers selected or approved by it;

15.8.5 rely as to any factual matters which might reasonably be expected to be within the knowledge of any Security Party on a certificate signed by or on behalf of that Security Party; and

15.8.6 refrain from exercising any right, power, discretion or remedy unless and until instructed to exercise that right, power, discretion or remedy and as to the manner of its exercise by the Lenders or the Majority Lenders (as the case may be) and unless and until the Agent has received from the Lenders any payment which the Agent may require on account of, or any security which the Agent may require for, any costs, claims, expenses (including legal and other professional fees) and liabilities which it considers it may incur or sustain in complying with those instructions.

15.9 The Agent's duties

The Agent shall:

15.9.1 if requested in writing to do so by a Lender, make enquiry and advise the Lenders as to the performance or observance of any of the provisions of any Finance Document by any Security Party or as to the existence of an Event of Default; and

15.9.2 inform the Lenders promptly of any Event of Default of which the Agent has actual knowledge.

15.10 No deemed knowledge

The Agent shall not be deemed to have actual knowledge of the falsehood or incompleteness of any representation or warranty made or deemed repeated by any Security Party or actual knowledge of the occurrence of any Default unless a Lender or a Security Party shall have given written notice thereof to the Agent in its capacity as the Agent. Any information acquired by the Agent other than specifically in its capacity as the Agent shall not be deemed to be information acquired by the Agent in its capacity as the Agent.

15.11 Other business

The Agent may, without any liability to account to the Lenders, generally engage in any kind of banking or trust business with a Security Party or with a Security Party's subsidiaries or associated companies or with a Lender as if it were not the Agent.

15.12 Indemnity

The Lenders shall, promptly on the Agent's request, reimburse the Agent in their respective Proportionate Shares, for, and keep the Agent fully indemnified in respect of all liabilities, damages, costs and claims sustained or incurred by the Agent in connection with the Finance Documents, or the performance of its duties and obligations, or the exercise of its rights, powers, discretions or remedies under or pursuant to any Finance Document, to the extent not paid by the Security Parties and not arising solely from the Agent's gross negligence or wilful misconduct.

15.13 Employment of agents

In performing its duties and exercising its rights, powers, discretions and remedies under or pursuant to the Finance Documents, the Agent shall be entitled to employ and pay agents to do anything which the Agent is empowered to do under or pursuant to the Finance Documents (including the receipt of money and documents)

and the payment of money) and to act or refrain from taking action in reliance on the opinion of, or advice or information obtained from, any lawyer, banker, broker, accountant, valuer or any other person believed by the Agent in good faith to be competent to give such opinion, advice or information.

15.14 Distribution of payments

The Agent (which term shall not for the purposes of this Clause 15.14 include the Security Agent) shall pay promptly to the order of each Finance Party every sum of money received by the Agent pursuant to the Finance Documents for that Finance Party and until so paid such amount shall be held by the Agent on trust absolutely for that Finance Party. If the Agent receives a sum of money which is insufficient to discharge all the amounts then due and payable to every Finance Party under any one or more of the Finance Documents, the Agent shall apply that sum in accordance with the order set out in Clauses 10.10.5 to 10.10.10 inclusive (*Application of moneys by Security Agent*).

15.15 Reimbursement

The Agent shall have no liability to pay any sum to a Lender until it has itself received payment of that sum. If, however, the Agent does pay any sum to a Lender on account of any amount prospectively due to that Lender pursuant to Clause 14.14 (*Distribution of payments*) before it has itself received payment of that amount, that Lender will, on demand by the Agent, refund to the Agent an amount equal to the sum so paid, together with an amount sufficient to reimburse the Agent for any interest which the Agent may certify that it has been required to pay on money borrowed to fund the sum in question during the period beginning on the date of payment and ending on the date on which the Agent receives reimbursement.

15.16 Redistribution of payments

Unless otherwise agreed between the Lenders and the Agent, if at any time a Lender receives or recovers by way of set-off, the exercise of any lien or otherwise from any Security Party, an amount greater than that Lender's Proportionate Share of any sum due from that Security Party to the Lenders under the Finance Documents (the amount of the excess being referred to in this Clause 15.16 and in Clause 15.17 (*Rescission of Excess Amount*) as the "**Excess Amount**") then:

- 15.16.1 that Lender shall promptly notify the Agent (which shall promptly notify each other Lender);
- 15.16.2 that Lender shall pay to the Agent an amount equal to the Excess Amount within ten (10) days of its receipt or recovery of the Excess Amount; and
- 15.16.3 the Agent shall treat that payment as if it were a payment by the Security Party in question on account of the sum due from that Security Party to the Lenders and shall account to the Lenders in respect of the Excess Amount in accordance with the provisions of Clause 15.14 (*Distribution of payments*).

However, if a Lender has commenced any legal proceedings to recover sums owing to it under the Finance Documents and, as a result of, or in connection with, those proceedings has received an Excess Amount, the

Agent shall not distribute any of that Excess Amount to any other Lender which had been notified of the proceedings and had the legal right to, but did not, join those proceedings or commence and diligently prosecute separate proceedings to enforce its rights in the same or another court.

15.17 Rescission of Excess Amount

If all or any part of any Excess Amount is rescinded or must otherwise be restored to any Security Party or to any other third party, the Lenders which have received any part of that Excess Amount by way of distribution from the Agent pursuant to Clause 15.16 (*Redistribution of payments*) shall repay to the Agent for the account of the Lender which originally received or recovered the Excess Amount, the amount which shall be necessary to ensure that the Lenders share rateably in accordance with their Proportionate Shares in the amount of the receipt or payment retained, together with interest on that amount at a rate equivalent to that (if any) paid by the Lender receiving or recovering the Excess Amount to the person to whom that Lender is liable to make payment in respect of such amount, and Clause 15.16.3 (*Redistribution of payments*) shall apply only to the retained amount.

15.18 Instructions

Where the Agent is authorised or directed to act or refrain from acting in accordance with the instructions of the Lenders or of the Majority Lenders (as the case may be) each of the Lenders shall provide the Agent with instructions within three (3) Business Days of the Agent's request (which request may be made orally or in writing). If a Lender does not provide the Agent with instructions within that period, that Lender shall be bound by the decision of the Agent. Nothing in this Clause 15.18 shall limit the right of the Agent to take, or refrain from taking, any action without obtaining the instructions of the Lenders or the Majority Lenders (as the case may be) if the Agent in its discretion considers it necessary or appropriate to take, or refrain from taking, such action in order to preserve the rights of the Lenders under or in connection with the Finance Documents. In that event, the Agent will notify the Lenders of the action taken by it as soon as reasonably practicable, and the Lenders agree to ratify any action taken by the Agent pursuant to this Clause 15.18.

15.19 Payments

All amounts payable to a Lender under this Clause 15 shall be paid to such account at such bank as that Lender may from time to time direct in writing to the Agent.

15.20 "Know your customer" checks

Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

15.21 Resignation

Subject to a successor being appointed in accordance with this Clause 15.21, the Agent may resign as agent and/or security agent at any time without assigning any reason by giving to the Borrowers and the Lenders notice of its intention to do so, in which event the following shall apply:

- 15.21.1 the Lenders may within thirty (30) days after the date of the Agent's notice appoint a successor to act as agent and/or security agent or, if they fail to do so, the Agent may appoint any other bank or financial institution as its successor;
- 15.21.2 the resignation of the Agent shall take effect simultaneously with the appointment of its successor on written notice of that appointment being given to the Borrowers and the Lenders;
- 15.21.3 the Agent shall thereupon be discharged from all further obligations as agent and/or security agent but shall remain entitled to the benefit of the provisions of this Clause 15; and
- 15.21.4 the Agent's successor and each of the other parties to this Agreement shall have the same rights and obligations amongst themselves as they would have had if that successor had been a party to this Agreement.

15.22 No fiduciary relationship

Except as provided in Clauses 15.3 (*Trust*) and 15.14 (*Distribution of payments*), the Agent shall not have any fiduciary relationship with or be deemed to be a trustee of or for any other person and nothing contained in any Finance Document shall constitute a partnership between any two or more Lenders or between the Agent and any other person.

16 Set-Off

A Finance Party may set off any matured obligation due from the Borrowers under any Finance Document (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to any Borrower, regardless of the place of payment, booking branch or currency of either obligation. 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.

17 Payments

17.1 Payments

Each amount payable by a Borrower under a Finance Document shall be paid to such account at such bank as the Agent may from time to time direct to the Borrowers in the Currency of Account and in such funds as are customary at the time for settlement of transactions in the relevant currency in the place of payment. Payment shall be deemed to have been received by the Agent on the date on which the Agent receives authenticated advice of receipt, unless that advice is received by the Agent on a day other than a Business Day or at a time of day (whether on a

Business Day or not) when the Agent in its discretion considers that it is impossible or impracticable for the Agent to utilise the amount received for value that same day, in which event the payment in question shall be deemed to have been received by the Agent on the Business Day next following the date of receipt of advice by the Agent.

17.2 No deductions or withholdings

Each payment (whether of principal or interest or otherwise) to be made by a Borrower under a Finance Document shall, subject only to Clause 17.3 (*Grossing-up*), be made free and clear of and without deduction for or on account of any Taxes (other than a FATCA Deduction) or other deductions, withholdings, restrictions, conditions or counterclaims of any nature.

17.3 Grossing-up

If at any time any law requires (or is interpreted to require) a Borrower to make any deduction or withholding from any payment (other than a FATCA Deduction), or to change the rate or manner in which any required deduction or withholding is made, under a Finance Document, the Borrowers will promptly notify the Agent and, simultaneously with that payment, will pay to the Agent whatever additional amount (after taking into account any additional Taxes on, or deductions or withholdings from, or restrictions or conditions on, that additional amount) is necessary to ensure that, after the deduction or withholding, the relevant Finance Parties receive a net sum equal to the sum which they would have received had no deduction or withholding been made.

17.4 Evidence of deductions

If at any time a Borrower is required by law to make any deduction or withholding from any payment to be made by it under a Finance Document, that Borrower will pay the amount required to be deducted or withheld to the relevant authority within the time allowed under the applicable law and will, no later than thirty (30) days after making that payment, deliver to the Agent an original receipt issued by the relevant authority, or other evidence acceptable to the Agent, evidencing the payment to that authority of all amounts required to be deducted or withheld.

17.5 Adjustment of due dates

If any payment or transfer of funds to be made under a Finance Document, other than a payment of interest on the Loan, shall be due on a day which is not a Business Day, that payment shall be made on the next succeeding Business Day (unless the next succeeding Business Day falls in the next calendar month in which event the payment shall be made on the next preceding Business Day). Any such variation of time shall be taken into account in computing any interest in respect of that payment.

17.6 Control account

The Agent shall open and maintain on its books a control account in the names of the Borrowers showing the advance of the Loan and the computation and payment of interest and all other sums due under this Agreement. The Borrowers' obligations to

repay the Loan and to pay interest and all other sums due under this Agreement shall be evidenced by the entries from time to time made in the control account opened and maintained under this Clause 17.6 and those entries will, in the absence of manifest error, be conclusive and binding.

17.7 Clawback

The Agent shall have no liability to pay any sum to the Borrowers until it has itself received payment of that sum. If, however, the Agent does pay any sum to the Borrowers on account of any amount prospectively due to the Borrowers pursuant to Clause 3 (*Advance*) before it has itself received payment of that amount, the Borrowers will, on demand by the Agent, refund to the Agent an amount equal to the sum so paid, together with an amount sufficient to reimburse the Agent for any interest which the Agent may certify that it has been required to pay on money borrowed to fund the sum in question during the period beginning on the date of payment and ending on the date on which the Agent receives reimbursement.

17.8 FATCA Deduction and gross-up by a Security Party

- (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 Borrowers and the Agent and the Agent shall notify the other Finance Parties.

18 Notices

18.1 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.

18.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Agreement for any communication or document to be made or delivered under or in connection with this Agreement are:

18.2.1 in the case of the Borrowers:

c/o Diana Shipping Services S.A.

Pendelis 16

175 64 Palaio Faliro

Athens

Greece (fax no: +30 210 9470101)

marked for the attention of Mr Andreas Michalopoulos;

18.2.2 in the case of each Lender, those appearing opposite its name in Schedule 1, Part 1 (*The Lenders and the Commitments*):

The Export-Import Bank of China
No.30, Fu Xing Men Nei Street, Xicheng District
Beijing 100031, The People's Republic of China
(fax no: +86 10 8357 8428/29)

marked for the attention of: Transportation Finance Department

18.2.3 in the case of each Arranger, those appearing opposite its name in Schedule 1, Part 2 (*the Arrangers*):

The Export-Import Bank of China
No.30, Fu Xing Men Nei Street, Xicheng District
Beijing 100031, The People's Republic of China
(fax no: +86 10 8357 8428/29)

marked for the attention of: Transportation Finance Department

18.2.4 in the case of the Agent:

The Export-Import Bank of China
No.30, Fu Xing Men Nei Street, Xicheng District
Beijing 100031, The People's Republic of China
(fax no: +86 10 8357 8428/29)

marked for the attention of: Transportation Finance Department

18.2.5 in the case of the Security Agent:

The Export-Import Bank of China
No.30, Fu Xing Men Nei Street, Xicheng District
Beijing 100031, The People's Republic of China
(fax no: +86 10 8357 8428/29)

marked for the attention of: Transportation Finance Department

or any substitute address, fax number, department or officer as any party may notify to the Agent (or the Agent may notify to the other parties, if a change is made by the Agent) by not less than five (5) Business Days' notice.

18.3 Delivery

Any communication or document made or delivered by one party to this Agreement to another under or in connection with this Agreement will only be effective:

18.3.1 if by way of fax, when received in legible form; or

18.3.2 if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under Clause 18.2 (*Addresses*), if addressed to that department or officer.

Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent.

All notices from or to the Borrowers shall be sent through the Agent.

Any communication or document which becomes effective, in accordance with this Clause 18.3, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

18.4 Notification of address and fax number

Promptly upon receipt of notification of an address, fax number or change of address, pursuant to Clause 18.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other parties to this Agreement.

18.5 English language

Any notice given under or in connection with this Agreement must be in English. All other documents provided under or in connection with this Agreement must be:

18.5.1 in English; or

18.5.2 if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

19 Partial Invalidity

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

20 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any of the Finance Documents on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

21 Joint and several liability

21.1 Nature of liability

The representations, warranties, covenants, obligations and undertakings of the Borrowers contained in this Agreement shall be joint and several so that each Borrower shall be jointly and severally liable with all the Borrowers for all of the same and such liability shall not in any way be discharged, impaired or otherwise affected by:

- 21.1.1 any forbearance (whether as to payment or otherwise) or any time or other indulgence granted to any other Borrower or any other Security Party under or in connection with any Finance Document;
- 21.1.2 any amendment, variation, novation or replacement of any other Finance Document;
- 21.1.3 any failure of any Finance Document to be legal valid binding and enforceable in relation to any other Borrower or any other Security Party for any reason;
- 21.1.4 the winding-up or dissolution of any other Borrower or any other Security Party;
- 21.1.5 the release (whether in whole or in part) of, or the entering into of any compromise or composition with, any other Borrower or any other Security Party; or
- 21.1.6 any other act, omission, thing or circumstance which would or might, but for this provision, operate to discharge, impair or otherwise affect such liability.

21.2 No rights as surety

Until the Indebtedness has been unconditionally and irrevocably paid and discharged in full, each Borrower agrees that it shall not, by virtue of any payment made under this Agreement on account of the Indebtedness or by virtue of any enforcement by a Finance Party of its rights under this Agreement or by virtue of any relationship between, or transaction involving, the relevant Borrower and any other Borrower or any other Security Party:

- 21.2.1 exercise any rights of subrogation in relation to any rights, security or moneys held or received or receivable by a Finance Party or any other person; or
- 21.2.2 exercise any right of contribution from any other Borrower or any other Security Party under any Finance Document; or
- 21.2.3 exercise any right of set-off or counterclaim against any other Borrower or any other Security Party; or
- 21.2.4 receive, claim or have the benefit of any payment, distribution, security or indemnity from any other Borrower or any other Security Party; or
- 21.2.5 unless so directed by the Agent (when the relevant Borrower will prove in accordance with such directions), claim as a creditor of any other Borrower or any other Security Party in competition with any Finance Party

and each Borrower shall hold in trust for the Finance Parties and forthwith pay or transfer (as appropriate) to the Agent any such payment (including an amount equal to any such set-off), distribution or benefit of such security, indemnity or claim in fact received by it.

22 Miscellaneous

22.1 No oral variations

No variation or amendment of a Finance Document shall be valid unless in writing and signed on behalf of all the Finance Parties.

22.2 Further assurance

If any provision of a Finance Document shall be invalid or unenforceable in whole or in part by reason of any present or future law or any decision of any court, or if the documents at any time held by or on behalf of the Finance Parties or any of them are considered by the Lenders for any reason insufficient to carry out the terms of this Agreement, then from time to time the Borrowers will promptly, on demand by the Agent, execute or procure the execution of such further documents as in the opinion of the Lenders are necessary to provide adequate security for the repayment of the Indebtedness.

22.3 Rescission of payments etc.

Any discharge, release or reassignment by a Finance Party of any of the security constituted by, or any of the obligations of a Security Party contained in, a Finance Document shall be (and be deemed always to have been) void if any act (including, without limitation, any payment) as a result of which such discharge, release or reassignment was given or made is subsequently wholly or partially rescinded or avoided by operation of any law.

22.4 Certificates

Any certificate or statement signed by an authorised signatory of the Agent purporting to show the amount of the Indebtedness (or any part of the Indebtedness) or any other amount referred to in any Finance Document shall, save for manifest error or on any question of law, be conclusive evidence as against the Borrowers of that amount.

22.5 Counterparts

This Agreement may be executed in any number of counterparts each of which shall be original but which shall together constitute the same instrument.

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

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

22.7 Disclosure

Each Borrower irrevocably authorises, and shall procure that each of the other Security Parties authorises, each Finance Party to disclose from time to time any information relating to the Security Parties, the Loan, the Commitments, the Earnings Accounts, the Relevant Documents and the Vessels to (a) any private, public or internationally recognised authorities, (b) any Finance Party's head office, branches, affiliates and professional advisors, (c) any

other parties to the Finance Documents, (d) rating agencies or their professional advisors and (e) any person with whom any Finance Party proposes entering into, or has entered into, contractual relations in connection with the Loan or any Commitment, provided in each case that the person to whom such information is to be given has entered in a confidentiality undertaking substantially in the recommended form of the Loan Market Association at the relevant time.

23 Law and Jurisdiction

23.1 Governing law

This Agreement and any non-contractual obligations arising from or in connection with it shall in all respects be governed by and interpreted in accordance with English law.

23.2 Jurisdiction

For the exclusive benefit of the Finance Parties, the parties to this Agreement irrevocably agree that the courts of England are to have exclusive jurisdiction to settle any dispute (a) arising from or in connection with this Agreement or (b) relating to any non-contractual obligations arising from or in connection with this Agreement and that any proceedings may be brought in those courts.

23.3 Alternative jurisdictions

Nothing contained in this Clause 23 shall limit the right of the Finance Parties to commence any proceedings against the Borrowers in any other court of competent jurisdiction nor shall the commencement of any proceedings against the Borrowers in one or more jurisdictions preclude the commencement of any proceedings in any other jurisdiction, whether concurrently or not.

23.4 Waiver of objections

Each Borrower irrevocably waives any objection which it may now or in the future have to the laying of the venue of any proceedings in any court referred to in this Clause 23, and any claim that those proceedings have been brought in an inconvenient or inappropriate forum, and irrevocably agrees that a judgment in any proceedings commenced in any such court shall be conclusive and binding on it and may be enforced in the courts of any other jurisdiction.

23.5 Service of process

Without prejudice to any other mode of service allowed under any relevant law, each Borrower:

23.5.1 irrevocably appoints Nicolaou & Co. Chartered Accounts, 25 Heath Drive Potters Bar. Herts, EN6 1EN, London, England for the attention of Mr Antonis Nicolaou as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement; and

23.5.2 agrees that failure by a process agent to notify any Borrower of the process will not invalidate the proceedings concerned.

Schedule 1**The Lenders and the Arrangers****Part 1****The Lenders and the Commitments****The Lenders**

The Export-Import Bank of China

No.30, Fu Xing Men Nei Street, Xicheng
District

Beijing 100031, The People's Republic of
China

(fax no: +86 10 8357 8428/29)

marked for the attention of: Transportation
Finance Department

The Commitments

\$75,734,900

Part 2

The Arrangers

The Export-Import Bank of China

No.30, Fu Xing Men Nei Street, Xicheng District

Beijing 100031, The People's Republic of China

(fax no: +86 10 8357 8428/29)

marked for the attention of: Transportation Finance Department

Schedule 2

Conditions Precedent and Subsequent

Part 1

Conditions precedent

1 Security Parties

- (a) **Constitutional Documents** Copies of the constitutional documents of each Security Party together with such other evidence as the Agent may reasonably require that each Security Party is duly incorporated in its country of incorporation and remains in existence with power to enter into, and perform its obligations under, the Relevant Documents to which it is or is to become a party.
- (b) **Certificates of good standing** A certificate of good standing in respect of each Security Party (if such a certificate can be obtained).
- (c) **Board resolutions** A copy of a resolution of the board of directors of each Security Party (and, in the case of the Guarantor, of the executive committee of the board of directors of the Guarantor):
 - (i) approving the terms of, and the transactions contemplated by, the Relevant Documents to which it is a party and resolving that it execute those Relevant Documents; and
 - (ii) authorising a specified person or persons to execute those Relevant Documents (and all documents and notices to be signed and/or despatched under those documents) on its behalf.
- (d) **Specimen signatures** A specimen of the signature of each person authorised by the resolutions referred to in paragraph (c) above.
- (e) **Shareholder resolutions** A copy of a resolution signed by all the holders of the issued shares in each Security Party (other than the Guarantor), approving the terms of, and the transactions contemplated by, the Relevant Documents to which that Security Party is a party.
- (f) **Officer's certificates** A certificate of a duly authorised officer of each Security Party 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 setting out the names of the directors, officers and shareholders of that Security Party and the proportion of shares held by each shareholder.
- (g) **Evidence of registration** Evidence that the names of the directors and officers of the Manager are duly registered in the companies registry or other registry in the country of incorporation of the Manager.
- (h) **Powers of attorney** The power of attorney of each Security Party (notarially attested and legalised if required) under which any documents are to be executed or transactions undertaken by that Security Party.

2 Security and related documents

(a) **Vessel documents**

- (a) Photocopies, certified as true, accurate and complete by a director or the secretary of the Borrower, of:
 - (i) the Building Contract;
 - (ii) such documents as the Agent may reasonably require to evidence the nomination of or novation in favour of (as the case may be) the Borrower as purchaser of the Vessel pursuant to the Building Contract;
 - (iii) the builder's certificate and/or bill of sale transferring title in the Vessel to the Borrower free of all encumbrances, maritime liens or other debts;
 - (iv) the protocol of delivery and acceptance evidencing the unconditional physical delivery of the Vessel by the Builder to the Borrower pursuant to the Building Contract;
 - (v) the commercial invoice issued by the Builder in respect of the final contract price of the Vessel;
 - (vi) the declaration of warranty issued by the Builder to the Borrower pursuant to the Building Contract;
 - (vii) any charterparty or other contract of employment of the Vessel which will be in force on the Drawdown Date including, without limitation, any Charter;
 - (viii) the Management Agreement;
 - (ix) the Vessel's current Safety Construction, Safety Equipment, Safety Radio, Oil Pollution Prevention and Load Line Certificates;
 - (x) evidence of the Vessel's current Certificate of Financial Responsibility issued pursuant to the United States Oil Pollution Act 1990, if applicable;
 - (xi) the Vessel's current SMC;
 - (xii) the ISM Company's current DOC;
 - (xiii) the Vessel's current ISSC;
 - (xiv)
 - (xv) the Vessel's current Tonnage Certificate;

in each case together with all addenda, amendments or supplements.

- (b) **Evidence of Borrower's title** Evidence that any prior registration of the Vessel in the ownership of the Builder and any Encumbrance registered against that ownership have been cancelled (or confirmation from the

Builder that there was no such prior registration) and evidence that on the Delivery Date (i) the Vessel will be at least provisionally registered under an Approved Flag in the ownership of the Borrower and (ii) the Mortgage will be capable of being registered against the Vessel with first priority.

- (c) **Evidence of insurance** Evidence that the Vessel is insured in the manner required by the Security Documents and that letters of undertaking will be issued in the manner required by the Security Documents, together with an opinion on the Insurances by an insurance adviser appointed by the Agent at the cost of the Borrowers (to be borne directly by the Borrowers).
- (d) **Confirmation of class** A Certificate of Confirmation of Class for hull and machinery confirming that the Vessel is classed with the highest class applicable to vessels of her type with Bureau Veritas or NKK, as the case may be, and on a dual basis with China Classification Society or such other classification society as may be acceptable to the Agent free of material overdue recommendations or adverse notations, in case affecting class.
- (e) **Valuations** Two valuations of the Vessel from Approved Brokers acceptable to the Agent addressed to the Agent to be issued in accordance with the requirements of Clause 10.13 (*Fair Market Value determination*) certifying the Fair Market Value of the Vessel in order for the Lenders to assess compliance with Clause 10.12 (*Additional security*) and determine the Maximum Tranche Amount.

Security Documents The Mortgage and the Assignments in respect of the Vessel, the Managers' Undertaking, the Guarantee, the Account Charges, the Negative Share Pledges, together with all other documents required by any of them, including, without limitation, all notices of assignment and/or charge and evidence that those notices will be duly acknowledged by the recipients.

- (g) **Mandates** Such duly signed forms of mandate, and/or other evidence of the opening of the Earnings Accounts, as the Security Agent may require.
- (h) **No disputes** The written confirmation of the Borrower that there is no dispute under any of the Relevant Documents as between the parties to any such document.
- (i) **Account Holder's confirmation** The written confirmation of the Account Holder that the Accounts have been opened with the Account Holder and to its actual knowledge are free from Encumbrances and rights of set off other than as created by or pursuant to the Security Documents.

Equity contribution Evidence of full payment to the Builder of any part of the contract price of the Vessel under the Building Contract which is payable on or before the relevant Drawdown Date and which is not being financed by the Loan, including without limitation that part of the delivery instalment not being financed by the Loan.

- (k) **Cash balance** Written statement of account issued by the Account Holder and a Compliance Certificate signed by Chief Financial Officer of the

Guarantor, each confirming that the Borrowers are in compliance with the financial covenant of Clause 12.2.1, to be delivered to the Agent on or before the due date for delivering the Drawdown Request pursuant to Clause 4.1 (*Drawdown Request*).

- (l) **Other Relevant Documents** Copies of each of the Relevant Documents, including the Shareholder Letter, not otherwise comprised in the documents listed in this Part 1 of Schedule 2.

3 Legal opinions

- (a) If a Security Party is incorporated in a jurisdiction other than England and Wales or if any Finance Document is governed by the laws of a jurisdiction other than England and Wales, a legal opinion of the legal advisers to the Agent in each relevant jurisdiction, substantially in the form or forms provided to the Agent prior to signing this Agreement or confirmation satisfactory to the Agent that such an opinion will be given.

4 Other documents and evidence

- (a) **Drawdown Notice** A duly completed Drawdown Notice.
- (b) **Process agent** Evidence that any process agent referred to in Clause 23.5 (*Service of process*) and any process agent appointed under any other Finance Document has accepted its appointment.
- (c) **Other authorisations** A copy of any other consent, licence, approval, authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Borrowers accordingly) in connection with the entry into and performance of the transactions contemplated by any of the Relevant Documents or for the validity and enforceability of any of the Relevant Documents.
- (d) **Financial statements** Copies of the Original Financial Statements of each Borrower and the Guarantor.
- (e) **Compliance Certificate** A Compliance Certificate signed by the Chief Financial Officer of the Guarantor setting out (in reasonable detail) computations as to compliance with Clause 12.2 (*Financial covenants*) and Clause 10.12 (*Additional Security*) as at the date as at which the Guarantor's latest financial statements were drawn up, to be delivered to the Agent on or before the due date for delivering the Drawdown Request pursuant to Clause 4.1 (*Drawdown Request*).
- (f) **Fees** Evidence that the fees, costs and expenses then due from the Borrowers under Clause 8 (*Indemnities*) and Clause 9 (*Fees*) have been paid or will be paid by the relevant Drawdown Date.
- (g) **"Know your customer" documents** Such documentation and other evidence as is reasonably requested by the Agent in order for the Lenders to comply with all necessary "know your customer" or similar identification procedures in relation to the transactions contemplated in the Finance Documents, including (without limitation) documentation in relation to the

Borrowers, the Guarantor's signatories to the Finance Documents, directors and the Shareholder.

Part 2

Conditions subsequent

1 Evidence of Borrower's title

Certificate of ownership and encumbrance (or equivalent) issued by the Registrar of Ships (or equivalent official) of the Approved Flag confirming that (a) the Vessel is permanently registered under that flag in the ownership of the Borrower, (b) the Mortgage has been registered with first priority against the Vessel and (c) there are no further Encumbrances registered against the Vessel.

2 Letters of undertaking

Letters of undertaking in respect of the Insurances as required by the Security Documents together with copies of the relevant policies or cover notes or entry certificates duly endorsed with the interest of the Finance Parties.

3 Acknowledgements of notices

Acknowledgements of all notices of assignment and/or charge given pursuant to any Security Documents received by the Agent pursuant to Part 1 of this Schedule 2.

4 Legal opinions

Such of the legal opinions specified in Part 1 of this Schedule 2 as have not already been provided to the Agent.

5 Master's receipt

If applicable, the master's receipt for the Mortgage.

Schedule 3

Form of Drawdown Notice

To: **The Export-Import Bank of China**

From:

Aster Shipping Company Inc.

Aerik Shipping Company Inc.

Houk Shipping Company Inc.

[] 2016

Dear Sirs

Drawdown Notice

We refer to the Loan Agreement dated 2016 made between ourselves and yourselves (the "**Agreement**").

Words and phrases defined in the Agreement have the same meaning when used in this Drawdown Notice.

[Pursuant to Clause 3.1 of the Agreement, we irrevocably request that you advance the Tranche in respect of the Vessel with hull number [H2548] [H2548] [DY2006] in the sum of [] to us on 20 , which is a Business Day, by paying the amount of that Tranche in accordance with the terms of the Building Contract for hull no. [H2548] [H2549] [DY6006].]

OR*

[Pursuant to Clause 3.3 (*Prepositioning of funds*) of the Agreement, we irrevocably request that you advance the Tranche in respect of the Vessel with hull number [H2548] [H2548] [DY2006] in the sum of [] to us on 20 , which is a Prepositioning Date, by prepositioning such sum in accordance with the terms of the Building Contract for hull no. [H2548] [H2549] [DY6006]. We acknowledge that the prepositioning of such funds shall constitute an advance of the Vessel Loan under Clause 3 (Advance) of the Agreement.]

We warrant that the representations and warranties contained in Clause 10.1 of the Agreement are true and correct at the date of this Drawdown Notice and will be true and correct on 20 , that no Default has occurred and is continuing, and that no Default will result from the advance of the Tranche requested in this Drawdown Notice.

We select the period of [] months as the first Interest Period.

Yours faithfully

For and on behalf of

Aster Shipping Company Inc.
Aerik Shipping Company Inc.
Houk Shipping Company Inc.
*Delete as appropriate

Schedule 4

Form of Transfer Certificate

To: **The Export-Import Bank of China**

Transfer Certificate

This transfer certificate relates to a secured loan facility agreement (as from time to time amended, varied, supplemented or novated the "**Loan Agreement**") dated 2016, on the terms and subject to the conditions of which a secured loan facility of up to \$75,734,900 was made available to Aster Shipping Company Inc., Aerik Shipping Company Inc. and Houk Shipping Company Inc. on a joint and several basis by a syndicate of banks on whose behalf you act as agent and security agent.

- 1 Terms defined in the Loan Agreement shall, unless otherwise expressly indicated, have the same meaning when used in this certificate. The terms "**Transferor**" and "**Transferee**" are defined in the schedule to this certificate.
- 2 The Transferor:
 - 2.1 confirms that the details in the Schedule under the heading "Transferor's Commitment" accurately summarise its Commitment; and
 - 2.2 requests the Transferee to accept by way of novation the transfer to the Transferee of the amount of the Transferor's Commitment specified in the Schedule by counter-signing and delivering this certificate to the Agent at its address for communications specified in the Loan Agreement.
- 3 The Transferee requests the Agent to accept this certificate as being delivered to the Agent pursuant to and for the purposes of clause 13.4 of the Loan Agreement so as to take effect in accordance with the terms of that clause on the Transfer Date specified in the Schedule.
- 4 The Agent confirms its acceptance of this certificate for the purposes of clause 13.4 of the Loan Agreement.
- 5 The Transferee confirms that:
 - 5.1 it has received a copy of the Loan Agreement together with all other information which it has required in connection with this transaction;
 - 5.2 it has not relied and will not in the future rely on the Transferor or any other party to the Loan Agreement to check or enquire on its behalf into the legality, validity, effectiveness, adequacy, accuracy or completeness of any such information; and
 - 5.3 it has not relied and will not in the future rely on the Transferor or any other party to the Loan Agreement to keep under review on its behalf the financial condition, creditworthiness, condition, affairs, status or nature of any Security Party.
- 6 Execution of this certificate by the Transferee constitutes its representation and warranty to the Transferor and to all other parties to the Loan Agreement that it has

the power to become a party to the Loan Agreement as a Lender on the terms of the Loan Agreement and has taken all steps to authorise execution and delivery of this certificate.

- 7 The Transferee undertakes with the Transferor and each of the other parties to the Loan Agreement that it will perform in accordance with their terms all those obligations which by the terms of the Loan Agreement will be assumed by it after delivery of this certificate to the Agent and the satisfaction of any conditions subject to which this certificate is expressed to take effect.
- 8 The Transferor makes no representation or warranty and assumes no responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any document relating to any Finance Document, and assumes no responsibility for the financial condition of any Finance Party or for the performance and observance by any Security Party of any of its obligations under any Finance Document or any document relating to any Finance Document and any conditions and warranties implied by law are expressly excluded.
- 9 The Transferee acknowledges that nothing in this certificate or in the Loan Agreement shall oblige the Transferor to:
 - 9.1 accept a re-transfer from the Transferee of the whole or any part of the rights, benefits and/or obligations transferred pursuant to this certificate; or
 - 9.2 support any losses directly or indirectly sustained or incurred by the Transferee for any reason including, without limitation, the non-performance by any party to any Finance Document of any obligations under any Finance Document.
- 10 The address and fax number of the Transferee for the purposes of clause 17 of the Loan Agreement are set out in the Schedule.
- 11 This certificate may be executed in any number of counterparts each of which shall be original but which shall together constitute the same instrument.
- 12 This certificate and any non-contractual obligations arising out of or in connection with it shall be governed by and interpreted in accordance with English law.

The Schedule

- 1 Transferor:
- 2 Transferee:
- 3 Transfer Date (not earlier than the fifth Business Day after the date of delivery of the Transfer Certificate to the Agent):
- 4 Transferor's Commitment:
- 5 Amount transferred:
- 6 Transferee's address and fax number for the purposes of clause 17 of the Loan Agreement:

[*name of Transferor*]

By:
Date:

The Export-Import Bank of China as Agent

By:

Date:

[*name of Transferee*]

By:
Date:

Schedule 5

Form of Compliance Certificate

To: **The Export — Import Bank of China**

From: **Diana Shipping Inc.**

Dated:

Dear Sirs

Aster Shipping Company Inc., Aerik Shipping Company Inc. and Houk Shipping Company Inc. - Loan Agreement dated [] 2016 (the "Agreement")

We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

We confirm that:

We maintain Cash of not less than five hundred thousand Dollars (\$500,000) for each Fleet

Vessel;

Each Borrower maintains in the relevant Earnings Account a credit balance of not less than two hundred thousand Dollars (\$200,000);

The Adjusted Net Worth is not less than one hundred and fifty million Dollars (\$150,000,000); and

The Adjusted Net Worth exceeds twenty five per cent (25%) of the Total Assets.

We also confirm that the Borrowers are in compliance with Clause 9.12 (*Additional Security*) [and that no Default is continuing.]

Signed by

Chief Financial Officer of **Diana Shipping**

Inc.

In witness of which the parties to this Agreement have executed this Agreement the day and year first before written.

Signed by

As duly authorized for and on behalf of

Aster Shipping Company Inc.

signature of witness

/s/ Andreas Nikolaos Michalopoulos

Andreas Nikolaos Michalopoulos
Director & Secretary

/s/ Margarita Veniou

Name: Margarita Veniou

Address: Pendelis 16, Palaio Faliro

175 64, Athens, Greece

Signed by

As duly authorized for and on behalf of

Aster Shipping Company Inc.

signature of witness

/s/ Semiramis Paliou

Semiramis Paliou
Attorney-in-Fact

/s/ Margarita Veniou

Name: Margarita Veniou

Address: Pendelis 16, Palaio Faliro

175 64, Athens, Greece

Signed by

As duly authorized for and on behalf of

Houk Shipping Company Inc.

signature of witness

/s/ Margarita Veniou

Margarita Veniou
Director & Secretary

/s/ Andreas Nikolaos Michalopoulos

Name: Andreas Nikolaos Michalopoulos

Address: Pendelis 16, Palaio Faliro

175 64, Athens, Greece

Signed by
As duly authorized for and on behalf of
The Export-Import Bank of China
(as the Lender)
signature of witness

/s/ Liu Ya
Liu Ya

/s/ Chennan
Name: Chennan
Address: No. 30, Fuxing Men Nei Street, Xicheng District,
Beijing, China

Signed by
As duly authorized for and on behalf of
The Export-Import Bank of China
(as the Aranger)
signature of witness

/s/ Liu Ya
Liu Ya

/s/ Chennan
Name: Chennan
Address: No. 30, Fuxing Men Nei Street, Xicheng District,
Beijing, China

Signed by
As duly authorized for and on behalf of
The Export-Import Bank of China
(as the Agent)
signature of witness

/s/ Liu Ya
Liu Ya

/s/ Chennan
Name: Chennan
Address: No. 30, Fuxing Men Nei Street, Xicheng District,
Beijing, China

Signed by

As duly authorized for and on behalf of

The Export-Import Bank of China

(as the Security Agent)

signature of witness

/s/ Liu Ya

Liu Ya

/s/ Chennan

Name: Chennan

Address: No. 30, Fuxing Men Nei Street, Xicheng District,
Beijing, China

SUBSIDIARIES AS AT DECEMBER 31, 2015

Subsidiary	Country of Incorporation
Ailuk Shipping Company Inc.	Marshall Islands
Bikar Shipping Company Inc.	Marshall Islands
Bikini Shipping Company Inc.	Marshall Islands
Erikub Shipping Company Inc.	Marshall Islands
Gala Properties Inc.	Marshall Islands
Guam Shipping Company Inc.	Marshall Islands
Jaluit Shipping Company Inc.	Marshall Islands
Jemo Shipping Company Inc.	Marshall Islands
Kili Shipping Company Inc.	Marshall Islands
Knox Shipping Company Inc.	Marshall Islands
Lae Shipping Company Inc.	Marshall Islands
Lib Shipping Company Inc.	Marshall Islands
Mandaringina Inc.	Marshall Islands
Majuro Shipping Company Inc.	Marshall Islands
Namu Shipping Company Inc.	Marshall Islands
Palau Shipping Company Inc.	Marshall Islands
Taka Shipping Company Inc.	Marshall Islands
Tuvalu Shipping Company Inc.	Marshall Islands
Wotho Shipping Company Inc.	Marshall Islands
Aster Shipping Company Inc.	Marshall Islands
Aerik Shipping Company Inc.	Marshall Islands
Pulap Shipping Company Inc.	Marshall Islands
Bokak Shipping Company Inc.	Marshall Islands
Makur Shipping Company Inc.	Marshall Islands
Jabat Shipping Company Inc.	Marshall Islands
Fayo Shipping Company Inc.	Marshall Islands
Weno Shipping Company Inc.	Marshall Islands
Lelu Shipping Company Inc.	Marshall Islands
Houk Shipping Company Inc.	Marshall Islands
Ujae Shipping Company Inc.	Marshall Islands
Rairok Shipping Company Inc.	Marshall Islands
Toku Shipping Company Inc.	Marshall Islands
Kaben Shipping Company Inc.	Marshall Islands
Wake Shipping Company Inc.	Marshall Islands
Taroa Shipping Company Inc.	Marshall Islands
Husky Trading, S.A.	Panama
Buenos Aires Compania Armadora S.A.	Panama
Changame Compania Armadora S.A.	Panama
Chorrera Compania Armadora S.A.	Panama
Cypres Enterprises Corp.	Panama
Darien Compania Armadora S.A.	Panama
Diana Shipping Services S.A.	Panama
Eaton Marine S.A.	Panama
Panama Compania Armadora S.A.	Panama
Skyvan Shipping Company S.A.	Panama
Texford Maritime S.A.	Panama
Urbina Bay Trading, S.A.	Panama
Vesta Commercial, S.A.	Panama
Marfort Navigation Company Limited	Cyprus
Silver Chandra Shipping Company Limited	Cyprus
Bulk Carriers (USA) LLC	United States (Delaware)

CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER

I, Simeon Palios, certify that:

1. I have reviewed this annual report on Form 20-F of Diana Shipping Inc. (the "Company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
4. The Company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the Company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and
5. The Company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Date: March 28, 2016

/s/ Simeon Palios

Simeon Palios

Chief Executive Officer (Principal Executive Officer)

CERTIFICATION OF THE PRINCIPAL FINANCIAL OFFICER

I, Andreas Michalopoulos, certify that:

1. I have reviewed this annual report on Form 20-F of Diana Shipping Inc. (the "Company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
4. The Company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the Company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and
5. The Company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Date: March 28, 2016

/s/ Andreas Michalopoulos

Andreas Michalopoulos

Chief Financial Officer and Treasurer (Principal Financial Officer)

**PRINCIPAL EXECUTIVE OFFICER CERTIFICATION
PURSUANT TO 18 U.S.C. SECTION 1350**

In connection with this Annual Report of Diana Shipping Inc. (the "Company") on Form 20-F for the year ended December 31, 2015 as filed with the Securities and Exchange Commission (the "SEC") on or about the date hereof (the "Report"), I, Simeon Palios, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement has been provided to the Company and will be retained by the Company and furnished to the SEC or its staff upon request.

Date: March 28, 2016

/s/ Simeon Palios

Simeon Palios

Chief Executive Officer (Principal Executive Officer)

**PRINCIPAL FINANCIAL OFFICER CERTIFICATION
PURSUANT TO 18 U.S.C. SECTION 1350**

In connection with this Annual Report of Diana Shipping Inc. (the "Company") on Form 20-F for the year ended December 31, 2015 as filed with the Securities and Exchange Commission (the "SEC") on or about the date hereof (the "Report"), I, Andreas Michalopoulos, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement has been provided to the Company and will be retained by the Company and furnished to the SEC or its staff upon request.

Date: March 28, 2016

/s/ Andreas Michalopoulos

Andreas Michalopoulos

Chief Financial Officer and Treasurer (Principal Financial Officer)

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form F-3 No. 333-205491) of Diana Shipping Inc. and in the related Prospectus of our reports dated March 28, 2016, with respect to the consolidated financial statements of Diana Shipping Inc., and the effectiveness of internal control over financial reporting of Diana Shipping Inc., included in this Annual Report (Form 20-F) for the year ended December 31, 2015.

/s/ Ernst & Young (Hellas) Certified Auditors Accountants S.A.
Athens, Greece

March 28, 2016