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, 2018

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

Commission file number 001-33060

DANAOS CORPORATION

(Exact name of Registrant as specified in its charter)

Not Applicable

(Translation of Registrant's name into English)

Republic of The Marshall Islands

(Jurisdiction of incorporation or organization)

c/o Danaos Shipping Co. Ltd, Athens Branch
14 Akti Kondyli
185 45 Piraeus
Greece

(Address of principal executive offices)

Evangelos Chatzis
Chief Financial Officer
c/o Danaos Shipping Co. Ltd, Athens Branch
14 Akti Kondyli
185 45 Piraeus
Greece
Telephone: +30 210 419 6480
Securities registered or to be registered pursuant to Section 12(b) of the Act:

<table>
<thead>
<tr>
<th>Title of each class</th>
<th>Name of each exchange on which registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common stock, $0.01 par value per share</td>
<td>New York Stock Exchange</td>
</tr>
</tbody>
</table>

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

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

None.

As of December 31, 2018, there were 213,324,455 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

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

☑ Yes ☐ No

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

☑ Yes ☐ No

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

☐ Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☑ Emerging growth company ☑

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

☐

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
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FORWARD-LOOKING INFORMATION

This annual report contains forward-looking statements based on beliefs of our management. Any statements contained in this annual report that are not historical facts are forward-looking statements as defined in Section 27A of the U.S. Securities Act of 1933, as amended, and Section 21E of the U.S. Securities Exchange Act of 1934, as amended. We have based these forward-looking statements on our current expectations and projections about future events, including:

- future operating or financial results;
- pending acquisitions and dispositions, business strategies and expected capital spending;
- operating expenses, availability of crew, number of off-hire days, drydocking requirements and insurance costs;
- general market conditions and container shipping market trends, including charter rates, vessel values and factors affecting supply and demand;
- our ability to comply with the terms of the agreements entered into in connection with our debt refinancing consummated on August 10, 2018 (the "2018 Refinancing");
- our financial condition and liquidity, including our ability to comply with covenants in our financing arrangements and to service or refinance our outstanding indebtedness;
- performance by our charterers of their obligations;
- the availability of ships to purchase, the time that it may take to construct new ships, or the useful lives of our ships;
- our ability to obtain financing in the future to fund acquisitions and other general corporate activities;
- our continued ability to enter into multi-year, fixed-rate period charters with our customers;
- our ability to leverage to our advantage our manager's relationships and reputation in the containership shipping sector of the international shipping industry;
- changes in governmental rules and regulations or actions taken by regulatory authorities;
- potential liability from future litigation; and
- other factors discussed in "Item 3. Key Information—Risk Factors" of this annual report.

The words "anticipate," "believe," "estimate," "expect," "forecast," "intend," "potential," "may," "plan," "project," "predict," and "should" and similar expressions as they relate to us are intended to identify such forward-looking statements, but are not the exclusive means of identifying such statements. We may also from time to time make forward-looking statements in our periodic reports that we file with the U.S. Securities and Exchange Commission ("SEC") other information sent to our security holders, and other written materials. Such statements reflect our current views and assumptions and all forward-looking statements are subject to various risks and uncertainties that could cause actual results to differ materially from expectations. The factors that could affect our future financial results are discussed more fully in "Item 3. Key Information—Risk Factors" and in our other filings with the SEC. 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 publicly update or revise any forward-looking statements.
PART I

Danaos Corporation is a corporation domesticated in the Republic of The Marshall Islands that is referred to in this Annual Report on Form 20-F, together with its subsidiaries, as "Danaos Corporation," "the Company," "we," "us," or "our." This report should be read in conjunction with our consolidated financial statements and the accompanying notes thereto, which are included in Item 18 to this annual report.

We use the term "twenty foot equivalent unit," or "TEU," the international standard measure of containers, in describing the capacity of our containerships. Unless otherwise indicated, all references to currency amounts in this annual report are in U.S. dollars.

All data regarding our fleet and the terms of our charters is as of February 28, 2019. As of February 28, 2019, we owned 55 containerships aggregating 327,616 TEU in capacity. Gemini Shipholdings Corporation ("Gemini"), a Marshall Islands company incorporated in August 2015 and beneficially owned 49% by Danaos Corporation and 51% by Virage International Ltd. ("Virage"), a company controlled by Danaos Corporation's largest stockholder, owned an additional four containerships of 23,998 TEU aggregate capacity as of February 28, 2019. We do not consolidate Gemini's results of operations and account for our minority equity interest in Gemini under the equity method of accounting. See "Item 4. Information on the Company—Business Overview—Our Fleet".

Item 1. Identity of Directors, Senior Management and Advisers

Not Applicable.

Item 2. Offer Statistics and Expected Timetable

Not Applicable.

Item 3. Key Information

Selected Consolidated Financial Data

The following table presents selected consolidated financial and other data of Danaos Corporation and its consolidated subsidiaries for each of the five years in the five year period ended December 31, 2018. The table should be read together with "Item 5. Operating and Financial Review and Prospects." The selected consolidated financial data of Danaos Corporation as of December 31, 2018 and 2017 and each of the three years ended December 31, 2018 is derived from our consolidated financial statements and notes thereto included elsewhere in this Form 20-F, which have been prepared in accordance with U.S. generally accepted accounting principles, or "U.S. GAAP", and have been audited by PricewaterhouseCoopers S.A., an independent registered public accounting firm. Our selected consolidated financial data as of December 31, 2016, 2015 and 2014 and for each of the two years ended December 31, 2015 is derived from our consolidated financial statements not included herein and reflect the retrospective application of the change in accounting principle for deferred finance costs.

Our audited consolidated statements of operations, comprehensive income, changes in stockholders' equity and cash flows for the years ended December 31, 2018, 2017 and 2016, and the
The comparative figures presented give effect to a retrospective application of the change in accounting principle for deferred finance costs as per Accounting Standards Update No. 2015-03 "Simplifying the
The table below sets forth our consolidated capitalization as of December 31, 2018:

- on an actual basis; and
- on an as adjusted basis to reflect, in the period from January 1, 2019 to February 28, 2019, scheduled debt repayments of $29.2 million, of which $26.3 million relates to our New 2018 Credit Facilities and $3.4 million relates to our Sinosure-CEXIM-Citibank-ABN Amro credit facility.

Other than these adjustments, there have been no material changes to our capitalization from debt or equity issuances, re-capitalizations, special dividends, or debt repayments as adjusted in the table below between January 1, 2019 and February 28, 2019.

<table>
<thead>
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<th>As of December 31, 2018</th>
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<td></td>
<td>Actual (US Dollars in thousands)</td>
<td>As adjusted</td>
<td></td>
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<tr>
<td>Debt:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total debt(1)</td>
<td>$1,621,885</td>
<td>$1,592,172</td>
<td></td>
</tr>
<tr>
<td>Stockholders' equity:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preferred stock, par value $0.01 per share; 100,000,000 preferred shares authorized and none issued; actual and as adjusted</td>
<td>—</td>
<td>—</td>
<td></td>
</tr>
<tr>
<td>Common stock, par value $0.01 per share; 750,000,000 shares authorized; 213,324,455 shares issued and outstanding; actual and as adjusted(2)</td>
<td>2,133</td>
<td>2,133</td>
<td></td>
</tr>
<tr>
<td>Additional paid-in capital</td>
<td>725,581</td>
<td>725,581</td>
<td></td>
</tr>
<tr>
<td>Accumulated other comprehensive loss</td>
<td>(118,710)</td>
<td>(118,710)</td>
<td></td>
</tr>
<tr>
<td>Retained earnings</td>
<td>81,849</td>
<td>81,849</td>
<td></td>
</tr>
<tr>
<td>Total stockholders' equity</td>
<td>690,853</td>
<td>690,853</td>
<td></td>
</tr>
<tr>
<td>Total capitalization</td>
<td>$2,312,738</td>
<td>$2,283,025</td>
<td></td>
</tr>
</tbody>
</table>

(1) Net of deferred finance costs of $44.3 million and excluding accumulated accrued interest of $236.4 million outstanding as of December 31, 2018. All of our indebtedness is secured and guaranteed by our subsidiaries. See Note 10 "Long-Term Debt, net" to our consolidated financial statements included elsewhere in this report.

(2) Does not include 15 million warrants issued in 2011 to purchase shares of common stock solely on a cash-less exercise basis, at an exercise price of $7.00 per share, which expired on January 31, 2019. Includes 4,182,832 shares of restricted stock granted on September 14, 2018, of which 2,091,416 are scheduled to vest on December 31, 2019 and 2,091,416 are scheduled to vest on December 31, 2021, subject to satisfaction of the vesting terms.

Reasons for the Offer and Use of Proceeds

Not Applicable.
RISK FACTORS

Risks Inherent in Our Business

Our business, and an investment in our securities, involves a high degree of risk, including risks relating to the downturn in the container shipping market, which continues to adversely affect the major liner companies which charter our vessels and as well as our earnings and cash flows.

The downturn in the container shipping market, from which we derive all of our revenues, has severely affected the container shipping industry, including the large liner companies to which we charter our vessels, and has adversely affected our business. The containership market has generally remained weak since declining sharply in 2008 and 2009 and, despite improving modestly, for periods in recent years, remains at depressed levels. The benchmark rates have declined in all quoted size sectors, with the benchmark one-year daily rate of a 4,400 TEU Panamax containership, which was $36,000 in May 2008, at $8,000 at the end of 2017 and $9,000 at the end of 2018. The weak charter rates are due to various factors, including the level of global trade, including exports from China to Europe and the United States, and increases in containership capacity. The depressed containership market has affected the major liner companies which charter our vessels, including Hanjin Shipping which cancelled long-term charters for eight of our vessels after it filed for court receivership in September 2016 and Hyundai Merchant Marine ("HMM") with which we agreed to charter modifications in July 2016. Other liner companies have also reported large losses in recent years, including some of our charterers. The weakness in the containership market also affects the value of our vessels, which follow the trends of freight rates and containership charter rates, and the earnings on our charters, and similarly, affects our cash flows and liquidity. In 2017 and 2018, as a result mainly of the cancellation of eight charters for our vessels with Hanjin Shipping, we were in breach of covenants in our financing arrangements and had to refinance our indebtedness in a transaction that, among other things, reduced the principal amount of debt outstanding, extended maturities and involved the issuance of a substantial number of shares of our common stock to our lenders. The extended period of weakness in the containership charter market may continue to have additional adverse consequences for our industry including limited financing for vessel acquisitions and newbuildings, a less active secondhand market for the sale of vessels, additional charterers not performing under, or requesting modifications of, existing time charters and loan covenant defaults. This significant downturn in the container shipping industry could adversely affect our ability to service our debt and other obligations, or to refinance our debt, and adversely affect our results of operations and financial condition.

We may have difficulty securing profitable employment for our vessels in the currently depressed containership market.

Of our 55 vessels, as of February 28, 2019, 22 are employed on time charters expiring between March 2019 and December 2019. Given the current state of the containership charter market, we may be unable to secure employment for these vessels at attractive rates, or at all, when, if applicable, their charters expire. Although we do not receive any revenues from our vessels while not employed, as was also the case for certain of our vessels for periods in recent years, we are required to pay expenses necessary to maintain the vessel in proper operating condition, insure it and service any indebtedness secured by such vessel. If we cannot re-charter our vessels profitably, our results of operations and operating cash flow will be adversely affected.

We are dependent on the ability and willingness of our charterers to honor their commitments to us for all of our revenues and the failure of our counterparties to meet their obligations under our charter agreements could cause us to suffer losses or otherwise adversely affect our business.

We derive all of our revenues from the payment of charter hire by our charterers. Each of our 55 containerships are currently employed under time or bareboat charters with eleven liner companies,
with 88% of our revenues in 2018 generated from five such companies. We could lose a charterer or the benefits of a time charter if:

- the charterer fails to make charter payments to us because of its financial inability, disagreements with us, defaults on a payment or otherwise;
- the charterer exercises certain specific limited rights to terminate the charter;
- we do not take delivery of any newbuilding containership we may contract for at the agreed time; or
- the charterer terminates the charter because the ship fails to meet certain guaranteed speed and fuel consumption requirements and we are unable to rectify the situation or otherwise reach a mutually acceptable settlement.

In 2016 Hanjin Shipping cancelled the charters for eight of our vessels after it filed for court receivership in September 2016 and in July 2016 we agreed to modifications to the charters for 13 of our vessels with HMM with substantial charter rate reductions. ZIM's 2014 restructuring agreement with its creditors included a significant reduction in the charter rates payable by ZIM under its time charters, expiring in 2020 or 2021, for six of our vessels.

If we lose a time charter, we may be unable to re-deploy the related vessel on terms as favorable to us or at all. For instance, all of the eight vessels previously chartered to Hanjin Shipping were rechartered on short-term charters at significantly lower rates, after remaining idle for a number of months in the case of the three 10,100 TEU vessels, following Hanjin Shipping's cancellation of the charters. We would not receive any revenues from such a vessel while it remained unchartered, but we may be required to pay expenses necessary to maintain the vessel in proper operating condition, insure it and service any indebtedness secured by such vessel.

Many of the time charters on which we deploy our containerships provide for charter rates that are significantly above current market rates. The ability and willingness of each of our counterparties to perform its obligations under their time charters 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 container shipping industry, which has generally experienced weakness with limited recovery since the 2008-2009 economic crisis, and the overall financial condition of the counterparty. Furthermore, the combination of a reduction in cash flow resulting from declines in world trade, a reduction in borrowing bases under credit facilities and the reduced availability of debt and equity financing may result in a significant reduction in the ability of our charterers to make charter payments to us, with a number of large liner companies announcing efforts to obtain third party aid and restructure their obligations, including some of our charterers, in recent years. The likelihood of a charterer seeking to renegotiate or defaulting on its charter with us may be heightened to the extent such customers are not able to utilize the vessels under charter from us, and instead leave such chartered vessels idle. Should a counterparty fail to honor its obligations under agreements with us, it may be difficult to secure substitute employment for such vessel, and any new charter arrangements we secure may be at lower rates given the current situation in the charter market. Gemini, in which we have minority equity investment, faces the same risks with respect to its vessels that it employs on time charters.

If our charterers fail to meet their obligations to us or attempt to renegotiate our charter agreements, as part of a court-supervised restructuring or otherwise, we could sustain significant reductions in revenue and earnings which could have a material adverse effect on our business, financial condition, results of operations and cash flows, as well as our ability to comply with the covenants and refinance our credit facilities. In such an event, we could be unable to service our debt and other obligations.
We depend upon a limited number of customers for a large part of our revenues. The loss of these customers could adversely affect us.

Our customers in the containership sector consist of a limited number of liner operators. The percentage of our revenues derived from these customers has varied in past years. In the past several years, CMA CGM, Hyundai Merchant Marine, Yang Ming, Hapag Lloyd and ZIM have represented substantial amounts of our revenue. In 2018, approximately 88% of our operating revenues were generated by five customers and in 2017, approximately 92% of our operating revenues were derived from five customers. As of February 28, 2019, we have charters for seventeen of our vessels with CMA CGM, for seven of our vessels with Yang Ming, for seven of our vessels with ZIM, for five of our vessels with Hyundai, for four of our vessels with Evergreen, for four of our vessels with MSC, for three of our vessels with Maersk, for three of our vessels with Cosco, for three of our vessels with Hapag Lloyd, for one of our vessels with ONE and for one of our vessels with Samudera. We expect that a limited number of liner companies may continue to generate a substantial portion of our revenues. Some of these liner companies have publicly acknowledged the financial difficulties facing them and reported substantial losses in prior years. In 2016 Hanjin Shipping, from which 10% and 17% of our revenues in 2016 and 2015, respectively, were generated, cancelled the charters for eight of our vessels after it filed for court receivership in September 2016 and in July 2016 we agreed to charter rate reductions under the charters for 13 of our vessels with HMM, from which 24% of our revenues were generated in 2018, 31% in 2017 and 32% in 2016. ZIM's 2014 restructuring agreement with its creditors included a significant reduction in the charter rates payable by ZIM under its time charters, expiring in 2020 or 2021, for six of our vessels. If any of these liner operators cease doing business or do not fulfill their obligations under their charters for our vessels, due to the financial pressure on these liner companies from the decreases in demand for the seaborne transport of containerized cargo or otherwise, our results of operations and cash flows, and ability to comply with covenants in our financing arrangements, could be adversely affected. Further, if we encounter any difficulties in our relationships with these charterers, our results of operations, cash flows and financial condition could be adversely affected.

Our profitability and growth depend on the demand for containerships and global economic conditions, and the impact on consumer confidence and consumer spending may continue to affect containerized shipping volume and adversely affect charter rates. Charter hire rates for containerships may continue to experience volatility or remain at depressed levels, which would, in turn, adversely affect our profitability.

Demand for our vessels depends on demand for the shipment of cargoes in containers and, in turn, containerships. The ocean-going container shipping industry is both cyclical and volatile in terms of charter hire rates and profitability. Containership charter rates peaked in 2005 and generally stayed strong until the middle of 2008, when the effects of the economic crisis began to affect global container trade, and in 2008 and 2009 the ocean-going container shipping industry experienced severe declines, with charter rates at significantly lower levels than the historic highs of the prior few years. Containership charter rates have since generally remained weak, with brief periods of limited improvement and subsequent declines, remain well below long-term averages and could remain at depressed levels for an extended period. Variations in containership charter rates result from changes in the supply and demand for ship capacity and changes in the supply and demand for the major products transported by containerships. The factors affecting the supply and demand for containerships and supply and demand for products shipped in containers are outside of our control, and the nature, timing and degree of changes in industry conditions are unpredictable. The slowdown in the global economy and disruptions in the credit markets may continue to reduce demand for products shipped in containers and, in turn, containership capacity.

Factors that influence demand for containership capacity include:

- supply and demand for products suitable for shipping in containers;
changes in global production of products transported by containerships;
the distance that container cargo products are to be moved by sea;
the globalization of manufacturing;
global and regional economic and political conditions;
developments in international trade;
changes in seaborne and other transportation patterns, including changes in the distances over which containerized cargoes are transported and steaming speed of vessels;
environmental and other regulatory developments; and
currency exchange rates.

Factors that influence the supply of containership capacity include:
the number of new building deliveries;
the scrapping rate of older containerships;
the price of steel and other raw materials;
changes in environmental and other regulations that may limit the useful life of containerships;
the number of containerships that are out of service; and
port congestion.

The recovery in consumer confidence and consumer spending has been volatile and uneven. Consumer purchases of discretionary items, many of which are transported by sea in containers, generally decline during periods where disposable income is adversely affected or there is economic uncertainty and, as a result, liner company customers may ship fewer containers or may ship containers only at reduced rates. Any such decrease in shipping volume could adversely impact our liner company customers and, in turn, demand for containerships. Such decreases in recent years, led to declines in charter rates and vessel values in the containership sector and increased counterparty risk associated with the charters for our vessels.

Our ability to recharter our containerships upon the expiration or termination of their current charters and the charter rates payable under any renewal or replacement charters will depend upon, among other things, the prevailing state of the charter market for containerships. As of February 28, 2019, the charters for twenty-two of our vessels expire between March 2019 and December 2019. If the charter market, which currently remains at low levels, is depressed when our vessels’ charters expire, we may be forced to recharter the containerships, if we were able to recharter such vessels at all, at reduced rates and possibly at rates whereby we incur a loss. If we were unable to recharter our vessels on favorable terms, we may potentially scrap certain of such vessels, which may reduce our earnings or make our earnings volatile. The same issues will exist if we acquire additional containerships and attempt to obtain multi-year charter arrangements as part of an acquisition and financing plan.

Containership charter rates and vessel values may affect our ability to comply with various financial and collateral covenants in our credit facilities.

Our credit facilities, which are secured by, among other things, mortgages on our vessels, require us to maintain specified collateral coverage ratios and satisfy financial covenants. Low containership charter rates, or the failure of our charterers to fulfill their obligations under their charters for our vessels, due to financial pressure on these liner companies from weak demand for the seaborne transport of containerized cargo or otherwise, may adversely affect our ability to comply with these...
covenants. The market value of containerships is sensitive to, among other things, changes in the charter markets with vessel values deteriorating in times when charter rates are falling and improving when charter rates are anticipated to rise. As a result of depressed containership market conditions, and the cancellation of eight of our charters by Hanjin Shipping in conjunction with its filing for bankruptcy court protection, we were in breach of the financial covenants in our prior financing arrangements that were refinanced and replaced by our New 2018 Credit Facilities.

Our New 2018 Credit Facilities contain financial covenants set at levels with which we were in compliance as of December 31, 2018 and that require us to maintain:

- minimum collateral to loan value coverage on a charter-free basis increasing from 57.0% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter;
- minimum collateral to loan value coverage on a charter-attached basis increasing from 69.5% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter;
- minimum liquidity of $30 million throughout the term of the New 2018 Credit Facilities;
- maximum consolidated net leverage ratio, declining from 7.50x as of December 31, 2018 to 5.50x as of September 30, 2023 and thereafter;
- minimum interest coverage ratio of 2.50x throughout the term of the New 2018 Credit Facilities; and
- minimum consolidated market value adjusted net worth increasing from negative $510 million as of December 31, 2018 to $60 million as of September 30, 2023 and thereafter.

We also amended the terms of our Sinosure-CEXIM-Citibank-ABN Amro credit facility in connection with the 2018 Refinancing to align the covenants contained therein with the covenants for our other credit facilities described above.

If we are unable to meet our covenant compliance obligations under our credit facilities, and are unable to reach an agreement with our lenders to obtain compliance waivers, our lenders could then accelerate our indebtedness and foreclose on the vessels in our fleet securing those credit facilities. Any such default could result in cross-defaults under our other credit facilities, and the consequent acceleration of the indebtedness thereunder and the commencement of similar foreclosure proceedings by other lenders. The loss of any of our vessels would have a material adverse effect on our operating results and financial condition and could impair our ability to operate our business.

*Substantial debt levels could limit our flexibility to obtain additional financing and pursue other business opportunities and our ability to service our outstanding indebtedness will depend on our future operating performance, including the charter rates we receive under charters for our vessels.*

We have aggregate principal amount of indebtedness outstanding of approximately $1.6 billion, as of December 31, 2018. We may seek to incur substantial additional indebtedness, as market conditions warrant, to grow our fleet to the extent that we are able to obtain such financing and our credit facilities permit such financing. This level of debt could have important consequences to us, including the following:

- our ability to obtain additional financing, if necessary, for working capital, capital expenditures, acquisitions or other purposes may be impaired or such financing may be unavailable on favorable terms;
- we will need to use a substantial portion of our free cash from operations, as required under the terms of our New 2018 Credit Facilities, to make principal and interest payments on our debt, reducing the funds that would otherwise be available for future business opportunities and, if
permitted by our New 2018 Credit Facilities and reinstated by our board of directors, dividends to our stockholders;

• our debt level could make us more vulnerable than our competitors with less debt to competitive pressures or a downturn in our business or the economy generally; and

• our debt level may limit our flexibility in responding to changing business and economic conditions.

Our ability to service our debt will depend upon, among other things, our future financial and operating performance, which will be affected by prevailing economic conditions and financial, business, regulatory and other factors, some of which are beyond our control. In particular, the charter rates we obtain for our vessels, including our vessels on shorter term time charters or other charters expiring in the near future, will have a significant impact on our ability to service our indebtedness. If we do not generate sufficient cash flow to service our debt, we may be forced to take actions such as reducing or delaying our business activities, acquisitions, investments or capital expenditures, selling assets, refinancing our debt or seeking additional equity capital. We may not be able to effect any of these remedies on satisfactory terms, or at all.

In addition, we do not have any additional amounts available for borrowing under our credit facilities. Accordingly, we are dependent on our cash flows from operations to meet our operating expenses and debt service obligations. If we need additional liquidity and are unable to obtain such liquidity from existing or new lenders or in the capital markets, such as the common stock offering for net proceeds of at least $50 million that we have agreed to seek to complete within 18 months of the August 10, 2018 consummation of the 2018 Refinancing, or if our New 2018 Credit Facilities do not permit additional debt that we require (and we are unable to obtain waivers from required lenders), we may be unable to meet our liquidity obligations which could lead to a default under our credit facilities.

We cannot guarantee that we will be able to realize the anticipated benefits from the 2018 Refinancing. If we are unable to meet our obligations, we would need to reach another arrangement with our creditors, which may be on terms that are less favorable to us than those of the transactions entered into in connection with the 2018 Refinancing. Notwithstanding the 2018 Refinancing, we remain significantly leveraged and continue to face risks associated with a highly leveraged company.

**Disruptions in world financial markets and the resulting governmental action could have a further material adverse impact on our results of operations, financial condition and cash flows, and could cause the market price of our common stock to decline further.**

The global economy has generally improved recently but remains subject to significant downside economic risks, as well as geopolitical risks and the emergence of populist and protectionist political movements in advanced economies, which may negatively impact global economic growth, disrupt financial markets, and may lead to weaker consumer demand. A slowdown in the global economy may result in a decrease in worldwide demand for products transported by containerships. These issues, along with the re-pricing of credit risk and the difficulties being experienced by some financial institutions have made, and will likely continue to make, it difficult to obtain financing. As a result of past disruptions in the credit markets, the cost of obtaining bank financing in the shipping industry has increased as many lenders have increased interest rates, enacted tighter lending standards, required more restrictive terms, including higher collateral ratios for advances, shorter maturities and smaller loan amounts, refused to refinance existing debt at maturity at all or on terms similar to our current debt. Furthermore, certain banks that have historically been significant lenders to the shipping industry have reduced or ceased lending activities in the shipping industry. We cannot be certain that financing will be available on acceptable terms or at all. If financing is not available when needed, or is available only on unfavorable terms, we may be unable to meet our obligations as they come due. In the absence of available financing, we may be unable to take advantage of business opportunities or respond to...
We face risks attendant to changes in economic environments, changes in interest rates, and any instability in the banking and securities markets around the world, among other factors. Major market disruptions and adverse changes in market conditions and the regulatory climate in the United States and worldwide may adversely affect our business or impair our ability to borrow amounts under any future financial arrangements. However, these recent and developing economic and governmental factors, together with the concurrent decline in charter rates and vessel values, may have a material adverse effect on our results of operations, financial condition or cash flows, have caused the price of our common stock to decline and could cause the price of our common stock to decline further.

In addition, as a result of the ongoing economic slump in Greece resulting from the sovereign debt crisis and the related austerity measures implemented by the Greek government, our operations 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, the change in the Greek government and potential shift in its policies may undermine Greece's political and economic stability, which may adversely affect our operations and those of our manager located in Greece. We also face the risk that strikes, work stoppages, civil unrest and violence within Greece, as well as the capital controls in effect in Greece since mid-2015, may disrupt our shoreside operations and those of our manager located in Greece.

If global economic conditions weaken, particularly in Europe and in the Asia Pacific region, it could have a material adverse effect on our business, financial condition and results of operations.

Global economic conditions impact worldwide demand for various goods and, thus, container shipping. In particular, we anticipate a significant number of the port calls made by our vessels will continue to involve the loading or unloading of containers in ports in the Asia Pacific region. As a result, negative changes in economic conditions in any Asia Pacific country, in particular China which has been one of the world's fastest growing economies in recent years, can have a significant impact on the demand for container shipping. However, if China's pace of growth declines, as recent reports indicate may be occurring, and other countries in the Asia Pacific region experience slower or negative economic growth in the future, this may negatively affect the fragile recovery of the economies of the United States and the European Union, and thus, may negatively impact container shipping demand. For example, the introduction of tariffs on selected imported goods mainly from Asia has provoked retaliatory measures from the affected countries, including China, which may create impediments to trade. Risks remaining from the recent recovery in Europe, including the possibility of sovereign debt defaults by European Union member countries, including Greece, and any resulting weakness of the Euro, including against the Chinese renminbi, could adversely affect European consumer demand, particularly for goods imported, many of which are shipped in containerized form, from China and elsewhere in Asia, and reduce the availability of trade financing which is vital to the conduct of international shipping. In addition, the charters that we enter into with Chinese customers, including the charters we currently have with COSCO for three of our vessels, may be subject to new 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. Changes in laws and regulations, including with regards to tax matters, and their implementation by local authorities could affect our vessels chartered to Chinese customers as well as our vessels calling to Chinese ports and could have a material adverse effect on our business, results of operations and financial condition. Our business, financial condition, results of operations, as well as our future prospects, will likely be materially and adversely affected by an economic downturn in any of these countries.
A decrease in the level of export of goods, in particular from Asia, or an increase in trade protectionism globally, including from the United States, could have a material adverse impact on our charterers' business and, in turn, could cause a material adverse impact on our business, financial condition, results of operations and cash flows.

Our operations expose us to the risk that increased trade protectionism from the United States, China or other nations adversely affect our business. Governments may turn to trade barriers to protect or revive their domestic industries in the face of foreign imports, thereby depressing the demand for shipping. Restrictions on imports, including in the form of tariffs, could have a major impact on global trade and demand for shipping. Trade protectionism in the markets that our charterers serve may cause an increase in the cost of exported goods, the length of time required to deliver goods and the risks associated with exporting goods and, as a result, a decline in the volume of exported goods and demand for shipping.

The U.S. president was elected on a platform promoting trade protectionism and has instituted large tariffs on a wide variety of goods, including from China, which has led to threats of retaliatory tariffs from leaders of other countries including China. These policy pronouncements have created significant uncertainty about the future relationship between the United States and China and other exporting countries, including with respect to trade policies, treaties, government regulations and tariffs and has led to concerns regarding the potential for an extended trade war. Protectionist developments, or the perception they may occur, may have a material adverse effect on global economic conditions, and may significantly reduce global trade and, in particular, trade between the United States and other countries, including China.

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

Furthermore, the government of China has implemented economic policies aimed at increasing domestic consumption of Chinese-made goods and containing capital outflows. These policies may have the effect of reducing the supply of goods available for exports and the level of international trading and may, in turn, result in a decrease in demand for container shipping. In addition, reforms in China for a gradual shift to a "market economy" including with respect to the prices of certain commodities, are unprecedented or experimental and may be subject to revision, change or abolition and if these reforms are reversed or amended, the level of imports to and exports from China could be adversely affected.

Any new or increased trade barriers or restrictions on trade 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. Such adverse developments could in turn have a material adverse effect on our business, financial condition, results of operations, cash flow and our ability to service or refinance our debt.

Demand for the seaborne transport of products in containers has a significant impact on the financial performance of liner companies and, in turn, demand for charterships and our charter counterparty risk.

Demand for the seaborne transportation of products in containers, which is significantly impacted by global economic activity, remains below the levels experienced before the global economic crisis of 2008 and 2009. Consequently, the cargo volumes and freight rates achieved by liner companies, with which all of the existing vessels in our fleet are chartered, have declined sharply, reducing liner company profitability and, at times, failing to cover the costs of liner companies operating vessels on their shipping lines. In response to such reduced cargo volume and freight rates, the number of vessels
being actively deployed by liner companies decreased. Approximately 2.5% of the world containership fleet was estimated to be out of service at the end of 2018, which was below the 12% high of December 2009 but up slightly from 1.9% at the end of 2017. Moreover, newbuilding containerships with an aggregate capacity of approximately 2.9 million TEUs, representing approximately 13% of the existing global fleet capacity at the end of 2018, were under construction, which may exacerbate the surplus of containership capacity further reducing charterhire rates or increasing the number of unemployed vessels. Many liner companies, including some of our customers, reported substantial losses in 2018 and other recent years, as well as having announced plans to reduce the number of vessels they charter-in and enter into consolidating mergers and cooperative alliances as part of efforts to reduce the size of their fleets to better align fleet capacity with the reduced demand for marine transportation of containerized cargo.

The reduced demand and resulting financial challenges faced by our liner company customers has significantly reduced demand for containerships and may increase the likelihood of one or more of our customers being unable or unwilling to pay us the contracted charterhire rates, such as we agreed with HMM in 2016 and ZIM in 2014 and Hanjin Shipping's cancellation of long-term charters for eight of our vessels in 2016, which are generally significantly above prevailing charter rates, under the charters for our vessels. We generate all of our revenues from these charters and if our charterers fail to meet their obligations to us, we would sustain significant reductions in revenue and earnings, which could materially adversely affect our business and results of operations, as well as our ability to comply with covenants in our credit facilities.

An over-supply of containership capacity may prolong or further depress the current low charter rates and adversely affect our ability to recharter our containerships at profitable rates or at all and, in turn, reduce our profitability.

While the size of the containership order book has declined from the historic highs reached in mid-2008, at the end of 2018 newbuilding containerships with an aggregate capacity of approximately 2.9 million TEUs were under construction, representing approximately 13% of the existing global fleet capacity, and a higher percentage of large containerships. The size of the orderbook is large relative to historic levels and, notwithstanding that some orders may be cancelled or delayed, will likely result in a significant increase in the size of the world containership fleet over the next few years. An over-supply of containership capacity, particularly in conjunction with the currently low level of demand for the seaborne transport of containers, which proposed liner company alliances may accentuate, could exacerbate the weakness in charter rates or prolong the period during which low charter rates prevail. We do not hedge against our exposure to changes in charter rates, due to increased supply of containerships or otherwise. As such, if the current low charter rate environment persists, or a further reduction occurs, during a period when the current charters for our containerships expire or are terminated, we may only be able to recharter those containerships at reduced or unprofitable rates or we may not be able to charter those vessels at all. As of February 28, 2019, the charters for twenty-two of our vessels expire between March 2019 and December 2019.

Our profitability and growth depends on our ability to expand relationships with existing charterers and to obtain new time charters, for which we will face substantial competition from established companies with significant resources as well as new entrants.

One of our objectives is, when market conditions warrant, to acquire additional containerships in conjunction with entering into additional multi-year, fixed-rate time charters for these vessels. We employ our vessels in highly competitive markets that are capital intensive and highly fragmented, with a highly competitive process for obtaining new multi-year time charters that generally involves an intensive screening process and competitive bids, and often extends for several months. Generally, we compete for charters based on price, customer relationship, operating expertise, professional reputation
and the size, age and condition of our vessels. In recent years, in light of the downturn in the containership charter market, other containership owners have chartered their vessels to liner companies at extremely low rates, including at unprofitable levels, increasing the price pressure when competing to secure employment for our containerships. Container shipping charters are awarded based upon a variety of factors relating to the vessel operator, including:

- shipping industry relationships and reputation for customer service and safety;
- container shipping experience and quality of ship operations (including cost effectiveness);
- quality and experience of seafaring crew;
- the ability to finance containerships at competitive rates and financial stability in general;
- relationships with shipyards and the ability to get suitable berths;
- construction management experience, including the ability to obtain on-time delivery of new ships according to customer specifications;
- willingness to accept operational risks pursuant to the charter, such as allowing termination of the charter for force majeure events; and
- competitiveness of the bid in terms of overall price.

We face substantial competition from a number of experienced companies, including state-sponsored entities and major shipping companies. Some of these competitors have significantly greater financial resources than we do, and can therefore operate larger fleets and may be able to offer better charter rates. We anticipate that other marine transportation companies may also enter the containership sector, including many with strong reputations and extensive resources and experience. This increased competition may cause greater price competition for time charters and, in stronger market conditions, for secondhand vessels and newbuildings.

In addition, a number of our competitors in the containership sector, including several that are among the largest charter owners of containerships in the world, have been established in the form of a German KG (Kommanditgesellschaft), which provides tax benefits to private investors. Although the German tax law was amended to significantly restrict the tax benefits to taxpayers who invest in these entities after November 10, 2005, the tax benefits afforded to all investors in the KG-model shipping entities continue to be significant, and such entities may continue to be attractive investments. Their focus on these tax benefits allows the KG-model shipping entities more flexibility in offering lower charter rates to liner companies. Further, since the charter rate is generally considered to be one of the principal factors in a charterer's decision to charter a vessel, the rates offered by these sizeable competitors can have a depressing effect throughout the charter market.

As a result of these factors, we may be unable to compete successfully with established companies with greater resources or new entrants for charters at a profitable level, or at all, which would have a material adverse effect on our business, results of operations and financial condition.

We may have more difficulty entering into multi-year, fixed-rate time charters if a more active short-term or spot container shipping market develops.

One of our principal strategies is to enter into multi-year, fixed-rate containership time charters particularly in strong charter rate environments, although in weaker charter rate environments, such as the one that currently exists, we would generally expect to target somewhat shorter charter terms of three to six years or even shorter periods, particularly for smaller vessels. As more vessels become available for the spot or short-term market, we may have difficulty entering into additional multi-year, fixed-rate time charters for our containerships due to the increased supply of containerships and the possibility of lower rates in the spot market and, as a result, our cash flows may be subject to instability
in the long-term. A more active short-term or spot market may require us to enter into charters based on changing market rates, as opposed to contracts based on a fixed rate, which could result in a decrease in our cash flows and net income in periods when the market for container shipping is depressed, as it is currently, or insufficient funds are available to cover our financing costs for related containerships.

**Delays in deliveries of any newbuilding vessels we may order or any secondhand vessels we may agree to acquire could harm our business.**

Delays in the delivery of any newbuilding containerships we may order or any secondhand vessels we may agree to acquire, would delay our receipt of revenues under any arranged time charters and could result in the cancellation of such time charters or other liabilities under such charters, and therefore adversely affect our anticipated results of operations. The delivery of any newbuilding containership could also be delayed because of, among other things:

* work stoppages or other labor disturbances or other events that disrupt the operations of the shipyard building the vessels;
* quality or engineering problems;
* changes in governmental regulations or maritime self-regulatory organization standards;
* lack of raw materials;
* bankruptcy or other financial crisis of the shipyard building the vessel;
* our inability to obtain requisite financing or make timely payments;
* a backlog of orders at the shipyard building the vessel;
* hostilities or political or economic disturbances in the countries where the containerships are being built;
* weather interference or catastrophic event, such as a major earthquake or fire;
* our requests for changes to the original vessel specifications;
* requests from the liner companies, with which we have arranged charters for such vessels, to delay construction and delivery of such vessels due to weak economic conditions and container shipping demand;
* shortages of or delays in the receipt of necessary construction materials, such as steel;
* our inability to obtain requisite permits or approvals; or
* a dispute with the shipyard building the vessel.

The shipbuilders with which we contract for any newbuilding may be affected by instability in the financial markets and other market conditions, including with respect to the fluctuating price of commodities and currency exchange rates. In addition, the refund guarantors under any newbuilding contracts we enter into, which would be banks, financial institutions and other credit agencies, may also be affected by financial market conditions in the same manner as our lenders and, as a result, may be unable or unwilling to meet their obligations under their refund guarantees. If shipbuilders or refund guarantors are unable or unwilling to meet their obligations to us, this will impact our acquisition of vessels and may materially and adversely affect our operations and our obligations under our credit facilities.

The delivery of any secondhand containership we may agree to acquire could be delayed because of, among other things, hostilities or political disturbances, non-performance of the purchase agreement
with respect to the vessels by the seller, our inability to obtain requisite permits, approvals or financing or damage to or destruction of the vessels while being operated by the seller prior to the delivery date.

Containership values have decreased significantly in recent years, and may remain at these depressed levels, or decrease further, and over time may fluctuate substantially. Depressed vessel values could cause us to incur impairment charges, such as the $210.7 million and $415.1 million impairment losses we recorded as of December 31, 2018 and December 31, 2016, respectively, for our vessels, or to incur a loss if these values are low at a time we are attempting to dispose of a vessel.

Due to the sharp decline in world trade and containership charter rates, the market values of the containerships in our fleet are currently significantly lower than prior to the downturn that began in the second half of 2008. Containership values may remain at current low, or lower, levels for a prolonged period of time and can fluctuate substantially over time due to a number of different factors, including:

• prevailing economic conditions in the markets in which containerships operate;
• changes in and the level of world trade;
• the supply of containership capacity;
• prevailing charter rates; and
• the cost of retrofitting or modifying existing ships, as a result of technological advances in vessel design or equipment, changes in applicable environmental or other regulations or standards, or otherwise.

As of December 31, 2018 and December 31, 2016, we recorded an impairment loss of $210.7 million and $415.1 million, respectively, for our older vessels, and we have incurred impairment charges in prior years as well. Conditions in the containership market also required us to record other impairment losses in 2016, including losses with respect to our investment in Gemini and our ZIM securities. In the future, if the market values of our vessels experience further deterioration or we lose the benefits of the existing charter arrangements for any of our vessels and cannot replace such arrangements with charters at comparable rates, we may be required to record additional impairment charges in our financial statements, which could adversely affect our results of operations. Any impairment charges incurred as a result of declines in charter rates could negatively affect our financial condition and results of operations. In addition, if we sell any vessel at a time when vessel prices have fallen and before we have recorded an impairment adjustment to our financial statements, the sale may be at less than the vessel's carrying amount on our financial statements, resulting in a loss and a reduction in earnings.

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 and our equity investment in Gemini. As a result, our ability to pay our contractual obligations and, if permitted under loan agreements and reinstated, to make any dividend payments in the future depends on our subsidiaries and their ability to distribute funds to us. The ability of a subsidiary to make these distributions could be affected by a claim or other action by a third party, including a creditor, or by the law of their respective jurisdictions of incorporation which regulates the payment of dividends by companies. If we are unable to obtain funds from our subsidiaries, even if we were permitted to make dividend payments under our loan agreements, our board of directors may exercise its discretion not to declare or pay dividends. If we reinstate dividend payments in the future, we do not intend to seek to obtain funds from other sources to make such dividend payments, if any.
If we are unable to fund our capital expenditures for additional vessels, we may not be able to grow our fleet.

We would have to make substantial capital expenditures to grow our fleet. We have no remaining borrowing availability under our existing credit facilities. In order to fund capital expenditures for future fleet growth, we generally plan to use equity and debt financing. Our ability to access the capital markets through future offerings may be limited by our financial condition at the time of any such offering as well as by adverse market conditions resulting from, among other things, general economic conditions, conditions in the containership charter market and contingencies and uncertainties that are beyond our control. Our failure to obtain funds for future capital expenditures could limit our ability to grow our fleet.

We must make substantial capital expenditures to maintain the operating capacity of our fleet, which may reduce the amount of cash available for other purposes.

Maintenance capital expenditures include capital expenditures associated with modifying an existing vessel or acquiring a new vessel to the extent these expenditures are incurred to maintain the operating capacity of our existing fleet. These expenditures could increase as a result of changes in the cost of labor and materials; customer requirements; increases in our fleet size or the cost of replacement vessels; governmental regulations and maritime self-regulatory organization standards relating to safety, security or the environment; and competitive standards. Significant capital expenditures, including to maintain the operating capacity of our fleet, may reduce the cash available for other purposes.

Our ability to obtain additional debt financing for future acquisitions of vessels may be dependent on the performance of our then existing charters and the creditworthiness of our charterers.

We have no remaining borrowing availability under our existing credit facilities. We intend, however, to borrow against vessels we may acquire in the future as part of our growth plan. The actual or perceived credit quality of our charterers, and any defaults by them, may materially affect our ability to obtain the additional capital resources that we will require to purchase additional vessels or may significantly increase our costs of obtaining such capital. Our inability to obtain additional financing or committing to financing on unattractive terms could have a material adverse effect on our business, results of operations and financial condition.

We are exposed to volatility in LIBOR.

Loans advanced under our credit facilities are, generally, advanced at a floating rate based on LIBOR, which has increased in recent years after a long period of stability at historically low level, and has been volatile in past years, which can affect the amount of interest payable on our debt, and which, in turn, could have an adverse effect on our earnings and cash flow. LIBOR rates were at historically low levels for an extended period of time and may continue to increase from these low levels. Our financial condition could be materially adversely affected at any time that we have not entered into interest rate hedging arrangements to hedge our interest rate exposure and the interest rates applicable to our credit facilities and any other financing arrangements we may enter into in the future increase. Moreover, even if we have entered into interest rate swaps or other derivative instruments for purposes of managing our interest rate or bunker cost exposure, our hedging strategies may not be effective and we may incur substantial losses.
Increased regulatory oversight, uncertainty relating to the LIBOR calculation process and potential phasing out of LIBOR after 2021 may adversely affect the amounts of interest we pay under our debt arrangements and our results of operations.

Regulators and law enforcement agencies in the United Kingdom and elsewhere are conducting civil and criminal investigations into whether the banks that contribute to the British Bankers' Association (the "BBA") in connection with the calculation of daily LIBOR may have been under-reporting or otherwise manipulating or attempting to manipulate LIBOR. A number of BBA member banks have entered into settlements with their regulators and law enforcement agencies with respect to this alleged manipulation of LIBOR.

On July 27, 2017, the United Kingdom Financial Conduct Authority ("FCA"), which regulates LIBOR, announced that it intends to stop persuading or compelling banks to submit rates for the calculation of LIBOR to the administrator of LIBOR after 2021 (the "FCA Announcement"). The FCA Announcement indicates that the continuation of LIBOR on the current basis is not guaranteed after 2021. The Secured Overnight Financing Rate, or "SOFR", has been proposed by the Alternative Reference Rate Committee, a committee convened by the U.S. Federal Reserve that includes major market participants and on which regulators participate, as an alternative rate to replace U.S. Dollar LIBOR. It is not possible currently to predict the effect of the FCA Announcement, including any discontinuation or change in the method by which LIBOR rates are determined, or how any such changes or alternative methods for calculating benchmark interest rates would be applied to any particular existing agreement containing terms based on LIBOR, such as our existing loan agreements. Any such changes or developments in the method pursuant to which LIBOR rates are determined may result in an increase in reported LIBOR rates or any alternative rates. If that were to occur, the amount of interest we pay under our credit facilities and any other financing arrangements may be adversely affected which may adversely affect our results of operations.

We may enter into derivative contracts to hedge our exposure to fluctuations in interest rates, which could result in higher than market interest rates and charges against our income.

As of December 31, 2018, we did not have any interest rate swap arrangements. In the past, however, we have entered into interest rate swaps in substantial aggregate notional amounts, generally for purposes of managing our exposure to fluctuations in interest rates applicable to indebtedness under our credit facilities, which were advanced at floating rates based on LIBOR, as well as interest rate swap agreements converting fixed interest rate exposure under our credit facilities advanced at a fixed rate of interest to floating rates based on LIBOR. Any hedging strategies we choose to employ, may not be effective and we may again incur substantial losses, as we did in 2015 and prior years. Unless we satisfy the requirements to qualify for hedge accounting for interest rate swaps and any other derivative instruments, we would recognize all fluctuations in the fair value of any such contracts in our consolidated Statements of Operations. Recognition of such fluctuations in our statement of operations may increase the volatility of our earnings. Any hedging activities we engage in may not effectively manage our interest rate exposure or have the desired impact on our financial conditions or results of operations.

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

We generate all of our revenues in United States dollars and for the year ended December 31, 2018, we incurred approximately 26% of our vessels' expenses in currencies other than United States dollars, mainly Euros. This difference could lead to fluctuations in net income due to changes in the value of the United States dollar relative to the other currencies, in particular the Euro. Expenses incurred in foreign currencies against which the United States dollar falls in value could increase.
thereby decreasing our net income. We have not hedged our currency exposure and, as a result, our U.S. dollar-denominated results of operations and financial condition could suffer.

*Due to our lack of diversification, adverse developments in the containership transportation business could reduce our ability to meet our payment obligations and our profitability.*

We rely exclusively on the cash flows generated from charters for our vessels that operate in the containership sector of the shipping industry. Due to our lack of diversification, adverse developments in the container shipping industry have a significantly greater impact on our financial condition and results of operations than if we maintained more diverse assets or lines of business.

*We may have difficulty properly managing our growth through acquisitions of additional vessels and we may not realize the expected benefits from these acquisitions, which may have an adverse effect on our financial condition and performance.*

To the extent market conditions warrant and we are able to obtain sufficient financing for such purposes, we intend to grow our business by ordering newbuilding containerships and through selective acquisitions of additional vessels. Future growth will primarily depend on:

- locating and acquiring suitable vessels;
- identifying and consummating vessel acquisitions or joint ventures relating to vessel acquisitions;
- enlarging our customer base;
- developments in the charter markets in which we operate that make it attractive for us to expand our fleet;
- managing any expansion;
- the operations of the shipyard building any newbuilding containerships we may order; and
- obtaining required financing on acceptable terms.

Although containership charter rates and vessel values currently are at historically low levels, during periods in which charter rates are high, vessel values generally are high as well, and it may be difficult to acquire vessels at favorable prices. Moreover, our financing arrangements impose significant restrictions on our ability to use debt financing, or cash from operations, asset sales or equity financing, for purposes, such as vessel acquisitions, other than debt repayment without the consent of our lenders. In addition, growing any business by acquisition presents numerous risks, such as managing relationships with customers and integrating newly acquired assets into existing infrastructure. We cannot give any assurance that we will be successful in executing any growth plans or that we will not incur significant expenses and losses in connection with any future growth efforts.

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

Our business and the operation of our vessels are materially affected by environmental regulation in the form of international, national, state and local laws, regulations, conventions and standards in force in international waters and the jurisdictions in which our vessels operate, as well as in the country or countries of their registration, including those governing the management and disposal of hazardous substances and wastes, the cleanup of oil spills and other contamination, air emissions, wastewater discharges and ballast water management. Because such conventions, laws, and regulations are often revised, we cannot predict the ultimate cost of complying with such requirements or their impact on the resale price or useful life of our vessels. We are required by various governmental and quasi-governmental agencies to obtain certain permits, licenses, certificates and financial assurances.
with respect to our operations. Many environmental requirements are designed to reduce the risk of pollution, such as from oil spills, and our compliance with these requirements could be costly. To comply with these and other regulations, including the new MARPOL Annex VI sulfur emission requirements instituting a global 0.5% (lowered from 3.5%) sulfur cap on marine fuels from January 1, 2020 and the IMO ballast water management (“BWM”) convention, which requires vessels to install expensive ballast water treatment systems (“BWTS”), we may be required to incur additional costs to meet new maintenance and inspection requirements, develop contingency plans for potential spills, and obtain insurance coverage. (Please read "Item 4B. Business Overview—Regulation" for more information on the regulations applicable to our vessels.) For instance, to address the lower sulfur cap we have agreed to install scrubbers on seven of our vessels, for an aggregate estimated cost of $21.6 million, and have an option to install them on two more vessels as of February 28, 2019. Additional conventions, laws and regulations may be adopted that could limit our ability to do business or increase the cost of doing business and which may materially and adversely affect our operations.

Environmental requirements can also affect the resale value or useful lives of our vessels, could require a reduction in cargo capacity, ship modifications or operational changes or restrictions, could lead to decreased availability of insurance coverage for environmental matters or could result in the denial of access to certain jurisdictional waters or ports or detention in certain ports. Under local, national and foreign laws, as well as international treaties and conventions, we could incur material liabilities, including cleanup obligations and natural resource damages liability, in the event that there is a release of petroleum or hazardous materials from our vessels or otherwise in connection with 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. We could also become subject to personal injury or property damage claims relating to the release of hazardous substances associated with our existing or historic operations. Violations of, or liabilities under, environmental requirements can result in substantial penalties, fines and other sanctions, including, in certain instances, seizure or detention of our vessels.

The operation of our vessels is also affected by the requirements set forth in the International Maritime Organization's, or IMO's, International Management Code for the Safe Operation of Ships and Pollution Prevention, or the ISM Code. The ISM Code requires shipowners 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. Failure to comply with the ISM Code may subject us to increased liability, may decrease available insurance coverage for the affected ships, and may result in denial of access to, or detention in, certain ports.

In connection with a 2001 incident involving the presence of oil on the water on the starboard side of one of our former vessels, the Henry (ex CMA CGM Passiflore) in Long Beach, California, our manager pled guilty to one count of negligent discharge of oil and one count of obstruction of justice, based on a charge of attempted concealment of the source of the discharge. Consistent with the government's practice in similar cases, our manager agreed, among other things, to develop and implement an approved third party consultant monitored environmental compliance plan. Any violation of this environmental compliance plan or any penalties, restitution or heightened environmental compliance plan requirements that are imposed relating to alleged discharges in any other action involving our fleet or our manager could negatively affect our operations and business.

**Climate change and greenhouse gas restrictions may adversely impact our operations.**

Due to concern over the risks of climate change, a number of countries and the International Maritime Organization, or "IMO", have adopted, or are considering the adoption of, regulatory frameworks to reduce greenhouse gas emission from ships. These regulatory measures may include adoption of cap and trade regimes, carbon taxes, increased efficiency standards and incentives or
mandates for renewable energy. Emissions of greenhouse gases from international shipping currently are not subject to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or the "Kyoto Protocol", or any amendments or successor agreements. The Paris Agreement adopted under the United Nations Framework Convention on Climate Change in December 2015, which contemplates commitments from each nation party thereto to take action to reduce greenhouse gas emissions and limit increases in global temperatures but did not include any restrictions or other measures specific to shipping emissions. However, restrictions on shipping emissions are likely to continue to be considered and a new treaty may be adopted in the future that includes additional restrictions on shipping emissions to those already adopted under the International Convention for the Prevention of Marine Pollution from Ships, or the "MARPOL Convention". Compliance with future changes in laws and regulations relating to climate change could increase the costs of operating and maintaining our ships and could require us to install new emission controls, as well as acquire allowances, pay taxes related to our greenhouse gas emissions or administer and manage a greenhouse gas emissions program.

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

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

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

It is further unclear what changes, if any, to the existing inspection and security procedures will ultimately be proposed or implemented, or how any such changes will affect the industry. It is possible that such changes could impose additional financial and legal obligations, including additional responsibility for inspecting and recording the contents of containers and complying with additional security procedures on board vessels, such as those imposed under the ISPS Code. Changes to the inspection and security procedures and container security could result in additional costs and obligations on carriers and may, in certain cases, render the shipment of certain types of goods by container uneconomical or impractical. Additional costs that may arise from current inspection or security procedures or future proposals that may not be fully recoverable from customers through higher rates or security surcharges.  

**Our vessels may call on ports located in countries that are subject to restrictions imposed by the United States government, which could negatively affect the trading price of our shares of common stock.**

From time to time on charterers' instructions, our vessels have called and may again call on ports located in countries subject to sanctions and embargoes imposed by the United States government and countries identified by the United States government as state sponsors of terrorism. 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.
On January 16, 2016, "Implementation Day" for the Iran Joint Comprehensive Plan of Action (JCPOA), the United States lifted its secondary sanctions against Iran which prohibited certain conduct by non-U.S. companies and individuals that occurred entirely outside of U.S. jurisdiction involving specified industry sectors in Iran, including the energy, petrochemical, automotive, financial, banking, mining, shipbuilding and shipping sectors. By lifting the secondary sanctions against Iran, the U.S. government effectively removed U.S. imposed restraints on dealings by non-U.S. companies, such as our Company, and individuals with these formerly targeted Iranian business sectors. Non-U.S. companies continued to be prohibited under U.S. sanctions from (i) knowingly engaging in conduct that seeks to evade U.S. restrictions on transactions or dealings with Iran or that causes the export of goods or services from the United States to Iran, (ii) exporting, reexporting or transferring to Iran any goods, technology, or services originally exported from the U.S. and/or subject to U.S. export jurisdiction and (iii) conducting transactions with the Iranian or Iran-related individuals and entities that remain or are placed in the future on OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List), notwithstanding the lifting of secondary sanctions. However, on August 6, 2018, the U.S. re-imposed an initial round of secondary sanctions and as of November 5, 2018, all of the secondary sanctions the U.S. had suspended under the JCPOA have been re-imposed.

The U.S. government's primary Iran sanctions have remained in place throughout recent years and as a consequence, U.S. persons continue to be broadly prohibited from engaging in transactions or dealings in or with Iran or its government. In addition, U.S. persons continue to be broadly prohibited from engaging in transactions or dealings with the Government of Iran and Iranian financial institutions, which effectively impacts the transfer of funds to, from, or through the U.S. financial system whether denominated in US dollars or any other currency.

In 2018, 2017 and 2016, no vessels operated by us made any calls to ports in Cuba, Iran, Syria or Sudan. Although we believe that we are 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 or other penalties and could result in some investors deciding, or being required, to divest their interest, or not to invest, in the Company. Additionally, some investors may decide to divest their interest, or not to invest, in the Company simply because we do business with companies that do lawful business in sanctioned countries.

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. Investor perception of the value of our common stock may also be adversely affected by the consequences of war, the effects of terrorism, civil unrest and governmental actions in these and surrounding countries.

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

A government of a ship's registry could requisition for title or seize our vessels. Requisition for title occurs when a government takes control of a ship and becomes the owner. Also, a government could requisition our containerships for hire. Requisition for hire occurs when a government takes control of a ship and effectively becomes the charterer at dictated charter rates. Generally, requisitions occur during a period of war or emergency. Government requisition of one or more of our vessels may negatively impact our revenues and results of operations.

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

Terrorist attacks such as the attacks on the United States on September 11, 2001 and more recent attacks in other parts of the world, and the continuing response of the United States and other countries to these attacks, as well as the threat of future terrorist attacks, continue to cause uncertainty in the world financial markets and may affect our business, results of operations and financial
Events in the Middle East and North Africa, including Egypt and Syria, and the conflicts in Iraq and Afghanistan may lead to additional acts of terrorism, regional conflict and other armed conflicts 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.

Terrorist attacks targeted at sea vessels, such as the October 2002 attack in Yemen on the VLCC Limburg, a ship not related to us, may in the future also negatively affect our operations and financial condition and directly impact our containerships or our customers. Future terrorist attacks could result in increased volatility of the financial markets in the United States and globally and could result in an economic recession affecting the United States or the entire world. Any of these occurrences could have a material adverse impact on our operating results, revenue and costs.

Changing economic, political and governmental conditions in the countries where we are engaged in business or where our vessels are registered could affect us. In addition, future hostilities or other political instability in regions where our vessels trade could also affect our trade patterns and adversely affect our operations and performance.

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 and in the Gulf of Aden off the coast of Somalia. Despite leveling off somewhat in the last few years, the frequency of piracy incidents has increased significantly since 2008, particularly in the Gulf of Aden off the coast of Somalia. For example, in January 2010, the Maran Centaurus, a tanker vessel not affiliated with us, was captured by pirates in the Indian Ocean while carrying crude oil estimated to be worth $20 million, and was released in January 2010 upon a ransom payment of over $5 million. In addition, crew costs, including costs due to employing onboard security guards, could increase in such circumstances. 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 or 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, results of operations and ability to pay dividends.

The smuggling of drugs or other contraband onto our vessels may lead to governmental claims against us.

Our vessels call in ports in South America and other areas where smugglers attempt to hide drugs and other contraband on vessels, with or without the knowledge of crew members. To the extent our vessels are found with contraband, whether inside or attached to the hull of our vessel and whether with or without the knowledge of any of our crew, we may face governmental or other regulatory claims or penalties which could have an adverse effect on our business, results of operations, cash flows and financial condition.

Risks inherent in the operation of ocean-going vessels could affect our business and reputation, which could adversely affect our expenses, net income and stock price.

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

- marine disaster;
- environmental accidents;
- grounding, fire, explosions and collisions;
- cargo and property losses or damage;
business interruptions caused by mechanical failure, human error, war, terrorism, political action in various countries, or adverse weather conditions;

• work stoppages or other labor problems with crew members serving on our vessels, substantially all of whom are unionized and covered by collective bargaining agreements; and

• piracy.

Such occurrences could result in death or injury to persons, loss of property or environmental damage, delays in the delivery of cargo, loss of revenues from or termination of charter contracts, governmental fines, penalties or restrictions on conducting business, higher insurance rates, and damage to our reputation and customer relationships generally. Any of these circumstances or events could increase our costs or lower our revenues, which could result in reduction in the market price of our shares of common stock. The involvement of our vessels in an environmental disaster may harm our reputation as a safe and reliable vessel owner and operator.

Our insurance may be insufficient to cover losses that may occur to our property or result from our operations due to the inherent operational risks of the shipping industry.

The operation of any vessel includes risks such as mechanical failure, collision, fire, contact with floating objects, 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 a marine disaster, including oil spills and other environmental mishaps. There are also liabilities arising from owning and operating vessels in international trade. We procure insurance for our fleet against risks commonly insured against by vessel owners and operators. Our current insurance includes (i) hull and machinery insurance covering damage to our vessels' hull and machinery from, among other things, contact with fixed and floating objects, (ii) war risks insurance covering losses associated with the outbreak or escalation of hostilities and (iii) protection and indemnity insurance (which includes environmental damage and pollution insurance) covering third-party and crew liabilities such as expenses resulting from the injury or death of crew members, passengers and other third parties, the loss or damage to cargo, third-party claims arising from collisions with other vessels, damage to other third-party property (except where such cover is provided in the hull and machinery policy), pollution arising from oil or other substances and salvage, towing and other related costs.

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 obtain a timely replacement vessel in the event of a loss. Under the terms of our credit facilities, we will be subject to restrictions on the use of any proceeds we may receive from claims under our insurance policies. 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.

In addition, we do not currently carry loss of hire insurance. Loss of hire insurance covers the loss of revenue during extended vessel off-hire periods, such as those that occur during an unscheduled drydocking due to damage to the vessel from accidents. Accordingly, any loss of a vessel or any extended period of vessel off-hire, due to an accident or otherwise, could have a material adverse effect on our business, results of operations and financial condition and our ability to pay dividends, if any, to our stockholders.
Maritime claimants could arrest our vessels, which could interrupt our cash flows.

Crew members, suppliers of goods and services to a vessel, shippers of cargo and other parties may be entitled to a maritime lien against that vessel for unsatisfied debts, claims or damages. In many jurisdictions, a maritime lien holder may enforce its lien by arresting a vessel through foreclosure proceedings. The arrest or attachment of one or more of our vessels could interrupt our cash flows and require us to pay large sums of money to have the arrest lifted.

In addition, in some jurisdictions, such as South Africa, under the "sister ship" theory of liability, a claimant may arrest both the vessel that is subject to the claimant's maritime lien and any "associated" vessel, which is any vessel owned or controlled by the same owner. Claimants could try to assert "sister ship" liability against one vessel in our fleet for claims relating to another of our ships.

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. As our fleet ages, we may 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 also 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 a vessel 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. Although our current fleet of 55 containerships had an average age (weighted by TEU capacity) of approximately 10.4 years as of February 28, 2019, we cannot assure you that, as our vessels age, market conditions will justify such expenditures or will enable us to profitably operate our vessels during the remainder of their expected useful lives.

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

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

We rely on our information systems to conduct our business, and failure to protect these systems against security breaches could adversely affect our business and results of operations. Additionally, if these systems fail or become unavailable for any significant period of time, our business could be harmed.

The efficient operation of our business is dependent on computer hardware and software systems. Information systems are vulnerable to security breaches by computer hackers and cyberterrorists. We rely on industry accepted security measures and technology to securely maintain confidential and proprietary information maintained on our information systems. However, these measures and technology may not adequately prevent security breaches. In addition, the unavailability of the information systems or the failure of these systems to perform as anticipated for any reason could disrupt our business and could result in decreased performance and increased operating costs, causing
our business and results of operations to suffer. Any significant interruption or failure of our information systems or any significant breach of security could adversely affect our business, results of operations and financial condition, as well as our cash flows.

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

The hull and machinery of every commercial vessel must be classed by a classification society authorized by its country of registry. The classification society certifies that a vessel is safe and seaworthy in accordance with the applicable rules and regulations of the country of registry of the vessel and the Safety of Life at Sea Convention, and all vessels must be awarded ISM certification.

A vessel must undergo annual surveys, intermediate surveys and special surveys. In lieu of a special survey, a vessel's machinery may be on a continuous survey cycle, under which the machinery would be surveyed periodically over a five-year period. Each of the vessels in our fleet is on a special survey cycle for hull inspection and a continuous survey cycle for machinery inspection.

If any vessel does not maintain its class or fails any annual, intermediate or special survey, and/or loses its certification, the vessel will be unable to trade between ports and will be unemployable, and we could be in violation of certain covenants in our loan agreements. This would negatively impact our operating results and financial condition.

**Our business depends upon certain employees who may not necessarily continue to work for us.**

Our future success depends to a significant extent upon our chief executive officer, Dr. John Coustas, and certain members of our senior management and that of our manager. Dr. Coustas has substantial experience in the container shipping industry and has worked with us and our manager for many years. He and others employed by us and our manager are crucial to the execution of our business strategies and to the growth and development of our business. In addition, under the terms of our New 2018 Credit Facilities, Dr. Coustas ceasing to serve as our Chief Executive Officer and a director of our Company, would give rise to the lenders being able to require us to repay in full debt outstanding under such agreements. If these certain individuals were no longer to be affiliated with us or our manager, or if we were to otherwise cease to receive advisory services from them, we may be unable to recruit other employees with equivalent talent and experience, and our business and financial condition may suffer as a result.

**The provisions in our restrictive covenant agreement with our chief executive officer restricting his ability to compete with us, like restrictive covenants generally, may not be enforceable.**

Dr. Coustas, our chief executive officer, has entered into a restrictive covenant agreement with us under which he is precluded during the term of our management agreement with our manager, Danaos Shipping, and for one year thereafter from owning and operating drybulk ships or containerships larger than 2,500 TEUs and from acquiring or investing in a business that owns or operates such vessels. In connection with our investment in Gemini in 2015, these restrictions were waived, with the approval of our independent directors, with respect to vessels acquired by Gemini. Courts generally do not favor the enforcement of such restrictions, particularly when they involve individuals and could be construed as infringing on their ability to be employed or to earn a livelihood. Our ability to enforce these restrictions, should it ever become necessary, will depend upon the circumstances that exist at the time enforcement is sought. We cannot be assured that a court would enforce the restrictions as written by way of an injunction or that we could necessarily establish a case for damages as a result of a violation of the restrictive covenants.

In addition, DIL and Dr. Coustas are permitted to terminate the restrictive covenant agreement upon the occurrence of certain transactions constituting a "Change of Control" of the Company which
are not within the control of Dr. Coustas or DIL, including where Dr. Coustas ceases to be both the Chief Executive Officer of the Company and a director of the Company without his consent in connection with a hostile takeover of the Company by a third party. Upon such an occurrence, the non-competition restrictions on our manager under our management agreement would also cease to apply.

**We depend on our manager to operate our business.**

Pursuant to the management agreement and the individual ship management agreements, our manager and its affiliates provides us with technical, administrative and certain commercial services (including vessel maintenance, crewing, purchasing, shipyard supervision, insurance, assistance with regulatory compliance and financial services). Our operational success will depend significantly upon our manager's satisfactory performance of these services. Our business would be harmed if our manager failed to perform these services satisfactorily. In addition, if the management agreement were to be terminated or if its terms were to be altered, our business could be adversely affected, as we may not be able to immediately replace such services, and even if replacement services were immediately available, the terms offered could be less favorable than the ones currently offered by our manager. Our management agreement with any new manager may not be as favorable.

Our ability to compete for and enter into new time charters and to expand our relationships with our existing charterers depends largely on our relationship with our manager and its reputation and relationships in the shipping industry. If our manager suffers material damage to its reputation or relationships, it may harm our ability to:

- renew existing charters upon their expiration;
- obtain new charters;
- successfully interact with shipyards during periods of shipyard construction constraints;
- obtain financing on commercially acceptable terms or at all;
- maintain satisfactory relationships with our charterers and suppliers; or
- successfully execute our business strategies.

If our ability to do any of the things described above is impaired, it could have a material adverse effect on our business and affect our profitability.

**Our manager is a privately held company and there is little or no publicly available information about it.**

The ability of our manager to continue providing services for our benefit will depend in part on its own financial strength. Circumstances beyond our control could impair our manager's financial strength, and because it is a privately held company, information about its financial strength is not available. As a result, our stockholders might have little advance warning of problems affecting our manager, even though these problems could have a material adverse effect on us. As part of our reporting obligations as a public company, we will disclose information regarding our manager that has a material impact on us to the extent that we become aware of such information.

**We are a Marshall Islands corporation, and the Marshall Islands does not have a well-developed body of corporate law.**

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

It may be difficult to enforce service of process and enforcement of judgments against us and our officers and directors.

We are a Marshall Islands corporation, and our registered office is located outside of the United States in the Marshall Islands. A majority of our directors and officers reside outside of the United States, and a substantial portion of our assets and the assets of our officers and directors are located outside of the United States. As a result, you may have difficulty serving legal process within the United States upon us or any of these persons. You may also have difficulty enforcing, both in and outside of the United States, judgments you may obtain in the U.S. courts against us or these persons in any action, including actions based upon the civil liability provisions of U.S. federal or state securities laws.

There is also substantial doubt that the courts of the Marshall Islands would enter judgments in original actions brought in those courts predicated on U.S. federal or state securities laws. Even if you were successful in bringing an action of this kind, the laws of the Marshall Islands may prevent or restrict you from enforcing a judgment against our assets or our directors and officers.

We maintain cash with a limited number of financial institutions including financial institutions that may be located in Greece, which will subject us to credit risk.

We maintain all of our cash with a limited number of financial institutions, including institutions that are located in Greece. These financial institutions located in Greece may be subsidiaries of international banks or Greek financial institutions. Economic conditions in Greece have been, and continue to be, severely disrupted and volatile, and as a result of sovereign weakness, Moody's Investor Services Inc. has downgraded the bank financial strength ratings, as well as the deposit and debt ratings, of several Greek banks to reflect their weakening stand-alone financial strength and the anticipated additional pressures stemming from the country's challenged economic prospects. In addition, in 2015, Greece implemented capital controls restricting the transfer of funds out of Greece, which could restrict our uses of the limited amount of cash we hold in Greece.

We do not expect that any of our balances held with Greek financial institutions will be covered by insurance in the event of default by these financial institutions. The occurrence of such a default could therefore have a material adverse effect on our business, financial condition, results of operations and cash flows. If we are unable to fund our capital expenditures, we may not be able to continue to operate some of our vessels, which would have a material adverse effect on our business.

Risks Relating to Our Common Stock

The market price of our common stock has fluctuated widely and the market price of our common stock may fluctuate in the future.

The market price of our common stock has fluctuated widely since our initial public offering in October 2006, reaching a high of $40.26 per share in 2007 and a low of $0.56 per share on December 26, 2018, and may continue to do so as a result of many factors, including the issuance of additional shares of common stock in the 2018 Refinancing, future share issuances, sales of shares by existing stockholders, our actual results of operations and perceived prospects, the prospects of our
competitors and of the shipping industry in general and in particular the containership sector, differences between our actual financial and operating results and those expected by investors and analysts, changes in analysts’ recommendations or projections, changes in general valuations for companies in the shipping industry, particularly the containership sector, changes in general economic or market conditions and broader market fluctuations.

If the market price of our common stock remains below $5.00 per share our stockholders will not be able to use such shares as collateral for borrowing in margin accounts. This inability to use shares of our common stock as collateral may depress demand. In addition, certain institutional investors are restricted from investing in shares priced below $5.00, which may reduce demand for our shares and could also lead to sales of shares creating downward pressure on and increased volatility in the market price of our common stock.

In December 2018, we announced that we received notice from the NYSE indicating that the trading price of our common stock was not in compliance with the NYSE’s continuing listing standard that requires a minimum average closing price of $1.00 per share over a period of 30 consecutive trading days. Under the NYSE rules, we can cure this deficiency if, during the six-month period following receipt of the NYSE notice, on the last trading day of any calendar month or on the last trading day of the cure period, our common stock has a closing share price of at least $1.00 and an average closing share price of at least $1.00 over the 30-trading day period ending on the last trading day of that month or the last trading day of the cure period. During this period, our common stock will continue to be traded on the NYSE, subject to our compliance with other NYSE listing requirements. We have notified the NYSE of our intent to cure this noncompliance. However, there can be no assurance that any action taken by us to cure such noncompliance will be successful or that we will be able to maintain compliance with the other NYSE continued listing requirements in respect of our common stock.

**We may not pay dividends on our common stock.**

Declaration and payment of any future dividend is subject to the discretion of our board of directors. The timing and amount of dividend payments will be dependent upon our earnings, financial condition, cash requirements and availability, fleet renewal and expansion, restrictions in our credit facilities, the provisions of Marshall Islands law affecting the payment of distributions to stockholders and other factors. Under our New 2018 Credit Facilities entered into in August 2018, we are not permitted to pay dividends until (1) we receive in excess of $50 million in net cash proceeds from offerings of our common stock following the 2018 Refinancing and (2) the payment in full of the first installment of amortization payable following the consummation of the 2018 Refinancing under each new credit facility. After these conditions are satisfied, under our New 2018 Credit Facilities we will be permitted to pay dividends if, among other things, a default has not occurred and is continuing or would occur as a result of the payment of such dividend, and we remain in compliance with the financial covenants applicable to the obligors thereunder. In addition, 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 and to make any dividend payments. We have not paid dividends since 2008. We cannot assure you that we will dividends in the foreseeable future.

**Future issuances of equity and equity related securities may result in significant dilution and could adversely affect the market price of our common stock.**

As part of the 2018 Refinancing, we issued 99,342,271 shares of common stock to lenders under our credit facilities, which represented 47.5% of our issued and outstanding shares of common stock immediately after giving effect to such issuance. The issuance ratably diluted existing holders of our common stock. In addition, as part of the 2018 Refinancing, we have agreed to seek to raise at least
We may also seek to sell additional shares in the future to satisfy our capital and operating needs and to finance further growth. We would likely have to issue additional shares of common or preferred stock in addition to any additional debt we may incur. If we sell shares in the future, the prices at which we sell these future shares will vary, and these variations may be significant. We cannot predict the effect that future sales of our common stock or other equity related securities would have on the market price of our common stock.

**Sales of our common stock by stockholders, or the perception that these sales may occur, especially by our directors or significant stockholders, may cause our share price to decline.**

If our stockholders, in particular our affiliates and significant stockholders, sell substantial amounts of our common stock in the public market, or are perceived by the public market as intending to sell, the trading price of our common stock could decline. In addition, sales of these shares of common stock could impair our ability to raise capital in the future. We have filed shelf registration statements with the SEC registering under the Securities Act an aggregate of 187,564,826 outstanding shares of our common stock for resale on behalf of existing stockholders, including our executive officers, and granted registration rights in respect of additional shares of our common stock. In the aggregate, these shares represent approximately 90% of our outstanding shares of common stock. These shares may be resold in registered transactions and may also be resold subject to the requirements of Rule 144 under the Securities Act. We cannot predict the timing or amount of future sales of these shares of common stock, or the perception that such sales could occur, which may adversely affect prevailing market prices for our common stock.

**Certain of our major stockholders will have significant influence over certain matters and may have interests that are different from the interests of our other stockholders.**

Certain of our major stockholders may have interests that are different from, or are in addition to, the interests of our other stockholders. In particular, Danaos Investment Limited as Trustee of the 883 Trust ("DIL"), which is affiliated with our Chief Executive Officer, owns approximately 31.8% of our outstanding shares of common stock. In addition, certain of our lenders own a considerable amount of our outstanding common stock as described in "Item 7. Major Shareholders and Related Party Transactions—Major Shareholders". There may be real or apparent conflicts of interest with respect to matters affecting such stockholders and their affiliates whose interests in some circumstances may be adverse to our interests.

For so long as a stockholder continues to own a significant percentage of our common stock, it will be able to significantly influence the composition of our Board of Directors and the approval of actions requiring stockholder approval through its voting power. Accordingly, during such period of time, such stockholder will have significant influence with respect to our management, business plans and policies, including the appointment and removal of our officers. In particular, for so long as such stockholder continues to own a significant percentage of our common stock, it may be able to cause or prevent a change of control of our company or a change in the composition of our board of directors and could preclude an unsolicited acquisition of our company. The concentration of ownership could potentially deprive you of an opportunity to receive a premium for your common stock as part of a sale of our company and might affect the market price of our common stock.

Such a stockholder and its affiliates engage in a broad spectrum of activities. In the ordinary course of its business activities, such stockholder may engage in activities where its interests conflict with our interests or those of our stockholders. For example, it may have an interest in our pursuing acquisitions, divestitures and other transactions that, in its judgment, could enhance its investment, even
though such transactions might involve risks to us and our other stockholders. Such potential conflicts may delay or limit the opportunities available to us, and it is possible that conflicts may be resolved in a manner adverse to us or result in agreements that are less favorable to us than terms that would be obtained in arm’s-length negotiations with unaffiliated third-parties.

As a foreign private issuer we are entitled to rely upon exemptions from certain NYSE corporate governance standards, and to the extent we elect to rely on these exemptions, you may not have the same protections afforded to stockholders of companies that are subject to all of the NYSE corporate governance requirements.

As a foreign private issuer, we are entitled to rely upon exemptions from many of the NYSE's corporate governance practices. To the extent we rely on any of these exemptions, including to have an employee director on our nominating and corporate governance committee and issue shares without shareholder approval, you may not have the same protections afforded to stockholders of companies that are subject to all of the NYSE corporate governance requirements.

Anti-takeover provisions in our organizational documents, as well as terms of our New 2018 Credit Facilities, could make it difficult for our stockholders to replace or remove our current board of directors or could have the effect of discouraging, delaying or preventing a merger or acquisition, which could adversely affect the market price of the shares of our common stock.

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

These provisions:

• authorize our board of directors to issue "blank check" preferred stock without stockholder approval;

• provide for a classified board of directors with staggered, three-year terms;

• prohibit cumulative voting in the election of directors;

• authorize the removal of directors only for cause and only upon the affirmative vote of the holders of at least 66 2/3 % of the outstanding stock entitled to vote for those directors;

• prohibit stockholder action by written consent unless the written consent is signed by all stockholders entitled to vote on the action;

• establish advance notice requirements for nominations for election to our board of directors or for proposing matters that can be acted on by stockholders at stockholder meetings; and

• restrict business combinations with interested stockholders.

In addition, the amendment to our articles of incorporation that became effective on the August 10, 2018 closing date of the 2018 Refinancing ("2018 Refinancing Closing Date") requires the affirmative vote of the holders of not less than sixty-six and two-thirds percent (66-2/3%) of the outstanding shares of capital stock in order to take certain actions, including the consummation of any merger, consolidation, spin-off or sale of all or substantially all of our or our subsidiaries' assets.

In addition, our respective lenders under our New 2018 Credit Facilities are entitled to require us to repay in full amounts outstanding under such credit facilities, if: (i) Dr. Coustas ceases to be both the Company's Chief Executive Officer and a director of the Company, subject to certain exceptions, (ii) the existing members of the board and the directors appointed following nomination by the existing board of directors collectively do not constitute a majority of the board of directors, (iii) Dr. Coustas and members of his family cease to collectively control at least 15% and one share of the voting
interest in the Company's outstanding capital stock or to beneficially own at least 15% and one share of the Company's outstanding capital stock, or (iv) any person or persons acting in concert (other than the Coustas family) (x) holds a greater portion of the Company's outstanding capital stock than the Coustas family (other than as a direct result of the sale by the lenders of shares issued in the 2018 Refinancing) or (y) controls the Company.

These anti-takeover provisions could substantially impede the ability of public stockholders 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.

Tax Risks

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

Under the United States Internal Revenue Code of 1986, as amended, or the Code, 50% of the gross shipping income of a ship owning or chartering corporation, such as ourselves, 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 as such is subject to a 4% U.S. federal income tax without allowance for deduction, unless that corporation qualifies for exemption from tax under Section 883 of the Code and the Treasury Regulations promulgated thereunder.

We believe that we and our subsidiaries have previously qualified for this statutory tax exemption and have taken that position for U.S. federal income tax reporting purposes. Given the changes in ownership of the Company following the 2018 Refinancing, it is uncertain as to whether we will continue to qualify for this statutory tax exemption, and there are factual circumstances beyond our control that could cause us or our subsidiaries to fail to qualify for the benefit of this tax exemption and thus to be subject to U.S. federal income tax on U.S.-source shipping income. There can be no assurance that we or any of our subsidiaries will qualify for this tax exemption for any year. For example, even assuming, as we expect will be the case, that our shares are regularly and primarily traded on an established securities market in the United States, if stockholders each of whom owns, actually or under applicable attribution rules, 5% or more of our shares own, in the aggregate, 50% or more of our shares, then we and our subsidiaries will generally not be eligible for the Section 883 exemption unless we can establish, in accordance with specified ownership certification procedures, either (i) that a sufficient number of the shares in the closely-held block are owned, directly or under the applicable attribution rules, by "qualified stockholders" (generally, individuals resident in certain non-U.S. jurisdictions) so that the shares in the closely-held block that are not so owned could not constitute 50% or more of our shares for more than half of the days in the relevant tax year or (ii) that qualified stockholders owned more than 50% of our shares for at least half of the days in the relevant taxable year. There can be no assurance that we will be able to establish such ownership by qualified stockholders for any tax year.

If we or our subsidiaries are not entitled to the exemption under Section 883 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 stockholders. A number of our charters contain provisions that obligate the charterers to reimburse us for the 4% gross basis tax on our U.S. source shipping income.

If we were treated as a "passive foreign investment company," certain adverse U.S. federal income tax consequences could result to U.S. stockholders.

A foreign corporation will be treated as a "passive foreign investment company," or PFIC, for U.S. federal income tax purposes if at least 75% of its gross income for any taxable year consists of certain types of "passive income," or 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, and gains from the sale or exchange of investment property and rents and royalties other than rents and royalties that 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." In general, U.S. stockholders of a PFIC are subject to a disadvantageous U.S. federal income tax regime with respect to 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. If we are treated as a PFIC for any taxable year, we will provide information to U.S. stockholders to enable them to make certain elections to alleviate certain of the adverse U.S. federal income tax consequences that would arise as a result of holding an interest in a PFIC.

While there are legal uncertainties involved in this determination, including as a result of a decision of the United States Court of Appeals for the Fifth Circuit in *Tidewater Inc. and Subsidiaries v. United States*, 565 F.3d 299 (5th Cir. 2009) which held that income derived from certain time chartering activities should be treated as rental income rather than services income for purposes of the foreign sales corporation rules under the U.S. Internal Revenue Code, we believe we should not be treated as a PFIC for the taxable year ended December 31, 2018. However, if the principles of the *Tidewater* decision were applicable to our time charters, we would likely be treated as a PFIC. Moreover, there is no assurance that the nature of our assets, income and operations will not change or that we can avoid being treated as a PFIC for subsequent years.

*If we became subject to Liberian taxation, the net income and cash flows of our Liberian subsidiaries and therefore our net income and cash flows, would be materially reduced.*

A number of our subsidiaries are incorporated under the laws of the Republic of Liberia. The Republic of Liberia enacted a new income tax act effective as of January 1, 2001 (the "New Act") which does not distinguish between the taxation of "non-resident" Liberian corporations, such as our Liberian subsidiaries, which conduct no business in Liberia and were wholly exempt from taxation under the income tax law previously in effect since 1977, and "resident" Liberian corporations which conduct business in Liberia and are, and were under the prior law, subject to taxation.

The New Act was amended by the Consolidated Tax Amendments Act of 2011, which was published and became effective on November 1, 2011 (the "Amended Act"). The Amended Act specifically exempts from taxation non-resident Liberian corporations such as our Liberian subsidiaries that engage in international shipping (and are not engaged in shipping exclusively within Liberia) and that do not engage in other business or activities in Liberia other than those specifically enumerated in the Amended Act. In addition, the Amended Act made such exemption from taxation retroactive to the effective date of the New Act.

If, however, our Liberian subsidiaries were subject to Liberian income tax under the Amended Act, they would be subject to tax at a rate of 35% on their worldwide income. As a result, their, and subsequently our, net income and cash flows would be materially reduced. In addition, as the ultimate stockholder of the Liberian subsidiaries, we would be subject to Liberian withholding tax on dividends paid by our Liberian subsidiaries at rates ranging from 15% to 20%, which would limit our access to funds generated by the operations of our subsidiaries and further reduce our income and cash flows.
Danaos Corporation is an international owner of containerships, chartering its vessels to many of the world's largest liner companies. We are a corporation domesticated in the Republic of The Marshall Islands on October 7, 2005, under the Marshall Islands Business Corporations Act, after having been incorporated as a Liberian company in 1998 in connection with the consolidation of our assets under Danaos Holdings Limited. In connection with our domestication in the Marshall Islands we changed our name from Danaos Holdings Limited to Danaos Corporation. Our manager, Danaos Shipping Company Limited, or Danaos Shipping, was founded by Dimitris Coustas in 1972 and since that time it has continuously provided seaborne transportation services under the management of the Coustas family. Dr. John Coustas, our chief executive officer, assumed responsibility for our management in 1987. Dr. Coustas has focused our business on chartering containerships to liner companies and has overseen the expansion of our fleet from three multi-purpose vessels in 1987 to the 55 containerships comprising our fleet as of February 28, 2019. In 2015, we formed a joint venture, Gemini Shisholdings Corporation, in which we have 49% minority equity interest, with our largest stockholder, DIL, to acquire, own and operate containerships. As of February 28, 2019, Gemini had acquired a fleet of four containerships aggregating 23,998 TEU in capacity.

In October 2006, we completed an initial public offering of our common stock in the United States and our common stock began trading on the New York Stock Exchange. In August 2010, we completed a sale of 54,054,055 shares of common stock for $200 million and in August 2018 we issued 99,342,271 shares of common stock to our lenders in connection with the 2018 Refinancing. See "Item 5. Operating and Financial Review and Prospects—2018 Refinancing."

Our company operates through a number of subsidiaries incorporated in Liberia, Cyprus, Malta and the Republic of the Marshall Islands, all of which are wholly-owned by us and either directly or indirectly owns the vessels in our fleet. A list of our active subsidiaries as of February 28, 2019, and their jurisdictions of incorporation, is set forth in Exhibit 8 to this Annual Report on Form 20-F.

Our principal executive offices are c/o Danaos Shipping Co. Ltd., Athens Branch, 14 Akti Kondyli, 185 45 Piraeus, Greece. Our telephone number at that address is +30 210 419 6480.

Business Overview

We are an international owner of containerships, chartering our vessels to many of the world's largest liner companies. As of February 28, 2019, we had a fleet of 55 containerships aggregating 327,616 TEUs, making us among the largest containership charter owners in the world, based on total TEU capacity. Gemini, in which we have a 49% minority equity interest, had a fleet of four containerships of 23,998 TEU aggregate capacity as of February 28, 2019.

Our strategy is to charter our containerships under multi-year, fixed-rate period charters to a diverse group of liner companies, including many of the largest companies globally, as measured by TEU capacity. As of February 28, 2019, these customers included CMA-CGM, Yang Ming, COSCO, Hyundai Merchant Marine, ZIM Israel Integrated Shipping Services, Hapag Lloyd, Maersk, Evergreen, MSC, ONE and Samudera; and for Gemini, MSC, Hapag Lloyd and TS Lines.

Our Fleet

General

Danaos is one of the largest containership operating lessors in the world. Since going public in 2006, we have almost tripled our TEU carrying capacity. Today, our fleet includes some of the largest containerships in the world, which are designed with certain technological advances and customized
modifications that make them efficient with respect to both voyage speed and loading capability when compared to many existing vessels operating in the containership sector.

We deploy our containership fleet principally under multi-year charters with major liner companies that operate regularly scheduled routes between large commercial ports, although in weaker containership charter markets such as is currently prevailing we charter more of our vessels on shorter term charters so as to be available to take advantage of any increase in charter rates. As of February 28, 2019, our containership fleet was comprised of fifty-one containerships deployed on time charters, twenty-two of which are scheduled to expire in 2019, and four containerships deployed on bareboat charters. The average age (weighted by TEU) of the 55 vessels in our containership fleet was approximately 10.4 years as of February 28, 2019. As of February 28, 2019, the average remaining duration of the charters for our containership fleet was 4.8 years (weighted by aggregate contracted charter hire).

**Characteristics**

The table below provides additional information, as of February 28, 2019, about our fleet of 55 cellular containerships and the four cellular containerships owned by Gemini, in which we have a 49% equity interest.

<table>
<thead>
<tr>
<th>Vessel Name</th>
<th>Year Built</th>
<th>Vessel Size (TEU)</th>
<th>Initial Time Charter Term(1)</th>
<th>Expiration of Charter(1)</th>
<th>Charterer</th>
</tr>
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<tbody>
<tr>
<td>MSC Ambition</td>
<td>2012</td>
<td>13,100</td>
<td>12 years</td>
<td>June 2024</td>
<td>Hyundai</td>
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<td>12 years</td>
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<td>Advance</td>
<td>1997</td>
<td>2,200</td>
<td>1.0 year</td>
<td>July 2019</td>
<td>Evergreen</td>
</tr>
<tr>
<td>Future</td>
<td>1997</td>
<td>2,200</td>
<td>0.3 year</td>
<td>March 2019</td>
<td>Maersk</td>
</tr>
<tr>
<td>Sprinter</td>
<td>1997</td>
<td>2,200</td>
<td>1.2 year</td>
<td>June 2019</td>
<td>Evergreen</td>
</tr>
<tr>
<td>Stride</td>
<td>1997</td>
<td>2,200</td>
<td>0.4 year</td>
<td>August 2019</td>
<td>Evergreen</td>
</tr>
<tr>
<td>Progress C (ex Hyundai Progress)</td>
<td>1998</td>
<td>2,200</td>
<td>1.1 year</td>
<td>June 2019</td>
<td>Evergreen</td>
</tr>
<tr>
<td>Bridge</td>
<td>1998</td>
<td>2,200</td>
<td>0.5 year</td>
<td>August 2019</td>
<td>Samudera</td>
</tr>
<tr>
<td>Highway</td>
<td>1998</td>
<td>2,200</td>
<td>1.2 year</td>
<td>May 2019</td>
<td>COSCO</td>
</tr>
<tr>
<td>Vladivostok</td>
<td>1997</td>
<td>2,200</td>
<td>0.3 year</td>
<td>March 2019</td>
<td>Maersk</td>
</tr>
<tr>
<td>Catherine C (ex NYK Lodestar)(3)</td>
<td>2001</td>
<td>6,422</td>
<td>4.1 years</td>
<td>November 2022</td>
<td>MSC</td>
</tr>
<tr>
<td>Leo C (ex NYK Leo)(3)</td>
<td>2002</td>
<td>6,422</td>
<td>3.7 years</td>
<td>November 2022</td>
<td>MSC</td>
</tr>
<tr>
<td>Suez Canal(3)(4)</td>
<td>2002</td>
<td>5,610</td>
<td>0.3 year</td>
<td>March 2019</td>
<td>TS Lines</td>
</tr>
<tr>
<td>Genoa(3)(4)</td>
<td>2002</td>
<td>5,544</td>
<td>0.8 year</td>
<td>July 2019</td>
<td>Hapag Lloyd</td>
</tr>
<tr>
<td>YM Mandate</td>
<td>2010</td>
<td>6,500</td>
<td>18 years</td>
<td>January 2028</td>
<td>Yang Ming</td>
</tr>
<tr>
<td>YM Maturity</td>
<td>2010</td>
<td>6,500</td>
<td>18 years</td>
<td>April 2028</td>
<td>Yang Ming</td>
</tr>
</tbody>
</table>

(1) Earliest date charters could expire. Most charters include options for the charterers to extend their terms.

(2) Vessels' time charters were changed to bareboat charters from May 2017 to May 2020.

(3) Vessels acquired by Gemini, in which Danaos holds a 49% equity interest.

(4) A subsidiary of Gemini holds a leasehold bareboat charter interest in such vessel, which was financed by and is subject to a capital lease pursuant to which such subsidiary will acquire all rights to such vessel at the end of such lease.
In connection with the 2018 Refinancing, we have undertaken to seek to refinance the Hyundai Honour and the Hyundai Respect, with the net proceeds to be applied pro rata to repay the credit facilities secured by mortgages on such vessels.

Gemini Shipholdings Corporation

On August 5, 2015, we entered into a Shareholders Agreement (the "Gemini Shareholders Agreement"), with Gemini Shipholdings Corporation ("Gemini") and Virage International Ltd. ("Virage"), a company controlled by our largest stockholder DIL, in connection with the formation of Gemini to acquire and operate containerships. We and Virage own 49% and 51%, respectively, of Gemini's issued and outstanding share capital. Under the Gemini Shareholders Agreement, we and Virage have preemptive rights with respect to issuances of Gemini capital stock as well as tag-along rights, drag-along rights and certain rights of first refusal with respect to proposed transfers of Gemini equity interests. In addition, certain actions by Gemini, including acquisitions or dispositions of vessels and newbuilding contracts, require the unanimous approval of the Gemini board of directors including the director designated by the Company, who is currently our Chief Operating Officer Iraklis Prokopakis. Mr. Prokopakis also serves as Chief Operating Officer of Gemini, and our Chief Financial Officer, Evangelos Chatzis, serves as Chief Financial Officer of Gemini, for which services Messrs. Prokopakis and Chatzis do not receive any additional compensation. We also have the right to purchase all of the equity interests in Gemini that we do not own for fair market value at any time after December 31, 2018, to the extent permitted under our credit facilities, provided that such fair market value is not below the net book value of such equity interests.

Charterers

As the container shipping industry has grown, the major liner companies have increasingly contracted for containership capacity. As of February 28, 2019, our diverse group of customers in the containership sector included CMA-CGM, Yang Ming, COSCO, Hyundai Merchant Marine, ZIM Israel Integrated Shipping Services, Hapag Lloyd, Maersk, Evergreen, MSC, ONE and Samudera. Gemini has chartered two of its containerships to MSC, one to TS Lines and one to Hapag Lloyd.

The containerships in our fleet are primarily deployed under multi-year, fixed-rate time charters having initial terms that range from less than one to 18 years. These charters expire at staggered dates ranging from March 2019 to the second quarter of 2028. The staggered expiration of the multi-year, fixed-rate charters for our vessels is both a strategy pursued by our management and a result of the growth in our fleet. Under our time charters, the charterer pays voyage expenses such as port, canal and fuel costs, other than brokerage and address commissions paid by us, and we pay for vessel operating expenses, which include crew costs, provisions, deck and engine stores, lubricating oil, insurance, maintenance and repairs. We are also responsible for each vessel's intermediate and special survey costs.

Under the time charters, when a vessel is "off-hire" or not available for service, the charterer is generally not required to pay the hire rate, and we are responsible for all costs. A vessel generally will be deemed to be off-hire if there is an occurrence preventing the full working of the vessel due to, among other things, operational deficiencies, drydockings for repairs, maintenance or inspection, equipment breakdown, delays due to accidents, crewing strikes, labor boycotts, noncompliance with government water pollution regulations or alleged oil spills, arrests or seizures by creditors or our failure to maintain the vessel in compliance with required specifications and standards. In addition, under our time charters, if any vessel is off-hire for more than a certain amount of time (generally between 10-20 days), the charterer has a right to terminate the charter agreement for that vessel. Charterers may also have the right to terminate the time charters in various other circumstances, including but not limited to, outbreaks of war or a change in ownership of the vessel's owner or manager without the charterer's approval.
Management of Our Fleet

Our chief executive officer, chief operating officer, chief financial officer and deputy chief operating officer provide strategic management for our company while these officers also supervise, in conjunction with our board of directors, the management of these operations by Danaos Shipping, our manager. We have a management agreement pursuant to which our manager and its affiliates provide us and our subsidiaries with technical, administrative and certain commercial services, the term of which expires on December 31, 2024. Our manager reports to us and our board of directors through our chief executive officer, chief operating officer, chief financial officer and deputy chief operating officer each of which is appointed by our board of directors.

Our manager is regarded as an innovator in operational and technological aspects in the international shipping community. Danaos Shipping's strong technological capabilities derive from employing highly educated professionals, its participation and assumption of a leading role in European Community research projects related to shipping, and its close affiliation to Danaos Management Consultants, a leading ship-management software and services company.

Danaos Shipping achieved early ISM certification of its container fleet in 1995, well ahead of the deadline, and was the first Greek company to receive such certification from Det Norske Veritas, a leading classification society. In 2004, Danaos Shipping received the Lloyd's List Technical Innovation Award for advances in internet-based telecommunication methods for vessels. In 2015, Danaos Shipping received the Lloyd's List Intelligence Big Data Award for their "Waves" fleet performance system, which provides advanced performance monitoring, close bunkers control, emissions monitoring, energy management, safety performance monitoring, risk management and advance superintendence for the vessels.

Danaos Shipping maintains the quality of its service by controlling directly the selection and employment of seafarers through its crewing offices in Piraeus, Greece, Russia, as well as in Odessa and Mariupol in Ukraine and in Zanzibar, Tanzania and we assume directly all related crewing, technical and other costs in our operating expenses. Investments in new facilities in Greece by Danaos Shipping enable enhanced training of seafarers and highly reliable infrastructure and services to the vessels.

Danaos Shipping provides vessel management services to Gemini at the same rates we pay under our management agreement with Danaos Shipping. Historically, Danaos Shipping only infrequently managed vessels other than those in our fleet and currently it does not actively manage any other company's vessels, other than vessels owned by Gemini. Danaos Shipping also does not arrange the employment of other vessels and has agreed that, during the term of our management agreement, it will not provide any management services to any other entity without our prior written approval, other than with respect to other entities controlled by Dr. Coustas, our chief executive officer, which do not operate within the containership (larger than 2,500 TEUs) or drybulk sectors of the shipping industry or in the circumstances described below. In connection with our investment in Gemini in 2015, these restrictions were waived, with the approval of our independent directors, with respect to containerships acquired by Gemini. Other than with respect to Gemini, Dr. Coustas does not currently have an interest in any such vessel-owning entity. We believe we have and will derive significant benefits from our relationship with Danaos Shipping.

Dr. Coustas has also personally agreed to the same restrictions on the provision, directly or indirectly, of management services during the term of our management agreement. In addition, our chief executive officer (other than in his capacities with us) and our manager have separately agreed not, during the term of our management agreement and for one year thereafter, to engage, directly or indirectly, in (i) the ownership or operation of containerships of larger than 2,500 TEUs or (ii) the ownership or operation of any drybulk carriers or (iii) the acquisition of or investment in any business involved in the ownership or operation of containerships of larger than 2,500 TEUs or any drybulk
carriers. Notwithstanding these restrictions, if our independent directors decline the opportunity to acquire any such containerships or to acquire or invest in any such business, our chief executive officer will have the right to make, directly or indirectly, any such acquisition or investment during the four-month period following such decision by our independent directors, so long as such acquisition or investment is made on terms no more favorable than those offered to us. In this case, our chief executive officer and our manager will be permitted to provide management services to such vessels. In connection with our investment in Gemini in 2015, these restrictions were waived, with the approval of our independent directors, with respect to containerships acquired by Gemini.

Danaos Shipping provides us with administrative, technical and certain commercial management services under a management agreement whose current term expires at the end of 2024. For 2019 our manager will receive the following fees which are fixed at these levels through the remaining term of the agreement: (i) a daily management fee of $850, (ii) a daily vessel management fee of $425 for vessels on bareboat charter, pro rated for the number of calendar days we own each vessel, (iii) a daily vessel management fee of $850 for vessels on time charter, pro rated for the number of calendar days we own each vessel, (iv) a fee of 1.25% on all freight, charter hire, ballast bonus and demurrage for each vessel, (v) a fee of 0.5% based on the contract price of any vessel bought or sold by it on our behalf, excluding newbuilding contracts, and (vi) a flat fee of $725,000 per newbuilding vessel, if any, which is capitalized, for the on premises supervision of any newbuilding contracts by selected engineers and others of its staff.

Competition

We operate in markets that are highly competitive and based primarily on supply and demand. Generally, we compete for charters based upon price, customer relationships, operating expertise, professional reputation and size, age and condition of the vessel. Competition for providing containership services comes from a number of experienced shipping companies. In the containership sector, these companies include Zodiac Maritime, Seaspan Corporation and Costamare Inc. A number of our competitors in the containership sector have been financed by the German KG (Kommantitgesellschaft) system, which was based on tax benefits provided to private investors. While the German tax law has been amended to significantly restrict the tax benefits available to taxpayers who invest in such entities after November 10, 2005, the tax benefits afforded to all investors in the KG-financed entities will continue to be significant and such entities may continue to be attractive investments. These tax benefits allow these KG-financed entities to be more flexible in offering lower charter rates to liner companies.

The containership sector of the international shipping industry is characterized by the significant time necessary to develop the operating expertise and professional reputation necessary to obtain and retain customers and, in the past, a relative scarcity of secondhand containerships, which necessitated reliance on newbuildings which can take a number of years to complete. We focus on larger TEU capacity containerships, which we believe have fared better than smaller vessels during global downturns in the containership sector. We believe larger containerships, even older containerships if well maintained, provide us with increased flexibility and more stable cash flows than smaller TEU capacity containerships.

Crewing and Employees

Since May 1, 2015, we have directly employed our Chief Executive Officer, our Chief Operating Officer, our Chief Financial Officer and our Deputy Chief Operating Officer, whose services had been provided to us under our Management Agreement with our Manager, Danaos Shipping until April 30, 2015. As of December 31, 2018, 1,104 people served on board the vessels in our fleet and Danaos Shipping, our manager, employed 146 people, all of whom were shore-based. In addition, our manager is responsible for recruiting, either directly or through a crewing agent, the senior officers and all other
crew members for our vessels and is reimbursed by us for all crew wages and other crew relating expenses. We believe the streamlining of crewing arrangements through our manager ensures that all of our vessels will be crewed with experienced crews that have the qualifications and licenses required by international regulations and shipping conventions.

Permits and Authorizations

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

Inspection by Classification Societies

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

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

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

Class Renewal Surveys. Class renewal surveys, also known as special surveys, are carried out on the ship's hull and machinery, including the electrical plant, and on any special equipment classed at the intervals indicated by the character of classification for the hull. During the special survey, the vessel is thoroughly examined, including audio-gauging to determine the thickness of the steel structures. Should the thickness be found to be less than class requirements, the classification society would prescribe steel renewals. The classification society may grant an one-year grace period for completion of the special survey. Substantial amounts of funds may have to be spent for steel renewals to pass a special survey if the vessel experiences excessive wear and tear. In lieu of the special survey every four or five years, depending on whether a grace period is 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. At an owner's application, the surveys required for class renewal may be split according to an agreed schedule to extend over the entire period of class. This process is referred to as continuous class renewal.
The following table lists the next drydockings scheduled for the vessels in our current containership fleet for the next years:

<table>
<thead>
<tr>
<th></th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of vessels</td>
<td>17</td>
<td>6</td>
<td>10</td>
<td>11</td>
<td>19</td>
</tr>
</tbody>
</table>

* Does not include vessels under bareboat charters and the vessels owned by Gemini.

All areas subject to surveys as defined by the classification society are required to be surveyed at least once per class period, unless shorter intervals between surveys are otherwise prescribed. The period between two subsequent surveys of each area must not exceed five years. Vessels under bareboat charter are drydocked by their charterers.

Most vessels are also drydocked every 30 to 36 months for inspection of their underwater parts and for repairs related to such inspections. If any defects are found, the classification surveyor will issue a "recommendation" which must be rectified by the ship-owner within prescribed time limits.

Most 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. All of our vessels are certified as being "in class" by Lloyd's Register of Shipping, Bureau Veritas, NKK, Det Norske Veritas & Germanischer Lloyd and the Korean Register of Shipping.

**Risk of Loss and Liability Insurance**

**General**

The operation of any 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. The U.S. Oil Pollution Act of 1990, or OPA 90, 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 shipowners and operators trading in the United States market.

While we maintain hull and machinery insurance, war risks insurance, protection and indemnity coverage for our containership fleet in amounts that we believe to be prudent to cover normal risks in our operations, we may not be able to maintain this level of coverage throughout a vessel's useful life. Furthermore, while we believe that our insurance coverage will be 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.

Dr. John Coustas, our chief executive officer, is the Deputy Chairman of the Board of Directors of The Swedish Club, our primary provider of insurance, including a substantial portion of our hull & machinery, war risk and protection and indemnity insurance.

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

We maintain marine hull and machinery and war risks insurance, which covers the risk of particular average, general average, 4/4ths collision liability, contact with fixed and floating objects (FFO) and actual or constructive total loss in accordance with the Nordic Plan for all of our vessels. Our vessels will each be covered up to at least their fair market value after meeting certain deductibles per incident per vessel.
We carried a minimum loss of hire coverage with respect to the America and the Europe, to cover standard requirements of KEXIM until the repayment of our loan in 2016. We also carried minimum loss of hire coverage for the Pusan and Le Havre until mid-2018, to cover standard requirements of KEXIM and ABN Amro, the banks that provided financing for our acquisition of these vessels. We do not and will not obtain loss of hire insurance covering the loss of revenue during extended off-hire periods for the other vessels in our fleet, other than with respect to any period during which our vessels are detained due to incidents of piracy, because we believe that this type of coverage is not economical and is of limited value to us, in part because historically our fleet has had a limited number of off-hire days.

**Protection and Indemnity Insurance**

Protection and indemnity ("P&I") insurance provides insurance cover to its Members in respect of liabilities, costs or expenses incurred by them in their capacity as owner or operator of the respective entered ship and arising out of an event during the period of insurance as a direct consequence of the operation of the ship. This includes third-party liability, crew liability and other related expenses resulting from the injury or death of crew, passengers and other third parties, the loss or damage to cargo, and except where the cover is provided in the hull and machinery policy, also third-party claims arising from collision with other vessels and damage to other third-party property. Indemnity cover is also provided for liability for the discharge or escape of oil or other substance, or threat of escape of such substances. Other liabilities which include salvage, towing, wreck removal and an omnibus provision are also included. Our protection and indemnity insurance is provided by Mutual Protection and Indemnity Associations who are part of the International Group of P&I Clubs.

Our protection and indemnity insurance coverage in accordance with the International Group of P&I Club Agreement for pollution will be US$1.0 billion per event. Our P&I Excess war risk coverage limit is US$500.0 million and in respect of certain war and terrorist risks the liabilities arising from Bio-Chemical etc., the limit is US$30.0 million. For passengers and seaman risks, the limit is US$3.0 billion, with a sub-limit of US$2.0 billion for passenger claims only. The thirteen P&I associations that comprise the International Group insure approximately 90% of the world's commercial blue-water tonnage and have entered into a pooling agreement to reinsure each association's liabilities. As a member of a P&I association, that is a member of the International Group, we will be subject to calls payable to the associations based inter-alia on the International Group's claim records, as well as the individual claims' records of all other members of the analogous individual associations and their performance. If our insurance providers are not able to obtain reinsurance for port calls in Iran, due to continuing U.S. primary sanctions applicable to U.S. persons facilitating transactions involving Iran, we may have to pay additional premiums with respect to any port calls that our charterers direct our vessels to make in Iran.

**Environmental and Other Regulations**

Government regulation significantly affects the ownership and operation of our vessels. They are subject to international conventions, national, state and local laws, regulations and standards in force in international waters and the countries in which our vessels may operate or are registered, including those governing the management and disposal of hazardous substances and wastes, the cleanup of oil spills and other contamination, air emissions, wastewater discharges and ballast water management. These laws and regulations include OPA, the U.S. Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), the U.S. Clean Water Act, the International Convention for Prevention from Ships, regulations adopted by the IMO and the European Union, various volatile organic compound air emission requirements and various Safety of Life at Sea ("SOLAS") amendments, as well as other regulations described below. Compliance with these laws,
regulations and other requirements entails significant expense, including vessel modifications and implementation of certain operating procedures.

A variety of governmental and private entities subject our vessels to both scheduled and unscheduled inspections. These entities include the local port authorities (U.S. Coast Guard, harbor master or equivalent), classification societies, flag state administration (country of registry), charterers and, particularly, terminal operators. Certain of these entities require us to obtain permits, licenses, certificates and financial assurances for the operation of our vessels. Failure to maintain necessary permits or approvals could require us to incur substantial costs or result in the temporary suspension of 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 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 U.S. and international regulations. We believe that the operation of our vessels is in substantial compliance with applicable environmental laws and regulations. Because such laws and regulations are frequently changed and may impose increasingly stricter requirements, any future requirements may limit our ability to do business, increase our operating costs, force the early retirement of some of our vessels, and/or affect their resale value, all of which could have a material adverse effect on our financial condition and results of operations. In addition, a future serious marine incident that causes significant adverse environmental impact, such as the 2010 Deepwater Horizon oil spill, could result in additional legislation or regulation that could negatively affect our profitability.

**Environmental Regulation—International Maritime Organization ("IMO")**

Our vessels are subject to standards imposed by the IMO (the United Nations agency for maritime safety and the prevention of pollution by ships). The IMO has adopted regulations that are designed to reduce pollution in international waters, both from accidents and from routine operations. These regulations address oil discharges, ballasting and unloading operations, sewage, garbage, and air emissions. For example, Annex III of the International Convention for the Prevention of Pollution from Ships, or MARPOL, regulates the transportation of marine pollutants, and imposes standards on packing, marking, labeling, documentation, stowage, quantity limitations and pollution prevention. These requirements have been expanded by the International Maritime Dangerous Goods Code, which imposes additional standards for all aspects of the transportation of dangerous goods and marine pollutants by sea.

In September 1997, the IMO adopted Annex VI to the International Convention for the Prevention of Pollution from Ships to address air pollution from vessels. Annex VI, which came into effect on May 19, 2005, set limits on sulfur oxide ("SOx") and NOx emissions from vessels and prohibited deliberate emissions of ozone depleting substances, such as chlorofluorocarbons. Annex VI also included a global cap on the sulfur content of fuel oil and allowed for special areas to be established with more stringent controls on sulfur emissions. Annex VI has been ratified by some, but not all IMO member states, including the Marshall Islands. Pursuant to a Marine Notice issued by the Marshall Islands Maritime Administrator as revised in March 2005, vessels flagged by the Marshall Islands that are subject to Annex VI must, if built before the effective date, obtain an International Air Pollution Prevention Certificate evidencing compliance with Annex VI by the first dry docking after May 19, 2005, but no later than May 19, 2008. All vessels subject to Annex VI and built after May 19, 2005 must also have this Certificate. We have obtained International Air Pollution Prevention certificates for all of our vessels. Amendments to Annex set progressively stricter regulations to control Sox and NOx emissions from ships, which present both environmental and health risks, entered into

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force in July 2010. The amendments provide for a progressive reduction in SOx emissions from ships, with the global sulfur cap reduced initially to 3.50% effective from January 1, 2012; then progressively to 0.50%, a significant reduction, effective from January 1, 2020, as agreed in amendments adopted in 2008 for Annex VI to MARPOL. When the 2020 sulfur cap was decided upon in 2008, it was also agreed that a review should be undertaken to assess whether there was sufficient compliant fuel available to meet the 2020 date, failing which, the date could be deferred to 2025. That review was completed in July 2016 by a consortium of consultants led by CE Delft and submitted to the IMO's Marine Environment Protection Committee (MEPC) during their 70th session. The review concluded that sufficient compliant fuel would be available to meet the new requirement. However, there have been competing studies, that hold the opposing view that refining capacity will not be sufficient in 2020, with an estimated 60-70% additional sulfur plant capacity required by 2020. China, Hong Kong and Taiwan have announced an early implementation of the sulphur cap effective January 1, 2019. The regulations, which were announced in mid-2018, are similar to those already applied in European ECAs. They set a sulphur content limit of 0.5% and will affect all vessels sailing within 12 nautical miles of the coast as well as when berthing. The Annex VI amendments also establish tiers of stringent NOx emissions standards for new marine engines, depending on their dates of installation. The United States ratified the amendments, and all vessels subject to Annex VI must comply with the amended requirements when entering U.S. ports or operating in U.S. waters. Additionally, more stringent emission standards apply in coastal areas designated by MEPC as Emission Control Areas (ECAs). The North American ECA, which includes the area extending 200 nautical miles from the Atlantic/Gulf and Pacific Coasts of the United States and Canada, the Hawaiian Islands, and the French territories of St. Pierre and Miquelon, has been enforceable since August 1, 2012. The North Sea and Baltic Sea were designated ECAs in 2017, and are expected to take effect in 2021. As of January 1, 2015, fuel used by vessels operating in the ECA cannot contain more than 0.1% sulfur. NOx after-treatment requirements became effective in 2016. The U.S. Caribbean ECA, which includes the waters of Puerto Rico and the Virgin Islands, became enforceable on January 1, 2014. We may incur costs to install control equipment on our engines in order to comply with the new requirements. Other ECAs may be designated, and the jurisdictions in which our vessels operate may adopt more stringent emission standards independent of IMO.

The operation of our vessels is also affected by the requirements set forth in the IMO's International Management Code for the Safe Operation of Ships and Pollution Prevention, or the ISM Code, which was adopted in July 1998. The ISM Code requires shipowners 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 ISM Code requires that vessel operators obtain a Safety Management Certificate for each vessel they operate. This certificate evidences compliance by a vessel's management with code requirements for a Safety Management System. No vessel can obtain a certificate unless its operator has been awarded a document of compliance, issued by each flag state, under the ISM Code. The failure of a shipowner or bareboat charterer to comply with the ISM Code may subject such party to increased liability, decrease available insurance coverage for the affected vessels or result in a denial of access to, or detention in, certain ports. Currently, each of the vessels in our fleet is ISM code-certified. However, there can be no assurance that such certifications will be maintained indefinitely.

In 2001, the IMO adopted the International Convention on Civil Liability for Bunker Oil Pollution Damage, or the Bunker Convention, which imposes strict liability on ship owners for pollution damage in jurisdictional waters of ratifying states caused by discharges of bunker oil. The Bunker Convention also requires registered owners of ships over a certain size 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). The Bunker Convention entered into force on November 21, 2008. Liability limits under the Bunker Convention were increased as of June 2015. Our entire fleet has been issued a certificate attesting that insurance is in force in accordance with the insurance provisions of the Convention. In jurisdictions where the Bunkers Convention has not been adopted, such as the United States, various legislative schemes or common law govern, and liability is either strict or imposed on the basis of fault.

**Environmental Regulation—The U.S. Oil Pollution Act of 1990 ("OPA")**

OPA established an extensive regulatory and liability regime for the protection and cleanup of the environment from oil spills. It applies to discharges of any oil from a vessel, including discharges of fuel oil and lubricants. OPA affects all owners and operators whose vessels trade in the United States, its territories and possessions or whose vessels operate in U.S. waters, which include the United States' territorial sea and its two hundred nautical mile exclusive economic zone. While we do not carry oil as cargo, we do carry fuel oil (or bunkers) in our vessels, making our vessels subject to the OPA requirements.

Under OPA, vessel owners, operators and bareboat charterers are "responsible parties" and are jointly, severally and strictly liable (unless the discharge of oil 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:

- natural resources damage and the costs of assessment thereof;
- real and personal property damage;
- net loss of taxes, royalties, rents, fees and other lost revenues;
- lost profits or impairment of earning capacity due to property or natural resources damage; and
- net cost of public services necessitated by a spill response, such as protection from fire, safety or health hazards, and loss of subsistence use of natural resources.

OPA preserves the right to recover damages under existing law, including maritime tort law.

OPA liability is limited to the greater of $1,100 per gross ton or $939,800 for non-tank vessels, subject to periodic adjustment by the U.S. Coast Guard (USCG). These limits of liability do not apply if an incident was directly caused by violation of applicable U.S. federal safety, construction or operating regulations or by a responsible party's gross negligence or willful misconduct, or if the responsible party fails or refuses to report the incident or to cooperate and assist in connection with oil removal activities.

OPA requires owners and operators of vessels to establish and maintain with the USCG evidence of financial responsibility sufficient to meet their potential liabilities under the OPA. Under the regulations, vessel owners and operators may evidence their financial responsibility by providing proof of insurance, surety bond, self-insurance, or guaranty, and an owner or operator of a fleet of vessels is required only to demonstrate evidence of financial responsibility in an amount sufficient to cover the vessels in the fleet having the greatest maximum liability under OPA. Under the self-insurance provisions, the shipowner or operator must have a net worth and working capital, measured in assets located in the United States against liabilities located anywhere in the world, that exceeds the applicable amount of financial responsibility. We have complied with the USCG regulations by providing a financial guaranty in the required amount.

OPA specifically permits individual states to impose their own liability regimes with regard to oil pollution incidents occurring within their boundaries, 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 vessels owners' responsibilities under these laws. We intend to comply with all applicable state regulations in the ports where our vessels call.

We currently maintain, for each of our vessels, oil pollution liability coverage insurance in the amount of $1 billion per incident. In addition, we carry hull and machinery protection and indemnity insurance to cover the risks of fire and explosion. Given the relatively small amount of bunkers our vessels carry, we believe that a spill of oil from the vessels would not be catastrophic. However, under certain circumstances, fire and explosion could result in a catastrophic loss. 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. If the damages from a catastrophic spill exceeded our insurance coverage, it would have a severe effect on us and could possibly result in our insolvency.

In response to the BP Deepwater Horizon oil spill, a number of bills that could potentially increase or even eliminate the limits of liability under OPA have been introduced in the U.S. Congress. Compliance with any new OPA requirements could substantially impact our costs of operation or require us to incur additional expenses.

Title VII of the Coast Guard and Maritime Transportation Act of 2004, or the CGMTA, amended OPA to require the owner or operator of any non-tank vessel of 400 gross tons or more, that carries oil of any kind as a fuel for main propulsion, including bunkers, to have an approved response plan for each vessel. The vessel response plans include detailed information on actions to be taken by vessel personnel to prevent or mitigate any discharge or substantial threat of such a discharge of oil from the vessel due to operational activities or casualties. We have approved response plans for each of our vessels.

Environmental Regulation—CERCLA

CERCLA governs spills or releases of hazardous substances other than petroleum or petroleum products. The owner or operator of a ship, vehicle or facility from which there has been a release is liable without regard to fault for the release, and along with other specified parties may be jointly and severally liable for remedial costs. Costs recoverable under CERCLA include cleanup and removal costs, natural resource damages and governmental oversight costs. Liability under CERCLA is generally limited to the greater of $300 per gross ton or $0.5 million per vessel carrying non-hazardous substances ($5.0 million for vessels carrying hazardous substances), unless the incident is caused by gross negligence, willful misconduct or a violation of certain regulations, in which case liability is unlimited. The USCG's financial responsibility regulations under OPA also require vessels to provide evidence of financial responsibility for CERCLA liability in the amount of $300 per gross ton. As noted above, we have provided a financial guaranty in the required amount to the USCG.

Environmental Regulation—The Clean Water Act

The U.S. Clean Water Act, or CWA, prohibits the discharge of oil or hazardous substances in navigable waters 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 the more recent OPA and CERCLA, discussed above. Under U.S. Environmental Protection Agency, or EPA, regulations we are required to obtain a CWA permit regulating and authorizing any discharges of ballast water or other wastewaters incidental to our normal vessel operations if we operate within the three-mile territorial waters or inland waters of the United States. The permit, which EPA has designated as the Vessel General Permit for Discharges Incidental to the Normal Operation of Vessels, or VGP, incorporated the then-current U.S. Coast Guard requirements for ballast water management, as well as supplemental ballast water requirements.
and limits for 26 other specific discharges. Regulated vessels cannot operate in U.S. waters unless they are covered by the VGP. To do so, vessel owners must submit a Notice of Intent, or NOI, at least 30 days before the vessel operates in U.S. waters. To comply with the VGP, vessel owners and operators may have to install equipment on their vessels to treat ballast water before it is discharged or implement port facility disposal arrangements or procedures at potentially substantial cost. The VGP also requires states to certify the permit, and certain states have imposed more stringent discharge standards as a condition of their certification. Many of the VGP requirements have already been addressed in our vessels’ current ISM Code SMS Plan. As part of a settlement of a lawsuit challenging the VGP, EPA issued a new VGP (2013 VGP) that became effective on December 19, 2013 and remains in effect during the implementation of the 2018 Vessel Incident Discharge Act, discussed below. The 2013 VGP contains numeric effluent limits for ballast water discharges that are expressed as maximum concentrations of living organisms per unit of ballast water volume discharged. These requirements correspond with the IMO’s requirements under the International Convention for the Control and Management of Ships’ Ballast Water and Sediments, or the BWM Convention, discussed below, and are consistent with the USCG’s 2012 ballast water discharge standards described below. The 2013 VGP also includes additional management requirements for non-ballast water discharges and requires the submission of annual reports by all vessels covered by the 2013 VGP. EPA is implementing the 2013 VGP on a staggered basis, depending on the size of a vessel and its first drydocking between January 1, 2014 and January 1, 2016. Vessels that are constructed after December 1, 2013 are immediately subject to the requirements of the 2013 VGP. The ballast water management standards of the 2013 VGP were challenged by the Canadian Shipowners’ Association in the U.S. Second Circuit Court of Appeals. The U.S. Second Circuit Court of Appeals ruled on October 5, 2015 that EPA had acted arbitrarily and capriciously with respect to certain of the ballast water provisions in the 2013 VGP. The Court remanded the issue to EPA to either justify its approach in the 2013 VGP or redraft the ballast water sections of the VGP consistent with the Court’s ruling. In the meantime, the 2013 VGP will remain in effect. As of the date of this report, there are sixteen USCG-approved ballast water management systems, and EPA has refused to extend or waive the date for compliance with the ballast water management requirements in the 2013 VGP. Instead, EPA will consider why a vessel does not have compliant ballast water management technology if it takes action to enforce the new requirements. We have submitted NOIs for all of our vessels that operate or potentially operate in U.S. waters and have submitted annual reports for all of our covered vessels. On April 12, 2013, EPA issued the 2013 VGP with an effective period of December 19, 2013 to December 18, 2018 (i.e., five years). However, in order to extend the 2013 VGP’s provisions, leaving them in effect until new regulations are final and enforceable, the Vessel Incident Discharge Act (“VIDA”) was signed. The VIDA, signed into law on December 4, 2018, establishes a new framework for the regulation of vessel incidental discharges under Clean Water Act (CWA) Section 312(p). VIDA requires EPA to develop performance standards for those discharges within two years of enactment and requires the U.S. Coast Guard to develop implementation, compliance, and enforcement regulations within two years of EPA’s promulgation of standards. Under VIDA, all provisions of the Vessel General Permit remain in force and effect until the U.S. Coast Guard regulations are finalized.

**Environmental Regulation—The Clean Air Act**

The Federal Clean Air Act (CAA) requires the EPA to promulgate standards applicable to emissions of volatile organic compounds and other air contaminants. Our vessels are subject to CAA vapor control and recovery standards for cleaning fuel tanks and conducting other operations in regulated port areas and emissions standards for so-called “Category 3” marine diesel engines operating in U.S. waters. The marine diesel engine emission standards are currently limited to new engines beginning with the 2004 model year. However, on April 30, 2010, EPA adopted more stringent standards for emissions of particulate matter, sulfur oxides, and nitrogen oxides and other related provisions for new Category 3 marine diesel engines installed on vessels registered or flagged in the ———

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U.S. We may incur costs to install control equipment on our vessels to comply with the new standards. Several states regulate emissions from vessel vapor control and recovery operations under federally-approved State Implementation Plans. The California Air Resources Board has adopted clean fuel regulations applicable to all vessels sailing within 24 miles of the California coast whose itineraries call for them to enter any California ports, terminal facilities or internal or estuarine waters. Only marine gas oil or marine diesel oil fuels with 0.1% sulfur will be allowed. If new or more stringent requirements relating to marine fuels or emissions from marine diesel engines or port operations by vessels are adopted by EPA or the states, compliance with these regulations could entail significant capital expenditures or otherwise increase the costs of our operations.

**Environmental Regulation—Other Environmental Initiatives**

The EU has also adopted legislation that: requires member states to impose criminal sanctions for certain pollution events, such as the unauthorized discharge of tank washings. The European Parliament recently endorsed a European Commission proposal to criminalize certain pollution discharges from ships. If the proposal becomes formal EU law, it will affect the operation of vessels and the liability of owners for oil and other pollutant discharges. It is difficult to predict what legislation, if any, may be promulgated by the European Union or any other country or authority.

The Paris Memorandum of Understanding on Port State Control (Paris MoU) to which 27 nations are party adopted the "New Inspection Regime" (NIR) to replace the existing Port State Control system, effective January 1, 2011. The NIR is a significant departure from the previous system, as it is a risk based targeting mechanism that will reward quality vessels with a smaller inspection burden and subject high-risk ships to more in-depth and frequent inspections. The inspection record of a vessel, its age and type, the Voluntary IMO Member State Audit Scheme, and the performance of the flag State and recognized organizations are used to develop the risk profile of a vessel.

The EU MRV (Monitoring, Reporting, Verification) regulation entered into force on July 1, 2015, and it requires ship owners and operators to annually monitor, report and verify CO2 emissions for vessels larger than 5,000 gross tonnage (GT) calling at any EU and EFTA (Norway and Iceland) port. Data collection takes place on a per voyage basis and started on January 1, 2018. The reported CO2 emissions, together with additional data, are to be verified by independent certified bodies (RO) and sent to a central database managed by the European Maritime Safety Agency (EMSA). The aggregated ship emission and efficiency data will be published by the EC by June 30, 2019 and then every consecutive year.

The U.S. National Invasive Species Act, or NISA, was enacted in 1996 in response to growing reports of harmful organisms being released into U.S. ports through ballast water taken on by ships in foreign ports. Under NISA, the USCG adopted regulations in July 2004 imposing mandatory ballast water management practices for all vessels equipped with ballast water tanks entering U.S. waters. These requirements can be met by performing mid-ocean ballast exchange, by retaining ballast water on board the ship, or by using environmentally sound alternative ballast water management methods approved by the USCG. (However, mid-ocean ballast exchange is mandatory for ships heading to the Great Lakes or Hudson Bay, or vessels engaged in the foreign export of Alaskan North Slope crude oil.) Mid-ocean ballast exchange is the primary method for compliance with the USCG regulations, since holding ballast water can prevent ships from performing cargo operations upon arrival in the United States, and alternative methods are still under development. Vessels that are unable to conduct mid-ocean ballast exchange due to voyage or safety concerns may discharge minimum amounts of ballast water (in areas other than the Great Lakes and the Hudson River), provided that they comply with record keeping requirements and document the reasons they could not follow the required ballast water management requirements. On March 23, 2012 the USCG adopted ballast water discharge standards that set maximum acceptable discharge limits for living organisms and established standards for ballast water management systems. The regulations became effective on June 21, 2012 and were
phased between January 1, 2014 and January 1, 2016 for existing vessels, depending on the size of their ballast water tanks and their next drydocking date. As of the date of this report, the USCG has approved sixteen Ballast Water Treatment Systems. Our fleet has obtained extensions for the vessels drydocked in 2017 and due for drydocking in 2018 which are deferred to their next scheduled dry-docking date. The Coast Guard has not issued extension letters to the vessels with compliance dates on or after January 1, 2019. Now that a type approved system is available, the status of these applications will be changed from "received" to "held in abeyance" since the application's original criteria are no longer valid. In order to receive approval for an extension, additional information must be submitted including appropriate documentation as to why compliance with the requirements is not possible.

Although the USCG ballast water management requirements are consistent with the requirements in EPA's 2013 VGP, the USCG intends to review the practicability of implementing even more stringent ballast water discharge standards. In the past absence of federal standards, states enacted legislation or regulations to address invasive species through ballast water and hull cleaning management and permitting requirements. Michigan's ballast water management legislation was upheld by the Sixth Circuit Court of Appeals and California enacted legislation extending its ballast water management program to regulate the management of "hull fouling" organisms attached to vessels and adopted regulations limiting the number of organisms in ballast water discharges. Other states may proceed with the enactment of requirements similar to those of California and Michigan or the adoption of requirements that are more stringent than the EPA and USCG requirements. We could incur additional costs to comply with additional USCG or state ballast water management requirements.

At the international level, the IMO adopted the BWM Convention in February 2004. The Convention's implementing regulations call for a phased introduction of mandatory ballast water exchange requirements, to be replaced in time with mandatory concentration limits. The BWM Convention took effect on September 8, 2017. Many of the implementation dates originally contained in the BWM Convention had already passed prior to its effectiveness, so that the period for installation of mandatory ballast water exchange requirements would be very short, with several thousand ships per year needing to install the systems. Consequently, the IMO Assembly passed a resolution in December 2013 revising the dates for implementation of the ballast water management requirements so that they are triggered by the entry into force date. In effect, this makes all vessels constructed before September 8, 2017 "existing" vessels, allowing for the installation of ballast water management systems on such vessels at the first renewal IOPP survey following entry into force of the BWM Convention. In July 2017, the implementation scheme was further changed to require vessels with International Oil Pollution Prevention ("IOPP") certificates expiring between September 8, 2017 and September 8, 2019 to comply at their second IOPP renewal.

If the mid-ocean ballast exchange is made mandatory throughout the United States or at the international level, or if ballast water treatment requirements or options are instituted, the cost of compliance could increase for ocean carriers. Although we do not believe that the costs of compliance with a mandatory mid-ocean ballast exchange would be material, it is difficult to predict the overall impact of such a requirement on our business.

The 2005 Kyoto Protocol to the United Nations Framework Convention on Climate Change required adopting countries to implement national programs to reduce emissions of certain greenhouse gases, but emissions from international shipping are not subject to the soon to expire Kyoto Protocol. The Paris Agreement adopted under the United Nations Framework Convention on Climate Change in December 2015, contemplates commitments from each nation party thereto to take action to reduce greenhouse gas emissions and limit increases in global temperatures but did not include any restrictions or other measures specific to shipping emissions. However, restrictions on shipping emissions are likely to continue to be considered and a new treaty may be adopted in the future that includes restrictions on shipping emissions. The IMO's MEPC adopted two new sets of mandatory requirements to address
greenhouse gas emissions from vessels at its July 2011 meeting. The EEDI establishes a minimum energy efficiency level per capacity mile and will be applicable to new vessels. The Ship Energy Efficiency Management Plan is applicable to currently operating vessels of 400 metric tons and above and we are in compliance. These requirements entered into force in January 2013 and could cause us to incur additional compliance costs in the future. By 2025, all new ships built must be 30% more energy efficient than those built in 2014. The IMO is also considering the development of market based mechanisms to reduce greenhouse gas emissions from vessels, as well as sustainable development goals for marine transportation, but it is impossible to predict the likelihood that such measures might be adopted or their potential impacts on our operations at this time. In 2015, the EU adopted a regulation requiring large vessels (over 5,000 gross tons) calling at EU ports to monitor, report and verify their carbon dioxide emissions, which went into effect in January 2018. The U.S. EPA Administrator issued a finding that greenhouse gases threaten the public health and safety and has adopted regulations relating to the control of greenhouse gas emissions from certain mobile sources and proposed regulations that would restrict greenhouse gas emissions from certain large stationary sources. Although the EPA findings and regulations do not extend to vessels and vessel engines, the EPA is separately considering a petition from the California Attorney General and environmental groups to regulate greenhouse gas emissions from ocean-going vessels under the CAA. Any passage of climate control legislation or other regulatory initiatives by the IMO, the EU or individual countries in which we operate or any international treaty adopted to succeed the Kyoto Protocol could require us to make significant financial expenditures or otherwise limit our operations that we cannot predict with certainty at this time. Even in the absence of climate control legislation, our business may be indirectly affected to the extent that climate change may result in sea level changes or more intense weather events.

On June 29, 2017, the Global Industry Alliance, or the GIA, was officially inaugurated. The GIA is a program, under the Global Environmental Facility-United Nations Development Program-IMO project, which supports shipping, and related industries, as they move towards a low carbon future. Organizations including, but not limited to, shipowners, operators, classification societies, and oil companies, signed to launch the GIA.

In addition, the United States is currently experiencing changes in its environmental policy, the results of which have yet to be fully determined. For example, in April 2017, the U.S. President signed an executive order regarding the environment that targets the United States' offshore energy strategy, which affects parts of the maritime industry and may affect our business operations. Additional legislation or regulation applicable to the operation of our ships that may be implemented in the future could negatively affect our profitability.

**Vessel Security Regulations**

Since the terrorist attacks of September 11, 2001, there have been a variety of initiatives intended to enhance vessel security. On November 25, 2002, the U.S. Maritime Transportation Security Act of 2002 (MTSA) came into effect. 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. Similarly, in December 2002, amendments to SOLAS created a new chapter of the convention dealing specifically with maritime security. The new chapter went into effect in July 2004, and imposes various detailed security obligations on vessels and port authorities, most of which are contained in the newly created International Ship and Port Facilities Security (ISPS) Code.
The ISPS Code is designed to protect ports and international shipping against terrorism. To trade internationally a vessel must obtain an International Ship Security Certificate, or ISSC, from a recognized security organization approved by the vessel's flag state. To obtain an ISSC a vessel must meet certain requirements, including:

- on-board installation of automatic identification systems to enhance vessel-to-vessel and vessel-to-shore communications;
- on-board installation of ship security alert systems that do not sound on the vessel but alert the authorities on shore;
- the development of vessel security plans;
- identification numbers to be permanently marked on a vessel's hull;
- a continuous synopsis record to be maintained on board showing the vessel's history, including the vessel ownership, flag state registration, and port registrations; and
- compliance with flag state security certification requirements.

In addition, as of January 1, 2009, every company and/or registered owner is required to have an identification number which conforms to the IMO Unique Company and Registered Owner Identification Number Scheme. Our Manager has also complied with this amendment to SOLAS XI-1/3-1.

The U.S. Coast Guard regulations are intended to align with international maritime security standards and exempt non-U.S. vessels that have a valid ISSC attesting to the vessel's compliance with SOLAS security requirements and the ISPS Code from the requirement to have a U.S. Coast Guard approved vessel security plan. We have implemented the various security measures addressed by the MTSA, SOLAS and the ISPS Code and have ensured that our vessels are compliant with all applicable security requirements. Our fleet, as part of our continuous improvement cycle, is reviewing vessels SSPs and is maintaining best Management practices during passage through security risk areas.

**IMO Cyber security**

The Maritime Safety Committee, at its 98th session in June 2017, also adopted Resolution MSC.428(98)—Maritime Cyber Risk Management in Safety Management Systems. The resolution encourages administrations to ensure that cyber risks are appropriately addressed in existing safety management systems (as defined in the ISM Code) no later than the first annual verification of the company's Document of Compliance after January 1, 2021. Owners risk having ships detained if they have not included cyber security in the ISM Code safety management on ships by January 1, 2021.

**Vessel Recycling Regulations**

The EU has also recently adopted a regulation that seeks to facilitate the ratification of the IMO Recycling Convention and sets forth rules relating to vessel recycling and management of hazardous materials on vessels. In addition to new requirements for the recycling of vessels, the new regulation contains rules for the control and proper management of hazardous materials on vessels and prohibits or restricts the installation or use of certain hazardous materials on vessels. The new regulation applies to vessels flying the flag of an EU member state and certain of its provisions apply to vessels flying the flag of a third country calling at a port or anchorage of a member state. For example, when calling at a port or anchorage of a member state, a vessel flying the flag of a third country will be required, among other things, to have on board an inventory of hazardous materials that complies with the requirements of the new regulation and the vessel must be able to submit to the relevant authorities of that member state a copy of a statement of compliance issued by the relevant authorities of the country of the
vessel's flag verifying the inventory. The new regulation will take effect on non-EU-flagged vessels calling on EU ports of call beginning on December 31, 2020.

Seasonality

Our containerships primarily operate under multi-year charters and therefore are not subject to the effect of seasonal variations in demand.

Properties

We have no freehold or leasehold interest in any real property. We occupy space at 3, Christaki Kompou Street, Peters House, 3300, Limassol, Cyprus and 14 Akti Kondyli, 185 45 Piraeus, Greece that is owned by our manager, Danaos Shipping, and which is provided to us as part of the services we receive under our management agreement.

Item 4A. Unresolved Staff Comments

Not applicable.

Item 5. Operating and Financial Review and Prospects

The following discussion of our financial condition and results of operations should be read in conjunction with the financial statements and the notes to those statements included elsewhere in this annual report. This discussion includes forward-looking statements that involve risks and uncertainties. As a result of many factors, such as those set forth under "Item 3. Key Information—Risk Factors" and elsewhere in this annual report, our actual results may differ materially from those anticipated in these forward-looking statements.

Overview

Our business is to provide international seaborne transportation services by operating vessels in the containership sector of the shipping industry. As of February 28, 2019, we had a fleet of 55 containerships aggregating 327,616 TEU, making us among the largest containership charter owners in the world, based on total TEU capacity. Gemini, in which we hold a 49% minority equity interest, owned four additional containerships aggregating 23,998 TEU in capacity, as of February 28, 2019. We do not consolidate Gemini's results of operations and account for our minority equity interest under the equity method of accounting, which is recorded under “Equity income/(loss) on investments” in our consolidated statements of operations.

We primarily deploy our containerships on multi-year, fixed-rate charters to take advantage of the stable cash flows and high utilization rates typically associated with multi-year charters, although in weaker containership charter markets such as is currently prevailing we charter more of our vessels on shorter term charters so as to be able to take advantage of any increase in charter rates. As of February 28, 2019, fifty-one containerships in our fleet were employed on time charters, out of which twenty-two expire in 2019, and four containerships were employed on bareboat charters. Gemini has employed all of its containerships on a multi-year basis as part of their business strategies. As of February 28, 2019, our diverse group of customers in the containership sector included CMA-CGM, Yang Ming, COSCO, Hyundai Merchant Marine, ZIM Israel Integrated Shipping Services, Hapag Lloyd, Maersk, Evergreen, MSC, ONE and Samudera; and for Gemini, MSC, Hapag Lloyd and TS Lines.

The average number of containerships in our fleet for each of the years ended December 31, 2018, 2017 and 2016 was 55.0.
Our Manager

Our operations are managed by Danaos Shipping, our manager, under the supervision of our officers and our board of directors. We believe our manager has built a strong reputation in the shipping community by providing customized, high-quality operational services in an efficient manner for both new and older vessels. We have a management agreement pursuant to which our manager and its affiliates provide us and our subsidiaries with technical, administrative and certain commercial services. The term of this agreement expires on December 31, 2024 (subject to certain termination rights described in "Item 7. Major Shareholders and Related Party Transactions"). Our manager is ultimately owned by DIL, which is also our largest stockholder.

2018 Refinancing

We consummated a comprehensive debt refinancing, which we refer to as the "2018 Refinancing", with certain of our lenders on August 10, 2018, which we refer to as the 2018 Refinancing Closing Date. The 2018 Refinancing involved our entry into modified or amended and restated credit facilities, reflecting a $551 million reduction in our debt, reset financial and certain other covenants, modified interest rates and amortization profiles and extended debt maturities by approximately five years to December 31, 2023 (or, in some cases, June 30, 2024), as described in more detail below under "—2018 Refinancing and New 2018 Credit Facilities." In the 2018 Refinancing, we issued to certain of our lenders an aggregate of 99,342,271 shares of our common stock on the 2018 Refinancing Closing Date, which ratably diluted existing holders of our common stock. We agreed to provide the lenders with certain registration rights with respect to these shares, which have been registered for resale under the Securities Act, pursuant to a registration rights agreement. See "Item 10. Additional Information—Material Contracts—Registration Rights."

In connection with the 2018 Refinancing, we agreed to use commercially reasonable efforts to consummate an offering of common stock for aggregate net proceeds of not less than $50 million within 18 months after the 2018 Refinancing Closing Date (the "Follow-on Equity Raise"). In order to facilitate the Follow-on Equity Raise, DIL has entered into an agreement with us, dated as of August 10, 2018 (the "Backstop Agreement"), pursuant to which DIL agreed to purchase up to $10 million of common stock in such offering (please see "Item 7. Major Shareholders and Related Party Transactions—Related Party Transactions—Backstop Agreement").

DIL and our manager, Danaos Shipping Co. Ltd. (the "Manager") made a number of other financial and operating commitments in connection with the 2018 Refinancing, including (1) DIL's contribution of $10 million to us on the 2018 Refinancing Closing Date for which it did not receive any shares of common stock or other interests in us, (2) in connection with the amendment and restatement of our management agreement with the Manager (please see "Item 7. Major Shareholders and Related Party Transactions—Related Party Transactions—Management Agreement") and of our restrictive covenant agreement with DIL and Dr. Coustas (please see Item 7. "Major Shareholders and Related Party Transactions—Related Party Transactions—Non-competition") and (3) as set forth in a Stockholders Agreement we entered into on August 10, 2018 with DIL and the lenders receiving shares in the 2018 Refinancing (please see "Item 10. Additional Information—Stockholders Agreement"). In connection with the 2018 Refinancing, we also implemented certain corporate governance arrangements, as described under "Item 10. Additional Information—Stockholders Agreement" and "Item 10 Additional Information—Articles of Incorporation and Bylaws—Supermajority Stockholder Approval."

We also agreed to seek to refinance two of our 13,100 TEU vessels, the *Hyundai Honour* and the *Hyundai Respect*. The net proceeds are to be applied pro rata to repay the credit facilities secured by mortgages on such vessels.
Hanjin Shipping

On September 1, 2016, Hanjin Shipping, a charterer of eight of our vessels under long term, fixed rate charter party agreements, referred to the Seoul Central District Court, which issued an order to commence the rehabilitation proceedings of Hanjin Shipping. Hanjin Shipping cancelled all eight of its charter party agreements with us, which represented approximately $560 million of our $2.8 billion of contracted revenue as of June 30, 2016, and returned each of the vessels to us. On February 17, 2017 the Seoul Central District Court (Bankruptcy Division), declared the bankruptcy of Hanjin Shipping, converting the rehabilitation proceeding to a bankruptcy proceeding. The Seoul Central District Court (Bankruptcy Division) appointed a bankruptcy trustee to dispose of Hanjin Shipping's remaining assets and distribute the proceeds from the sale of such assets to Hanjin Shipping's creditors according to their priorities. We rechartered all eight vessels on short-term charters at market rates in the prevailing weak containership charter market. As a result of these events, we ceased recognizing revenue from Hanjin Shipping effective from July 1, 2016 onwards and recognized a bad debt expense amounting to $15.8 million relating to unpaid charter hire recorded as accounts receivable as of June 30, 2016 in our consolidated statements of operations in the year ended December 31, 2016. We have an unsecured claim for unpaid charter hire, charges, expenses and loss of profit against Hanjin Shipping totaling $597.9 million submitted to the Seoul Central District Court.

On October 12, 2018 the First Instance Court of Seoul, issued its judgement on our submitted common benefit claim. Owners of the respective vessels were awarded with the total amount of $6.1 million plus interest and legal costs. The common benefit claim applies to the unpaid charter hires plus other outstandings for the period from the date of Hanjin Shipping's filing for bankruptcy until the termination notices for each respective charterparty.

The Bankruptcy Trustee of Hanjin Shipping filed an appeal to the High Court (an appellate court in South Korea). On February 13, 2019, the appellate court in South Korea dismissed the appeal filed by the Bankruptcy Trustee of Hanjin Shipping in its entirety upholding the judgement of the First Instance Court of Seoul. On February 28, 2019 the Bankruptcy Trustee of Hanjin Shipping filed an appeal to the Supreme Court of Korea against the judgement rendered by the appellate court in South Korea.

Factors Affecting Our Results of Operations

Our financial results are largely driven by the following factors:

* **Number of Vessels in Our Fleet.** The number of vessels in our fleet, and their TEU capacity, is the primary factor in determining the level of our revenues. Aggregate expenses also increase as the size of our fleet increases. Vessel acquisitions and dispositions will have a direct impact on the number of vessels in our fleet. From time to time we have sold, generally older, vessels in our fleet.

* **Charter Rates.** Aside from the number of vessels in our fleet, the charter rates we obtain for these vessels are the principal drivers of our revenues. Charter rates are based primarily on demand for capacity as well as the available supply of containership capacity at the time we enter into the charters for our vessels. As a result of macroeconomic conditions affecting trade flow between ports served by liner companies and economic conditions in the industries which use liner shipping services, charter rates can fluctuate significantly. Although the multi-year charters on which we deploy many of our containerships make us less susceptible to cyclical containership charter rates than vessels operated on shorter-term charters, we are exposed to varying charter rate environments when our chartering arrangements expire or we lose a charter such as occurred with the charter cancellations by Hanjin Shipping in 2016, and we seek to deploy our containerships under new charters. The staggered maturities of our containership charters also reduce our exposure to any stage in the shipping cycle. As of February 28, 2019,
the charters for twenty-two of our vessels are scheduled to expire between March 2019 and December 2019. With the prevailing low charter rate levels, we expect that we will have to re-charter many of these vessels at the existing low spot charter rates.

Utilization of Our Fleet. Due to the multi-year charters under which they are often operated, our containerships have consistently been deployed at high levels of utilization. During 2018, our fleet utilization was 96.8% compared to 96.4% in 2017. Year 2017 was affected by Hanjin Shipping's filing for receivership and cancellation of long term charters for eight of our vessels in the second half of 2016. In addition, the amount of time our vessels spend in drydock undergoing repairs or undergoing maintenance and upgrade work affects our results of operations. Historically, our fleet has had a limited number of off-hire days. For example, there were 360 and 684 total off-hire days for our entire fleet during 2018 and 2017, respectively, other than for scheduled drydockings and special surveys and excluding laid up vessels other than for scheduled drydockings and special surveys and excluding laid up vessels. The off-hire days in 2017 were mainly due to the redelivery of eight of our vessels in the second half of 2016 from Hanjin Shipping due to its filing for court receivership. An increase in annual off-hire days could reduce our utilization. The efficiency with which suitable employment is secured, the ability to minimize off-hire days and the amount of time spent positioning vessels also affects our results of operations. If the utilization patterns of our containership fleet changes our financial results would be affected.

Expenses. Our ability to control our fixed and variable expenses, including those for commission expenses, crew wages and related costs, the cost of insurance, expenses for repairs and maintenance, the cost of spares and consumable stores, tonnage taxes and other miscellaneous expenses also affects our financial results. In addition, factors beyond our control, such as developments relating to market premiums for insurance and the value of the U.S. dollar compared to currencies in which certain of our expenses, primarily crew wages, are denominated can cause our vessel operating expenses to increase.

In addition to those factors described above affecting our operating results, our net income is significantly affected by our financing arrangements, including any interest rate swap arrangements, and, accordingly, prevailing interest rates and the interest rates and other financing terms we may obtain in the future.

The following table presents the contracted utilization of our operating fleet as of December 31, 2018.

<table>
<thead>
<tr>
<th>Year</th>
<th>2019</th>
<th>2020 - 2021</th>
<th>2022 - 2023</th>
<th>2024 - 2028</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contracted revenue (in millions)(1)</td>
<td>$366.7</td>
<td>$664.6</td>
<td>$430.0</td>
<td>$116.1</td>
<td>$1,577.4</td>
</tr>
<tr>
<td>Number of vessels whose charters are set to expire in the respective period(2)</td>
<td>24</td>
<td>9</td>
<td>15</td>
<td>7</td>
<td>55</td>
</tr>
<tr>
<td>TEUs on expiring charters in the respective period</td>
<td>87,026</td>
<td>37,144</td>
<td>124,946</td>
<td>78,500</td>
<td>327,616</td>
</tr>
<tr>
<td>Contracted Operating(3) days</td>
<td>14,442</td>
<td>18,759</td>
<td>9,959</td>
<td>3,620</td>
<td>46,780</td>
</tr>
<tr>
<td>Total Operating(3) days</td>
<td>19,790</td>
<td>39,844</td>
<td>39,572</td>
<td>94,903</td>
<td>194,109</td>
</tr>
<tr>
<td>Contracted Operating days/Total Operating days</td>
<td>73.0%</td>
<td>47.1%</td>
<td>25.2%</td>
<td>3.8%</td>
<td>24.1%</td>
</tr>
</tbody>
</table>

(1) Annual revenue calculations are based on an assumed 364 revenue days per annum, based on contracted charter rates from our current charter agreements. Additionally, the revenues above reflect an estimate of off-hire days to perform periodic maintenance. If actual off-hire days are greater than estimated, these would decrease the level of revenues above. Although these revenues are based on contractual charter rates, any contract is subject to performance by our
Our operating revenues are driven primarily by the number of vessels in our fleet, the number of operating days during which our vessels generate revenues and the amount of daily charter hire that our vessels earn under time charters which, in turn, are affected by a number of factors, including our decisions relating to vessel acquisitions and dispositions, 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 and the levels of supply and demand in the containership charter market. Vessels operating in the spot market generate revenues that are less predictable but can allow increased profit margins to be captured during periods of improving charter rates.

Revenues from multi-year period charters comprised a substantial portion of our revenues for the years ended December 31, 2018, 2017 and 2016. The revenues relating to our multi-year charters will be affected by any additional vessels subject to multi-year charters we may acquire in the future, as well as by the disposition of any such vessel in our fleet. Our revenues will also be affected if any of our charterers cancel a multi-year charter or fail to perform at existing contracted rates. Our multi-year charter agreements have been contracted in varying rate environments and expire at different times. Generally, we do not employ our vessels under voyage charters under which a shipowner, in return for a fixed sum, agrees to transport cargo from one or more loading ports to one or more destinations and assumes all vessel operating costs and voyage expenses.

Our expected revenues as of December 31, 2018, based on contracted charter rates, from our charter arrangements for our containerships is shown in the table below. Although these expected revenues are based on contracted charter rates, any contract is subject to performance by the counterparties. If the charterers, some of which are currently facing substantial financial pressure, are unable or unwilling to make charter payments to us, our results of operations and financial condition will be materially adversely affected, as was the case with the cancellation of long-term, fixed rate charters for eight of our vessels by Hanjin Shipping in 2016. See "Item 3. Key Information—Risk Factors—We are dependent on the ability and willingness of our charterers to honor their commitments to us for all of our revenues and the failure of our counterparties to meet their obligations under our charter agreements could cause us to suffer losses or otherwise adversely affect our business."

<table>
<thead>
<tr>
<th>Contracted Revenue from Charters as of December 31, 2018(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Amounts in millions of U.S. dollars)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number of Vessels</th>
<th>2019</th>
<th>2020 - 2021</th>
<th>2022 - 2023</th>
<th>2024 - 2028</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

(1) Annual revenue calculations are based on an assumed 364 revenue days per annum representing contracted revenues, based on contracted charter rates from our current charter agreements. Although these revenues are based on contractual charter rates, any contract is subject to performance by the counter parties and us. Additionally, the
Due to the Hanjin Shipping charter cancellations and weak charter market conditions we currently have twenty-two vessels employed on short term time charters in the spot market. Vessels operating in the spot market generate revenues that are less predictable than vessels on period charters, although this chartering strategy can enable vessel owners to capture increased profit margins during periods of improvements in charter rates. Deployment of vessels in the spot market creates exposure, however, to the risk of declining charter rates, as spot rates may be higher or lower than those rates at which a vessel could have been time chartered for a longer period.

**Voyage Expenses**

Voyage expenses include port and canal charges, bunker (fuel) expenses (bunker costs are normally covered by our charterers, except in certain cases such as vessel re-positioning), address commissions and brokerage commissions. Under time charters and bareboat charters, such as those on which we charter our containerships, the charterers bear the voyage expenses other than brokerage and address commissions and fees. As such, voyage expenses represent a relatively small portion of our vessels' overall expenses.

From time to time, in accordance with industry practice and in respect of the charters for our containerships we pay brokerage commissions of approximately 0.75% to 1.25% of the total daily charter hire rate under the charters to unaffiliated ship brokers associated with the charterers, depending on the number of brokers involved with arranging the charter. We also pay address commissions of 1.25% up to 3.75% to a limited number of our charterers. Our manager will also receive a fee of 0.5% based on the contract price of any vessel bought or sold by it on our behalf, excluding newbuilding contracts. In 2018, 2017 and 2016 we paid a fee to our manager of 1.25% on all freight, charter hire, ballast bonus and demurrage for each vessel. In 2019, this fee will remain at 1.25%.

**Vessel Operating Expenses**

Vessel operating expenses include crew wages and related costs, the cost of insurance, expenses for repairs and maintenance, the cost of spares and consumable stores, tonnage taxes and other miscellaneous expenses. Aggregate expenses increase as the size of our fleet increases. Factors beyond our control, some of which may affect the shipping industry in general, including, for instance, developments relating to market premiums for insurance, may also cause these expenses to increase. In addition, a substantial portion of our vessel operating expenses, primarily crew wages, are in currencies other than the U.S. dollar and any gain or loss we incur as a result of the U.S. dollar fluctuating in value against these currencies is included in vessel operating expenses. We fund our manager in advance with amounts it will need to pay our fleet's vessel operating expenses.

Under time charters, such as those on which we charter all but four of the containerships in our fleet as of February 28, 2019, we pay for vessel operating expenses. Under bareboat charters, such as those on which we chartered the remaining four containerships in our fleet, our charterers bear substantially all vessel operating expenses, including the costs of crewing, insurance, surveys, drydockings, maintenance and repairs.

**Amortization of Deferred Drydocking and Special Survey Costs**

We follow the deferral method of accounting for special survey and drydocking costs, whereby actual costs incurred are deferred and are amortized on a straight-line basis over the period until the next scheduled survey and drydocking, which is two and a half years. If special survey or drydocking is

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revenues above reflect an estimate of off-hire days to perform periodic maintenance. If actual off-hire days are greater than estimated, these would decrease the level of revenues above.
performed prior to the scheduled date, the remaining unamortized balances are immediately written off. The amortization periods reflect the estimated useful economic life of the deferred charge, which is the period between each special survey and drydocking.

Major overhaul performed during drydocking is differentiated from normal operating repairs and maintenance. The related costs for inspections that are required for the vessel's certification under the requirement of the classification society are categorized as drydock costs. A vessel at drydock performs certain assessments, inspections, refurbishments, replacements and alterations within a safe non-operational environment that allows for complete shutdown of certain machinery and equipment, navigational, ballast (keep the vessel upright) and safety systems, access to major underwater components of vessel (rudder, propeller, thrusters and anti-corrosion systems), which are not accessible during vessel operations, as well as hull treatment and paints. In addition, specialized equipment is required to access and maneuver vessel components, which are not available at regular ports.

Repairs and maintenance normally performed during operation either at port or at sea have the purpose of minimizing wear and tear to the vessel caused by a particular incident or normal wear and tear. Repair and maintenance costs are expensed as incurred.

Impairment Loss

We have recognized an impairment loss of $210.7 million in relation to ten of our vessels held and used as of December 31, 2018 due to (i) the impairment loss of $197.2 million recognized for eight 4,300 TEU vessels and (ii) the impairment loss of $13.5 million for two 3,300 TEU vessels as a result of volatility in the spot market and the vessels' market values, the continued weakness of containership market and the potential impact the current containership market may have on its future operations. There was no impairment loss as of December 31, 2017. We have recognized an impairment loss of $415.1 million in relation to 25 of our vessels as of December 31, 2016 due to (i) the impairment loss of $205.2 million recognized for five 3,400 TEU vessels formerly chartered to Hanjin Shipping, and (ii) the impairment loss of $209.9 million recognized for 18 of our vessels of 4,300 TEU or less capacity and for two 6,400 TEU vessels as a result of the weakness of containership market and the other than temporary nature of the decline in these vessels' market values. See "Critical Accounting Policies—Impairment of Long-lived Assets."

Depreciation

We depreciate our containerships on a straight-line basis over their estimated remaining useful economic lives. We estimated the useful lives of our containerships to be 30 years from the year built. Depreciation is based on cost, less the estimated scrap value of $300 per ton for all vessels.

General and Administrative Expenses

We paid our manager the following fees for 2018, 2017 and 2016: (i) a daily management fee of $850, (ii) a daily vessel management fee of $425 for vessels on bareboat charter, pro rated for the number of calendar days we own each vessel, (iii) a daily vessel management fee of $850 for vessels on time charter, pro rated for the number of calendar days we own each vessel. Our executive officers received an aggregate of €2.7 million ($3.2 million), €1.5 million ($1.8 million) and €1.5 million ($1.7 million) in compensation for the years ended December 31, 2018, 2017 and 2016, respectively.

For 2019, we will pay a fee of $850 per day, a fee of $425 per vessel per day for vessels on bareboat charter and a fee of $850 per vessel per day for vessels on time charter.

Furthermore, general and administrative expenses include audit fees, legal fees, board remuneration, executive officers compensation, directors & officers insurance, stock exchange fees and other general and administrative expenses.
Bad Debt Expense

At each balance sheet date, all potentially uncollectible accounts receivable are assessed individually for purposes of determining the appropriate provision for doubtful accounts based on our history of write-offs, level of past due accounts based on the contractual term of the receivables and current relationship with and economic status of our customers. We recorded bad debt expense of $15.8 million in the year ended December 31, 2016 related to unpaid charter hire recorded as accounts receivable from Hanjin Shipping prior to its filing for court receivership in September 2016. There were no bad debt expenses in the years ended December 31, 2018 and December 31, 2017.

Other Income/(Expenses), Net

In 2018, we recorded net other expenses of $50.5 million out of which $51.3 million in expenses related to refinancing professional fees. In 2017, we recorded other expenses of $16.2 million mainly related to professional fees due to the refinancing discussions with our lenders of $14.3 million and a $2.4 million realized loss on sale of HMM securities. In 2016, we recorded other expenses of $41.6 million mainly consisting of $29.4 million impairment loss on ZIM securities and a $12.9 million loss on sale of HMM equity securities.

Interest Expense, Interest Income and Other finance expenses

We have incurred interest expense on outstanding indebtedness under our credit facilities which we included in interest expense. We also incurred financing costs in connection with establishing those facilities, which is included in other finance expenses. Further, we earn interest on cash deposits in interest bearing accounts and on interest bearing securities, which we include in interest income. We will incur additional interest expense in the future on our outstanding borrowings and under future borrowings. See "—2018 Refinancing and New 2018 Credit Facilities" for a description of our 2018 Refinancing, including the Troubled Debt Restructuring (TDR) accounting applied from the 2018 Refinancing Closing Date, which reduced the aggregate amount of debt outstanding under our credit facilities and the interest expense recognized in our statement of operations.

Gain on Debt Extinguishment

We have recorded a net gain on debt extinguishment of $116.4 million in the year ended December 31, 2018 related to the refinancing of our loan facilities.

Unrealized Gain/(Loss) and Realized Loss on Derivatives

We currently have no outstanding interest rate swaps agreements. In past years, we had interest rate swaps agreements generally based on the forecasted delivery of vessels we contracted for and our debt financing needs associated therewith. All changes in the fair value of our cash flow interest rate swap agreements were recorded in earnings under "Net Unrealized and Realized Losses on Derivatives". Recognition of non-cash fair value movements of our interest rate swaps directly in our earnings creates potential volatility in our reported earnings. We recorded in our earnings gross unrealized gains from changes in the fair value of the cash flow interest rate swaps of nil for the years ended December 31, 2018 and 2017 and of $4.5 million for the year ended December 31, 2016.

We evaluated whether it is probable that the previously hedged forecasted interest payments prior to June 30, 2012 are probable to not occur in the originally specified time period. We have concluded that the previously hedged forecasted interest payments are probable of occurring. Therefore, unrealized gains or losses in accumulated other comprehensive loss associated with the previously designated cash flow interest rate swaps will remain frozen in accumulated other comprehensive loss and recognized in earnings when the interest payments will be recognized. If such interest payments were to be identified as being probable of not occurring, the accumulated other comprehensive loss

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balance pertaining to these amounts would be reversed through earnings immediately. We reclassified from Accumulated Other Comprehensive Loss to our earnings unrealized losses of $0.2 million and recognized accelerated amortization of accumulated other comprehensive loss for the years ended December 31, 2016. An amount of $3.7 million, $5.7 million and $4.0 million was reclassified from Accumulated Other Comprehensive Loss into earnings for the years ended December 31, 2018, December 31, 2017 and December 31, 2016, respectively, representing amortization of deferred realized losses on cash flow hedges over the depreciable life of the vessels. Additionally, we recognized accelerated amortization of these deferred realized losses of $1.4 million, nil and $7.7 million in connection with the impairment losses recognized on the respective vessels for the years ended December 31, 2018, 2017 and 2016.

As of December 31, 2016, all of our cash flow interest rate swap arrangements had expired and we have not entered into any new interest rate swap arrangements since that time.

Results of Operations

Year ended December 31, 2018 compared to the year ended December 31, 2017

During the year ended December 31, 2018 and December 31, 2017, Danaos had an average of 55 containerships. Our fleet utilization for the year ended December 31, 2018 was 96.8% compared to 96.4% for the year ended December 31, 2017. The fleet utilization excluding the off charter days of the vessels that were previously chartered to Hanjin was 97.9% in the year ended December 31, 2017.

Operating Revenues

Operating revenues increased by 1.5%, or $7.0 million, to $458.7 million in the year ended December 31, 2018 from $451.7 million in the year ended December 31, 2017.

Operating revenues for the year ended December 31, 2018 reflect:

- $13.8 million increase in revenues in the year ended December 31, 2018 compared to the year ended December 31, 2017 due to the re-chartering of certain of our vessels at higher rates.
- $6.8 million decrease in revenues due to lower fleet utilization of our vessels in the year ended December 31, 2018 compared to the year ended December 31, 2017 (other than three vessels previously chartered to Hanjin which were less utilized in the year ended December 31, 2017).

Voyage Expenses

Voyage expenses decreased by $0.4 million, to $12.2 million in the year ended December 31, 2018 from $12.6 million in the year ended December 31, 2017.

Vessel Operating Expenses

Vessel operating expenses decreased by 2.2%, or $2.4 million, to $104.6 million in the year ended December 31, 2018 from $107.0 million in the year ended December 31, 2017. The average daily operating cost per vessel for vessels on time charter was $5,619 per day for the year ended December 31, 2018 compared to $5,661 per day for the year ended December 31, 2017. Management believes that our daily operating cost ranks as one of the most competitive in the industry.

Depreciation

Depreciation expense decreased by 6.4%, or $7.4 million, to $107.8 million in the year ended December 31, 2018 from $115.2 million in the year ended December 31, 2017.
Amortization of Deferred Drydocking and Special Survey Costs

Amortization of deferred dry-docking and special survey costs increased by $2.5 million, to $9.2 million in the year ended December 31, 2018 from $6.7 million in the year ended December 31, 2017. The increase was mainly due to the increased number of vessels dry-docked over the last year.

General and Administrative Expenses

General and administrative expenses increased by $3.6 million, to $26.3 million in the year ended December 31, 2018, from $22.7 million in the year ended December 31, 2017. The increase was mainly due to increased remuneration costs and professional fees.

Impairment Loss

We have recognized an impairment loss of $210.7 million in relation to 10 of our vessels as of December 31, 2018 compared to nil in the year ended December 31, 2017.

Interest Expense, Interest Income and Other Finance Expenses

Interest expense decreased by 1.0%, or $0.9 million, to $85.7 million in the year ended December 31, 2018 from $86.6 million in the year ended December 31, 2017. The decrease in interest expense is attributable to a:

- $16.9 million decrease in interest expense on two of our credit facilities for which we have recognized an interest expense accrual, which has been classified on our balance sheet under "Accumulated accrued interest" and represents future interest expense for the relevant facilities that has been recognized in advance as a result of the application of TDR accounting in connection with our debt refinancing.
- $12.2 million increase in interest expense due to an increase in debt service cost of approximately 1.1%, partially offset by a $358.1 million decrease in our average debt, to $2,051.0 million in the year ended December 31, 2018, compared to $2,409.1 million in the year ended December 31, 2017.
- $3.8 million increase in the amortization of deferred finance costs and debt discount related to our debt refinancing.

As of December 31, 2018, the debt outstanding, gross of deferred finance costs, was $1,666.2 million compared to $2,340.8 million as of December 31, 2017. Interest income increased by $0.2 million to $5.8 million in the year ended December 31, 2018 compared to $5.6 million in the year ended December 31, 2017. Other finance costs, net decreased by $1.1 million, to $3.0 million in the year ended December 31, 2018 from $4.1 million in the year ended December 31, 2017 mainly due to decreased exit fees expenses.

Gain on debt extinguishment

The gain on debt extinguishment of $116.4 million in the year ended December 31, 2018 relates to our 2018 Refinancing described below and consists of debt principal reduction net of refinancing related fees.
Equity income on investments

Equity income on investments amounted to $1.4 million in the year ended December 31, 2018 compared to $1.0 million in the year ended December 31, 2017 and relates to the improved operating performance of Gemini, in which the Company has a 49% shareholding interest.

Loss on Derivatives

Amortization of deferred realized losses on interest rate swaps increased by $1.4 million to $5.1 million in the year ended December 31, 2018 compared to $3.7 million in the year ended December 31, 2017 due to the accelerated amortization of accumulated other comprehensive loss.

Other income/(expenses), net

Other income/(expenses), net was $50.5 million in expenses in the year ended December 31, 2018 compared to $15.8 million in expenses in the year ended December 31, 2017 mainly due to a $37.0 million increase in refinancing-related professional fees, which were partially offset by a $2.4 million realized loss on sale of HMM securities in the year ended December 31, 2017 that did not recur in the 2018 period.

Year ended December 31, 2017 compared to the year ended December 31, 2016

During the years ended December 31, 2017 and December 31, 2016 we had an average of 55 containerships. Our fleet utilization in the year ended December 31, 2017 was 96.4%, while fleet utilization for the vessels under employment, excluding the off charter days of the vessels that were previously chartered to Hanjin, increased to 97.9% in the year ended December 31, 2017 compared to 97.3% in the year ended December 31, 2016.

Operating Revenues

Operating revenues decreased by 9.4%, or $46.6 million, to $451.7 million in the year ended December 31, 2017 from $498.3 million in the year ended December 31, 2016.

Operating revenues for the year ended December 31, 2017 reflect:

- $41.3 million decrease in revenues during the first half of the year due to loss of revenue from cancelled charters with Hanjin for eight of our vessels due to Hanjin's bankruptcy. These vessels were re-chartered at lower rates and in some cases experienced off hire time in the 2017 period.

- $11.2 million increase in revenues during the second half of 2017 due to the recorded charter income of $12.7 million from eight of our vessels previously chartered to Hanjin that earned operating revenues of $1.5 million during the second half of 2016.

- $15.5 million decrease in revenues in the year ended December 31, 2017 compared to the year ended December 31, 2016 due to the re-chartering of certain of our vessels at lower rates.

- $1.0 million decrease in revenues due to lower fleet utilization for vessels other than the eight vessels previously chartered to Hanjin in the year ended December 31, 2017 compared to the year ended December 31, 2016.

Voyage Expenses

Voyage expenses decreased by $1.3 million to $12.6 million in the year ended December 31, 2017 compared to $13.9 million in the year ended December 31, 2016. The decrease is mainly due to decreased commissions.
Vessel Operating Expenses

Vessel operating expenses decreased by 2.2%, or $2.4 million, to $107.0 million in the year ended December 31, 2017 from $109.4 million in the year ended December 31, 2016. The average daily operating cost per vessel for vessels on time charter was $5,661 per day for the year ended December 31, 2017 compared to $5,637 per day for the year ended December 31, 2016. Management believes that our daily operating cost ranks as one of the most competitive in the industry.

Depreciation

Depreciation expense decreased by 10.7%, or $13.8 million, to $115.2 million in the year ended December 31, 2017 from $129.0 million in the year ended December 31, 2016, mainly due to decreased depreciation expense for twenty-five vessels for which we recorded an impairment charge on December 31, 2016.

Amortization of Deferred Drydocking and Special Survey Costs

Amortization of deferred dry-docking and special survey costs increased by $1.2 million, to $6.7 million in the year ended December 31, 2017 from $5.5 million in the year ended December 31, 2016. The increase was mainly due to the increased payments for dry-docking and special survey costs related to certain vessels over the last year.

General and Administrative Expenses

General and administrative expenses increased by $0.6 million, to $22.7 million in the year ended December 31, 2017, from $22.1 million in the year ended December 31, 2016.

Bad Debt Expense

Bad debt expense of $15.8 million in the year ended December 31, 2016 compared to nil in the year ended December 31, 2017 relates to receivables from Hanjin, which were written-off.

Impairment Loss

We have recognized an impairment loss of $415.1 million in relation to 25 of our vessels as of December 31, 2016 compared to nil in the year ended December 31, 2017.

Interest Expense, Interest Income and Other Finance Expenses

Interest expense increased by 4.3%, or $3.6 million, to $86.6 million in the year ended December 31, 2017 from $83.0 million in the year ended December 31, 2016. The increase in interest expense was mainly due to the increase in average cost of debt due to the increase in US$ Libor by about 50 bps between the two periods, which was partially offset by a decrease in our average debt by $243.1 million, to $2,409.1 million in the year ended December 31, 2017, from $2,652.2 million in the year ended December 31, 2016 and a $1.8 million decrease in the amortization of deferred finance costs.

As of December 31, 2017, the debt outstanding gross of deferred finance costs was $2,340.8 million compared to $2,527.3 million as of December 31, 2016.

Interest income increased by $0.9 million to $5.6 million in the year ended December 31, 2017 compared to $4.7 million in the year ended December 31, 2016. The increase was mainly attributed to the interest income recognized on HMM notes receivable.

Other finance expenses, net decreased by $0.8 million, to $4.1 million in the year ended December 31, 2017 from $4.9 million in the year ended December 31, 2016.
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Equity loss on investments

Equity income on investments amounted to $1.0 million in the year ended December 31, 2017 compared to the equity loss on investments of $16.2 million (mainly attributed to our share of impairment loss for Gemini vessels amounting to $14.6 million) in the year ended December 31, 2016 and relates to the improved operating performance of Gemini, in which the Company has a 49% shareholding interest.

Unrealized Gain/(Loss) and Realized Loss on Derivatives

Unrealized loss on interest rate swaps amounted to nil in the year ended December 31, 2017 compared to a loss of $3.1 million in the year ended December 31, 2016. The unrealized loss in the year ended December 31, 2016 was attributable to the accelerated amortization of accumulated other comprehensive loss of $7.7 million, which was partially offset by the unrealized gains of $4.6 million attributable to mark to market valuation of our swaps, which all expired by December 31, 2016.

Realized loss on interest rate swaps decreased to $3.7 million in the year ended December 31, 2017 from a loss of $9.4 million in the year ended December 31, 2016. This decrease is attributable to swap expirations. As of December 31, 2016, all of our interest rate swaps have expired.

The table below provides an analysis of the items discussed above, and which were recorded in the years ended December 31, 2017 and 2016:

<table>
<thead>
<tr>
<th></th>
<th>Year ended December 31, 2017</th>
<th>Year ended December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash flow interest rate swaps</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Realized losses expensed in consolidated Statements of Operations</td>
<td>—</td>
<td>$ (5.5)</td>
</tr>
<tr>
<td>Unrealized gains</td>
<td></td>
<td>$ 4.3</td>
</tr>
<tr>
<td>Amortization of deferred realized losses</td>
<td>$ (3.7)</td>
<td>(4.0)</td>
</tr>
<tr>
<td>Accelerated amortization of deferred realized losses</td>
<td>—</td>
<td>(7.7)</td>
</tr>
<tr>
<td><strong>Unrealized and realized losses on cash flow interest rate swaps</strong></td>
<td>$ (3.7)</td>
<td>$ (12.9)</td>
</tr>
<tr>
<td><strong>Fair value interest rate swaps</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unrealized losses on swap asset</td>
<td>—</td>
<td>$ (0.1)</td>
</tr>
<tr>
<td>Reclassification of fair value hedged debt to Statements of Operations</td>
<td>—</td>
<td>0.4</td>
</tr>
<tr>
<td>Realized gains</td>
<td></td>
<td>0.1</td>
</tr>
<tr>
<td><strong>Unrealized and realized gains on fair value interest rate swaps</strong></td>
<td>—</td>
<td>$ 0.4</td>
</tr>
<tr>
<td><strong>Unrealized and realized losses on derivatives</strong></td>
<td>$ (3.7)</td>
<td>$ (12.5)</td>
</tr>
</tbody>
</table>

Other income/(expenses), net

Other expenses, net amounted to $15.8 million related mainly to a $14.3 million increase in professional fees due to the refinancing discussions with our lenders and a $2.4 million realized loss on sale of HMM securities in the year ended December 31, 2017 compared to other expenses, net of $41.6 million mainly due to a $29.4 million impairment loss in Zim equity and debt securities and a $12.9 million loss on sale of HMM equity securities recognized in the year ended December 31, 2016.
Liquidity and Capital Resources

Our principal source of funds has been operating cash flows, vessel sales, and long-term bank borrowings, as well as equity provided by our stockholders from our initial public offering in October 2006, common stock sale in August 2010 and the capital contribution of DIL. Our principal uses of funds have been capital expenditures to establish, grow and maintain our fleet, comply with international shipping standards, environmental laws and regulations and to fund working capital requirements and repayment of debt.

Our short-term liquidity needs primarily relate to the funding of our vessel operating expenses, debt interest payments and servicing the current portion of our debt obligations. Our long-term liquidity needs primarily relate to any additional vessel acquisitions in the containership sector and debt repayment. We anticipate that our primary sources of funds will be cash from operations and equity or debt financings. As described below, on August 10, 2018, we refinanced over $2.2 billion of debt scheduled to mature by December 2018, extending maturities to December 31, 2023 (or in some cases June 30, 2024).

Under our existing multi-year charters as of December 31, 2018, we had contracted revenues of $366.7 million for 2019, $345.2 million for 2020 and, thereafter, approximately $0.9 billion. Although these contracted revenues are based on contracted charter rates, we are dependent on the ability and willingness of our charterers, some of which are facing substantial financial pressure, to meet their obligations under these charters.

As of December 31, 2018, we had cash and cash equivalents of $77.3 million. As of December 31, 2018, we had no remaining borrowing availability under our credit facilities. As of December 31, 2018, we had $1,666.2 million of outstanding indebtedness gross of deferred finance costs. We are obligated to make quarterly fixed amortization payments, totaling $113.8 million in 2019, and quarterly variable amortization payments on this outstanding indebtedness. See "—Scheduled Principal Payments" below.

The Company entered into an agreement with certain of the lenders holding approximately $2.2 billion of debt maturing on December 31, 2018 for a debt refinancing transaction which was consummated on August 10, 2018. The debt refinancing involved the Company's entry into new credit facilities, which we refer to as the New 2018 Credit Facilities, including the amendment and restatement of certain previous credit facilities, resulting in a $551 million reduction in our debt, reset financial and certain other covenants, modified interest rates and amortization profiles and the extension of debt maturities by approximately five years to December 31, 2023 (or, in some cases, June 30, 2024). In the 2018 Refinancing, the Company issued to certain of its lenders an aggregate of 99,342,271 shares of the Company's common stock on the 2018 Refinancing Closing Date, representing 47.5% of the Company's issued and outstanding common stock immediately after giving effect to such issuance. The issuance ratably diluted existing holders of the Common Stock. See "—2018 Refinancing and New 2018 Credit Facilities" below.

Under the New 2018 Credit Facilities, we are required to apply a substantial portion of our cash from operations to the repayment of principal under such facilities. See "—2018 Refinancing and New 2018 Credit Facilities" below and Note 10 "Long-Term Debt, net" to our consolidated financial statements included elsewhere in this report. We currently expect that the remaining portion of our cash from operations will be sufficient to fund all of our other obligations.

We have not paid a dividend since 2008, when our board of directors determined to suspend the payment of cash dividends as a result of market conditions in the international shipping industry. In addition, under the New 2018 Credit Facilities we are not permitted to pay dividends, until (1) we receive in excess of $50 million in net cash proceeds from offerings of common stock and (2) the payment in full of the first installment of amortization payable following the consummation of the debt refinancing under each new credit facility. After these conditions are satisfied, under the New 2018
Credit Facilities we will be permitted to pay dividends if an event of default has not occurred and is continuing or would occur as a result of the payment of such dividend, and we remain in compliance with the financial and other covenants thereunder. To the extent our credit facilities permit us to pay dividends, any dividend payments will be subject to us having sufficient available excess cash and distributable reserves, the provisions of Marshall Islands law affecting the payment of distributions to stockholders and the discretion of our board of directors.

In July 2014, ZIM and its creditors entered into definitive documentation effecting ZIM's restructuring with its creditors. The terms of the restructuring included a reduction in the charter rates payable by ZIM under its time charters, expiring in 2020 or 2021, for six of our vessels. The terms also included our receipt of approximately $49.9 million aggregate principal amount of unsecured, interest bearing ZIM notes maturing in 2023 (consisting of $8.8 million of 3% Series 1 Notes due 2023 amortizing subject to available cash flow in accordance with a corporate cash sweep mechanism, and $41.1 million of 5% Series 2 Notes due 2023 non-amortizing (of the 5% interest rate, 3% is payable quarterly in cash and 2% is payable in kind, accrued quarterly with deferred cash payment on maturity)) and ZIM shares representing approximately 7.4% of the outstanding ZIM shares immediately after the restructuring, in exchange for such charter rate reductions and cancellation of ZIM's other obligations to us which relate to the outstanding long term receivable as of December 31, 2013. ZIM's charter-owner creditors designated two of the nine members of ZIM's initial Board of Directors following the restructuring, including one director nominated by us, Dimitris Chatzis, the father of our Chief Financial Officer.

In July 2016, we entered into a charter restructuring agreement with Hyundai Merchant Marine ("HMM"), which provides for a 20% reduction, for the period until December 31, 2019 (or earlier charter expiration in the case of eight vessels), in the charter hire rates payable for thirteen of our vessels currently employed with HMM. In exchange, under the charter restructuring agreement we received (i) $32.8 million principal amount of senior, unsecured Loan Notes 1, amortizing subject to available cash flows, which accrue interest at 3% per annum payable on maturity in July 2024, (ii) $6.2 million principal amount of senior, unsecured, non-amortizing Loan Notes 2, which accrue interest at 3% per annum payable on maturity in December 2022 and (iii) 4,637,558 HMM shares, which were sold on September 1, 2016 for cash proceeds of $38.1 million. On March 28, 2017, the Company sold $13.0 million principal amount carried at amortized costs of $8.6 million of HMM Loan Notes 1 for gross cash proceeds on sale of $6.2 million resulting in a loss on sale of $2.4 million. The sale of these notes resulted in the transfer of all held to maturity securities into the available for sale securities and recognizing unrealized holding losses of $36.4 million for all remaining HMM and ZIM notes in accumulated other comprehensive income/(loss) as of December 31, 2018. See Note 7, "Other Non-current Assets" to our consolidated financial statements included in this report.

In connection with the 2018 Refinancing, DIL, our largest stockholder, contributed $10 million to us on the 2018 Refinancing Closing Date, for which DIL did not receive any shares of common stock or other interests in us. In connection with the 2018 Refinancing, we have also undertaken to seek to refinance two of our 13,100 TEU vessels, the Hyundai Honour and the Hyundai Respect. The net proceeds are to be applied pro rata to repay the credit facilities secured by mortgages on such vessels.

We have agreed to install scrubbers on seven of our vessels with estimated total costs amounting to approximately $21.6 million, of which $5 million was paid as advances in 2018, and have an option to install the scrubbers on two more vessels as of February 28, 2019.
Cash Flows

<table>
<thead>
<tr>
<th>Net cash provided by operating activities</th>
<th>Year ended December 31, 2018</th>
<th>Year ended December 31, 2017</th>
<th>Year ended December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>(In thousands)</td>
<td>$164,686</td>
<td>$181,073</td>
<td>$261,967</td>
</tr>
</tbody>
</table>

Net Cash Provided by Operating Activities

Net cash flows provided by operating activities decreased by 9.1%, or $16.4 million, to $164.7 million in the year ended December 31, 2018 compared to $181.1 million in the year ended December 31, 2017. The decrease was the result of an increase of $37.1 million in other expenses mainly due to refinancing-related professional fees and an increase in payments for drydocking and special survey costs by $5.8 million, which were partially offset by an increase of $7.0 million in operating revenue, a $6.3 million decrease in net finance costs and a $13.0 million change in working capital in the year ended December 31, 2018 compared to the year ended December 31, 2017.

Net Cash Flows Provided by/(used in) Investing Activities

Net cash flows provided by/(used in) investing activities decreased by $10.0 million, to $8.2 million used in investing activities in the year ended December 31, 2018 compared to $18.2 million provided by investing activities in the year ended December 31, 2017. The decrease mainly reflects $6.2 million in net proceeds from the sale of securities in the year ended December 31, 2017 that did not recur in the year ended December 31, 2018 and a $3.8 million increase in cash used in connection with vessel additions and advances for vessels additions in the year ended December 31, 2018 compared to the year ended December 31, 2017.

Net cash flows provided by/(used in) investing activities increased by $11.2 million, to $1.8 million provided by investing activities in the year ended December 31, 2017 compared to $9.4 million used in investing activities in the year ended December 31, 2016. The increase reflects mainly $6.2 million of net proceeds from sale of securities in the year ended December 31, 2017 compared to $5.1 million of net proceeds from sale of vessels in the year ended December 31, 2016 and nil cash used for investments in affiliates in the year ended December 31, 2017 compared to $10.0 million cash used for investments in affiliates in the year ended December 31, 2016.

Net Cash Used in Financing Activities

Net cash flows used in financing activities decreased by $40.8 million, to $148.9 million used in financing activities in the year ended December 31, 2018 compared to $189.7 million used in financing activities in the year ended December 31, 2017 mainly due to debt payments of $441.0 million partially
paid with new loan facilities drawdowns of $325.9 million, deferred finance costs of $35.0 million relating to certain of our new loan agreements in connection with our debt refinancing, payments of accumulated accrued interest of $8.6 million and share issuance costs of $0.2 million, which were partially offset by paid-in capital of $10.0 million in the year ended December 31, 2018 compared to $189.7 million of debt payments in the year ended December 31, 2017.

Net cash flows used in financing activities decreased by $61.4 million, to $189.7 million in the year ended December 31, 2017 compared to $251.1 million in the year ended December 31, 2016, as a result of a decrease in repayments of long-term debt.

**Non-GAAP Financial Measures**

We report our financial results in accordance with U.S. generally accepted accounting principles (GAAP). Management believes, however, that certain non-GAAP financial measures used in managing the business may provide users of this financial information additional meaningful comparisons between current results and results in prior operating periods. Management believes that these non-GAAP financial measures can provide additional meaningful reflection of underlying trends of the business because they provide a comparison of historical information that excludes certain items that impact the overall comparability. Management also uses these non-GAAP financial measures in making financial, operating and planning decisions and in evaluating our performance. See the table below for supplemental financial data and corresponding reconciliation to GAAP financial measures. Non-GAAP financial measures should be viewed in addition to, and not as an alternative for, our reported results prepared in accordance with GAAP.

**EBITDA and Adjusted EBITDA**

EBITDA represents net income before interest income and expense, taxes, depreciation, as well as amortization of deferred drydocking & special survey costs, amortization of deferred realized losses of cash flow interest rate swaps, amortization of deferred finance costs and finance costs accrued. Adjusted EBITDA represents net income before interest income and expense, taxes, depreciation, amortization of deferred drydocking & special survey costs, amortization of deferred realized losses of cash flow interest rate swaps, amortization of deferred finance costs and finance costs accrued, impairment losses, stock based compensation, (gain)/loss on sale of vessels, unrealized (gain)/loss on derivatives, realized loss on derivatives, bad debt expense, gain on debt extinguishment, refinancing professional fees, loss on sale of securities and accelerated amortization of accumulated other comprehensive loss. We believe that EBITDA and Adjusted EBITDA assist investors and analysts in comparing our performance across reporting periods on a consistent basis by excluding items that we do not believe are indicative of our core operating performance. EBITDA and Adjusted EBITDA are also used: (i) by prospective and current customers as well as potential lenders to evaluate potential transactions; and (ii) to evaluate and price potential acquisition candidates. Our EBITDA and Adjusted EBITDA may not be comparable to that reported by other companies due to differences in methods of calculation.

EBITDA and Adjusted EBITDA have limitations as analytical tools, and should not be considered in isolation or as a substitute for analysis of our results as reported under U.S. GAAP. Some of these limitations are: (i) EBITDA/Adjusted EBITDA does not reflect changes in, or cash requirements for, working capital needs; and (ii) although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and EBITDA/Adjusted EBITDA do not reflect any cash requirements for such capital expenditures. In evaluating Adjusted EBITDA, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of Adjusted EBITDA should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items.
Because of these limitations, EBITDA/Adjusted EBITDA should not be considered as principal indicators of our performance.

**Net Income/(loss) Reconciliation to EBITDA and Adjusted EBITDA**

<table>
<thead>
<tr>
<th></th>
<th>Year ended December 31, 2018 (In thousands)</th>
<th>Year ended December 31, 2017 (In thousands)</th>
<th>Year ended December 31, 2016 (In thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income/(loss)</td>
<td>$32,936</td>
<td>$83,905</td>
<td>$(366,195)</td>
</tr>
<tr>
<td>Depreciation</td>
<td>107,757</td>
<td>115,228</td>
<td>129,045</td>
</tr>
<tr>
<td>Amortization of deferred drydocking &amp; special survey costs</td>
<td>9,237</td>
<td>6,748</td>
<td>5,528</td>
</tr>
<tr>
<td>Amortization of deferred realized losses of cash flow interest rate swaps</td>
<td>3,694</td>
<td>3,694</td>
<td>4,028</td>
</tr>
<tr>
<td>Amortization of finance costs and debt discount</td>
<td>14,957</td>
<td>11,153</td>
<td>12,652</td>
</tr>
<tr>
<td>Finance costs accrued (Exit Fees under our Bank Agreements)</td>
<td>2,059</td>
<td>3,169</td>
<td>3,447</td>
</tr>
<tr>
<td>Interest income</td>
<td>(5,781)</td>
<td>(5,576)</td>
<td>(4,682)</td>
</tr>
<tr>
<td>Interest expense</td>
<td>70,749</td>
<td>75,403</td>
<td>70,314</td>
</tr>
<tr>
<td><strong>EBITDA</strong></td>
<td><strong>169,736</strong></td>
<td><strong>293,724</strong></td>
<td><strong>(145,863)</strong></td>
</tr>
<tr>
<td>Gain on debt extinguishment</td>
<td>(116,365)</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Refinancing professional fees</td>
<td>51,313</td>
<td>14,297</td>
<td>—</td>
</tr>
<tr>
<td>Loss on sale of securities</td>
<td>—</td>
<td>2,357</td>
<td>12,906</td>
</tr>
<tr>
<td>Impairment loss</td>
<td>210,715</td>
<td>—</td>
<td>415,118</td>
</tr>
<tr>
<td>Impairment loss on securities</td>
<td>—</td>
<td>—</td>
<td>29,384</td>
</tr>
<tr>
<td>Impairment loss component of equity loss on investments</td>
<td>—</td>
<td>—</td>
<td>14,642</td>
</tr>
<tr>
<td>Bad debt expense</td>
<td>—</td>
<td>—</td>
<td>15,834</td>
</tr>
<tr>
<td>Accelerated amortization of accumulated other comprehensive loss</td>
<td>1,443</td>
<td>—</td>
<td>7,706</td>
</tr>
<tr>
<td>Stock based compensation</td>
<td>1,006</td>
<td>—</td>
<td>76</td>
</tr>
<tr>
<td>Loss on sale of vessels</td>
<td>—</td>
<td>—</td>
<td>36</td>
</tr>
<tr>
<td>Realized loss on derivatives</td>
<td>—</td>
<td>—</td>
<td>5,397</td>
</tr>
<tr>
<td>Unrealized gain on derivatives</td>
<td>—</td>
<td>—</td>
<td>(4,649)</td>
</tr>
<tr>
<td><strong>Adjusted EBITDA</strong></td>
<td><strong>317,848</strong></td>
<td><strong>310,378</strong></td>
<td><strong>350,857</strong></td>
</tr>
</tbody>
</table>

EBITDA decreased by $124.0 million, to $169.7 million in the year ended December 31, 2018, from $293.7 million in the year ended December 31, 2017. This decrease was attributed to a $210.7 million impairment loss and a related accelerated amortization of accumulated other comprehensive loss of $1.4 million in the year ended December 31, 2018 compared to nil in the year ended December 31, 2017, by a $34.7 million increase in net other expenses mainly due to refinancing-related professional fees and a $0.9 million increase in operating expenses, which were partially offset by a $116.4 million gain on debt extinguishment, a $7.0 million increase in operating revenue and a $0.4 million improvement in operating performance on our equity investments in the year ended December 31, 2018 compared to the year ended December 31, 2017.

Adjusted EBITDA increased by $7.4 million, to $317.8 million in the year ended December 31, 2018 from $310.4 million in the year ended December 31, 2017. The increase was attributable mainly to a $7.0 million increase in operating revenue and a $0.4 million improvement in operating performance on our equity investments in the year ended December 31, 2018 compared to the year ended December 31, 2017.
EBITDA increased by $439.6 million, to $293.7 million in the year ended December 31, 2017, from $(145.9) million in the year ended December 31, 2016. The increase was attributable to a decrease in impairment losses by $459.1 million, a $15.8 million decrease in bad debt expense, a $10.5 million decrease in loss on sale of securities, a $8.5 million decrease in unrealized and realized losses on derivatives, a $3.1 million decrease in operating expenses, an $2.6 million operating performance improvement on equity investments and a $0.7 million decrease in other expenses in the year ended December 31, 2017 compared to the year ended December 31, 2016. This increase was partially offset by a $46.6 million decrease in operating revenues and an $14.1 million increase in other expenses mainly due to refinancing professional fees in the year ended December 31, 2017 compared to the year ended December 31, 2016.

Adjusted EBITDA decreased by $40.2 million, to $310.4 million in the year ended December 31, 2017 from $350.6 million in the year ended December 31, 2016. The decrease was attributable to a $46.6 million decrease in operating revenues, which was partially offset by a $3.1 million decrease in operating expenses, a $2.6 million operating performance improvement on equity investments and a $0.7 million decrease in other expenses in the year ended December 31, 2017 compared to the year ended December 31, 2016.

2018 Refinancing and New 2018 Credit Facilities

We entered into a debt refinancing agreement with certain of our lenders holding debt of $2.2 billion maturing by December 31, 2018, for a debt refinancing, which we refer to as the "2018 Refinancing", which was consummated on August 10, 2018, which we refer to as the 2018 Refinancing Closing Date, that superseded, amended and supplemented the terms of each of our then-existing credit facilities (other than the Sinosure-CEXIM-Citibank-ABN Amro credit facility which is not covered thereby). The 2018 Refinancing provided for, among other things, the issuance of 99,342,271 new shares of common stock to certain of our lenders (which represented 47.5% of our outstanding common stock immediately after giving effect to such issuance and diluted existing shareholders ratably), a principal amount debt reduction of approximately $551 million, revised amortization schedules, maturities, interest rates, financial covenants, events of defaults, guarantees and security packages and $325.9 million of new debt financing from one of our lenders—Citibank (the "Citibank—New Money"). Our largest stockholder, DIL, contributed $10 million to the Company on the 2018 Refinancing Closing Date, for which DIL did not receive any shares of common stock or other interests in the Company. The maturities of the new loan facilities covered by this debt refinancing were extended by five years to December 31, 2023 (or, in some cases, June 30, 2024).

In addition, we agreed to make reasonable efforts to source investment commitment for new shares of common stock for not less than $50 million in net proceeds no later than 18 months after the 2018 Refinancing Closing Date (up to $10 million of which is to be underwritten by DIL as set out in the Backstop Agreement (See "Item 7. Major Shareholders and Related Party Transactions—Related Party Transactions—Backstop Agreement")).

As part of the 2018 Refinancing we entered into new credit facilities for an aggregate principal amount of approximately $1.6 billion due December 31, 2023 (or, in some cases as noted below, June 30, 2024) through an amendment and restatement or replacement of existing credit facilities. The following are the new term loan credit facilities (the "New 2018 Credit Facilities"):

(i) a $475.5 million credit facility provided by the Royal Bank of Scotland (the "RBS Facility"), which refinanced the prior Royal Bank of Scotland credit facilities

(ii) a $382.5 million credit facility provided by HSH Nordbank AG—Aegean Baltic Bank—Piraeus Bank (the "HSH Facility"), which refinanced the prior HSH Nordbank AG—Aegean Baltic Bank—Piraeus Bank credit facilities
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(iii) a $114.0 million credit facility provided by Citibank (the "Citibank $114 mil. Facility"), which refinanced the prior Citibank credit facility

(iv) a $171.8 million credit facility provided by Credit Suisse (the "Credit Suisse $171.8 mil. Facility"), which refinanced the prior Credit Suisse credit facility

(v) a $37.6 million credit facility provided by Citibank—Eurobank (the "Citibank—Eurobank $37.6 mil. Facility"), which refinanced the prior Citibank—Eurobank credit facility

(vi) a $206.2 million credit facility provided by Citibank—Credit Suisse—Sentina (the "Club Facility $206.2 mil."), which refinanced the prior EnTrustPermal—Credit Suisse—CitiGroup Club facility

(vii) a $120.0 million credit facility provided by Citibank (the "Citibank $120 mil. Facility"), which refinanced the prior ABN Amro—Bank of America Merrill Lynch—Burlington Loan Management—National Bank of Greece facilities

(viii) a $123.9 million credit facility provided by Citibank (the "Citibank $123 mil. Facility"), which refinanced the prior Deutsche Bank facility

Interest and Fees

The interest rate payable under the New 2018 Credit Facilities (which does not include the Sinosure-CEXIM-Citibank-ABN Amro credit facility) is LIBOR+2.50% (subject to a 0% floor), with subordinated tranches of two credit facilities incurring additional PIK interest of 4.00%, compounded quarterly, payable in respect of $282 million principal related to the RBS Facility and HSH Facility, which tranches have maturity dates of June 30, 2024.

We were required to pay a cash amendment fee of $69.2 million in the aggregate, out of which $23.9 million was paid in cash before December 31, 2018 and the remaining portion will be paid in instalments. Of the unpaid portion of the amendment fee, $30.5 million was accrued under "Other current liabilities" and $14.8 million under "Other long-term liabilities" in the consolidated balance sheet as of December 31, 2018. Of the cash amendment fee, $17.2 million was deferred and will be amortized over the life of the respective credit facilities with the effective interest method and $52.0 million was expensed to the consolidated statement of operations.

We were also required to issue 14.7 million shares of common stock as part of the amendments fees on the 2018 Refinancing Closing Date, or $25.0 million fair value in the aggregate. Of this amount, recognition of $18.1 million was deferred and will be amortized over the life of the respective credit facilities with the effective interest method and $6.9 million was expensed in the accompanying consolidated statements of operations. The fair value of the shares issued at the 2018 Refinancing Closing Date are based on a Level 1 measurement of the share's price, which was $1.70 as of August 10, 2018.

We incurred $51.3 million and $14.3 million of professional fees related to the refinancing discussions with our lenders reported under "Other income/(expenses), net" in the accompanying consolidated statements of operations for the year ended December 31, 2018 and 2017, respectively. Additionally, we deferred $11.7 million of professional fees related to the Citibank facilities, which will be amortized over the life of the respective credit facilities.

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Covenants, Events of Defaults, Collaterals and Guarantees

The New 2018 Credit Facilities contain financial covenants set at levels with which we were in compliance as of December 31, 2018 and that requires us to maintain:

(i) minimum collateral to loan value coverage on a charter-free basis increasing from 57.0% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter,

(ii) minimum collateral to loan value coverage on a charter-attached basis increasing from 69.5% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter,

(iii) minimum liquidity of $30 million throughout the term of the New 2018 Credit Facilities,

(iv) maximum consolidated net leverage ratio, declining from 7.50x as of December 31, 2018 to 5.50x as of September 30, 2023 and thereafter,

(v) minimum interest coverage ratio of 2.50x throughout the term of the New 2018 Credit Facilities and

(vi) minimum consolidated market value adjusted net worth increasing from negative $510 million as of December 31, 2018 to $60 million as of September 30, 2023 and thereafter.

The New 2018 Credit Facilities contain certain restrictive covenants and customary events of default, including those relating to cross-acceleration and cross-defaults to other indebtedness, non-compliance, or repudiation of security documents, material adverse changes to our business, the Company's common stock ceasing to be listed on the NYSE (or another recognized stock exchange), foreclosure on a vessel in our fleet, a change in control of the Manager, a breach of the management agreement by the Manager and a material breach of a charter by a charterer or cancellation of a charter (unless replaced with a similar charter acceptable to the lenders) for the vessels securing the respective New 2018 Credit Facilities. Each of the new credit facilities are collateralized by first and second preferred mortgages over the vessels financed, general assignment of all hire freights, income and earnings, the assignment of their insurance policies, as well as any proceeds from the sale of mortgaged vessels, our investments in ZIM and Hyundai Merchant Marine securities, stock pledges and benefits from corporate guarantees.

In connection with the 2018 Refinancing, we have also undertaken to seek to refinance two of our 13,100 TEU vessels, the Hyundai Honour and the Hyundai Respect. The net proceeds are to be applied pro rata to repay the new credit facilities secured by mortgages on such vessels.

For the purpose of these covenants, the market value of our vessels will be calculated, except as otherwise indicated above, on a charter-inclusive basis (using the present value of the "bareboat-equivalent" time charter income from such charter) so long as a vessel's charter has a remaining duration at the time of valuation of more than 12 months plus the present value of the residual value of the relevant vessel (generally equivalent to the charter free value of an equivalent a vessel today at the age such vessel would be at the expiration of the existing time charter). The market value of any newbuilding vessels would equal the lesser of such amount and the newbuilding vessel's book value.

Exit Fee

As of December 31, 2018, the Company has an accrued Exit Fee of $21.6 million relating to its debt facilities and is reported under "Long-term debt, net" in the consolidated Balance Sheet. The payment of the exit fees accrued under the long-term debt prior to the debt refinancing shall be postponed on the earlier of maturity, acceleration or prepayment or repayment in full of the amended facilities or the relevant facility refinancing. The exit fees will accrete in the consolidated statement of operations of the Company over the life of the respective facilities covered by the 2018 Refinancing.
(which does not include the Sinosure-CEXIM-Citibank-ABN Amro credit facility) up to the agreed full exit fees payable amounting to $24.0 million.

**Accounting for the Refinancing Agreement**

We performed an accounting analysis on a lender by lender basis to determine which accounting guidance applied to each of the amendments to our Existing Credit Facilities. The following guidance was used to perform the analysis:

(i) As set forth in ASC 470-60, "Accounting by Debtors and Creditors for Troubled Debt Restructurings" troubled debt restructuring ("TDR") accounting is required when the debtor is experiencing financial difficulty and the creditor has granted a concession. A concession is granted when the effective borrowing rate on the restructured debt is less than the effective borrowing rate on the original debt. The application of TDR accounting requires a comparison of the recorded value of each debt instrument prior to restructuring to the sum of the undiscounted future cash flows to be received by a creditor under the newly restructured debt instrument. Interest expense in future periods is determined by the effective interest rate required to discount the newly restructured future cash flows to equal the recorded value of the debt instrument without regard to how the parties allocated these cash flows to principal and interest in the restructured agreement. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. In this instance, no future interest expense will be recorded on the affected facilities, as the adjusted recorded value and the undiscounted future cash flows are equal and the effective interest rate is zero.

(ii) For lenders on which we concluded that the above changes to the terms of long-term debt do not constitute a troubled debt restructuring as no concession has been granted, we applied the guidance in ASC 470-50, Modifications and Extinguishments. The accounting treatment is determined by whether (1) the lender (creditor) remains the same and (2) terms of the new debt and original debt are substantially different. The new debt and the old debt are considered "substantially different" pursuant to ASC 470-50 when the present value of the cash flows under the terms of the new debt instrument is at least 10% different from the present value of the remaining cash flows under the terms of the original instrument. If the original and new debt instruments are substantially different, the original debt is derecognized and the new debt should be initially recorded at fair value, with the difference recognized as an extinguishment gain or loss.

Based on the analysis, we concluded for the lenders that participated in both the Existing Credit Facilities and the New 2018 Credit Facilities, the following accounting:

**Troubled Debt Restructuring**

Prior to the finalization of the 2018 Refinancing, we concluded that we were experiencing financial difficulty and that certain of our lenders granted a concession (as part of the 2018 Refinancing). We were experiencing financial difficulty primarily as a result of the projected cash flows not being sufficient to service the balloon payment due as of December 31, 2018 without restructuring and we were not able to obtain funding from sources other than existing creditors at an effective interest rate equal to the current market interest rate for similar debt. As a result, the following accounting has been applied at the 2018 Refinancing Closing Date:

(i) As of the 2018 Refinancing Closing Date, the outstanding balance of HSH Facility was $639.2 million. In exchange for reduction of principal of $251.0 million, the lenders received a total of 49.4 million shares of common stock with a fair value of $83.9 million, resulting in a
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net concession of $167.1 million. Accumulated accrued interest of $129.3 million was recognized using the Libor rate of 2.34% as of August 10, 2018. The TDR accounting guidance requires us to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. For the HSH Facility, the total undiscounted future cash flows total $518.6 million, which results in a gain of $36.6 million. The amendment fees to be paid to HSH Facility lenders of $9.5 million were recorded in the consolidated statement of operations and reduced the net gain on debt extinguishment.

(ii) As of the 2018 Refinancing Closing Date, the outstanding balance of RBS Facility was $660.9 million. In exchange for reduction of principal of $179.2 million, the lender received a total of 35.2 million shares of common stock with a fair value of $59.9 million, resulting in a net concession of $119.3 million and accumulated accrued interest of $119.3 million as of August 10, 2018. The TDR accounting guidance requires us to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments not to exceed the carrying amount of the original debt. For the RBS Facility, the undiscounted cash flows exceed the recorded value of the modified debt, and as such, the modified and new debt will be accreted up to its maturity value using the effective interest rate inherent in the restructured cash flows. The amendment fees to be paid to RBS of $9.3 million were deferred and recognized through the consolidated statement of operations using the effective interest method.

Following the issuance of the shares of common stock, HSH and RBS are considered related parties. The fair value of the shares issued at the 2018 Refinancing Closing Date are based on a Level 1 measurement of the share's price, which was $1.70 as of August 10, 2018.

Modification and Extinguishment Accounting

Based on the accounting analysis performed, we concluded that:

(i) As of the 2018 Refinancing Closing Date, the outstanding balance for the Credit Suisse Facility, the Credit Suisse and Sentina portions of the New Club Facility and the Eurobank portion of the Citibank—Eurobank Facility was $173.5 million, $125.6 million and $7.2 million, respectively. The present value of the cash flows under the Credit Suisse facilities and Sentina portion of the New Club Facility and Eurobank portion of the Citibank—Eurobank Facility, as amended by the debt refinancing, were not substantially different from the present value of the remaining cash flows under the terms of the original instruments prior to the debt refinancing, and, as such, were accounted for the debt refinancing as a modification. Accordingly, no gain or loss was recorded and a new effective interest rate was established based on the carrying value of the long-term loan prior to the debt refinancing becoming effective and the revised cash flows pursuant to the debt refinancing, including the fair value of the shares issued to the lender as part of the amendment fees. Total amendment fees paid in cash and shares to the Credit Suisse Facility, New Club Facility and Eurobank portion of the Citibank—Eurobank Facility were $15.1 million, $10.9 million and $0.1 million, respectively, and are deferred over the life of the facilities and recognized through the new effective interest method.

(ii) The present value of the cash flows for all of the Existing Citibank facilities amounting to $152.9 million plus the Citibank—New Money amounting to $325.9 million, was substantially
different from the present value of the remaining cash flows under the terms of the original instrument prior to the debt refinancing, and, as such, accounted for the debt refinancing as an extinguishment. Accordingly, we derecognized the carrying value of the prior Citibank debt facilities and recorded the refinanced debt at fair value totaling $448.2 million. Total new fees of $49.5 million were recorded directly in the consolidated statement of operations under the gain on debt extinguishment. The fair value of the new Citibank facilities was determined by the Company through an independent valuation using an issue date, risk adjusted market interest rate of 7.15% per annum, similar to the market yield on unsecured high yield bonds to the shipping companies, and considered to be a Level 2 input in the ASC 820 fair value hierarchy.

The outstanding principal and related exit fee payable for the Deutsche Bank Facility, the EnTrustPermal portion of the Club Facility and the ABN Amro—Bank of America Merrill Lynch—Burlington Loan Management—National Bank of Greece Facility ("Other facilities") totaling $450.8 million were extinguished with the proceeds from the Citibank—New Money amounting to $325.9 million and with corporate cash amounting to $12.0 million, resulting in a net gain on debt extinguishment of $89.3 million.

**Sinosure-CEXIM-Citibank-ABN Amro Credit Facility**

On February 21, 2011, we entered into an agreement with Citibank, acting as agent, ABN Amro and the Export-Import Bank of China ("CEXIM") for a senior secured credit facility (the "Sinosure-CEXIM-Citibank-ABN Amro Credit Facility") of $203.4 million for the newbuilding vessels, the **CMA CGM Tancredi**, the **CMA CGM Bianca** and the **CMA CGM Samson**, securing such tranche for post-delivery financing of these vessels. We took delivery of the respective vessels in 2011. The China Export & Credit Insurance Corporation, or Sinosure, covers a number of political and commercial risks associated with each tranche of the credit facility.

**Principal and Interest Payments**

Borrowings under the Sinosure-CEXIM-Citibank-ABN Amro Credit Facility bear interest at an annual interest rate of LIBOR plus a margin of 2.85% payable semi-annually in arrears. We are required to repay principal amounts drawn in consecutive semi-annual installments over a ten-year period commencing from the delivery of the respective newbuilding.

**Covenants, Events of Default and Other Terms**

On the 2018 Refinancing Closing Date we amended and restated the Sinosure-CEXIM-Citibank-ABN Amro Credit Facility, dated as of February 21, 2011, as amended, primarily to align its financial covenants with those contained in the New 2018 Credit Facilities and provide second lien collateral to the lenders under certain of the New 2018 Credit Facilities.

**Collateral**

The Sinosure-CEXIM-Citibank-ABN Amro Credit Facility is secured by customary shipping industry collateral relating to the financed vessels, the **CMA CGM Tancredi**, the **CMA CGM Bianca** and the **CMA CGM Samson**, securing the respective tranche.

**Kexim-ABN Amro Credit Facility**

On June 27, 2018, the Company gave notice to the lenders under the KEXIM-ABN Amro credit facility and fully repaid the $17.5 million outstanding under this facility on July 20, 2018.
Scheduled Principal Payments

The Sinosure-Cexim-Citibank-ABN Amro Credit Facility provides for semi-annual amortization payments and the New 2018 Credit Facilities provide for quarterly fixed and variable amortization payments, together representing approximately 85% of actual free cash flows from the relevant vessels securing such credit facilities, subject to certain adjustments. The New 2018 Credit Facilities have maturity dates of December 31, 2023 (or in some cases as indicated below, June 30, 2024). After giving effect to the debt refinancing consummated on August 10, 2018, scheduled debt maturities of total long-term debt subsequent to December 31, 2018 are as follows (in thousands):

<table>
<thead>
<tr>
<th>Payments due by period ended</th>
<th>Fixed principal repayments</th>
<th>Final payments*</th>
<th>Total principal payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 31, 2019</td>
<td>$ 113,777</td>
<td>—</td>
<td>$ 113,777</td>
</tr>
<tr>
<td>December 31, 2020</td>
<td>119,674</td>
<td>—</td>
<td>119,674</td>
</tr>
<tr>
<td>December 31, 2021</td>
<td>119,603</td>
<td>—</td>
<td>119,603</td>
</tr>
<tr>
<td>December 31, 2022</td>
<td>89,773</td>
<td>—</td>
<td>89,773</td>
</tr>
<tr>
<td>December 31, 2023</td>
<td>77,194</td>
<td>864,118</td>
<td>941,312</td>
</tr>
<tr>
<td>Thereafter</td>
<td></td>
<td>286,499</td>
<td>286,499</td>
</tr>
<tr>
<td><strong>Total long-term debt</strong></td>
<td>$ 520,021</td>
<td>$ 1,150,617</td>
<td>$ 1,670,638</td>
</tr>
</tbody>
</table>

* The final payments include the unamortized remaining principal debt balances under the New 2018 Credit Facilities, as such amount will be determinable following the fixed amortization. As mentioned above, we are also subject to quarterly variable principal amortization based on actual free cash flows, which are included under "Final payments" in this table.

Credit Facilities

We, as guarantor, and certain of our subsidiaries, as borrowers, have entered into a number of credit facilities in connection with financing the acquisition of certain vessels in our fleet and the 2018 Refinancing, which are described in Note 10 to our consolidated financial statements included in this annual report. The following summarizes certain terms of our credit facilities:

<table>
<thead>
<tr>
<th>Credit Facility</th>
<th>Outstanding Principal Amount (in millions)(1)</th>
<th>Collateral Vessels</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Royal Bank of Scotland $475.5 mil. Facility(2)</td>
<td>$ 474.7</td>
<td>The Progress C (ex Hyundai Progress) , the Highway , the Bridge , the Zim Monaco , the Express Argentina , the Express France , the Express Spain , the CMA CGM Racine, the America (ex CSCL America) , the CMA CGM Melisande, the Maersk Enping , the Express Berlin, the Le Havre (ex CSCL Le Havre) and the Derby D</td>
</tr>
</tbody>
</table>

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As of December 31, 2018, there was no remaining borrowing availability under any of our credit facilities.

The weighted average interest rate on our borrowings for the years ended December 31, 2018, 2017 and 2016 was 4.3%, 3.1% and 2.6%, respectively.

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Interest Rate Swaps

In the past, we entered into interest rate swap agreements converting floating interest rate exposure into fixed interest rates in order to hedge our exposure to fluctuations in prevailing market interest rates, as well as interest rate swap agreements converting the fixed rate we paid in connection with certain of our credit facilities into floating interest rates in order to economically hedge the fair value of the fixed rate credit facilities against fluctuations in prevailing market interest rates. All of these interest rate swap agreements have expired and we do not currently have any outstanding interest rate swap agreements. See "Item 11. Quantitative and Qualitative Disclosures About Market Risk" and "—Factors Affecting our Results of Operations—Unrealized gain/(loss) and realized loss on derivatives."

Warrants

In 2011, we issued an aggregate of 15,000,000 warrants to our lenders under our 2011 bank agreement with those lenders and the January 2011 Credit Facilities to purchase, solely on a cash-less exercise basis, an aggregate of 15,000,000 shares of our common stock, which warrants had an exercise price of $7.00 per share. All of these warrants expired, without being exercised, on January 31, 2019.

Contractual Obligations

Our contractual obligations as of December 31, 2018 were:

<table>
<thead>
<tr>
<th>Payments Due by Period</th>
<th>Less than 1 year (2019)</th>
<th>2 - 3 years (2020 - 2021)</th>
<th>4 - 5 years (2022 - 2023)</th>
<th>More than 5 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long-term debt obligations of contractual fixed debt principal repayments(1)</td>
<td>$ 1,670,638</td>
<td>$ 113,777</td>
<td>$ 239,277</td>
<td>$ 1,031,085</td>
</tr>
<tr>
<td>Accumulated accrued interest(2)</td>
<td>$ 236,357</td>
<td>$ 35,835</td>
<td>$ 67,660</td>
<td>$ 61,770</td>
</tr>
<tr>
<td>Interest on long-term debt obligations(3)</td>
<td>$ 187,412</td>
<td>$ 49,881</td>
<td>$ 80,460</td>
<td>$ 54,386</td>
</tr>
<tr>
<td>Capital expenditure(4)</td>
<td>$ 16,649</td>
<td>$ 16,649</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Payments to our manager(5)</td>
<td>$ 21,954</td>
<td>$ 21,954</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 2,133,010</td>
<td>$ 238,096</td>
<td>$ 387,397</td>
<td>$ 1,147,241</td>
</tr>
</tbody>
</table>

(1) These long-term debt obligations reflect our existing debt obligations as of December 31, 2018, including the quarterly fixed principal payments we are required to make under the New 2018 Credit Facilities and do not include any variable amortization amounts, which are payable under the New 2018 Credit Facilities in order to equal a certain percentage of our actual free cash flow from vessels mortgaged thereunder, subject to certain adjustments, each quarter. The last payment, due by June 2024, will also include the unamortized remaining principal debt balances, as such amounts will be determinable following the fixed and variable amortization. These long-term debt obligations also include contractual amortization payments of our Sinosure-CEXIM-Citibank-ABN Amro Credit Facility.

(2) Accumulated accrued interest reflects the interest expense related to the future periods on certain debt facilities giving effect to the 2018 Refinancing as a result of the troubled debt restructuring accounting using a fixed LIBOR rate of 2.34%. The calculation of interest is based on outstanding debt balances as of December 31, 2018, amortized by the contractual fixed amortization payments. The actual amortization and LIBOR we pay may differ from management's estimates, which would result in different interest payment obligations.
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 are incurred.

Trend Information

Our results of operations depend primarily on the charter hire rates that we are able to realize. Charter hire rates paid for containerships are primarily a function of the underlying balance between vessel supply and demand and respective charter-party details. The demand for containerships is determined by the underlying demand for goods that are transported in containerships.

After a sharp decrease in charter rates for containerships in the middle of 2015, in many cases to a level below operating costs, charter rates for containerships have generally improved, albeit modestly and unevenly. In 2018, the time charter rate index on a full year average basis was up by 28% relative to 2017, however, time charter rates in December 2018 were at the same level as at the end of 2017. The global demand for seaborne transportation of containerized cargoes is estimated to have increased modestly overall in 2018 mainly due to growth in Transpacific trade as well as Far East-Europe trade and is expected to continue to rise in 2019 subject to heightened risks from the global economy. Containership fleet capacity also grew significantly, by an estimated 5.6% in 2018, due to new deliveries, with an increasing proportion accounted for by very large containerships, and is expected to grow by a further 2.9% in 2019. As such, container freight rates and containership charter rates are expected to remain under pressure. Overall, global containership demand is currently expected to slightly exceed supply growth in 2019 and 2020, while differing across different trade lanes and vessel sizes. In particular, the relative weakness of the main trade lanes, which utilize larger vessels, has
resulted in cascading of larger containerships for use on shorter trades, with such cascading expected to continue.

The idle containership fleet at the end of 2018 stood at approximately 2.5% of global fleet capacity and the average idle capacity recorded in full year 2018 came to 1.9%, relatively improved compared to the averages of 3.5% and 6.4% recorded in 2017 and 2016, respectively.

Earnings improved with the guideline rate for a 4,400 TEU Panamax reaching $9,000 per day at the end of 2018 compared to $8,000 and $4,150 per day at the end of 2017 and 2016, respectively. Containership newbuilding orders totaled 1.2 million TEU in 2018 compared to 0.7 million TEU ordered in 2017, although still representing a subdued annual level compared to that seen in 2015. The size of the order book compared to global fleet capacity remained stable at approximately 13% as of the end of 2018 and 2017, down from record high levels in 2008 but still relatively high compared to historical averages. In particular, larger containerships of greater than 10,000 TEU represent a significant majority of the order book with approximately 1.0 million TEU of vessels of over 10,000 TEU scheduled to be delivered between 2019 and 2021. The "slow-steaming" of services since 2009, particularly on longer trade routes, enabled containership operators to both moderate the impact of high bunker costs, while absorbing additional capacity. This has proved to be an effective approach and it currently appears likely that this will remain in place in the coming year. A number of liner companies, including some of our customers, reported substantial losses in recent years, with Hanjin Shipping filing for bankruptcy in 2016, as well as having entered into consolidating mergers or formed cooperative alliances as part of efforts to reduce the size of their fleets to better align fleet capacity with the demand for marine transportation of containerized cargo, all of which may decrease the demand for chartered-in containership tonnage.

Off-Balance Sheet Arrangements

We do not have any other transactions, obligations or relationships that could be considered material off-balance sheet arrangements.

Critical Accounting Policies

We prepare our consolidated financial statements in accordance with U.S. GAAP, which requires us to make estimates in the application of our accounting policies based on our best assumptions, judgments and opinions. We base these estimates on the information currently available to us and on various other assumptions we believe are reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions. Following is a discussion of the accounting policies that involve a high degree of judgment and the methods of their application. For a further description of our material accounting policies, please refer to Note 2, Significant Accounting Policies, to our consolidated financial statements included elsewhere in this annual report.

Purchase of Vessels

Vessels are stated at cost, which consists of the contract purchase price and any material expenses incurred upon acquisition (improvements and delivery expenses), less accumulated depreciation. Subsequent 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 we charge these expenditures to expenses as incurred. Our financing costs incurred during the construction period of the vessels are included in vessels' cost.

We acquired certain vessels in the secondhand market in prior years, all of which were considered to be acquisitions of assets. Certain vessels in our fleet that were purchased in the secondhand market were acquired with existing charters. We determined that the existing charter contracts for these vessels did not have a material separate fair value and, therefore, we recorded such vessels at their fair value,
which equaled the consideration paid. The adoption of ASU 2017-01 “Business Combinations (Topic 805)” on January 1, 2018 did not have any effect on our business as we have not acquired any vessels in 2018, however it might have in the future if any vessel acquisition in secondhand market will constitute a business or not. When substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets, the set is not a business. The following assets will be considered as a single asset for the purposes of the evaluation (i) a tangible asset that is attached to and cannot be physically removed and used separately from another tangible assets (or an intangible asset representing the right to use a tangible asset); (ii) in place lease intangibles, including favorable and unfavorable intangible assets or liabilities, and the related leased assets.

The determination of the fair value of acquired assets and assumed liabilities requires us to make significant assumptions and estimates of many variables, including market charter rates, expected future charter rates, future vessel operating expenses, the level of utilization of our vessels and our weighted average cost of capital. The use of different assumptions could result in a material change in the fair value of these items, which could have a material impact on our financial position and results of operations.

Revenue Recognition

Our revenues and expenses are recognized on the accrual basis. Revenues are generated from bareboat hire and time charters. Bareboat hire revenues are recorded over the term of the hire on a straight-line basis. Time charter revenues are recorded over the term of the charter as service is provided. Unearned revenue includes revenue received in advance, and the amount recorded for an existing time charter acquired in conjunction with an asset purchase.

Special Survey and Drydocking Costs

We follow the deferral method of accounting for special survey and drydocking costs. Actual costs incurred are deferred and are amortized on a straight-line basis over the period until the next scheduled survey, which is two and a half years. If special survey or drydocking is performed prior to the scheduled date, the remaining unamortized balances are immediately written-off.

Major overhauls performed during drydocking are differentiated from normal operating repairs and maintenance. The related costs for inspections that are required for the vessel's certification under the requirement of the classification society are categorized as drydock costs. A vessel at drydock performs certain assessments, inspections, refurbishments, replacements and alterations within a safe non-operational environment that allows for complete shutdown of certain machinery and equipment, navigational, ballast (keep the vessel upright) and safety systems, access to major underwater components of vessel (rudder, propeller, thrusters anti-corrosion systems), which are not accessible during vessel operations, as well as hull treatment and paints. In addition, specialized equipment is required to access and maneuver vessel components, which are not available at regular ports.

Troubled Debt Restructuring and Accumulated Accrued Interest

Prior to the finalization of the 2018 Refinancing, we concluded that we were experiencing financial difficulty and that certain of our lenders granted a concession (as part of the 2018 Refinancing). We were experiencing financial difficulty primarily as a result of the projected cash flows not being sufficient to service the balloon payment due as of December 31, 2018 without restructuring and we were not able to obtain funding from sources other than existing creditors at an effective interest rate
equal to the current market interest rate for similar debt. As a result, the accounting guidance for troubled debt restructuring ("TDR") was applied at the 2018 Refinancing Closing Date:

(i) As of the 2018 Refinancing Closing Date, the outstanding balance of HSH Facility was $639.2 million. In exchange for reduction of principal of $251.0 million, the lenders received a total of 49.4 million shares of common stock with a fair value of $83.9 million, resulting in a net concession of $167.1 million. Accumulated accrued interest of $129.3 million was recognized using the Libor rate of 2.34% as of August 10, 2018. The TDR accounting guidance requires us to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. For the HSH Facility, the total undiscounted future cash flows total $518.6 million, which results in a gain of $36.6 million. The amendment fees to be paid to HSH Facility lenders of $9.5 million were recorded in the consolidated statement of operations and reduced the net gain on debt extinguishment.

(ii) As of the 2018 Refinancing Closing Date, the outstanding balance of RBS Facility was $660.9 million. In exchange for reduction of principal of $179.2 million, the lender received a total of 35.2 million shares of common stock with a fair value of $59.9 million, resulting in a net concession of $119.3 million and accumulated accrued interest of $119.3 million as of August 10, 2018. The TDR accounting guidance requires us to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments not to exceed the carrying amount of the original debt. For the RBS Facility, the undiscounted cash flows exceed the recorded value of the modified debt, and as such, the modified and new debt will be accreted up to its maturity value using the effective interest rate inherent in the restructured cash flows. The amendment fees to be paid to RBS of $9.3 million were deferred and recognized through the consolidated statement of operations using the effective interest method.

In the future, when interest rates change, actual cash flows will differ from the cash flows measured on the Refinancing date. The accounting treatment for changes in cash flows due to changes in interest rates depends on whether there is an increase or a decrease from the spot interest rate used in the initial TDR accounting ("threshold interest rate"). Fluctuations in the effective interest rate after the Refinancing from changes in the interest rate or other cause are accounted for as changes in estimates in the periods in which these changes occur. Upon an increase in the interest rates from the threshold interest rate used to calculate accumulated accrued interest payable, we recognize additional interest expenses in the period the expense is incurred. The additional interest expense is calculated by multiplying the difference between the current interest rate and the threshold interest rate with the current carrying value of the debt. A gain due to decrease in interest rates ("interest windfall") will not be recognized until the debt facilities have been settled and there are no future interest payments. In case there are subsequent increases in interest rates above the threshold interest rate after a previous decrease in interest rates, the carrying amount of the accumulated accrued interest will be reduced by the interest payments in excess of the threshold interest rate until the prior interest windfall due to decrease in the interest rates is recaptured on a cumulative basis.

The Paid-in-kind interest ("PIK interest") related to each period will increase the carrying value of the loan facility and correspondingly decrease the carrying value of the accumulated accrued interest. PIK interest in excess of the amount recognized in the accumulated accrued interest is expensed in the period the expense is incurred.
Vessel Lives and Estimated Scrap Values

Our vessels represent our most significant assets and we state them at our historical cost, which includes capitalized interest during construction and other construction, design, supervision and predelivery costs, less accumulated depreciation. We depreciate our containerships on a straight-line basis over their estimated remaining useful economic lives. We estimate the useful lives of our containerships to be 30 years in line with the industry practice. Depreciation is based on cost less the estimated scrap value of the vessels. Should certain factors or circumstances cause us to revise our estimate of vessel service lives in the future or of estimated scrap values, depreciation expense could be materially lower or higher. Such factors include, but are not limited to, the extent of cash flows generated from future charter arrangements, changes in international shipping requirements, and other factors many of which are outside of our control.

We have calculated the residual value of the vessels taking into consideration the 10 year average and the five year average of the scrap. We have applied uniformly the scrap value of $300 per ton for all vessels. We believe that $300 per ton is a reasonable estimate of future scrap prices, taking into consideration the cyclical nature of the future demand for scrap steel. Although we believe that the assumptions used to determine the scrap rate are reasonable and appropriate, such assumptions are highly subjective, in part, because of the cyclical nature of future demand for scrap steel.

Impairment of Securities

With regard to our equity securities in ZIM, which were initially recognized at cost of $28.7 million, we evaluate if any event or change in circumstances has occurred in the reporting period that may have a significant adverse effect on the fair value of our investment. If an event or change that causes an adverse effect on the fair value of our investment occurs, as evidenced by the presence of an impairment indicator, the fair value of our investment should be estimated. In 2016, ZIM experienced significant deterioration of its financial results, reported significant operating losses, negative equity and negative working capital mainly as a result of the adverse change in the general containership market conditions. As a result of these adverse conditions, we estimated the fair value of our equity investment in ZIM at nil, therefore we recorded an impairment loss amounting to $28.7 million as of December 31, 2016, which was recognized under "Other income/(expenses), net" in the Consolidated Statements of Operations.

With regard to our debt securities in ZIM and HMM, we originally recognized these securities as held to maturity based on our positive intent and ability to hold these securities to maturity. These securities were initially recognized at amortized costs, net of other than temporary impairment losses. We evaluate these securities for other than temporary impairment at each reporting date. Debt securities are considered impaired if the fair value of the investment is less than its amortized costs. In our evaluation we consider the following (i) if we intend to sell these debt securities, (ii) it is more likely than not that we will be required to sell these securities before the recovery of their entire amortized cost basis or (iii) if a credit loss exists, which means that we do not expect to recover the entire amortized cost basis of these securities. With regard to ZIM debt securities, as a result of the deterioration of ZIM's financial results in 2016, as described above, we do not expect the present value of future cash flows to be collected to exceed their amortized cost basis due to a change in the timing of these expected cash flows. Thus other than temporary impairment, a credit loss, has occurred as of December 31, 2016 amounting to $0.7 million, which was recognized under "Other income/(expenses), net" in the Consolidated Statements of Operations.

On March 28, 2017, we sold $13.0 million principal amount of HMM notes carried at amortized costs of $8.6 million for gross cash proceeds on sale of $6.2 million, which were used to repay related outstanding debt obligations. The loss on sale of $2.4 million was recognized under "Other income/(expenses), net" in the Consolidated Statements of Operations for the year ended December 31, 2017.
The sale of these notes resulted in a transfer of all remaining held to maturity HMM notes and ZIM notes into the available for sale securities at fair value and unrealized losses amounting to $36.4 million and $26.6 million as of December 31, 2018 and 2017, respectively, were recognized in other comprehensive loss. As of December 31, 2018, we do not intend to sell these debt securities and we evaluate that it is not more likely than not that we will be required to sell these debt securities before the recovery of their amortized cost basis. No other than temporary impairment loss was identified with regard to HMM and ZIM debt securities as of December 31, 2018.

**Impairment of Vessels**

We evaluate the net carrying value of our vessels for possible impairment when events or conditions exist that cause us to question whether the carrying value of the vessels will be recovered from future undiscounted net cash flows. An impairment charge would be recognized in a period if the fair value of the vessels was less than their carrying value and the carrying value was not recoverable from future undiscounted cash flows. Considerations in making such an impairment evaluation would include comparison of current carrying value to anticipated future operating cash flows, vessel market values, expectations with respect to future operations, and other relevant factors.

As of December 31, 2018, we concluded that events occurred and circumstances had changed, which may trigger the existence of potential impairment of some of our vessels. These indicators included volatility in the charter market and the vessels' market values, as well as the potential impact the current marketplace may have on our future operations. As a result, we performed an impairment assessment of certain of our vessels by comparing the undiscounted projected net operating cash flows for each vessel to their carrying value. Our strategy is to charter our vessels under multi-year, fixed rate period charters that range from less than one to 18 years for our current vessels, providing us with contracted stable cash flows. The significant factors and assumptions we used in our undiscounted projected net operating cash flow analysis included operating revenues, off-hire revenues, dry docking costs, operating expenses and management fees estimates.

As of December 31, 2018, our revenue assumptions were based on contracted time charter rates up to the end of life of the current contract of each vessel as well as the estimated average time charter equivalent rates for the remaining life of the vessel after the completion of its current contract. The estimated daily time charter equivalent rates used for non-contracted revenue days are based on a combination of (i) recent charter market rates, (ii) conditions existing in the containership market as of December 31, 2018, (iii) historical average time charter rates, based on publications by independent third party maritime research services, and (iv) estimated future time charter rates, based on publications by independent third party maritime research services that provide such forecasts. We had five 2012-built 13,100 TEU vessels employed on 12-year charters, with breakeven rechartering rates of about $18,689 per day on average. Vessels of this size are recent entrants into the containership market and, accordingly, historical data as to their re-chartering rates was episodic. We estimated rechartering rates for these 13,100 TEU vessels for step one of the impairment analysis based on forecasts of independent third party maritime research services, which took into account recent chartering rates for newbuilding vessels of this size and estimates based on historical charter rates for other larger sized containerships. Recognizing that the container transportation is cyclical and subject to significant volatility based on factors beyond our control we believe that the appropriate historical average time charter rates to use as a benchmark for impairment testing of our vessels are the most recent 10 to 15 year averages, to the extent available, as such averages take into account the volatility and cyclicality of the market. Management believes the use of revenue estimates, based on the combination of factors (i) to (iv) above, to be reasonable as of the reporting date.

In addition, we used annual operating expenses escalation factors and estimations of scheduled and unscheduled off-hire revenues based on historical experience. All estimates used and assumptions made were in accordance with our internal budgets and historical experience of the shipping industry.
The more significant factors that could impact management's assumptions regarding time charter equivalent rates include (i) loss or reduction in business from significant customers, (ii) unanticipated changes in demand for transportation of containers, (iii) greater than anticipated levels of containership newbuilding orders or lower than anticipated levels of containership scrappings, and (iv) changes in rules and regulations applicable to the shipping industry, including legislation adopted by international organizations such as IMO and the EU or by individual countries. Although management believes that the assumptions used to evaluate potential impairment were reasonable and appropriate at the time they were made, such assumptions are highly subjective and likely to change, possibly materially, in the future. There can be no assurance as to how long charter rates and vessel values will remain at their low levels or whether they will improve by a significant degree.

As of December 31, 2018, our assessment concluded that step two of the impairment analysis was required for ten of our vessels held and used, as their undiscounted projected net operating cash flows did not exceed their carrying value. The fair values of these vessels were determined with assistance from valuations obtained from third party independent shipbrokers. As of December 31, 2018 we recorded an impairment loss of $210.7 million for these ten of our vessels held and used.

As of December 31, 2017, we concluded that there are no events and circumstances, which may trigger the existence of potential impairment of our vessels. The indicators which we considered were mainly the improved charter market conditions and the improved vessel's market value compared to the prior year, as well as the potential impact the current marketplace may have on our future operations. Additionally, we have not lost any significant charterer in 2017 as was the case in 2016 and the current improved market rates and the improved charter market supply demand conditions contributed to a better operating results reported by our charterers in 2017 compared to 2016. Based on our assessment, two vessels with long-term bareboat charters expiring in 2028 and twenty-five of our vessels, which were impaired as of December 31, 2016 to their fair value (see the table presented below), had their estimated market value higher than their carrying value as of December 31, 2017. We believed that it can be reasonable anticipated that each of these twenty-seven vessels will recover their carrying values through the end of their useful lives. The remaining twenty-eight vessels in our fleet may had aggregate estimated market values below their aggregate carrying values by approximately $590.5 million as of December 31, 2017. We believed that each of these twenty-eight vessels, twenty-five of which were under long-term time charters expiring from July 2018 through June 2024 and three of which were under short-term time charters, will recover their carrying values through the end of their useful lives, given the remaining average estimated useful life of these twenty-eight vessels was 22 years as of December 31, 2017 and given the estimated future time charter rates anticipated following the termination of their current time charters or bareboat charters compared to the prior year when these vessels were tested for impairment, based on publications by independent third party maritime research services that provide such forecasts.

**Impairment Sensitivity Analysis**

For the forty-five vessels for which our assessment concluded that step two of the impairment analysis was not required, an internal analysis, which used a discounted cash flow model utilizing inputs and assumptions based on market observations as of December 31, 2018, and is also in accordance with our vessel's market valuation as described in our credit facilities and accepted by our lenders, suggests that twenty-one vessels have current market values that exceed their carrying values and twenty-four vessels may have current market values below their carrying values. We believe that each of the twenty-four vessels identified as having estimated market values less than their carrying value, all of which are currently under long-term charters expiring from August 2021 to April 2028, will recover their carrying values through the end of their useful lives, based on their undiscounted net cash flows calculated in accordance with our impairment assessment.
While the Company intends to hold and operate its vessels, the following table presents information with respect to the carrying amount of the Company's vessels. The carrying value of each of the Company's vessels does not represent its market value or the amount that could be obtained if the vessel were sold. The Company's estimates of market values are based on an internal analysis, which used a discounted cash flow model utilizing inputs and assumptions based on market observations, and is also in accordance with its vessels' market valuation, determined as of the dates indicated, following the methodology as described in its credit facilities and accepted by its lenders. In addition, because vessel values are highly volatile, these estimates may not be indicative of either the current or future prices that the Company could achieve if it were to sell any of the vessels. The Company would not record a loss for any of the vessels for which the market value is below its carrying value.
value unless and until the Company either determines to sell the vessel for a loss or determines that the vessel's carrying value is not recoverable as discussed above.

<table>
<thead>
<tr>
<th>Vessel</th>
<th>TEU</th>
<th>Year Built</th>
<th>Net Book Value December 31, 2018 (In thousands of Dollars)</th>
<th>Net Book Value December 31, 2017 (In thousands of Dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hyundai Honour(2)</td>
<td>13,100</td>
<td>2012</td>
<td>$141,366</td>
<td>$146,915</td>
</tr>
<tr>
<td>Hyundai Respect(2)</td>
<td>13,100</td>
<td>2012</td>
<td>141,256</td>
<td>146,786</td>
</tr>
<tr>
<td>Maersk Exeter(2)</td>
<td>13,100</td>
<td>2012</td>
<td>143,231</td>
<td>148,899</td>
</tr>
<tr>
<td>Maersk Epping(2)</td>
<td>13,100</td>
<td>2012</td>
<td>142,763</td>
<td>148,319</td>
</tr>
<tr>
<td>MSC AmbANCE(2)</td>
<td>13,100</td>
<td>2012</td>
<td>143,867</td>
<td>149,430</td>
</tr>
<tr>
<td>Express Berlin(2)</td>
<td>10,100</td>
<td>2011</td>
<td>118,266</td>
<td>123,076</td>
</tr>
<tr>
<td>Express Rome(2)</td>
<td>10,100</td>
<td>2011</td>
<td>118,704</td>
<td>123,518</td>
</tr>
<tr>
<td>Express Athens(2)</td>
<td>10,100</td>
<td>2011</td>
<td>118,890</td>
<td>123,695</td>
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<tr>
<td>Le Havre (ex CSCL Le Havre)(2)</td>
<td>9,580</td>
<td>2006</td>
<td>53,793</td>
<td>56,063</td>
</tr>
<tr>
<td>Pusan C (ex CSCL Pusan)(2)</td>
<td>9,580</td>
<td>2006</td>
<td>52,865</td>
<td>55,026</td>
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<tr>
<td>CMA CGM Melisande(2)</td>
<td>8,530</td>
<td>2012</td>
<td>98,231</td>
<td>102,003</td>
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<tr>
<td>CMA CGM Antlia(2)</td>
<td>8,530</td>
<td>2011</td>
<td>93,327</td>
<td>96,992</td>
</tr>
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<td>CMA CGM Tancredi(2)</td>
<td>8,530</td>
<td>2011</td>
<td>95,283</td>
<td>98,981</td>
</tr>
<tr>
<td>CMA CGM Bianca(2)</td>
<td>8,530</td>
<td>2011</td>
<td>95,125</td>
<td>99,598</td>
</tr>
<tr>
<td>CMA CGM Samson(2)</td>
<td>8,530</td>
<td>2011</td>
<td>95,077</td>
<td>99,685</td>
</tr>
<tr>
<td>America (ex CSCL America)(2)</td>
<td>8,468</td>
<td>2004</td>
<td>43,047</td>
<td>45,134</td>
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<tr>
<td>Europe(2)</td>
<td>8,468</td>
<td>2004</td>
<td>42,281</td>
<td>44,344</td>
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<td>CMA CGM Moliere(2)</td>
<td>6,500</td>
<td>2009</td>
<td>70,122</td>
<td>73,112</td>
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<td>2010</td>
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<td>74,456</td>
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<td>CMA CGM Nerval(2)</td>
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<td>2010</td>
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<td>74,967</td>
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<td>CMA CGM Rabelais(2)</td>
<td>6,500</td>
<td>2010</td>
<td>72,975</td>
<td>75,726</td>
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<td>CMA CGM Racine(2)</td>
<td>6,500</td>
<td>2010</td>
<td>72,932</td>
<td>75,656</td>
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<td>YM Mandate(2)</td>
<td>6,500</td>
<td>2010</td>
<td>76,283</td>
<td>79,507</td>
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<td>YM Maturity(2)</td>
<td>6,500</td>
<td>2010</td>
<td>77,281</td>
<td>80,514</td>
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<td>Performance(1)</td>
<td>6,402</td>
<td>2002</td>
<td>8,442</td>
<td>8,457</td>
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<td>Dimitra C (ex Priority)(1)</td>
<td>6,402</td>
<td>2002</td>
<td>8,376</td>
<td>8,348</td>
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<tr>
<td>YM Seattle(1)(3)</td>
<td>4,253</td>
<td>2007</td>
<td>11,233</td>
<td>16,417</td>
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<tr>
<td>YM Vancouvert(1)(3)</td>
<td>4,253</td>
<td>2007</td>
<td>11,233</td>
<td>17,256</td>
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<tr>
<td>ZIM Rio Grande(3)</td>
<td>4,253</td>
<td>2008</td>
<td>12,993</td>
<td>16,186</td>
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<tr>
<td>ZIM Sao Paolo(3)</td>
<td>4,253</td>
<td>2008</td>
<td>13,536</td>
<td>16,747</td>
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<tr>
<td>ZIM Kingston(3)</td>
<td>4,253</td>
<td>2008</td>
<td>13,858</td>
<td>16,983</td>
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<tr>
<td>ZIM Monaco(3)</td>
<td>4,253</td>
<td>2009</td>
<td>14,255</td>
<td>17,593</td>
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<tr>
<td>ZIM Dalian(3)</td>
<td>4,253</td>
<td>2009</td>
<td>14,701</td>
<td>17,766</td>
</tr>
<tr>
<td>ZIM Lund(3)</td>
<td>4,253</td>
<td>2009</td>
<td>15,372</td>
<td>18,481</td>
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<tr>
<td>Derby D(1)</td>
<td>4,253</td>
<td>2004</td>
<td>5,201</td>
<td>5,218</td>
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<td>ANL Tonga (ex Deva)(1)</td>
<td>4,253</td>
<td>2004</td>
<td>5,193</td>
<td>5,211</td>
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<td>Dimitris C(1)</td>
<td>3,430</td>
<td>2001</td>
<td>4,956</td>
<td>4,994</td>
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<tr>
<td>Express Brasil(1)</td>
<td>3,400</td>
<td>2010</td>
<td>6,980</td>
<td>7,107</td>
</tr>
<tr>
<td>Express France(1)</td>
<td>3,400</td>
<td>2010</td>
<td>6,991</td>
<td>7,114</td>
</tr>
<tr>
<td>Express Spain(1)</td>
<td>3,400</td>
<td>2011</td>
<td>7,347</td>
<td>7,494</td>
</tr>
<tr>
<td>Express Argentina(1)</td>
<td>3,400</td>
<td>2010</td>
<td>6,980</td>
<td>7,110</td>
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<tr>
<td>Express Black Sea(1)</td>
<td>3,400</td>
<td>2011</td>
<td>7,588</td>
<td>7,495</td>
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<td>Colombo(1)(3)</td>
<td>3,314</td>
<td>2004</td>
<td>9,750</td>
<td>15,947</td>
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<td>Singapore(1)(3)</td>
<td>3,314</td>
<td>2004</td>
<td>9,750</td>
<td>18,640</td>
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<td>MSC Zebra(1)</td>
<td>2,602</td>
<td>2001</td>
<td>3,972</td>
<td>4,012</td>
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<td>Danae C(1)</td>
<td>2,524</td>
<td>2001</td>
<td>4,102</td>
<td>3,552</td>
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<td>Amalia C(1)</td>
<td>2,452</td>
<td>1998</td>
<td>3,287</td>
<td>3,318</td>
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<td>Advance(1)</td>
<td>2,200</td>
<td>1997</td>
<td>2,684</td>
<td>2,684</td>
</tr>
<tr>
<td>Future(1)</td>
<td>2,200</td>
<td>1997</td>
<td>2,677</td>
<td>2,677</td>
</tr>
<tr>
<td>Sprinter(1)</td>
<td>2,200</td>
<td>1997</td>
<td>2,682</td>
<td>2,682</td>
</tr>
<tr>
<td>Stridel(1)</td>
<td>2,200</td>
<td>1997</td>
<td>2,684</td>
<td>2,684</td>
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<td>Progress C (ex Hyundai Progress)(1)</td>
<td>2,200</td>
<td>1998</td>
<td>2,688</td>
<td>2,830</td>
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<td>Bridge(1)</td>
<td>2,200</td>
<td>1998</td>
<td>2,685</td>
<td>2,952</td>
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<td>Highway(1)</td>
<td>2,200</td>
<td>1998</td>
<td>2,690</td>
<td>2,949</td>
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<tr>
<td>Vladivostok(1)</td>
<td>2,200</td>
<td>1997</td>
<td>2,678</td>
<td>2,678</td>
</tr>
</tbody>
</table>

Total $2,480,329 $2,795,971

(1) As of December 31, 2016, we recorded an impairment loss of $415.1 million in aggregate for these twenty-five vessels, with each vessel written down to its fair value.
As discussed above, we believe that the appropriate historical period to use as a benchmark for impairment testing of our vessels is the most recent 10 to 15 years, to the extent available, as such averages take into account the volatility and cyclicity of the market. Charter rates are, however, subject to change based on a variety of factors that we cannot control and we note that charter rates over the last few years have been, on average, below their ten to fifteen year historical average.

In connection with the impairment testing of our vessels as of December 31, 2018, for the twenty-four vessels that our internal analysis suggests may have values below their carrying values, we performed a sensitivity analysis on the most sensitive and/or subjective assumption that has the potential to affect the outcome of the test, the projected charter rate used to forecast future cash flows for non-contracted days. The following table summarizes information about these twenty-four vessels, including the breakeven charter rates and the one-year charter rate historical average for the last 1, 3, 5, 10 and 15 years, respectively.

<table>
<thead>
<tr>
<th>Vessel/Year Built</th>
<th>Assumed Rechartering Rate(8)/Percentage difference between break even and assumed re-chartering rates(9)</th>
<th>1 year charter rate historical average of last 1 year ($ per day)</th>
<th>1 year charter rate historical average of last 3 years ($ per day)</th>
<th>1 year charter rate historical average of last 5 years ($ per day)</th>
<th>1 year charter rate historical average of last 10 years ($ per day)</th>
<th>1 year charter rate historical average of last 15 years ($ per day)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 × 13,100 TEU vessels</td>
<td>$19,278 $47,170 / 59.1%</td>
<td>$23,216 $18,794</td>
<td>$24,834 $32,009</td>
<td>$47,178</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 × 10,100 TEU vessels</td>
<td>$25,099 $39,500 / 36.5%</td>
<td>$19,045 $15,606</td>
<td>$20,967 $26,875</td>
<td>$39,517</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 × 9,580 TEU vessels</td>
<td>$16,204 $25,900 / 37.4%</td>
<td>$18,093 $14,875</td>
<td>$20,165 $25,959</td>
<td>$38,231</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 × 8,530 TEU vessels</td>
<td>$15,491 $35,600 / 56.5%</td>
<td>$16,171 $13,398</td>
<td>$18,545 $24,115</td>
<td>$35,632</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 × 8,468 TEU vessels</td>
<td>$14,441 $24,000 / 39.8%</td>
<td>$16,057 $13,311</td>
<td>$18,449 $24,007</td>
<td>$35,480</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 × 6,500 TEU vessels</td>
<td>$13,240 $27,200 / 51.3%</td>
<td>$14,350 $11,350</td>
<td>$13,010 $17,010</td>
<td>$27,280</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) Our five 13,100 TEU vessels are under long-term time charter contracts with Hyundai with the earliest expiration dates of the charters being as follows: the Hyundai Honour on February 16, 2024, the Hyundai Respect on March 8, 2024, the Maersk Enping on May 3, 2024, the Maersk Exeter on June 7, 2024 and the MSC Ambition on June 29, 2024.

(2) Our three 10,100 TEU vessels out of which two are under long-term time charter contracts with Hapag Lloyd and one on long-term charter with Yang Ming with the earliest expiration dates of the charters being as
If we had used the historical average one-year charter rates for the last 10 or 15 years, the results of our 2018 impairment testing on all vessel categories discussed on the above table would not have been impacted, as the cash flow forecasts would still result in each vessel's carrying cost being recovered. If, however, historical average one-year charter rates for the last 1, 3, or 5 years had been used in the cash flow forecasts of our three 10,100 TEU vessels and five 6,500 TEU vessels, then the carrying values of the respective vessels as of December 31, 2018, which were under time charters expiring from August 2021 through January 2023 would not have been recovered. Additionally, on the premise of a 30 year useful life, given that these vessels will have a remaining life above 17 years when they come off charter, the historical 10 to 15 year average is considered by the management as the most reasonable reference point when assessing the earnings generation potential of these vessels during their remaining life after expiry of their current charters.

Furthermore, as discussed above, the Company's internal analysis suggested that another twenty-one vessels had a market value in excess of its carrying value as of December 31, 2018.

**Newly Implemented Accounting Policies:**

**Statement of Cash Flows**

flows. We adopted these standards effective January 1, 2018. Prior periods were retrospectively adjusted to conform to the current period's presentation. The adoption of ASU 2016-15 did not have a material impact on our consolidated statements of cash flows. Upon adoption of ASU 2016-18, we reclassified the restricted cash balance of $2.8 million as of December 31, 2017 and December 31, 2016 to the cash, cash equivalents and restricted cash balances within the consolidated statements of cash flows. Refer to Note 3 "Cash, Cash Equivalents and Restricted Cash" for further details.

Financial Instruments

In January 2016, the FASB issued Accounting Standards Update No. 2016-01, "Recognition and Measurement of Financial Assets and Financial Liabilities" ("ASU 2016-01"). ASU 2016-01 requires all equity investments to be measured at fair value with changes in the fair value recognized through net income (other than those accounted for under equity method of accounting or those that result in consolidation of the investee). The amendments in this Update also require an entity to present separately in other comprehensive income the portion of the total change in the fair value of a liability resulting from a change in the instrument-specific credit risk when the entity has elected to measure the liability at fair value in accordance with the fair value option for financial instruments. In addition the amendments in this Update eliminate the requirement to disclose the methods and significant assumptions used to estimate the fair value that is required to be disclosed for financial instruments measured at amortized cost on the balance sheet for public business entities. We adopted this standard effective January 1, 2018. Our investment in ZIM equity securities does not have readily determinable fair value. As a result, we elected to record this equity investment at cost, less impairment, adjusted for subsequent observable price changes. The adoption of this standard did not have a material effect on the consolidated financial statements and notes disclosures. As of December 31, 2018, we did not identify any observable prices for the same or similar securities that would indicate a change in the carrying value of our equity.

Revenue Recognition

In May 2014, the FASB issued Accounting Standards Update No. 2014-9 "Revenue from Contracts with Customers" ("ASU 2014-09"), which superseded the current revenue recognition guidance and outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers. In March 2016, the FASB issued ASU 2016-08, "Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)" ("ASU 2016-08"), which clarifies the implementation guidance on principal versus agent considerations. In addition, in 2016, the FASB issued four amendments, which clarified the guidance on certain items such as reporting revenue as a principal versus agent, identifying performance obligations, accounting for intellectual property licenses, assessing collectability and presentation of sales taxes. We adopted this standard effective January 1, 2018 using modified retrospective approach. The adoption of this standard did not have any effect on our retained earnings or on our financial results for year ended December 31, 2018 since all of our revenues are generated from time charter and bareboat charter agreements.

Recent Accounting Pronouncements:

In February 2016, the FASB issued Accounting Standards Update No. 2016-02, "Leases (Topic 842)" ("ASU 2016-02"). ASU 2016-02 will apply to both types of leases—capital (or finance) leases and operating leases. According to the new Accounting Standard, lessees will be required to recognize assets and liabilities on the balance sheet for the rights and obligations created by all leases with terms of more than 12 months. ASU 2016—02 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early application is permitted. This guidance requires companies to identify lease and non-lease components of a lease agreement.
Lease components relate to the right to use the leased asset and non-lease components relate to payments for goods or services that are transferred separately from the right to use the underlying asset. Total lease consideration is allocated to lease and non-lease components on a relative standalone basis. The recognition of revenues related to lease components will be governed by ASC 842 while revenue related to non-lease components will be subject to ASC 606. In March 2018, the FASB tentatively approved a proposed amendment to ASU 842, that would provide an entity the optional transition method to initially account for the impact of the adoption with a cumulative adjustment to retained earnings on the effective date of the ASU, January 1, 2019 rather than January 1, 2017, which would eliminate the need to restate amounts presented prior to January 1, 2019. In addition, lessors can elect, as a practical expedient, not to allocate the total consideration to lease and non-lease components based on their relative standalone selling prices. As adopted by the Accounting Standards Update No. 2018-11 in July 2018, this practical expedient will allow lessors to elect and account for the combined component based on its predominant characteristic. ASC 842 provides practical expedients that allow entities to not (i) reassess whether any expired or existing contracts are considered or contain leases; (ii) reassess the lease classification for any expired or existing leases; and (iii) reassess initial direct costs for any existing leases. In July 2018, the FASB issued Accounting Standards Update No. 2018-10, "Codification Improvements to Topic 842, Leases" and in December 2018 the Accounting Standards Update No. 2018-20 "Narrow-scope improvements for lessors", which further improve and clarify ASU 2016-02. We plan to adopt the standard on January 1, 2019 and expect to elect the use of all practical expedients. Based on our preliminary assessment, we are expecting that the adoption will not have a material effect on our consolidated financial statements since the Company is primarily a lessor and the changes are fairly minor.

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

Item 6. Directors, Senior Management and Employees

The following table sets forth, as of February 28, 2019, information for each of our directors and executive officers.

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dr. John Coustas</td>
<td>63</td>
<td>President and CEO and Class I Director</td>
</tr>
<tr>
<td>Iraklis Prokopakis</td>
<td>68</td>
<td>Senior Vice President, Chief Operating Officer and Treasurer and Class II Director</td>
</tr>
<tr>
<td>Evangelos Chatzis</td>
<td>45</td>
<td>Chief Financial Officer and Secretary</td>
</tr>
<tr>
<td>Dimitris Vastarouchas</td>
<td>51</td>
<td>Deputy Chief Operating Officer</td>
</tr>
<tr>
<td>George Economou</td>
<td>66</td>
<td>Class II Director</td>
</tr>
<tr>
<td>Myles R. Itkin</td>
<td>71</td>
<td>Class I Director</td>
</tr>
<tr>
<td>Miklós Konkoly-Thege</td>
<td>76</td>
<td>Class III Director</td>
</tr>
<tr>
<td>William Repko</td>
<td>69</td>
<td>Class III Director</td>
</tr>
<tr>
<td>Petros Christodoulou</td>
<td>58</td>
<td>Class I Director</td>
</tr>
</tbody>
</table>
The term of our Class III directors expires in 2019, the term of our Class II directors expires in 2020 and the term of our Class I directors expires in 2021. Certain biographical information about each of these individuals is set forth below.

**Dr. John Coustas** is our President, Chief Executive Officer and a member of our board of directors. Dr. Coustas has over 30 years of experience in the shipping industry. Dr. Coustas assumed management of our company in 1987 from his father, Dimitris Coustas, who founded Danaos Shipping in 1972, and has been responsible for our corporate strategy and the management of our affairs since that time. Dr. Coustas is Vice Chairman of the board of directors of The Swedish Club. Additionally, he is a member of the board of directors of the Union of Greek Shipowners and a member of the DNV Council. Dr. Coustas holds a degree in Marine Engineering from the National Technical University of Athens as well as a Master's degree in Computer Science and a Ph.D. in Computer Controls from Imperial College, London.

**Iraklis Prokopakis** is our Senior Vice President, Treasurer, Chief Operating Officer and a member of our board of directors. Mr. Prokopakis joined us in 1998 and has over 40 years of experience in the shipping industry. Prior to entering the shipping industry, Mr. Prokopakis was a captain in the Hellenic Navy. He holds a Bachelor of Science in Mechanical Engineering from Portsmouth University in the United Kingdom, a Master's degree in Naval Architecture and a Ship Risk Management Diploma from the Massachusetts Institute of Technology in the United States and a postgraduate diploma in business studies from the London School of Economics. Mr. Prokopakis also has a Certificate in Operational Audit of Banks from the Management Center Europe in Brussels and a Safety Risk Management Certificate from Det Norske Veritas. He is a member of the Board of the Hellenic Chamber of Shipping and the Owners' Committee of the Korean Register of Shipping.

**Evangelos Chatzis** is our Chief Financial Officer and Secretary. Mr. Chatzis has been with Danaos Corporation since 2005 and has over 22 years of experience in corporate finance and the shipping industry. During his years with Danaos he has been actively engaged in the company's initial public offering in the United States and has led the finance function of the company. Throughout his career he has developed considerable experience in operations, corporate finance, treasury and risk management and international business structuring. Prior to joining Danaos, Evangelos was the Chief Financial Officer of Globe Group of Companies, a public company in Greece engaged in a diverse scope of activities including dry bulk shipping, the textile industry, food production & distribution and real estate. During his years with Globe Group, he was involved in mergers and acquisitions, corporate restructurings and privatizations. He holds a Bachelor of Science degree in Economics from the London School of Economics, a Master's of Science degree in Shipping & Finance from City University Cass Business School, as well as a postgraduate diploma in Shipping Risk Management from IMD Business School.

**Dimitris Vastarouchas** is our Deputy Chief Operating Officer. Mr. Vastarouchas has been the Technical Manager of our Manager since 2005 and has over 20 years of experience in the shipping industry. Mr. Vastarouchas initially joined our Manager in 1995 and prior to becoming Technical Manager he was the New Buildings Projects and Site Manager, under which capacity he supervised newbuilding projects in Korea for 4,250, 5,500 and 8,500 TEU containerships. He holds a degree in Naval Architecture & Marine Engineering from the National Technical University of Athens, Certificates & Licenses of expertise in the fields of Aerodynamics (C.I.T.), Welding (CSWIP), Marine Coating (FROSIO) and Insurance (North of England P&I). He is also a qualified auditor by Det Norske Veritas and Certified Negotiator by Schranmer Negotiations Institute (SNI).

**George Economou** has been a member of our board of directors since 2010. Mr. Economou has over 40 years of experience in the maritime industry and has served as Chairman and Chief Executive Officer of Dryships Inc. since its incorporation in 2004. He successfully took the company public in February 2005 on NASDAQ under the trading symbol: DRYS. The company subsequently invested and
developed Ocean Rig UDW Inc., an owner of rigs and ships involved in ultra deep water drilling. Mr. Economou was the Chairman of Ocean Rig UDW Inc. until December 2018 when Ocean Rig UDW Inc. merged with Transocean. Mr. Economou is a member of ABS Council, Intertanko Hellenic Shipping Forum and Lloyds Register Hellenic Advisory Committees. Mr. Economou is a graduate of the Massachusetts Institute of Technology and holds both a Bachelor of Science and a Master of Science degree in Naval Architecture and Marine Engineering and a Master of Science in Shipping and Shipbuilding Management.

**Myles R. Itkin** has been a member of our board of directors since 2006. Mr. Itkin was the Executive Vice President, Chief Financial Officer and Treasurer of Overseas Shipholding Group, Inc. ("OSG"), in which capacities he served, with the exception of a promotion from Senior Vice President to Executive Vice President in 2006, from 1995 to 2013. Prior to joining OSG in June 1995, Mr. Itkin was employed by Alliance Capital Management L.P. as Senior Vice President of Finance. Prior to that, he was Vice President of Finance at Northwest Airlines, Inc. Mr. Itkin served on the board of directors of the U.K. P&I Club from 2006 to 2013. Mr. Itkin holds a Bachelor's degree from Cornell University and an MBA from New York University.

On November 14, 2012, OSG filed voluntary petitions for reorganization for itself and 180 of its subsidiaries under Chapter 11 of Title 11 of the United States Code in the U.S. Bankruptcy Court for the District of Delaware. On January 23, 2017, Mr. Itkin, and OSG, consented to an SEC order finding they violated or caused the violation of, among other provisions, the negligence-based antifraud provisions as well as reporting, books-and-records, and internal controls provisions of the federal securities laws, in relation to the failure to recognize tax liabilities in OSG's financial statements resulting from its controlled foreign subsidiary guaranteeing OSG's debt. Mr. Itkin agreed to pay a $75,000 penalty and OSG agreed to pay a $5 million penalty subject to bankruptcy court approval.

**Miklós Konkoly-Thege** has been a member of our board of directors since 2006. Mr. Konkoly-Thege began at Det Norske Veritas ("DNV"), a ship classification society, in 1984. From 1984 through 2002, Mr. Konkoly-Thege served in various capacities with DNV including Chief Operating Officer, Chief Financial Officer and Corporate Controller, Head of Corporate Management Staff and Head of Business Areas. Mr. Konkoly-Thege became President and Chairman of the Executive Board of DNV in 2002 and served in that capacity until his retirement in May 2006. Mr. Konkoly-Thege is a member of the board of directors of Wilhelmsen Technical Solutions AS, Callenberg Technology Group AB and Stena Hungary Holding KFT. Mr. Konkoly-Thege holds a Master of Science degree in civil engineering from Technische Universität Hannover, Germany and an MBA from the University of Minnesota.

**William Repko** has been a member of our board of directors since July 2014. Mr. Repko has nearly 40 years of investing, finance and restructuring experience. Mr. Repko retired from Evercore Partners in February 2014 where he had served as a senior advisor, senior managing director and was a co-founder of the firm's Restructuring and Debt Capital Markets Group since September 2005. Prior to joining Evercore Partners Inc., Mr. Repko served as chairman and head of the Restructuring Group at J.P. Morgan Chase, a leading investment banking firm, where he focused on providing comprehensive solutions to clients' liquidity and reorganization challenges. In 1973, Mr. Repko joined Manufacturers Hanover Trust Company, a commercial bank, which after a series of mergers became part of J.P. Morgan Chase. Mr. Repko has been named to the Turnaround Management Association (TMA)-sponsored Turnaround, Restructuring and Distressed Investing Industry Hall of Fame. Mr. Repko has served on the Board of Directors of Stellus Capital Investment Corporation (SCM:NYSE) since 2012 and is Chairman of its Compensation Committee and serves on the Audit Committee. Mr. Repko received his B.S. in Finance from Lehigh University.

**Petros Christodoulou** has been a member of our board of directors since June 2018. Mr. Christodoulou has been a member of the Board of Directors of Guardian Capital Group since 2016 and a member of the Institute of Corporate Directors of Canada. He has also been a
member of the Board of Directors of Aegean Baltic Bank since 2017. Mr. Christodoulou was Chief Executive Officer and Chief Financial Officer of Capital Product Partners, an owner of crude, product carriers and containerships, from September 2014 until 2015. From 2012 to 2014, Mr. Christodoulou was the Deputy Chief Executive Officer and Executive Member of the Board of the National Bank of Greece Group, acting as chairman of NBG Asset Management, Astir Palace SA and NBG BankAssurance. Mr. Christodoulou was a member of the Board of Directors of Hellenic Exchanges SA from 2012 to 2014 and Director General of the Public Debt Management Agency of Greece from 2010 to 2014, acting as its Executive Director from 2010 to 2012. Mr. Christodoulou holds an MBA from Columbia University and a Bachelor of Commerce degree from the Athens School of Commerce and Economics.

Compensation of Directors and Senior Management

Non-executive directors receive annual fees of $70,000 per annum, plus reimbursement for their out-of-pocket expenses, which amounts are payable at the election of each non-executive director in cash or stock as described below under "—Equity Compensation Plan." We do not have service contracts with any of our non-employee directors. We have employment agreements with two directors who are also executive officers of our company, as well as with our other two executive officers.

Since May 1, 2015, we have directly employed our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer, who received aggregate compensation of €2.7 million ($3.2 million) €1.5 million ($1.8 million) and €1.5 million ($1.7 million) for the years ended December 31, 2018, 2017 and 2016, respectively. Our executive officers are eligible, in the discretion of our board of directors and compensation committee, for incentive compensation and restricted stock, stock options or other awards under our equity compensation plan, which is described below under "—Equity Compensation Plan."

Our executive officers are entitled to severance payments for termination without "cause" or for "good reason" generally equal to (i) (x) the greater of (A) the amount of base salary that would have been payable during the remaining term of the agreements, which expire in December 2023 (or in the case of Dr. Coustas, December 2024), and (B) three times the executive officer's annual salary plus bonus (based on an average of the prior three years), including the value on the date of grant of any equity grants made under our equity compensation plan during that three-year period (which, for stock options, will be the Black-Scholes value), as well as (y) a pro-rata bonus for the year in which termination occurs and continued benefits, if any, for 36 months or (ii) if such termination without cause or for good reason occurs within two years of a "change of control" of our company the greater of (a) the amount calculated as described in clause (i) and (b) a specified dollar amount for each executive officer (approximately €4.6 million in the aggregate for all executive officers), as well as continued benefits, if any, for 36 months.

Employees

We directly employ our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer. Approximately 1,104 officers and crew members served on board the vessels we own as of December 31, 2018, but are employed by our manager. Crew wages and other related expenses are paid by our manager and our manager is reimbursed by us.

Share Ownership

The common stock beneficially owned by our directors and executive officers and/or companies affiliated with these individuals is disclosed in "Item 7. Major Shareholders and Related Party Transactions" below.
Board of Directors

At December 31, 2018 and February 28, 2019, we had seven members on our board of directors. The board of directors may change the number of directors to not less than two, nor more than 15, by a vote of a majority of the entire board, subject to the terms of our Stockholders Agreement which limits the size of the board to nine directors. See "Item 10. Additional Information—Stockholders Agreement." Each director is elected to serve until the third succeeding annual meeting of stockholders and until his or her successor shall have been duly elected and qualified, except in the event of death, resignation or removal. A vacancy on the board created by death, resignation, removal (which may only be for cause), or failure of the stockholders to elect the entire class of directors to be elected at any election of directors or for any other reason, may be filled only by an affirmative vote of a majority of the remaining directors then in office, even if less than a quorum, at any special meeting called for that purpose or at any regular meeting of the board of directors.

In accordance with the terms of the August 6, 2010 common stock subscription agreement between Sphinx Investment Corp. and us, we have agreed to nominate Mr. Economou or such other person, in each case who shall be acceptable to us, designated by Sphinx Investment Corp., for election by our stockholders to the Board of Directors at each annual meeting of stockholders at which the term of Mr. Economou or such other director so designated expires, so long as such investor beneficially owns a specified minimum amount of our common stock. We have been informed that our largest stockholder, a family trust established by Dr. John Coustas, and Dr. John Coustas have agreed to vote all of the shares of common stock they own, or over which they have voting control, in favor of any such nominee standing for election.

Our board of directors has determined that each of Messrs. Economou, Itkin, Konkoly-Thege, Repko and Christodoulou are independent within the requirements of the NYSE.

To promote open discussion among the independent directors, those directors meet in regularly scheduled and ad hoc executive session without participation of our company's management and will continue to do so in 2019. Mr. Myles Itkin served as the presiding director for purposes of these meetings. Stockholders who wish to send communications on any topic to the board of directors or to the independent directors as a group, or to the presiding director, Mr. Myles Itkin, may do so by writing to our Secretary, Mr. Evangelos Chatzis, Danaos Corporation, c/o Danaos Shipping Co. Ltd., 14 Akti Kondyli, 185 45 Piraeus, Greece.

Corporate Governance

The board of directors and our company's management has engaged in an ongoing review of our corporate governance practices in order to oversee our compliance with the applicable corporate governance rules of the New York Stock Exchange and the SEC.

We have adopted a number of key documents that are the foundation of its corporate governance, including:

- a Code of Business Conduct and Ethics for officers and employees;
- a Code of Conduct and Ethics for Corporate Officers and Directors;
- a Nominating and Corporate Governance Committee Charter;
- a Compensation Committee Charter; and
- an Audit Committee Charter.

These documents and other important information on our governance, including the board of director's Corporate Governance Guidelines, are posted on the Danaos Corporation website, and may be viewed at http://www.danaos.com. We will also provide a paper copy of any of these documents upon
the written request of a stockholder. Stockholders may direct their requests to the attention of our Secretary, Mr. Evangelos Chatzis, Danaos Corporation, c/o Danaos Shipping Co. Ltd., 14 Akti Kondyli, 185 45 Piraeus, Greece.

Committees of the Board of Directors

We are a "foreign private issuer" under SEC rules promulgated under the Securities Act and within the meaning of the New York Stock Exchange corporate governance standards. Pursuant to certain exceptions for foreign private issuers, we are not required to comply with certain of the corporate governance practices followed by domestic U.S. companies under the New York Stock Exchange listing standards. We have elected to comply, however, with the New York Stock Exchange corporate governance rules applicable to domestic U.S. issuers, except that (1) as permitted for foreign private issuers, one member of the Nominating and Corporate Governance Committee is (and, prior to September 2018, one member of our Compensation Committee was) a non-independent director and (2) we have not sought stockholder approval for certain issuances of common stock, including the common stock issued in connection with the consummation of the 2018 Refinancing, and we may not seek stockholder approval for future issuances of common stock, as permitted by applicable Marshall Islands law. See "Item 16G. Corporate Governance."

Audit Committee

Our audit committee consists of Myles R. Itkin (chairman), Miklós Konkoly-Thege and William Repko, each of whom our Board has determined is independent within the requirements of the NYSE and SEC. Our board of directors has determined that Mr. Itkin qualifies as an audit committee "financial expert," as such term is defined in Regulation S-K. The audit committee is responsible for (1) the hiring, termination and compensation of the independent auditors and approving any non-audit work performed by such auditor, (2) approving the overall scope of the audit, (3) assisting the board in monitoring the integrity of our financial statements, the independent accountant's qualifications and independence, the performance of the independent accountants and our internal audit function and our compliance with legal and regulatory requirements, (4) annually reviewing an independent auditors' report describing the auditing firms' internal quality-control procedures, any material issues raised by the most recent internal quality-control review, or peer review, of the auditing firm, (5) discussing the annual audited financial and quarterly statements with management and the independent auditor, (6) discussing earnings press releases, as well as financial information and earning guidance, (7) discussing policies with respect to risk assessment and risk management, (8) meeting separately, periodically, with management, internal auditors and the independent auditor, (9) reviewing with the independent auditor any audit problems or difficulties and management's response, (10) setting clear hiring policies for employees or former employees of the independent auditors, (11) annually reviewing the adequacy of the audit committee's written charter, (12) handling such other matters that are specifically delegated to the audit committee by the board of directors from time to time, (13) reporting regularly to the full board of directors and (14) evaluating the board of directors' performance. During 2018, there were five meetings of the audit committee.

Compensation Committee

Our compensation committee consists of Miklós Konkoly-Thege (chairman), William Repko and Petros Christodoulou who replaced Iraklis Prokopakis on the committee in 2018. The compensation committee is responsible for (1) reviewing key employee compensation policies, plans and programs, (2) reviewing and approving the compensation of our chief executive officer and other executive officers, (3) developing and recommending to the board of directors compensation for board members, (4) reviewing and approving employment contracts and other similar arrangements between us and our executive officers, (5) reviewing and consulting with the chief executive officer on the selection of
officers and evaluation of executive performance and other related matters, (6) administration of stock plans and other incentive compensation plans, (7) overseeing compliance with any applicable compensation reporting requirements of the SEC, (8) retaining consultants to advise the committee on executive compensation practices and policies and (9) handling such other matters that are specifically delegated to the compensation committee by the board of directors from time to time. During 2018, there were five meetings of the compensation committee.

**Nominating and Corporate Governance Committee**

Our nominating and corporate governance committee consists of William Repko (chairman), Iraklis Prokopakis and Myles R. Itkin. The nominating and corporate governance committee is responsible for (1) developing and recommending criteria for selecting new directors, (2) screening and recommending to the board of directors individuals qualified to become executive officers, (3) overseeing evaluations of the board of directors, its members and committees of the board of directors and (4) handling such other matters that are specifically delegated to the nominating and corporate governance committee by the board of directors from time to time. During 2018, there were seven meetings of the nominating and corporate governance committee.

**Equity Compensation Plan**

We have adopted an equity compensation plan, which we refer to as the Plan. The Plan is generally administered by the compensation committee of our board of directors, except that the full board may act at any time to administer the Plan, and authority to administer any aspect of the Plan may be delegated by our board of directors or by the compensation committee to an executive officer or to any other person. The Plan allows the plan administrator to grant awards of shares of our common stock or the right to receive or purchase shares of our common stock (including options to purchase common stock, restricted stock and stock units, bonus stock, performance stock, and stock appreciation rights) to our employees, directors or other persons or entities providing significant services to us or our subsidiaries, including employees of our manager, and also provides the plan administrator with the authority to reprice outstanding stock options or other awards. The actual terms of an award, including the number of shares of common stock relating to the award, any exercise or purchase price, any vesting, forfeiture or transfer restrictions, the time or times of exercisability for, or delivery of, shares of common stock, will be determined by the plan administrator and set forth in a written award agreement with the participant. Any options granted under the Plan will be accounted for in accordance with accounting guidance for share-based compensation.

The aggregate number of shares of our common stock for which awards may be granted under the Plan cannot exceed 6% of the number of shares of our common stock issued and outstanding at the time any award is granted. Awards made under the Plan that have been forfeited (including our repurchase of shares of common stock subject to an award for the price, if any, paid to us for such shares of common stock, or for their par value) or cancelled or have expired, will not be treated as having been granted for purposes of the preceding sentence.

The Plan requires that the plan administrator make an equitable adjustment to the number, kind and exercise price per share of awards in the event of our recapitalization, reorganization, merger, spin-off, share exchange, dividend of common stock, liquidation, dissolution or other similar transaction or event. In addition, the plan administrator will be permitted to make adjustments to the terms and conditions of any awards in recognition of any unusual or nonrecurring events. Unless otherwise set forth in an award agreement, any awards outstanding under the Plan will vest upon a "change of control," as defined in the Plan. Our board of directors may, at any time, alter, amend, suspend, discontinue or terminate the Plan, except that any amendment will be subject to the approval of our stockholders if required by applicable law, regulation or stock exchange rule and that, without the consent of the affected participant under the Plan, no action may materially impair the rights of such participant under any awards outstanding under the Plan. The Plan will terminate on September 17, 2019.
As of April 18, 2008, the Board of Directors and the Compensation Committee approved incentive compensation of the Manager's employees with its shares from time to time, after specific for each such time, decision by the compensation committee and the Board of Directors in order to provide a means of compensation in the form of free shares under its 2006 equity compensation plan to certain employees of the Manager of the Company's common stock. The plan was effective as of December 31, 2008. Pursuant to the terms of the plan, employees of the Manager may receive (from time to time) shares of the Company's common stock as additional compensation for their services offered during the preceding period. The total amount of stock to be granted to employees of the Manager will be at the Company's Board of Directors' discretion only and there will be no contractual obligation for any stock to be granted as part of the employees' compensation package in future periods. On September 14, 2018, 4,182,832 shares of restricted stock were granted to our executive officers, 50% of which are scheduled to vest on December 31, 2019 and 50% of which are scheduled to vest on December 31, 2021, subject to the executive's continued employment with the Company as of such dates or earlier death or disability, under its 2016 Equity Compensation Plan, as amended. During 2017, no shares of common stock were granted. As of December 15, 2016, the Company granted 25,000 shares and recorded an expense of $0.1 million, representing the fair value of the stock granted as at the date of the grant. This grant was cancelled on December 14, 2017. During 2016, the Company issued 17,608 shares of common stock in partial settlement of 2015 and 2014 grants. Refer to Note 17, Stock Based Compensation, in the notes to our consolidated financial statements included elsewhere herein.

The Company has also established the Directors Share Payment Plan under its 2006 equity compensation plan. The purpose of the plan is to provide a means of payment of all or a portion of compensation payable to directors of the Company in the form of Company's Common Stock. The plan was effective as of April 18, 2008. Each member of the Board of Directors of the Company may participate in the plan. Pursuant to the terms of the plan, Directors may elect to receive in Common Stock all or a portion of their compensation. During 2018, 2017 and 2016, none of the directors elected to receive in Company shares his compensation. Refer to Note 17, Stock Based Compensation, in the notes to our consolidated financial statements included elsewhere herein.

Item 7. Major Shareholders and Related Party Transactions

Related Party Transactions

Management Affiliations

Danaos Shipping Co. Ltd., which we refer to as our Manager, is ultimately owned by Danaos Investment Limited as the trustee of the 883 Trust, of which Dr. Coustas and other members of the Coustas family are beneficiaries. Dr. Coustas has certain powers to remove and replace Danaos Investment Limited as trustee of the 883 Trust. DIL is also our largest stockholder, owning approximately 31.8% of our outstanding common stock as of February 28, 2019. Our Manager has provided services to our vessels since 1972 and continues to provide technical, administrative and certain commercial services which support our business, as well as comprehensive ship management services such as technical supervision and commercial management, including chartering our vessels pursuant to a management agreement.

In connection with the 2018 Refinancing, on August 10, 2018, our management agreement with the Manager was amended and restated, including to (1) extend its term until December 31, 2024, (2) provide for the management fee offsets contemplated by the Backstop Agreement (see "—Backstop Agreement" below), and (3) address the allocation of charter opportunities across our fleet. The fees payable to the Manager pursuant to the management agreement were not changed in connection with this amendment and are fixed through the term of the management agreement.

Management fees in respect of continuing operations under our management agreement amounted to approximately $16.8 million in 2018, $16.9 million in 2017 and $17.1 million in 2016. The related
expenses are presented under "General and administrative expenses" on the Consolidated Statement of Operations. We pay monthly advances in regard to the next month vessels' operating expenses. These prepaid monthly expenses are presented in our consolidated balance sheet under "Due from related parties" and totaled $18.0 million and $34.0 million as of December 31, 2018 and 2017, respectively.

**Management Agreement**

Under our management agreement, our Manager is responsible for providing us with technical, administrative and certain commercial services, which include the following:

- **technical services**, which include managing day-to-day vessel operations, performing general vessel maintenance, ensuring regulatory compliance and compliance with the law of the flag of each vessel and of the places where the vessel operates, ensuring classification society compliance, supervising the maintenance and general efficiency of vessels, arranging the hire of qualified officers and crew, training, transportation, insurance of the crew (including processing all claims), performing normally scheduled drydocking and general and routine repairs, arranging insurance for vessels (including marine hull and machinery, protection and indemnity and war risks insurance), purchasing stores, supplies, spares, lubricating oil and maintenance capital expenditures for vessels, appointing supervisors and technical consultants and providing technical support, shoreside support, shipyard supervision, and attending to all other technical matters necessary to run our business;

- **administrative services**, which include, in each direction of our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer, assistance with the maintenance of our corporate books and records, payroll services, assistance with the preparation of our tax returns and financial statements, assistance with corporate and regulatory compliance matters not related to our vessels, procuring legal and accounting services (including the preparation of all necessary budgets for submission to us), assistance in complying with United States and other relevant securities laws, human resources, cash management and bookkeeping services, development and monitoring of internal audit controls, disclosure controls and information technology, assistance with all regulatory and reporting functions and obligations, furnishing any reports or financial information that might be requested by us and other non-vessel related administrative services, assistance with office space, providing legal and financial compliance services, overseeing banking services (including the opening, closing, operation and management of all of our accounts including making deposits and withdrawals reasonably necessary for the management of our business and day-to-day operations), arranging general insurance and director and officer liability insurance (at our expense), providing all administrative services required for subsequent debt and equity financings and attending to all other administrative matters necessary to ensure the professional management of our business; and

- **commercial services**, which include chartering our vessels, assisting in our chartering, locating, purchasing, financing and negotiating the purchase and sale of our vessels, supervising the design and construction of newbuildings, and such other commercial services as we may reasonably request from time to time.

**Reporting Structure**

Our Manager reports to us and our Board of Directors through our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer, each of which is appointed by our board of directors. Under our management agreement, our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer may direct the Manager to remove and replace any officer or any person who serves as the head of a business unit of our Manager. Furthermore, our Manager will not remove any person serving as an officer or senior
manager without the prior written consent of our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer.

Compensation of Our Manager

For 2019 we will pay our manager the following fees, which are fixed through the current term of the management agreement expiring on December 31, 2024: (i) a daily management fee of $850, (ii) a daily vessel management fee of $425 for vessels on bareboat charter, pro-rated for the number of calendar days we own each vessel, (iii) a daily vessel management fee of $850 for vessels on time charter, pro-rated for the number of calendar days we own each vessel, (iv) a fee of 1.25% on all freight, charter hire, ballast bonus and demurrage for each vessel, (v) a fee of 0.5% based on the contract price of any vessel bought or sold by it on our behalf, excluding newbuilding contracts, and (vi) a flat fee of $725,000 per newbuilding vessel, if any, which we capitalize, for the on premises supervision of any newbuilding contracts by selected engineers and others of its staff. We believe these fees are no more than the rates we would need to pay an unaffiliated third party to provide us with these management services.

We also advance all technical vessel operating expenses with respect to each vessel in our fleet to enable our Manager to arrange for the payment of such expenses on our behalf. To the extent the amounts advanced are greater or less than the actual vessel operating expenses of our fleet for a quarter, our Manager or us, as the case may be, will pay the other the difference at the end of such quarter, although our Manager may instead choose to credit such amount against future vessel operating expenses to be advanced for future quarters.

Term and Termination Rights

The management agreement, as amended and restated on August 10, 2018, is for a term expiring on December 31, 2024.

Our Manager's Termination Rights. Our Manager may terminate the management agreement prior to the end of its term in the two following circumstances:

• if any moneys payable by us shall not have been paid within 60 business days of payment having been demanded in writing; or

• if at any time we materially breach the agreement and the matter is unresolved within 60 days after we are given written notice from our Manager.

Our Termination Rights. We may terminate the management agreement prior to the end of its term in the two following circumstances upon providing the respective notice:

• if at any time our Manager neglects or fails to perform its principal duties and obligations in any material respect and the matter is unresolved within 20 days after our Manager receives written notice of such neglect or failure from us; or

• if any moneys payable by the Manager under or pursuant to the management agreement are not promptly paid or accounted for in full within 10 business days by the Manager in accordance with the provisions of the management agreement.

We also may terminate the management agreement immediately under any of the following circumstances:

• if either we or our Manager ceases to conduct business, or all or substantially all of the properties or assets of either such party is sold, seized or appropriated;

• if either we or our Manager files a petition under any bankruptcy law, makes an assignment for the benefit of its creditors, seeks relief under any law for the protection of debtors or adopts a
plan of liquidation, or if a petition is filed against us or our Manager seeking to declare us or it an insolvent or bankrupt and such petition is not dismissed or stayed within 40 business days of its filing, or if our Company or the Manager admits in writing its insolvency or its inability to pay its debts as they mature, or if an order is made for the appointment of a liquidator, manager, receiver or trustee of our Company or the Manager of all or a substantial part of its assets, or if an encumbrancer takes possession of or a receiver or trustee is appointed over the whole or any part of the Manager's or our Company's undertaking, property or assets or if an order is made or a resolution is passed for our Manager's or our winding up;

- if a distress, execution, sequestration or other process is levied or enforced upon or sued out against our Manager's property which is not discharged within 20 business days;

- if the Manager ceases or threatens to cease wholly or substantially to carry on its business otherwise than for the purpose of a reconstruction or amalgamation without insolvency previously approved by us; or

- if either our Manager or we are prevented from performing any obligations under the management agreement by any cause whatsoever of any nature or kind beyond the reasonable control of us or our Manager respectively for a period of two consecutive months or more.

In addition, we may terminate any applicable ship management agreement in any of the following circumstances:

- if we or any subsidiary of ours ceases to be the owner of the vessel covered by such ship management agreement by reason of a sale thereof, or if we or any subsidiary of ours ceases to be registered as the owner of the vessel covered by such ship management agreement;

- if a vessel becomes an actual or constructive or compromised or arranged total loss or an agreement has been reached with the insurance underwriters in respect of the vessel's constructive, compromised or arranged total loss or if such agreement with the insurance underwriters is not reached or it is adjudged by a competent tribunal that a constructive loss of the vessel has occurred;

- if the vessel covered by such ship management agreement is requisitioned for title or any other compulsory acquisition of the vessel occurs, otherwise than by requisition by hire; or

- if the vessel covered by such ship management agreement is captured, seized, detained or confiscated by any government or persons acting or purporting to act on behalf of any government and is not released from such capture, seizure, detention or confiscation within 20 business days.

**Non-competition**

Our Manager has agreed that, during the term of the management agreement and for a period of one year following termination of the Management Agreement, it will not provide any management services to any other entity without our prior written approval, other than with respect to entities controlled by Dr. Coustas, our Chief Executive Officer, which do not operate within the containership (larger than 2,500 twenty foot equivalent units, or TEUs) or drybulk sectors of the shipping industry or in the circumstances described below. Dr. Coustas has also personally agreed to the same restrictions on the provision, directly or indirectly, of management services during this period pursuant to a restrictive covenant agreement with us, which was amended in connection with the 2018 Refinancing, including to (1) extend its term until December 31, 2024 and (2) provide that certain provisions of the agreement will cease to apply upon the occurrence of certain transactions constituting a "Change of Control" of the Company which are not within the control of Dr. Coustas or DIL. In addition, our Chief Executive Officer (other than in his capacities with us) and our Manager have separately agreed not, during the term of our management agreement and for one year thereafter, to engage, directly or
indirectly, in (i) the ownership or operation of containerships of larger than 2,500 TEUs or (ii) the ownership or operation of any drybulk carriers or (iii) the acquisition of or investment in any business involved in the ownership or operation of containerships larger than 2,500 TEUs or drybulk carriers. Notwithstanding these restrictions, if our independent directors decline the opportunity to acquire any such containerships or drybulk carriers or to acquire or invest in any such business, our Chief Executive Officer will have the right to make, directly or indirectly, any such acquisition or investment during the four-month period following such decision by our independent directors, so long as such acquisition or investment is made on terms no more favorable than those offered to us. In this case, our Chief Executive Officer and our Manager will be permitted to provide management services to such vessels. In connection with our investment in Gemini (see "— Gemini Shipholdings Corporation" below), these restrictions on our Chief Executive Officer and our Manager were waived, with the approval of our independent directors, with respect to vessels acquired by Gemini.

The restrictions described above on our Manager, under the management agreement, and Dr. Coustas, under the restrictive covenant agreement, will cease to apply upon the occurrence of certain transactions constituting a "Change of Control" of the Company, which are not within the control of Dr. Coustas or DIL, including where Dr. Coustas ceases to be both the Chief Executive Officer of the Company and a director of the Company without his consent in connection with a hostile takeover of the Company by a third party, as set out in the restrictive covenant agreement.

Sale of Our Manager

Our Manager has agreed that it will not transfer, assign, sell or dispose of all or a significant portion of its business that is necessary for the services our Manager performs for us without the prior written consent of our Board of Directors. Furthermore, in the event of any proposed sale of our Manager, we have a right of first refusal to purchase our Manager. This prohibition and right of first refusal is in effect throughout the term of the management agreement and for a period of one year following the expiry or termination of the management agreement. Our Chief Executive Officer, Dr. John Coustas, or any trust established for the Coustas family (under which Dr. Coustas and/or a member of his family is a beneficiary), is required, unless we expressly permit otherwise, to own 80% of our Manager's outstanding capital stock during the term of the management agreement and 80% of the voting power of our Manager's outstanding capital stock. In the event of any breach of these requirements, we would be entitled to purchase the capital stock of our Manager owned by Dr. Coustas or any trust established for the Coustas family (under which Dr. Coustas and/or a member of his family is a beneficiary). Under the terms of certain of our financing agreements, a change in control of our Manager or a breach by our Manager of our management agreement would constitute an event of default under such financing agreements.

Gemini Shipholdings Corporation

On August 5, 2015, we entered into a Shareholders Agreement (the "Gemini Shareholders Agreement"), with Gemini Shipholdings Corporation ("Gemini") and Virage International Ltd. ("Virage"), a company controlled by our largest stockholder, DIL, in connection with the formation of Gemini to acquire and operate containerships. We and Virage own 49% and 51%, respectively, of Gemini's issued and outstanding share capital. Under the Gemini Shareholders Agreement, we and Virage have preemptive rights with respect to issuances of Gemini capital stock as well as tag-along rights, drag-along rights and certain rights of first refusal with respect to proposed transfers of Gemini equity interests. In addition, certain actions by Gemini, including acquisitions or dispositions of vessels and newbuilding contracts, require the unanimous approval of the Gemini board of directors including the director designated by the Company, who is currently our Chief Operating Officer Iraklis Prokopakis. Mr. Prokopakis also serves as Chief Operating Officer of Gemini, and our Chief Financial Officer, Evangelos Chatzis, serves as Chief Financial Officer of Gemini, for which services Messrs. Prokopakis and Chatzis do not receive any additional compensation. We also have the right to
purchase all of the equity interests in Gemini that we do not own for fair market value at any time after December 31, 2018, to the extent permitted under our credit facilities, provided that such fair market value is not below the net book value of such equity interests.

In 2015, prior to our equity investment, Gemini acquired a 100% interest in entities with capital leases for the containerships Suez Canal and Genoa and the entity with a memorandum of agreement to acquire the containership Catherine C (ex NYK Lodestar). In February 2016, Gemini acquired the containership Leo C (ex NYK Leo). Gemini financed these acquisitions with the assumption of capital lease obligations, borrowings under a secured loan facility and an aggregate of $47.4 million of equity contributions from the Company and Virage. We do not guarantee any debt of Gemini or its subsidiaries.

In connection with our investment in Gemini, the restrictions on the ownership, operation and management of containerships set forth in the restrictive covenant agreement with our Chief Executive Officer, the management agreement with our Manager and our executive officers' respective employment agreements were waived, with the approval of the independent directors of our board of directors, with respect to vessels acquired, owned and operated by Gemini. Danaos Shipping provides vessel management services to Gemini at the same rates as we pay pursuant to our management agreement with Danaos Shipping.

The Swedish Club

Dr. John Coustas, our Chief Executive Officer, is a Deputy Chairman of the Board of Directors of The Swedish Club, our primary provider of insurance, including a substantial portion of our hull & machinery, war risk and protection and indemnity insurance. During the years ended December 31, 2018, 2017 and 2016, we paid premiums of $3.9 million, $4.6 million and $5.6 million, respectively, to The Swedish Club under these insurance policies.

Danaos Management Consultants

Our Chief Executive Officer, Dr. John Coustas, co-founded and has a 50.0% ownership interest in Danaos Management Consultants, which provides the ship management software deployed on the vessels in our fleet to our Manager on a complementary basis. Dr. Coustas does not participate in the day-to-day management of Danaos Management Consultants.

Offices

We occupy office space that is owned by our Manager and which is provided to us as part of the services we receive under our management agreement.

Sphinx Investment Corp. Director Nominee

As described above under "Item 6. Directors, Senior Management and Employees—Board of Directors", following completion of our $200.0 million equity transaction on August 12, 2010, which satisfied a condition to our bank agreement and approximately $425 million of new debt financing, Mr. George Economou joined the Board of Directors of the Company as an independent director in accordance with the terms of the common stock subscription agreement between Sphinx Investment Corp. and the Company. We have agreed to nominate Mr. Economou or such other person, in each case who shall be acceptable to us, designated by Sphinx Investment Corp., for election by our stockholders to the Board of Directors at each annual meeting of stockholders at which the term of Mr. Economou or such other director so designated expires, so long as such investor beneficially owns a specified minimum amount of common stock. We have been informed that our largest stockholder, DIL, and Dr. John Coustas have agreed to vote all of the shares of our common stock owned by them, or over which they have voting control, in favor of any such nominee standing for election.
2018 Refinancing

Stockholders Agreement

See "Item 10. Additional Information—Stockholders Agreement" for further discussion.

Registration Rights Agreement

See "Item 10. Additional Information—Material Contracts—Registration Rights Agreement" for further discussion.

Contribution Agreement; Subordinated Loan Agreement

Pursuant to the terms of a Contribution Agreement, dated as of August 10, 2018, between the Company and DIL, DIL contributed $10 million to us on the 2018 Refinancing Closing Date for which it did not receive any shares of common stock or other interests in us.

DIL had also further agreed to commit to backstop, through a cash contribution pursuant to a Subordinated Loan Agreement, dated as of August 10, 2018, between the Company, as borrower, and DIL, any shortfall in the required minimum consolidated cash balance as of September 30, 2018 required under the New 2018 Credit Facilities, subject to certain limitations. As there was no shortfall in the required consolidated cash balance as of September 30, 2018, this subordinated loan agreement was not drawn upon by the Company.

Backstop Agreement

In connection with the 2018 Refinancing, we have agreed with our lenders to use commercially reasonable efforts to consummate an offering of common stock for aggregate net proceeds of not less than $50 million within 18 months after the 2018 Refinancing Closing Date (the "Follow-on Equity Raise"). In order to facilitate the Follow-on Equity Raise, DIL has entered into an agreement with us, dated as of August 10, 2018 (the "Backstop Agreement"), pursuant to which DIL agreed to purchase up to $10 million of common stock in such offering (at the price offered to the public in such offering, as determined by a special committee of our board of directors comprised solely of disinterested independent directors), to the extent that the proceeds from the Follow-on Equity Raise are less than $50 million. In the event that we determine not to complete a Follow-on Equity Raise within 18 months after the 2018 Refinancing Closing Date or fail to do so, DIL has agreed to invest an amount equal to $10 million in common stock in a private placement at a price per share no less than the volume weighted average trading price of the common stock on the NYSE over a consecutive thirty (30) trading day period prior to such private placement, which price may be decreased by the committee of disinterested independent directors so long as such price is at least equal to (or greater than) the implied net asset value per share of the Company upon consummation of the private placement.

If DIL fails to comply with its obligations under the Backstop Agreement, we will apply all or some of the amount of DIL's unfulfilled obligations under the Backstop Agreement as a credit towards any fees payable by us to the Manager, which is controlled indirectly by DIL, under our management agreement with our Manager.

Major Stockholders

The following table sets forth certain information regarding the beneficial ownership of our outstanding common stock as of February 28, 2019 held by:

- each person or entity that we know beneficially owns 5% or more of our common stock;
Our major stockholders have the same voting rights as our other stockholders. Beneficial ownership is determined in accordance with the rules of the SEC. In general, a person who has voting power or investment power with respect to securities is treated as a beneficial owner of those securities.

Beneficial ownership does not necessarily imply that the named person has the economic or other benefits of ownership. For purposes of this table, shares subject to options, warrants or rights or shares exercisable within 60 days of February 28, 2019 are considered as beneficially owned by the person holding those options, warrants or rights. Each stockholder is entitled to one vote for each share held. The applicable percentage of ownership of each stockholder is based on 213,324,455 shares of common stock outstanding as of February 28, 2019. Information for certain holders is based on their latest filings with the SEC or information delivered to us.

<table>
<thead>
<tr>
<th>Name</th>
<th>Number of Shares of Common Stock Owned</th>
<th>Percentage of Common Stock</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Executive Officers and Directors:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Coustas (1)</td>
<td>67,828,140</td>
<td>31.8%</td>
</tr>
<tr>
<td><em>Chairman, President and Chief Executive Officer</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iraklis Prokopakis</td>
<td>2,533,619</td>
<td>1.2%</td>
</tr>
<tr>
<td><em>Director, Senior Vice President and Chief Operating Officer</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evangelos Chatzis</td>
<td>2,216,416</td>
<td>1.0%</td>
</tr>
<tr>
<td><em>Chief Financial Officer and Secretary</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimitris Vastarouchas</td>
<td>89,931</td>
<td>*</td>
</tr>
<tr>
<td><em>Deputy Chief Operating Officer</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>George Economou (2)</td>
<td>21,621,621</td>
<td>10.1%</td>
</tr>
<tr>
<td><em>Director</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Myles R. Itkin</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><em>Director</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miklós Konkoly-Thege</td>
<td>86,966</td>
<td>*</td>
</tr>
<tr>
<td><em>Director</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>William Repko</td>
<td>—</td>
<td>—</td>
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<tr>
<td><em>Director</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Petros Christodoulou</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><em>Director</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All executive officers and directors as a group (9 persons)</td>
<td>94,376,693</td>
<td>44.2%</td>
</tr>
</tbody>
</table>

**5% Beneficial Owners:**

<table>
<thead>
<tr>
<th>Name</th>
<th>Number of Shares of Common Stock Owned</th>
<th>Percentage of Common Stock</th>
</tr>
</thead>
<tbody>
<tr>
<td>Danaos Investment Limited as Trustee of the 883 Trust (3)</td>
<td>67,828,140</td>
<td>31.8%</td>
</tr>
<tr>
<td>HSH Nordbank AG (4)</td>
<td>43,942,485</td>
<td>20.6%</td>
</tr>
<tr>
<td>The Royal Bank of Scotland Plc (5)</td>
<td>35,238,185</td>
<td>16.5%</td>
</tr>
<tr>
<td>Sphinx Investment Corp. (2)</td>
<td>21,621,621</td>
<td>10.1%</td>
</tr>
<tr>
<td>Credit Suisse AG (6)</td>
<td>13,272,824</td>
<td>6.2%</td>
</tr>
</tbody>
</table>

* Less than 1%.

(1) By virtue of shares owned indirectly through Danaos Investment Limited as Trustee of the 883 Trust, which is our largest stockholder. Please see footnote (3) below for further detail regarding DIL and the 883 Trust.

(2) According to an Amendment No. 3 to Schedule 13D filed with the SEC on February 27, 2019, Sphinx Investment Corp. ("Sphinx") is a wholly-owned subsidiary of Maryport Navigation Corp., a
Liberian company. Mr. George Economou, a member of our Board of Directors, may be deemed the beneficial owner of the shares held by Sphinx. The address of Sphinx is c/o Mare Services Limited, 5/1 Merchants Street, Valletta, Malta. Pursuant to a Security Agreement dated January 9, 2017 (the "Pledge Agreement"), between Sphinx and Samsung Heavy Industries Co. Ltd (the "Secured Party"), Sphinx pledged and granted a security interest in 12,000,005 of these shares in favor of the Secured Party. The Pledge Agreement contains default and similar provisions that are standard for such agreements. Sphinx has retained dividend and voting rights in the pledged shares during the term of the Pledge Agreement, absent a default.

According to a Schedule 13D/A jointly filed with the SEC on August 14, 2018 by DIL and John Coustas, DIL owns and has sole voting power and sole dispositive power with respect to all such shares. The beneficiaries of the 883 Trust are Dr. Coustas and members of his family. The board of directors of DIL consists of four members, none of whom are beneficiaries of the 883 Trust or members of the Coustas family, and has voting and dispositive control over the shares held by the 883 Trust. Dr. Coustas has certain powers to remove and replace DIL as trustee of the 883 Trust. This does not necessarily imply economic ownership of the securities.

Based on information reported on Amendment No. 1 to Schedule 13D filed with the SEC on December 17, 2018 by HSH Nordbank AG. According to this Amendment No. 1 to Schedule 13D and a Schedule 13D filed on December 17, 2018 by Stephen Feinberg, on behalf of Craig Court, Inc., the managing member of Craig Court GP, LLC, the general partner of Cerberus Capital Management, L.P., HSH Nordbank AG has entered into a Master Funded Sub-Participation and Trust Agreement (the "Sub-Participation Agreement") with an affiliate of Cerberus Capital Management, L.P., Promontoria North Shipping Designated Activity Company, a designated activity company limited by shares, incorporated under the laws of the Republic of Ireland (the "Participant"). Pursuant to the terms of the Sub-Participation Agreement, HSH Nordbank AG retained legal title to the 43,942,485 shares of common stock included in the above table, but is required to carry out the instructions of the Participant as they relate to these shares of Common Stock, including with respect to the voting and disposition thereof. As a result of the arrangements under the Sub-Participation Agreement, according to the Schedule 13D filed on December 17, 2018, Stephen Feinberg, through one or more intermediate entities, possesses the shared power to vote and the shared power to direct the disposition of these 43,942,485 shares of common stock and, thus, may be deemed to beneficially own 43,942,485 shares of our common stock.

Based on information reported on a Schedule 13G jointly filed with the SEC on August 13, 2018 by The Royal Bank of Scotland plc, NatWest Holdings Limited and The Royal Bank of Scotland Group plc.

Based on information reported on a Schedule 13G filed with the SEC on February 13, 2019 by Credit Suisse AG.

As of February 28, 2019, we had approximately five stockholders of record, three of which were located in the United States and held an aggregate of 129,835,953 shares of common stock. However, one of the United States stockholders of record is CEDEFAST, a nominee of The Depository Trust Company, which held 125,740,005 shares of our common stock. Accordingly, we believe that the shares held by CEDEFAST include shares of common stock beneficially owned by both holders in the United States and non-United States beneficial owners, including 90,068,861 shares which may be deemed to be beneficially owned by our officers and directors resident outside the United States and no shares which may be deemed to be beneficially owned by directors resident in the United States as reflected in the above table. We are not aware of any arrangements the operation of which may at a subsequent date result in our change of control.

DIL owns approximately 31.8% of our outstanding common stock. This stockholder is able to exert significant influence on the outcome of matters on which our stockholders are entitled to vote, including the election of our board of directors and other significant corporate actions. A "Change of
Control” will give rise to a mandatory prepayment in full of each of our New 2018 Credit Facilities. A “Change of Control” of the Company for these purposes includes the occurrence of the following: (i) Dr. Coustas ceases to be both the Company's Chief Executive Officer and a director of the Company, subject to certain exceptions, (ii) the existing members of the board of directors and the directors appointed following nomination by the existing board of directors collectively do not constitute a majority of the board of directors, (iii) Dr. Coustas and members of his family cease to collectively control at least 15% and one share of the voting interest in the Company's outstanding capital stock or to beneficially own at least 15% and one share of the Company's outstanding capital stock, or (iv) any person or persons acting in concert (other than the Coustas family) (x) holds a greater portion of the Company's outstanding capital stock than the Coustas family (other than as a direct result of the sale by the lenders of shares issued in the 2018 Refinancing) or (y) controls the Company.

Item 8. Financial Information

See "Item 18. Financial Statements" below.

Significant Changes. No significant change has occurred since the date of the annual financial statements included in this annual report on Form 20-F.

Legal Proceedings. On September 1, 2016, Hanjin Shipping, a charterer of eight of our vessels, referred to the Seoul Central District Court, which issued an order to commence the rehabilitation proceedings of Hanjin Shipping. Hanjin Shipping has cancelled all eight charter party agreements with the Company. On February 17, 2017 the Seoul Central District Court (Bankruptcy Division), declared the bankruptcy of Hanjin Shipping, converting the rehabilitation proceeding to a bankruptcy proceeding. The Seoul Central District Court (Bankruptcy Division) appointed a bankruptcy trustee to dispose of Hanjin Shipping's remaining assets and distribute the proceeds from the sale of such assets to Hanjin Shipping's creditors according to their priorities.

On October 12, 2018 the First Instance Court of Seoul, issued its judgement on our submitted common benefit claim. Owners of the respective vessels were awarded with the total amount of $6.1 million plus interest and legal costs. The common benefit claim applies to the unpaid charter hires plus other outstanding for the period from the date of Hanjin Shipping's filing for bankruptcy until the termination notices for each respective charterparty.

The Bankruptcy Trustee of Hanjin Shipping filed an appeal to the High Court (an appellate court in South Korea). On February 13, 2019, the appellate court in South Korea dismissed the appeal filed by the Bankruptcy Trustee of Hanjin Shipping in its entirety upholding the judgement of the First Instance Court of Seoul. On February 28, 2019 the Bankruptcy Trustee of Hanjin Shipping filed an appeal to the Supreme Court of Korea against the judgement rendered by the appellate court in South Korea.

The Company ceased recognizing revenue from Hanjin Shipping effective from July 1, 2016 onwards and recognized a bad debt expense amounting to $15.8 million in its Consolidated Statements of Operations for the year ended December 31, 2016. The Company has a total unsecured claim submitted to the Seoul Central District Court for unpaid charter hire, charges, expenses and loss of profit against Hanjin Shipping totaling $597.9 million, which is not recognized in the accompanying Consolidated Balance Sheet as of December 31, 2018 and 2017.

We have not been involved in any other legal proceedings that we believe would have a significant effect on our business, financial position, results of operations or liquidity, and we are not aware of any proceedings that are pending or threatened that may have a material 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. However, those claims, even if lacking merit, could result in the expenditure of significant financial and managerial resources.
Dividend Policy. We have not paid a dividend since 2008, when our board of directors determined to suspend the payment of cash dividends as a result of market conditions in the international shipping industry. We are not permitted to pay dividends under our New 2018 Credit Facilities until (1) we receive in excess of $50 million in net cash proceeds from offerings of common stock following the 2018 Refinancing, and (2) the payment in full of the first installment of amortization payable following the consummation of the 2018 Refinancing under each new credit facility. After these conditions are satisfied, under our loan agreements we will be permitted to pay dividends if, among other things, a default has not occurred and is continuing or would occur as a result of the payment of such dividend, and we remain in compliance with the financial and other covenants thereunder. To the extent our credit facilities permit us to pay dividends, any dividend payments will be subject to us having sufficient available excess cash and distributable reserves, and declaration and payment of any dividends will be at the discretion of our board of directors. We have not yet adopted a dividend policy with respect to future dividends. The timing and amount of dividend payments will be dependent upon our earnings, financial condition, cash requirements and availability, fleet renewal and expansion, restrictions in our credit facilities, the provisions of Marshall Islands law affecting the payment of distributions to stockholders and other factors. Declaration and payment of any future dividend is subject to the discretion of our board of directors. 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 and to make any dividend payments. See "Item 3. Key Information—Risk Factors—Risks relating to our common stock" for a discussion of the risks related to dividend payments, if any.

After our initial public offering, we paid regular quarterly dividends from February 2007 to November 19, 2008. We paid no dividends in 2006 and, prior to our initial public offering, in 2005 we paid dividends of $244.6 million to our stockholders from our retained earnings.

Item 9. The Offer and Listing

Since our initial public offering in the United States in October 2006, our common stock has been listed on the New York Stock Exchange under the symbol "DAC."

Item 10. Additional Information

Share Capital

Under our articles of incorporation, our authorized capital stock consists of 750,000,000 shares of common stock, $0.01 par value per share, of which, as of December 31, 2018 and February 28, 2019, 213,324,455 shares were issued and outstanding, and 100,000,000 shares of blank check preferred stock, $0.01 par value per share, of which, as of December 31, 2018 and February 28, 2019, no shares were issued and outstanding. All of our shares of stock are in registered form.

Common Stock

Each outstanding share of common stock entitles the holder to one vote on all matters submitted to a vote of stockholders. Subject to preferences that may be applicable to any outstanding shares of preferred stock, holders of shares of common stock are entitled to receive ratably all dividends, if any, declared by our board of directors out of funds legally available for dividends. Holders of common stock do not have conversion, redemption or preemptive rights to subscribe to any of our securities. All outstanding shares of common stock are fully paid and nonassessable. The rights, preferences and privileges of holders of shares of common stock are subject to the rights of the holders of any shares of preferred stock which we may issue in the future.
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Blank Check Preferred Stock

Under the terms of our articles of incorporation, our board of directors has authority, without any further vote or action by our stockholders, to issue up to 100,000,000 shares of blank check preferred stock.

Articles of Incorporation and Bylaws

Our purpose is to engage in any lawful act or activity relating to the business of chartering, rechartering or operating containerships, drybulk carriers or other vessels or any other lawful act or activity customarily conducted in conjunction with shipping, and any other lawful act or activity approved by the board of directors. Our articles of incorporation and bylaws do not impose any limitations on the ownership rights of our stockholders.

Under our bylaws, annual stockholder meetings will be held at a time and place selected by our board of directors. The meetings may be held in or outside of the Marshall Islands. Special meetings may be called by the board of directors. Our board of directors may set a record date between 15 and 60 days before the date of any meeting to determine the stockholders that will be eligible to receive notice and vote at the meeting.

Directors

Our directors are elected by a plurality of the votes cast at each annual meeting of the stockholders by the holders of shares entitled to vote in the election. There is no provision for cumulative voting. The Stockholders Agreement entered into in connection with the 2018 Refinancing, described below under "—Stockholders Agreement", contains certain provisions relating to the composition of our Board of Directors.

The board of directors may change the number of directors to not less than two, nor more than 15, by a vote of a majority of the entire board, subject to the terms of the Stockholders Agreement described below under "—Stockholders Agreement." Each director shall be elected to serve until the third succeeding annual meeting of stockholders and until his or her successor shall have been duly elected and qualified, except in the event of death, resignation or removal. A vacancy on the board created by death, resignation, removal (which may only be for cause), or failure of the stockholders to elect the entire class of directors to be elected at any election of directors or for any other reason, may be filled only by an affirmative vote of a majority of the remaining directors then in office, even if less than a quorum, at any special meeting called for that purpose or at any regular meeting of the board of directors. The board of directors has the authority to fix the amounts which shall be payable to the members of our board of directors for attendance at any meeting or for services rendered to us.

Dissenters' Rights of Appraisal and Payment

Under the Marshall Islands Business Corporations Act, or the BCA, our stockholders have the right to dissent from various corporate actions, including any merger or sale of all or substantially all of our assets not made in the usual course of our business, and to receive payment of the fair value of their shares. However, the right of a dissenting stockholder under the BCA to receive payment of the fair value of such stockholder's shares is not available for the shares of any class or series of stock, which shares or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting of the stockholders to act upon the agreement of merger or consolidation, were either (i) listed on a securities exchange or admitted for trading on an interdealer quotation system or (ii) held of record by more than 2,000 holders. The right of a dissenting stockholder to receive payment of the fair value of his or her shares shall not be available for any shares of stock of the constituent corporation surviving a merger if the merger did not
require its approval the vote of the stockholders of the surviving corporation. In the event of any further amendment of our articles of incorporation, a stockholder also has the right to dissent and receive payment for his or her shares if the amendment alters certain rights in respect of those shares. The dissenting stockholder must follow the procedures set forth in the BCA to receive payment. In the event that we and any dissenting stockholder fail to agree on a price for the shares, the BCA procedures involve, among other things, the institution of proceedings in the high court of the Republic of The Marshall Islands in which our Marshall Islands office is situated or in any appropriate jurisdiction outside the Marshall Islands in which our shares are primarily traded on a local or national securities exchange. The value of the shares of the dissenting stockholder is fixed by the court after reference, if the court so elects, to the recommendations of a court-appointed appraiser.

Stockholders’ Derivative Actions

Under the BCA, any of our stockholders may bring an action in our name to procure a judgment in our favor, also known as a derivative action, provided that the stockholder bringing the action is a holder of common stock both at the time the derivative action is commenced and at the time of the transaction to which the action relates.

Supermajority Stockholder Approval

At the Company's 2018 annual meeting of stockholders on July 20, 2018, the Company's stockholders approved and adopted an amendment to the Company's Restated Articles of Incorporation to require supermajority stockholder approval to take certain actions, which amendment was filed with the Marshall Islands registrar of corporations and became effective on August 10, 2018. Specifically, the amendment provides that, prior to the earlier to occur of (1) the fifth (5th) anniversary of the effective date of such amendment and (2) (x) the Company's lenders having the opportunity to register the common stock received by such lenders in the 2018 Refinancing pursuant to a shelf registration statement that has been declared effective by the SEC and (y) the consummation of sales of common stock with aggregate net proceeds to the Company of at least $50.0 million following the 2018 Refinancing Closing Date, the Company may not take any of the following actions without an affirmative vote by the holders of not less than sixty-six and two-thirds percent (66-2/3%) of the outstanding shares of capital stock entitled to vote generally for the election of directors, at any annual meeting or at any special meeting: (i) amending the Company's Restated Articles of Incorporation or the bylaws in a manner that adversely affects the rights of the holders of the common stock; (ii) consummating any merger, consolidation, spin-off or sale of all or substantially all of the assets of the Company or the Company and its subsidiaries, taken as a whole; (iii) delisting the common stock such that the common stock is not listed or quoted on any of the New York Stock Exchange, the Nasdaq Global Select Market, the Nasdaq Global Market or the Nasdaq Capital Market (or any of their respective successors); (iv) deregistering the common stock under Section 12 of the Exchange Act; or (v) substantially changing the nature of the Company's business from the ownership, operation and management of maritime shipping assets.

Anti-takeover Provisions of our Charter Documents

Several provisions of our articles of incorporation and bylaws may have anti-takeover effects. These provisions are intended to avoid costly takeover battles, lessen our vulnerability to a hostile change of control and enhance the ability of our board of directors to maximize stockholder value in connection with any unsolicited offer to acquire us. However, these anti-takeover provisions, which are summarized below, could also discourage, delay or prevent (1) the merger or acquisition of our company by means of a tender offer, a proxy contest or otherwise, that a stockholder may consider in its best interest and (2) the removal of incumbent officers and directors.
Under the terms of our articles of incorporation, our board of directors has authority, without any further vote or action by our stockholders, to issue up to 100,000,000 shares of blank check preferred stock. Our board of directors may issue shares of preferred stock on terms calculated to discourage, delay or prevent a change of control of our company or the removal of our management.

Classified Board of Directors

Our articles of incorporation provide for a board of directors serving staggered, three-year terms. Approximately one-third of our board of directors will be elected each year. This classified board provision could discourage a third party from making a tender offer for our shares or attempting to obtain control of our company. It could also delay stockholders who do not agree with the policies of the board of directors from removing a majority of the board of directors for two years.

Election and Removal of Directors

Our articles of incorporation and bylaws prohibit cumulative voting in the election of directors. Our bylaws require parties other than the board of directors to give advance written notice of nominations for the election of directors. Our bylaws also provide that our directors may be removed only for cause and only upon the affirmative vote of the holders of at least 66 2/3% of the outstanding shares of our capital stock entitled to vote for those directors. These provisions may discourage, delay or prevent the removal of incumbent officers and directors.

Calling of Special Meetings of Stockholders

Our bylaws provide that special meetings of our stockholders may be called by our board of directors.

Advance Notice Requirements for Stockholder Proposals and Director Nominations

Our bylaws provide that stockholders seeking to nominate candidates for election as directors or to bring business before an annual meeting of stockholders must provide timely notice of their proposal in writing to the corporate secretary.

Generally, to be timely, a stockholder's notice must be received at our principal executive offices not less than 90 days or more than 120 days prior to the first anniversary date of the previous year's annual meeting. If, however, the date of our annual meeting is more than 30 days before or 30 days after the first anniversary date of the previous year's annual meeting, a stockholder's notice must be received at our principal executive offices by the later of (i) the close of business on the 90th day prior to such annual meeting date or (ii) the close of business on the tenth day following the date on which such annual meeting date is first publicly announced or disclosed by us. Our bylaws also specify requirements as to the form and content of a stockholder's notice. These provisions may impede stockholders' ability to bring matters before an annual meeting of stockholders or to make nominations for directors at an annual meeting of stockholders.

Business Combinations

Although the BCA does not contain specific provisions regarding "business combinations" between companies organized under the laws of the Marshall Islands and "interested stockholders," we have included these provisions in our articles of incorporation. Specifically, our articles of incorporation prohibit us from engaging in a "business combination" with certain persons for three years following the date the person becomes an interested stockholder. Interested stockholders generally include:

- any person who is the beneficial owner of 15% or more of our outstanding voting stock; or
any person who is our affiliate or associate and who held 15% or more of our outstanding voting stock at any time within three years before the date on which the person's status as an interested stockholder is determined, and the affiliates and associates of such person.

Subject to certain exceptions, a business combination includes, among other things:

- certain mergers or consolidations of us or any direct or indirect majority-owned subsidiary of ours;
- any sale, lease, exchange, mortgage, pledge, transfer or other disposition of our assets or of any subsidiary of ours having an aggregate market value equal to 10% or more of either the aggregate market value of all our assets, determined on a consolidated basis, or the aggregate value of all our outstanding stock;
- certain transactions that result in the issuance or transfer by us of any stock of the Company or any direct or indirect majority-owned subsidiary of the Company to the interested stockholder;
- any transaction involving us or any of our subsidiaries that has the effect of increasing the proportionate share of any class or series of stock, or securities convertible into any class or series of stock, of ours or any such subsidiary that is owned directly or indirectly by the interested stockholder or any affiliate or associate of the interested stockholder; and
- any receipt by the interested stockholder of the benefit directly or indirectly (except proportionately as a stockholder) of any loans, advances, guarantees, pledges or other financial benefits provided by or through us.

These provisions of our articles of incorporation do not apply to a business combination if:

- before a person became an interested stockholder, our board of directors approved either the business combination or the transaction in which the stockholder became an interested stockholder;
- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of our voting stock outstanding at the time the transaction commenced, other than certain excluded shares;
- at or following the transaction in which the person became an interested stockholder, the business combination is approved by our board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of the holders of at least $66^{2}/3$% of our outstanding voting stock that is not owned by the interested stockholder;
- the stockholder was or became an interested stockholder prior to the consummation of our initial public offering of common stock under the Securities Act;
- a stockholder became an interested stockholder inadvertently and (i) as soon as practicable divests itself of ownership of sufficient shares so that the stockholder ceases to be an interested stockholder; and (ii) would not, at any time within the three-year period immediately prior to a business combination between our company and such stockholder, have been an interested stockholder but for the inadvertent acquisition of ownership; or
- the business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required under our articles of incorporation which (i) constitutes one of the transactions described in the following sentence; (ii) is with or by a person who either was not an interested stockholder during the previous three years or who became an interested stockholder with the approval of the board; and (iii) is approved or not opposed by a majority of the members of the board of directors then in office.
(but not less than one) who were directors prior to any person becoming an interested stockholder during the previous three years or were recommended for election or elected to succeed such directors by a majority of such directors. The proposed transactions referred to in the preceding sentence are limited to:

(i) a merger or consolidation of our company (except for a merger in respect of which, pursuant to the BCA, no vote of the stockholders of our company is required);

(ii) a sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), whether as part of a dissolution or otherwise, of assets of our company or of any direct or indirect majority-owned subsidiary of our company (other than to any direct or indirect wholly-owned subsidiary or to our company) having an aggregate market value equal to 50% or more of either that aggregate market value of all of the assets of our company determined on a consolidated basis or the aggregate market value of all the outstanding shares; or

(iii) a proposed tender or exchange offer for 50% or more of our outstanding voting stock.

Stockholder Rights Plan

The rights issued pursuant to a stockholder rights agreement, dated as of September 18, 2006, as amended from time to time thereafter, between us and American Stock Transfer & Trust Company, LLC, as rights agent, expired on December 17, 2018. Accordingly, our shares of common stock no longer include a right entitling the holder, upon the occurrence of a triggering event, to purchase from us a unit consisting of one-thousandth of a share of our Series A participating preferred stock.

Stockholders Agreement

We entered into a Stockholders Agreement (the "Stockholders Agreement") with those lenders that received shares of common stock in connection with the 2018 Refinancing and DIL, as described below.

* **Board of Directors.** The Stockholders Agreement provides that our board of directors is required to consist of up to nine directors and that a majority of the board be "independent" under NYSE rules.

* **Tag-Along Rights.** The Stockholders Agreement provides for "tag-along" rights until (i) such time as all of the stockholders party to the Stockholders Agreement have had the opportunity to register their shares on an effective shelf registration statement filed with the SEC and (ii) the completion of a registered offering of common stock resulting in net proceeds to us of at least $50 million following the 2018 Refinancing Closing Date. Such tag-along rights provide, subject to certain exceptions described in the Stockholders Agreement, that upon a sale by DIL or its affiliates of common stock resulting in another person or its affiliates (other than stockholders party to the Stockholders Agreement) holding more than 15% of our issued and outstanding common stock or resulting in DIL and its affiliates holding less than 20% of our issued and outstanding common stock, each stockholder party to the Stockholders Agreement has the right to require the proposed purchaser to purchase from it the number of shares of common stock requested to be included by such stockholder in the sale, on a pro rata basis, at a price equal to and on terms and conditions no worse than the highest price paid and most favorable terms agreed to by that proposed purchaser in the previous 12 months.

* **Purchases of Common Stock by DIL.** The Stockholders Agreement provides that in the event DIL or any of its affiliates makes any offer to purchase any common stock from any stockholder party to the Stockholders Agreement (other than DIL or its affiliates, or offers made to all
DIL or such affiliate must also offer to purchase, on the same terms, the common stock owned by each stockholder party to the Stockholders Agreement, on a pro rata basis based on the ownership of common stock of stockholders exercising this right.

* Dividend Reinvestment Commitment by DIL. The Stockholders Agreement includes an undertaking by DIL that, until the earlier of the repayment or refinancing in full of the New 2018 Credit Facilities and June 30, 2024, it will, within six months of receipt of dividend payments from us, either (i) reinvest 50% of all such cash dividends in the manner described below, or (ii) place such amount into escrow to be released only for the purpose of such reinvestments or to DIL at the repayment or refinancing in full of all our New 2018 Credit Facilities. Such reinvestments will be made by way of a subscription for common stock in a public offering by us at the price offered to the public in such offering (as determined by a committee of our board of directors comprising solely of disinterested independent directors) or, if there is no such public offering during that six (6) month period, in a private placement at a price no less than the volume weighted average trading price of our common stock on the NYSE over the consecutive thirty (30) trading day period prior to one business day prior to the closing of such private placement which price may be decreased by a committee of the Board of Directors of the Company comprised solely of disinterested independent directors for so long as such price is at least equal to (or greater than) the implied net asset value per share of the Company upon consummation of the private placement. The shares so issued will benefit from registration rights under the Registration Rights Agreement, described below, subject to certain limitations.

* Right to Participate in Certain Equity Offerings. Our lenders receiving shares of common stock in connection with the 2018 Refinancing, as well as DIL, have the right to participate as a purchaser in any primary offering of shares by us, unless such holder is selling concurrently with such offering, on a pro rata basis based on the respective holder's percentage share ownership of common stock at the time of such offering, subject to customary exceptions, including for share issuances pursuant to equity compensation arrangements or as acquisition consideration.

Material Contracts

For a summary of the following agreements, please see the specified section of this Annual Report on Form 20-F. Such summaries are not intended to be complete and reference is made to the contracts themselves, which are exhibits to this Annual Report on Form 20-F.

Amended and Restated Management Agreement. For a description of the Amended and Restated Management Agreement, dated August 10, 2018, between Danaos Shipping Company Limited and Danaos Corporation, please see "Item 7. Major Shareholders and Related Party Transactions—Management Agreement."

Amended and Restated Restrictive Covenant Agreement. For a description of the Amended and Restated Restrictive Covenant Agreement, dated August 10, 2018, between Danaos Corporation, DIL and Dr. John Coustas, please see "Item 7. Major Shareholders and Related Party Transactions—Non-competition."

Stockholders Agreement. For a description of the Stockholders Agreement, dated as of August 10, 2018, by and among the Company, the lenders party thereto and DIL, please see "Item 10. Additional Information—Stockholders Agreement."

Contribution Agreement. For a description of the Contribution Agreement, dated as of August 10, 2018, by and between the Company and DIL, please see "Item 7. Major Shareholders and Related Party Transactions—Related Party Transactions—Contribution Agreement; Subordinated Loan Agreement."
Subordinated Loan Agreement. For a description of the Subordinated Loan Agreement, dated as of August 10, 2018, between the Company and DIL, please see "Item 7. Major Shareholders and Related Party Transactions—Related Party Transactions—Contribution Agreement; Subordinated Loan Agreement."


Registration Rights Agreement. We entered into a registration rights agreement, dated as of August 10, 2018, with those lenders which received common stock in the 2018 Refinancing and DIL (the "Registration Rights Agreement"), pursuant to which we agreed to register for resale under the Securities Act the common stock held by DIL, the common stock issued to such lenders in the 2018 Refinancing, as well as shares issued to DIL pursuant to the Backstop Agreement and its dividend reinvestment obligation described in "Item 10. Additional Information—Stockholders Agreement", subject to the limitations contained therein. The Registration Rights Agreement requires us to file with the SEC a shelf registration statement to register resales of common stock received by such lenders and DIL and to use our commercially reasonable efforts to request the SEC declare it effective no later than 90 days after the 2018 Refinancing Closing Date and maintain its effectiveness. Pursuant to this obligation, we filed a shelf registration statement with the SEC covering all of the shares of common stock received by the lenders in the 2018 Refinancing, which was declared effective by the SEC on September 13, 2018. The Registration Rights Agreement also includes provisions, effective from 90 days after the Follow-on Equity Raise until the date five years after the occurrence of the Follow-on Equity Raise: (1) providing for demand registration rights in the event there is not an effective shelf registration statement at the time, (2) requiring us to provide customary marketing assistance and cooperation in connection with any "shelf take-down" offering requested in accordance with the terms thereof and (3) providing for piggyback registration rights, with customary cutbacks, with respect to such securities.

Gemini Shareholders Agreement. For a description of the Shareholders Agreement, dated as of August 5, 2015, by and among Gemini Shipholdings Corporation, the Company and Virage International Ltd., please see "Item 7. Major Shareholders and Related Party Transactions—Related Party Transactions—Gemini Shipholdings Corporation."

Credit Facilities. Amendment and Restatement Agreement, dated July 31, 2018, by and among Danaos Corporation, as Borrower, arranged by Aegean Baltic Bank S.A. and HSH Nordbank AG, as Arrangers, with Aegean Baltic Bank S.A., as Agent and Aegean Baltic Bank S.A., as Security Agent, please see "Item 5. Operating and Financial Review and Prospects—2018 Refinancing and New 2018 Credit Facilities".


Exchange Controls and Other Limitations Affecting Stockholders

Under Marshall Islands 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. In mid-2015, Greece implemented capital controls restricting the transfer of funds out of Greece, which would restrict our use of the limited amount of cash we hold in Greece for the remittance of dividends, interest or other payments to non-resident holders of our common stock outside of Greece.
We are not aware of any limitations on the rights to own our common stock, including rights of non-resident or foreign stockholders to hold or exercise voting rights on our common stock, imposed by foreign law or by our articles of incorporation or bylaws.

**Tax Considerations**

**Marshall Islands Tax Considerations**

We are a Marshall Islands corporation. Because we do not, and we do not expect that we will, conduct business or operations in the Marshall Islands, under current Marshall Islands law we are not subject to tax on income or capital gains and our stockholders will not be subject to Marshall Islands taxation or withholding on dividends and other distributions, including upon a return of capital, we make to our stockholders. In addition, our stockholders, who do not reside in, maintain offices in or engage in business in the Marshall Islands, will not be subject to Marshall Islands stamp, capital gains or other taxes on the purchase, ownership or disposition of common stock, and such stockholders will not be required by the Republic of The Marshall Islands to file a tax return relating to the common stock.

Each stockholder is urged to consult their tax counsel or other advisor with regard to the legal and tax consequences, under the laws of pertinent jurisdictions, including the Marshall Islands, of their investment in us. Further, it is the responsibility of each stockholder to file all state, local and non-U.S., as well as U.S. federal tax returns that may be required of them.

**Liberian Tax Considerations**

The Republic of Liberia enacted a new income tax act effective as of January 1, 2001 (the "New Act"). In contrast to the income tax law previously in effect since 1977, the New Act does not distinguish between the taxation of "non-resident" Liberian corporations, such as our Liberian subsidiaries, which conduct no business in Liberia and were wholly exempt from taxation under the prior law, and "resident" Liberian corporations which conduct business in Liberia and are (and were under the prior law) subject to taxation.

The New Act was amended by the Consolidated Tax Amendments Act of 2011, which was published and became effective on November 1, 2011 (the "Amended Act"). The Amended Act specifically exempts from taxation non-resident Liberian corporations such as our Liberian subsidiaries that engage in international shipping (and are not engaged in shipping exclusively within Liberia) and that do not engage in other business or activities in Liberia other than those specifically enumerated in the Amended Act. In addition, the Amended Act made such exemption from taxation retroactive to the effective date of the New Act.

If, however, our Liberian subsidiaries were subject to Liberian income tax under the Amended Act, they would be subject to tax at a rate of 35% on their worldwide income. As a result, their, and subsequently our, net income and cash flow would be materially reduced. In addition, as the ultimate shareholder of the Liberian subsidiaries we would be subject to Liberian withholding tax on dividends paid by our Liberian subsidiaries at rates ranging from 15% to 20%.

**United States Federal Income Tax Considerations**

The following discussion of United States federal income tax matters is based on the Internal Revenue Code of 1986, or the Code, judicial decisions, administrative pronouncements, and existing and proposed regulations issued by the United States Department of the Treasury, all of which are in effect and available and subject to change, possibly with retroactive effect. Except as otherwise noted, this discussion is based on the assumption that we will not maintain an office or other fixed place of business within the United States. We have no current intention of maintaining such an office. References in this discussion to "we" and "us" are to Danaos Corporation and its subsidiaries on a consolidated basis, unless the context otherwise requires.
United States Federal Income Taxation of Our Company

Taxation of Operating Income: In General

Unless exempt from United States federal income taxation under the rules discussed below, a foreign corporation is subject to United States federal income taxation in respect of any income that is derived from the use of vessels, from the hiring or leasing of vessels for use on a time, operating or bareboat charter basis, from the participation in a pool, partnership, strategic alliance, joint operating agreement or other joint venture it directly or indirectly owns or participates in that generates such income, or from the performance of services directly related to those uses, which we refer to as "shipping income," to the extent that the shipping income is derived from sources within the United States. For these purposes, 50% of shipping income that is attributable to transportation that begins or ends, but that does not both begin and end, in the United States constitutes income from sources within the United States, which we refer to as "United States-source shipping income."

Shipping income attributable to transportation that both begins and ends in the United States is generally considered to be 100% from sources within the United States. We do not expect to engage in transportation that produces income which is considered to be 100% from sources within the United States.

Shipping income attributable to transportation exclusively between non-United States ports is generally 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 any United States federal income tax.

In the absence of exemption from tax under Section 883 of the Code, our gross United States-source shipping income and that of our vessel-owning or vessel-operating subsidiaries, unless determined to be effectively connected with the conduct of a United States trade or business, as described below, would be subject to a 4% tax imposed without allowance for deductions as described below.

Exemption of Operating Income from United States Federal Income Taxation

Under Section 883 of the Code, we and our vessel-owning or vessel-operating subsidiaries will be exempt from United States federal income taxation on United States-source shipping income if:

(1) we and such subsidiaries are organized in foreign countries (our "countries of organization") that grant an "equivalent exemption" to corporations organized in the United States; and

(2) either

(A) more than 50% of the value of our stock is owned, directly or indirectly, by individuals who are "residents" of our country of organization or of another foreign country that grants an "equivalent exemption" to corporations organized in the United States, which we refer to as the "50% Ownership Test"; or

(B) our stock is "primarily and regularly traded on an established securities market" in our country of organization, in another country that grants an "equivalent exemption" to United States corporations, or in the United States, which we refer to as the "Publicly-Traded Test."

(each an "Exchange of Notes"), that the Marshall Islands, Liberia, Cyprus and Malta, the jurisdictions in which we and our vessel-owning and vessel-operating subsidiaries are incorporated, grant an "equivalent exemption" to United States corporations. Therefore, we believe that we and our vessel-owning and vessel-operating subsidiaries will be exempt from United States federal income taxation with respect to United States-source shipping income if either the 50% Ownership Test or the Publicly-Traded Test is met. While we believe that we have previously satisfied the 50% Ownership Test, it may be difficult for us to continue to satisfy the 50% Ownership Test due to the public trading of our stock, following the consummation of the 2018 Refinancing, because the 883 Trust no longer owns more than 50% of our shares. Our ability to satisfy the Publicly-Traded Test is discussed below.

The Section 883 regulations provide, in pertinent part, that stock of a foreign corporation will be considered to be "primarily traded" on an established securities market in a particular country if the number of shares of each class of stock that are traded during any taxable year on all established securities markets in that country exceeds the number of shares in each such class that are traded during that year on established securities markets in any other single country. For 2018, our common stock, which is the sole class of our issued and outstanding stock, was "primarily traded" on the New York Stock Exchange. We expect that that will also be the case for subsequent taxable years, but no assurance can be given that this will be the case, or that we otherwise will be eligible for the Publicly-Traded Test.

Under the regulations, our common stock will be considered to be "regularly traded" on an established securities market if one or more classes of our stock representing more than 50% of our outstanding shares, by total combined voting power of all classes of stock entitled to vote and total value, is listed on the market. We refer to this as the "listing threshold". Since our common stock is our sole class of stock we satisfied the listing threshold for 2018 and expect to continue to do so for subsequent taxable years.

It is further required that with respect to each class of stock relied upon to meet the listing threshold (i) such class of the stock is traded on the market, other than in minimal quantities, on at least 60 days during the taxable year or 1/6 of the days in a short taxable year; and (ii) the aggregate number of shares of such class of stock traded on such market is at least 10% of the average number of shares of such class of stock outstanding during such year or as appropriately adjusted in the case of a short taxable year. We believe that we satisfied the trading frequency and trading volume tests for 2018. We expect to continue to satisfy these requirements following the consummation of the 2018 Refinancing and for subsequent taxable years, but no assurance can be given that this will be the case. Even if this were not the case, the regulations provide that the trading frequency and trading volume tests will be deemed satisfied if, as was the case for 2018 and may be the case with our common stock for subsequent taxable years, such class of stock is traded on an established market in the United States and such stock is regularly quoted by dealers making a market in such stock.

Notwithstanding the foregoing, the regulations provide, in pertinent part, that a class of our stock will not be considered to be "regularly traded" on an established securities market for any taxable year in which 50% or more of such class of our outstanding shares of the stock is 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 our outstanding stock, which we refer to as the "5 Percent Override Rule."

For purposes of being able to determine the persons who own 5% or more of our stock, or "5% Stockholders," the regulations permit us to rely on those persons that are identified on Schedule 13G and Schedule 13D filings with the United States Securities and Exchange Commission, or the "SEC," as having a 5% or more beneficial interest in our common stock. The regulations further provide that an investment company which is registered under the Investment Company Act of 1940, as amended, will not be treated as a 5% Stockholder for such purposes.

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More than 50% of our shares of common stock were owned prior to the consummation of the Refinancing, and following the consummation of the Refinancing, more than 50% of our shares of common stock may be owned, by 5% stockholders. For any period that this is the case, we will be subject to the 5% Override Rule unless we can establish that among the shares included in the closely-held block of our shares of common stock there are a sufficient number of shares of common stock that are owned or treated as owned by "qualified stockholders" such that the shares of common stock included in such block that are not so treated could not constitute 50% or more of the shares of our common stock for more than half the number of days during the taxable year. In order to establish this, such qualified stockholders would have to comply with certain documentation and certification requirements designed to substantiate their identity as qualified stockholders. For these purposes, a "qualified stockholder" includes (i) an individual that owns or is treated as owning shares of our common stock and is a resident of a jurisdiction that provides an exemption that is equivalent to that provided by Section 883 of the Code and (ii) certain other persons. There can be no assurance that we will not be subject to the 5 Percent Override Rule with respect to any taxable year.

Approximately 31.8% of our shares will be treated, under applicable attribution rules, as owned by the 883 Trust whose ownership of our shares will be attributed, during his lifetime, to John Coustas, our chief executive officer, for purposes of Section 883. Dr. Coustas has entered into an agreement with us regarding his compliance, and the compliance of certain entities that he controls and through which he owns our shares, with the certification requirements designed to substantiate status as qualified stockholders. In certain circumstances, including circumstances where Dr. Coustas ceases to be a "qualified stockholder" or where the 883 Trust transfers some or all of our shares that it holds, Dr. Coustas' compliance, and the compliance of certain entities that he controls or through which he owns our shares, with the terms of the agreement with us will not enable us to satisfy the requirements for the benefits of Section 883. Following Dr. Coustas' death, there can be no assurance that our shares that are treated, under applicable attribution rules, as owned by the 883 Trust will be treated as owned by a "qualified stockholder" or that any "qualified stockholder" to whom ownership of all or a portion of such ownership is attributed will comply with the ownership certification requirements under Section 883.

Accordingly, there can be no assurance that we or any of our vessel-owning or vessel-operating subsidiaries will qualify for the benefits of Section 883 for any taxable year.

To the extent the benefits of Section 883 are unavailable, our U.S.-source shipping income, to the extent not considered to be "effectively connected" with the conduct of a United States trade or business, as described below, would be subject to a 4% tax imposed by Section 887 of the Code on a gross basis, without the benefit of deductions. Since, under the sourcing rules described above, we expect that no more than 50% of our shipping income would be treated as being derived from United States sources, we expect that the maximum effective rate of United States federal income tax on our gross shipping income would never exceed 2% under the 4% gross basis tax regime. Many of our charters contain provisions obligating the charter to reimburse us for amounts paid in respect of the 4% tax with respect to the activities of the vessel subject to the charter.

To the extent the benefits of the Section 883 exemption are unavailable and our United States-source shipping income is considered to be "effectively connected" with the conduct of a United States trade or business, as described below, any such "effectively connected" U.S.-source shipping income, net of applicable deductions, would be subject to the United States federal corporate income tax currently imposed at rates of up to 21%. In addition, we may be subject to the 30% "branch profits" taxes on earnings effectively connected with the conduct of such trade or business, as determined after allowance for certain adjustments, and on certain interest paid or deemed paid attributable to the conduct of our United States trade or business.
Our U.S.-source shipping income, other than leasing income, will be considered "effectively connected" with the conduct of a United States trade or business only if:

• we have, or are considered to have, a fixed place of business in the United States involved in the earning of shipping income; and

• substantially all (at least 90%) of our U.S.-source shipping income, other than leasing income, is attributable to regularly scheduled transportation, such as the operation of a vessel that follows a published schedule with repeated sailings at regular intervals between the same points for operating that begin or end in the United States.

Our U.S.-source shipping income from leasing will be considered "effectively connected" with the conduct of a U.S. trade or business only if:

• we have, or are considered to have a fixed place of business in the United States that is involved in the meaning of such leasing income; and

• substantially all (at least 90%) of our U.S.-source shipping income from leasing is attributable to such fixed place of business.

For these purposes, leasing income is treated as attributable to a fixed place of business where such place of business is a material factor in the realization of such income and such income is realized in the ordinary course of business carried on through such fixed place of business. 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.

United States Taxation of Gain on Sale of Vessels

Regardless of whether we qualify for exemption under Section 883, we will not be subject to United States 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 United States 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 will be so structured that it will be considered to occur outside of the United States unless any gain from such sale is expected to qualify for exemption under Section 883.

United States Federal Income Taxation of United States Holders

As used herein, the term "United States Holder" means a beneficial owner of common stock that is a United States citizen or resident, United States corporation or other United States entity taxable as a corporation, an estate the income of which is subject to United States 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 United States persons have the authority to control all substantial decisions of the trust. The discussion that follows deals only with common stock that are held by a United States Holder as capital assets, and does not address the treatment of United States Holders that are subject to special tax rules.

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. Partners in a partnership holding our common stock are encouraged to consult their tax advisor.
Subject to the discussion of passive foreign investment companies, or PFICs, below, any distributions made by us with respect to our common stock to a United States 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 our current or accumulated earnings and profits, as determined under United States federal income tax principles. Distributions in excess of our earnings and profits will be treated first as a nontaxable return of capital to the extent of the United States Holder's tax basis in his or her or its common stock on a dollar for dollar basis and thereafter as capital gain. Because we are not a United States corporation, United States Holders that are corporations will not be entitled to claim a dividends received deduction with respect to any distributions they receive from us. Dividends paid with respect to our common stock will generally be treated as passive category income or, in the case of certain types of United States Holders, general category income for purposes of computing allowable foreign tax credits for United States foreign tax credit purposes. Dividends paid on our common stock to a United States Holder who is an individual, trust or estate (a "United States Individual Holder") should be treated as "qualified dividend income" that is taxable to such United States Individual Holders at preferential tax rates provided that (1) the common stock is readily tradable on an established securities market in the United States (such as the New York Stock Exchange); (2) we are not a PFIC for the taxable year during which the dividend is paid or the immediately preceding taxable year (see the discussion below under "—PFIC Status and Material U.S. Federal Tax Consequences"); and (3) the United States Individual Holder owns 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. Special rules may apply to any "extraordinary dividend". Generally, an extraordinary dividend is a dividend in an amount which is equal to or in excess of ten percent of a stockholder's adjusted basis (or fair market value in certain circumstances) in a share of common stock paid by us. If we pay an "extraordinary dividend" on our common stock that is treated as "qualified dividend income," then any loss derived by a United States 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.

There is no assurance that any dividends paid on our common stock will be eligible for these preferential rates in the hands of a United States Individual Holder. Any dividends paid by us which are not eligible for these preferential rates will be taxed to a United States Individual Holder at the standard ordinary income rates.

Legislation has been previously introduced that would deny the preferential rate of federal income tax currently imposed on qualified dividend income with respect to dividends received from a non-U.S. corporation, unless the non-U.S. corporation either is eligible for the benefits of a comprehensive income tax treaty with the United States or is created or organized under the laws of a foreign country which has a comprehensive income tax system. Because the Marshall Islands has not entered into a comprehensive income tax treaty with the United States and imposes only limited taxes on corporations organized under its laws, it is unlikely that we could satisfy either of these requirements. Consequently, if this legislation were enacted in its current form the preferential rate of federal income tax described above may no longer be applicable to dividends received from us. As of the date hereof, it is not possible to predict with certainty whether or in what form legislation of this sort might be proposed, or enacted.

Sale, Exchange or other Disposition of Common Stock

Assuming we do not constitute a PFIC for any taxable year, a United States Holder generally will recognize taxable gain or loss upon a sale, exchange or other disposition of our common stock in an amount equal to the difference between the amount realized by the United States Holder from such sale, exchange or other disposition and the United States Holder's tax basis in such stock. Such gain or
loss will be treated as long-term capital gain or loss if the United States Holder's holding period is greater than one year at the time of the sale, exchange or other disposition. Such capital gain or loss will generally be treated as United States-source income or loss, as applicable, for United States foreign tax credit purposes. A United States Holder's ability to deduct capital losses is subject to certain limitations.

**PFIC Status and Material U.S. Federal Tax Consequences**

Special United States federal income tax rules apply to a United States Holder that holds stock in a foreign corporation classified as a passive foreign investment company, or PFIC, for United States federal income tax purposes. In general, we will be treated as a PFIC in any taxable year in which, after applying certain look-through rules, either:

- at least 75% of our 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 our assets during such taxable year produce, or are held for the production of, passive income.

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

We may hold, directly or indirectly, interests in other entities that are PFICs ("Subsidiary PFICs"). If we are a PFIC, each United States Holder will be treated as owning its pro-rata share by value of the stock of any such Subsidiary PFICs.

While there are legal uncertainties involved in this determination, we believe that we should not be treated as a PFIC for the taxable year ended December 31, 2018. We believe that, although there is no legal authority directly on point, the gross income that we derive from time chartering activities of our subsidiaries should constitute services income rather than rental income. Consequently, such income should not constitute passive income and the vessels that we or our subsidiaries operate in connection with the production of such income should not constitute passive assets for purposes of determining whether we are a PFIC. The characterization of income from time charters, however, is uncertain. Although there is older legal authority supporting this position consisting of case law and Internal Revenue Service, or IRS, pronouncements concerning the characterization of income derived from time charters as services income for other tax purposes, the United States Court of Appeals for the Fifth Circuit held in *Tidewater Inc. and Subsidiaries v. United States*, 565 F.3d 299; (5th Cir. 2009), that income derived from certain time chartering activities should be treated as rental income rather than services income for purposes of the "foreign sales corporation" rules under the Code. The IRS has stated that it disagrees with and will not acquiesce to the *Tidewater* decision, and in its discussion stated that the time charters at issue in *Tidewater* would be treated as producing services income for PFIC purposes. However, the IRS's statement with respect to the *Tidewater* decision was an administrative action that cannot be relied upon or otherwise cited as precedent by taxpayers. Consequently, in the absence of any binding legal authority specifically relating to the statutory provisions governing PFICs, there can be no assurance that the IRS or a court would agree with the *Tidewater* decision. However, if the principles of the *Tidewater* decision were applicable to our time charters, we would likely be treated as a PFIC. Moreover, although we intend to conduct our affairs in a manner to avoid being classified as a PFIC, we cannot assure you that the nature of our assets, income and operations will not change, or that we can avoid being treated as a PFIC for any taxable year.
If we were to be treated as a PFIC for any taxable year, a United States Holder would be required to file an annual report with the IRS for that year with respect to such holder's common stock. In addition, as discussed more fully below, if we were to be treated as a PFIC for any taxable year, a United States Holder of our common stock would be subject to different taxation rules depending on whether the United States Holder makes an election to treat us as a "Qualified Electing Fund," which election we refer to as a "QEF election." As an alternative to making a QEF election, a United States Holder should be able to make a "mark-to-market" election with respect to our common stock, as discussed below.

**Taxation of United States Holders Making a Timely QEF Election**

If a United States Holder makes a timely QEF election with respect to our common stock, which United States Holder we refer to as an "Electing Holder," for United States federal income tax purposes each year the Electing Holder must report his, her or its pro-rata share of our ordinary earnings and our net capital gain, if any, for our taxable year that ends with or within the taxable year of the Electing Holder, regardless of whether or not distributions were received from us by the Electing Holder. Generally, a QEF election should be made on or before the due date for filing the electing United States Holder's U.S. federal income tax return for the first taxable year in which our common stock is held by such United States Holder and we are classified as a PFIC. The Electing Holder's adjusted tax basis in the common stock would be increased to reflect taxed but undistributed earnings and profits. Distributions of earnings and profits that had been previously taxed would result in a corresponding reduction in the adjusted tax basis in the common stock and would not be taxed again once distributed. An Electing Holder would generally recognize capital gain or loss on the sale, exchange or other disposition of our common stock. A United States Holder would make a QEF election with respect to any year that our company and any Subsidiary PFIC are treated as PFICs by filing one copy of IRS Form 8621 with his, her or its United States federal income tax return and a second copy in accordance with the instructions to such form. If we were to become aware that we were to be treated as a PFIC for any taxable year, we would notify all United States Holders of such treatment and would provide all necessary information to any United States Holder who requests such information in order to make the QEF election described above with respect to our common stock and the stock of any Subsidiary PFIC.

**Taxation of United States Holders Making a "Mark-to-Market" Election**

Alternatively, if we were to be treated as a PFIC for any taxable year and, as we anticipate, our common stock is treated as "marketable stock," a United States Holder of our common stock would be allowed to make a "mark-to-market" election with respect to our common stock, provided the United States Holder completes and files IRS Form 8621 in accordance with the relevant instructions and related Treasury Regulations. If that election is made, the United States 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 United States Holder also would be permitted an ordinary loss in respect of the excess, if any, of the United States 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 United States Holder's tax basis in his, her or its common stock would be adjusted to reflect any such income or loss amount. Gain realized on the sale, exchange or other disposition of our 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 United States Holder. A mark-to-market election under the PFIC rules with respect to our common stock would not apply to a Subsidiary PFIC, and a United States Holder would not be able to make such a mark-to-market election in respect of its indirect ownership interest in that Subsidiary PFIC.
Consequently, United States Holders of our common stock could be subject to the PFIC rules with respect to income of the Subsidiary PFIC, the value of which already had been taken into account indirectly via mark-to-market adjustments.

Taxation of United States Holders Not Making a Timely QEF or Mark-to-Market Election

Finally, if we were treated as a PFIC for any taxable year, a United States Holder who does not make either a QEF election or a "mark-to-market" election for that year, whom we refer to as a "Non-Electing Holder," would be subject to special rules with respect to (1) any excess distribution (i.e., the portion of any distributions received by the Non-Electing Holder on our common stock in a taxable year in excess of 125% of the average annual distributions received by the Non-Electing Holder in the three 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 our common stock. Under these special rules:

1. the excess distribution or gain would be allocated ratably over the Non-Electing Holder's aggregate holding period for the common stock;
2. the amount allocated to the current taxable year or to any portion of the United States Holder's holding period prior to the first taxable year for which we were a PFIC would be taxed as ordinary income; and
3. 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 deferral benefit would be imposed with respect to the resulting tax attributable to each such other taxable year.

If we were treated as a PFIC for any taxable year, a U.S. Holder that owns our shares would be required to file an annual information return with the IRS reflecting such ownership, regardless of whether a QEF election or a mark-to-market election had been made.

If a United States Holder held our common stock during a period when we were treated as a PFIC but the United States Holder did not have a QEF election in effect with respect to us, then in the event that we failed to qualify as a PFIC for a subsequent taxable year, the United States Holder could elect to cease to be subject to the rules described above with respect to those shares by making a "deemed sale" or, in certain circumstances, a "deemed dividend" election with respect to our common stock. If the United States Holder makes a deemed sale election, the United States Holder will be treated, for purposes of applying the rules described in the preceding paragraph, as having disposed of our common stock for their fair market value on the last day of the last taxable year for which we qualified as a PFIC (the "termination date"). The United States Holder would increase his, her or its basis in such common stock by the amount of the gain on the deemed sale described in the preceding sentence. Following a deemed sale election, the United States Holder would not be treated, for purposes of the PFIC rules, as having owned the common stock during a period prior to the termination date when we qualified as a PFIC.

If we were treated as a "controlled foreign corporation" for United States tax purposes for the taxable year that included the termination date, then a United States Holder could make a deemed dividend election with respect to our common stock. If a deemed dividend election is made, the United States Holder is required to include in income as a dividend his, her or its pro-rata share (based on all of our stock held by the United States Holder, directly or under applicable attribution rules, on the termination date) of our post-1986 earnings and profits as of the close of the taxable year that includes the termination date (taking only earnings and profits accumulated in taxable years in which we were a PFIC into account). The deemed dividend described in the preceding sentence is treated as an excess distribution for purposes of the rules described in the second preceding paragraph. The United States
Holder would increase his, her or its basis in our common stock by the amount of the deemed dividend. Following a deemed dividend election, the United States Holder would not be treated, for purposes of the PFIC rules, as having owned the common stock during a period prior to the termination date when we qualified as a PFIC. For purposes of determining whether the deemed dividend election is available, we will generally be treated as a controlled foreign corporation for a taxable year when, at any time during that year, United States persons, each of whom owns, directly or under applicable attribution rules, common stock having 10% or more of the total voting power of our common stock, in the aggregate own, directly or under applicable attribution rules, shares representing more than 50% of the voting power or value of our common stock.

A deemed sale or deemed dividend election must be made on the United States Holder's original or amended return for the shareholder's taxable year that includes the termination date and, if made on an amended return, such amended return must be filed not later than the date that is three years after the due date of the original return for such taxable year. Special rules apply where a person is treated, for purposes of the PFIC rules, as indirectly owning our common stock.

**United States Federal Income Taxation of "Non-United States Holders"

A beneficial owner of common stock that is not a United States Holder and is not treated as a partnership for United States federal income tax purposes is referred to herein as a "Non-United States Holder."

**Dividends on Common Stock

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

**Sale, Exchange or Other Disposition of Common Stock

Non-United States Holders generally will not be subject to United States federal income tax 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-United States Holder's conduct of a trade or business in the United States. If the Non-United States Holder is entitled to the benefits of an income tax treaty with respect to that gain, that gain generally is taxable only if it is attributable to a permanent establishment maintained by the Non-United States Holder in the United States; or

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

**Backup Withholding and Information Reporting**

In general, dividend payments, or other taxable distributions, made within the United States to a noncorporate United States holder will be subject to information reporting requirements and backup withholding tax if such holder:

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

Non-United States Holders may be required to establish their exemption from information reporting and backup withholding by certifying their status on IRS Form W-8BEN, W-8ECI or W-8IMY, as applicable.

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

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

**Dividends and Paying Agents**

Not applicable.

**Statement by Experts**

Not applicable.

**Documents on Display**

We are subject to the informational requirements of the Securities Exchange Act of 1934, as amended. In accordance with these requirements, we file reports and other information as a foreign private issuer with the SEC. You may access our public filings and reports and other information regarding registrants, including us, that file electronically with the SEC without charge at a web site maintained by the SEC at [http://www.sec.gov](http://www.sec.gov).

**Item 11. Quantitative and Qualitative Disclosures About Market Risk**

**Interest Rate Risk**

We currently have no outstanding interest rate swaps agreements. However, in the past years, we entered into interest rate swap agreements designed to proactively and efficiently manage our floating
rate exposure on our credit facilities. We have recognized these derivative instruments on the consolidated balance sheet at their fair value. Pursuant to the adoption of our Risk Management Accounting Policy, and after putting in place the formal documentation required by the accounting guidance for derivatives and hedging in order to designate these swaps as hedging instruments, as of June 15, 2006, these interest rate swaps qualified for hedge accounting, and, accordingly, from that time until June 30, 2012, only hedge ineffectiveness amounts arising from the differences in the change in fair value of the hedging instrument and the hedged item were recognized in the Company's earnings. Assessment and measurement of prospective and retrospective effectiveness for these interest rate swaps were performed on a quarterly basis until June 30, 2012. For qualifying cash flow hedges, the fair value gain or loss associated with the effective portion of the cash flow hedge was recognized initially in stockholders' equity, and recognized to the Statement of Operations in the periods when the hedged item affects profit or loss. On July 1, 2012, we elected to prospectively de-designate cash flow interest rate swaps for which we were obtaining hedge accounting treatment due to the compliance burden associated with this accounting policy. As a result, all changes in the fair value of our cash flow interest rate swap agreements are recorded in earnings under "Unrealized and Realized Losses on Derivatives" from the de-designation date forward. We have not held or issued derivative financial instruments for trading or other speculative purposes.

Accounting guidance for derivative instruments, including certain derivative instruments embedded in other contracts and for hedging activities requires that an entity recognize all derivatives as either assets or liabilities in the consolidated balance sheet and measures those instruments at fair value. If certain conditions are met, a derivative may be specifically designated as a hedge, the objective of which is to match the timing of gain or loss recognition on the hedging derivative with the recognition of (i) the changes in the fair value of the hedged asset or liability that are attributable to the hedged risk or (ii) the earnings effect of the hedged forecasted transaction. For a derivative not designated as a hedging instrument, the gain or loss is recognized in income in the period of change.

**Fair Value Interest Rate Swap Hedges**

These interest rate swaps were designed to economically hedge the fair value of the fixed rate loan facilities against fluctuations in the market interest rates by converting our fixed rate loan facilities to floating rate debt. Pursuant to the adoption of our Risk Management Accounting Policy, and after putting in place the formal documentation required by hedge accounting in order to designate these swaps as hedging instruments, as of June 15, 2006, these interest rate swaps qualified for hedge accounting, and, accordingly, from that time until June 30, 2012, hedge ineffectiveness amounts arising from the differences in the change in fair value of the hedging instrument and the hedged item were recognized in our earnings. Assessment and measurement of prospective and retrospective effectiveness for these interest rate swaps was performed on a quarterly basis, on the financial statement and earnings reporting dates.

On July 1, 2012, we elected to prospectively de-designate fair value interest rate swaps for which it was applying hedge accounting treatment due to the compliance burden associated with this accounting policy. All changes in the fair value of our fair value interest rate swap agreements will continue to be recorded in earnings under "Unrealized and Realized Losses on Derivatives" from the de-designation date forward.

The total fair value change of the interest rate swaps for the years ended December 31, 2018, 2017 and 2016, amounted to nil, nil and $(0.1) million, respectively, and is included in the consolidated Statements of Operations in "Net unrealized and realized losses on derivatives".

We reclassified from "Current portion of long-term debt" and "Long-term debt, net of current portion", where its fair value of hedged item is recorded, to our earnings unrealized gains/losses an amount of nil, nil and $0.4 million for the years ended December 31, 2018, 2017 and 2016, respectively.
Cash Flow Interest Rate Swap Hedges

In prior years, we decided to swap part of our interest expenses from floating to fixed. To this effect, we entered into interest rate swap transactions with varying start and maturity dates, in order to pro-actively and efficiently manage our floating rate exposure.

These interest rate swaps were designed to economically hedge the variability of interest cash flows arising from floating rate debt, attributable to movements in three-month USD$ LIBOR. According to our Risk Management Accounting Policy, and after putting in place the formal documentation required by hedge accounting in order to designate these swaps as hedging instruments, as from their inception, these interest rate swaps qualified for hedge accounting and, accordingly, from that time until June 30, 2012, only hedge ineffectiveness amounts arising from the differences in the change in fair value of the hedging instrument and the hedged item were recognized in our earnings. Assessment and measurement of prospective and retrospective effectiveness for these interest rate swaps were performed on a quarterly basis. For qualifying cash flow hedges, the fair value gain or loss associated with the effective portion of the cash flow hedge was recognized initially in stockholders' equity, and recognized to the Statement of Operations in the periods when the hedged item affects profit or loss.

On July 1, 2012, we elected to prospectively de-designate cash flow interest rate swaps for which we were obtaining hedge accounting treatment due to the compliance burden associated with this accounting policy. As a result, all changes in the fair value of our cash flow interest rate swap agreements are recorded in earnings under "Unrealized and Realized Losses on Derivatives" from the de-designation date forward. We evaluated whether it is probable that the previously hedged forecasted interest payments are probable to not occur in the originally specified time period. We concluded that the previously hedged forecasted interest payments are probable of occurring. Therefore, unrealized gains or losses in accumulated other comprehensive loss associated with the previously designated cash flow interest rate swaps will remain in accumulated other comprehensive loss when the interest payments will be recognized. If such interest payments were to be identified as being probable of not occurring, the accumulated other comprehensive loss balance pertaining to these amounts would be reversed through earnings immediately.

We recorded in the consolidated Statements of Operations unrealized gains of nil, nil and $4.5 million in relation to fair value changes of cash flow interest rate swaps for the years ended December 31, 2018, 2017 and 2016, respectively. Furthermore, nil, nil and $0.2 million of unrealized losses were reclassified from Accumulated Other Comprehensive Loss to earnings for year ended December 31, 2018, 2017 and 2016, respectively.

The variable-rate interest on specific borrowings that was associated with vessels under construction was capitalized as a cost of the specific vessels. In accordance with the accounting guidance on derivatives and hedging, the amounts in accumulated other comprehensive income related to realized gains or losses on cash flow hedges that have been entered into and qualify for hedge accounting, in order to hedge the variability of that interest, are classified under other comprehensive income and are reclassified into earnings over the depreciable life of the constructed asset, since that depreciable life coincides with the amortization period for the capitalized interest cost on the debt. An amount of $3.7 million, $3.7 million and $4.0 million was reclassified into earnings for the years ended December 31, 2018, 2017 and 2016, respectively, representing amortization over the depreciable life of the vessels. Additionally, the Company recognized accelerated amortization of these deferred realized losses of $1.4 million, nil and $7.7 million in connection with the impairment losses recognized on the respective vessels for the years ended December 31, 2018, 2017 and 2016.

Assuming no changes to our borrowings or hedging instruments after December 31, 2018, a 10 basis points increase in interest rates on our floating rate debt outstanding at December 31, 2018 would result in a decrease of approximately $0.8 million in our earnings in 2019. These amounts are determined by calculating the effect of a hypothetical interest rate change on our floating rate debt.
These amounts do not include the effects of certain potential results of changing interest rates, such as a different level of overall economic activity, or other actions management may take to mitigate this risk. Furthermore, this sensitivity analysis does not assume alterations in our gross debt or other changes in our financial position.

Foreign Currency Exchange Risk

We generate all of our revenues in U.S. dollars, but for the year ended December 31, 2018 we incurred approximately 26.4% of our operating expenses in currencies other than U.S. dollars (mainly in Euros). As of December 31, 2018, approximately 32.8% of our outstanding accounts payable were denominated in currencies other than the U.S. dollar (mainly in Euro). We have not entered into derivative instruments to hedge the foreign currency translation of assets or liabilities or foreign currency transactions.

Item 12. Description of Securities Other than Equity Securities

Not Applicable.

PART II

Item 13. Defaults, Dividend Arrearages and Delinquencies

Not Applicable.

Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds

Not Applicable.

Item 15. Controls and Procedures

15A. Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as of December 31, 2018. Disclosure controls and procedures are defined under SEC rules as controls and other procedures that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within required time periods. Disclosure controls and procedures include controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Securities Exchange Act of 1934 is accumulated and communicated to the issuer's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate, to allow timely decisions regarding required disclosure. There are inherent limitations to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable assurance of achieving their control objectives.

Based on our evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that our disclosure controls and procedures were effective as of December 31, 2018.

15B. Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of
1934, and for the assessment of the effectiveness of internal control over financial reporting. Our 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 in the United States ("GAAP").

A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit the preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) 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 making its assessment of our internal control over financial reporting as of December 31, 2018, management, including the Chief Executive Officer and Chief Financial Officer, used the criteria set forth in Internal Control—Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO").

Management concluded that, as of December 31, 2018, our internal control over financial reporting was effective.

15C. Attestation Report of the Independent Registered Public Accounting Firm

PricewaterhouseCoopers S.A, which has audited the consolidated financial statements of the Company for the year ended December 31, 2018, has also audited the effectiveness of the Company's internal control over financial reporting as stated in their audit report which is incorporated into Item 18 of this Form 20-F from page F-2 hereof.

15D. Change in Internal Control over Financial Reporting

During the period covered by this Annual Report on Form 20-F, we have made no changes to our internal control over financial reporting that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

Item 16A. Audit Committee Financial Expert

Our Audit Committee consists of three independent directors, Myles R. Itkin, who is the chairman of the committee, Miklos Konkoly-Thege and William Repko. Our board of directors has determined that Myles R. Itkin, whose biographical details are included in "Item 6. Directors, Senior Management and Employees," qualifies as an audit committee financial expert as defined under current SEC regulations. Mr. Itkin is independent in accordance with the listing standards of the New York Stock Exchange and SEC rules.

Item 16B. Code of Ethics

We have adopted a Code of Business Conduct and Ethics for officers and employees of our company, a Code of Conduct for the chief executive officer and senior financial officers of our company and a Code of Ethics for directors of our company, copies of which are posted on our website, and may be viewed at http://www.danaos.com. We will also provide a paper copy of these
Item 16C. Principal Accountant Fees and Services

PricewaterhouseCoopers S.A., an independent registered public accounting firm, has audited our annual financial statements acting as our independent auditor for the fiscal years ended December 31, 2018 and 2017.

The chart below sets forth the total amount billed and accrued for the PricewaterhouseCoopers S.A. services performed in 2018 and 2017 and breaks down these amounts by the category of service.

<table>
<thead>
<tr>
<th>Category</th>
<th>2018 (in thousands of dollars)</th>
<th>2017 (in thousands of dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audit fees</td>
<td>$ 588.3</td>
<td>$ 380.1</td>
</tr>
<tr>
<td>Audit-related fees</td>
<td>—</td>
<td>43.0</td>
</tr>
<tr>
<td>Total fees</td>
<td>$ 588.3</td>
<td>$ 423.1</td>
</tr>
</tbody>
</table>

Audit Fees

Audit fees paid were compensation for professional services rendered for the audits of our consolidated financial statements and in connection with the review of the registration statements and related consents required for SEC or other regulatory filings.

Audit-related Fees; Tax Fees; All Other Fees

PricewaterhouseCoopers S.A. provided audit-related services related to agreed-upon procedures for the year ended December 31, 2017. No other audit-related, tax or other services were provided for the year ended December 31, 2018 and 2017.

Pre-approval Policies and Procedures

The audit committee charter sets forth our policy regarding retention of the independent auditors, requiring the audit committee to review and approve in advance the retention of the independent auditors for the performance of all audit and lawfully permitted non-audit services and the fees related thereto. The chairman of the audit committee or in the absence of the chairman, any member of the audit committee designated by the chairman, has authority to approve in advance any lawfully permitted non-audit services and fees. The audit committee is authorized to establish other policies and procedures for the pre-approval of such services and fees. Where non-audit services and fees are approved under delegated authority, the action must be reported to the full audit committee at its next regularly scheduled meeting.

Item 16D. Exemptions from the Listing Standards for Audit Committees

Not Applicable.

Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers

We did not repurchase any shares of our stock in any of the five years ended December 31, 2018.
Item 16F. Change in Registrant's Certifying Accountant

Not Applicable.

Item 16G. Corporate Governance

Statement of Significant Differences between our Corporate Governance Practices and the New York Stock Exchange Corporate Governance Standards for U.S. Domestic Issuers

Pursuant to certain exceptions for foreign private issuers, we are not required to comply with certain of the corporate governance practices followed by domestic U.S. companies under the New York Stock Exchange listing standards. However, pursuant to Section 303.A.11 of the New York Stock Exchange Listed Company Manual and the requirements of Form 20-F, we are required to state any significant differences between our corporate governance practices and the practices required by the New York Stock Exchange. We believe that our established practices in the area of corporate governance are in line with the spirit of the New York Stock Exchange standards and provide adequate protection to our stockholders. The significant differences between our corporate governance practices and the New York Stock Exchange standards applicable to listed U.S. companies are set forth below.

The New York Stock Exchange requires that a listed U.S. company have a nominating/corporate governance committee and a compensation committee, each composed of independent directors. As permitted under Marshall Islands law and our bylaws, a non-independent director, who is a member of our management who also serves on our board of directors, serves on the nominating and corporate governance committee of our board of directors and until September 2018 served on the compensation committee of our board of directors.

As a foreign private issuer we are permitted to follow the corporate governance rules of our home country in lieu of complying with NYSE shareholder approval requirements applicable to certain share issuances and the adoption or amendment of equity compensation plans, specifically NYSE Rules 303A.08, 312.03(a), 312.03(b) and 312.03(c). If we believe that circumstances warrant, we may elect to comply with the provisions of the Marshall Islands Business Corporations Act which provide that the Board of Directors approve share issuances, without the need for stockholder approval, in lieu of the NYSE rules, as we did in respect of our $200.0 million equity transaction on August 12, 2010 and the issuance of shares in our comprehensive debt refinancing consummated on August 10, 2018. In 2016, our Board of Directors approved the extension of the termination date of our 2016 equity compensation plan until September 17, 2019 in accordance with Marshall Islands law.

Item 16H. Mine Safety Disclosure

Not Applicable.
## Table of Contents

**PART III**

**Item 17. Financial Statements**

Not Applicable.

**Item 18. Financial Statements**

Reference is made to pages F-1 through F-44 included herein by reference.

**Item 19. Exhibits**

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Restated Articles of Incorporation of Danaos Corporation, as amended by the Articles of Amendment to Restated Articles of Incorporation</td>
</tr>
<tr>
<td>1.2</td>
<td>Amended and Restated Bylaws of Danaos Corporation (incorporated by reference to the Company's Form 6-K filed with the SEC on September 23, 2009)</td>
</tr>
<tr>
<td>4.1</td>
<td>Stockholders Agreement, dated as of August 10, 2018, among Danaos Corporation and the stockholders bound thereby (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018)</td>
</tr>
<tr>
<td>4.2</td>
<td>Backstop Agreement, dated August 10, 2018, among Danaos Corporation, Danaos Investment Limited and Danaos Shipping Company Limited (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018)</td>
</tr>
<tr>
<td>4.3</td>
<td>Registration Rights Agreement, dated as of August 10, 2018, among Danaos Corporation and the stockholders bound thereby (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018)</td>
</tr>
<tr>
<td>4.4</td>
<td>Amended and Restated Management Agreement with Danaos Shipping Co. Ltd., dated August 10, 2018, between Danaos Corporation and Danaos Shipping Company Limited (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018)</td>
</tr>
<tr>
<td>4.5</td>
<td>Amended and Restated Restrictive Covenant Agreement between Danaos Corporation and Dr. John Coustas, dated August 10, 2018, among Danaos Corporation, Dr. John Coustas and Danaos Investment Limited as the Trustee of the 883 Trust (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018)</td>
</tr>
<tr>
<td>4.6</td>
<td>Contribution Agreement, dated as of August 10, 2018, between Danaos Corporation and Danaos Investment Limited (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018)</td>
</tr>
<tr>
<td>4.7</td>
<td>2006 Equity Compensation Plan (incorporated by reference to the Company's Registration Statement on Form F-1 (Reg. No. 333-137459) filed with the SEC September 19, 2006)</td>
</tr>
<tr>
<td>4.8</td>
<td>Amendment No. 1 to 2006 Equity Compensation Plan (incorporated by reference to the Company's Annual Report on Form 20-F for the year ended December 31, 2016 filed with the SEC on March 6, 2017)</td>
</tr>
<tr>
<td>4.9</td>
<td>Directors' Share Payment Plan (incorporated by reference to the Company's Annual Report on Form 20-F for the year ended December 31, 2008 filed with the SEC on July 13, 2009)</td>
</tr>
<tr>
<td>4.10</td>
<td>Form of Subscription Agreement, including the Form of Registration Rights Agreement attached thereto as Schedule B, for August 2010 common stock sale (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 27, 2010)</td>
</tr>
<tr>
<td>Number</td>
<td>Description</td>
</tr>
<tr>
<td>--------</td>
<td>-------------</td>
</tr>
<tr>
<td>4.11</td>
<td>Shareholders Agreement, dated as of August 5, 2015, by and among Gemini Shipholdings Corporation, Virage International Ltd. and Danaos Corporation (incorporated by reference to the Company's Annual Report on Form 20-F for the year ended December 31, 2015 and filed with the SEC on March 15, 2016)</td>
</tr>
<tr>
<td>4.12</td>
<td>Amendment and Restatement Agreement, dated July 31, 2018, by and among Danaos Corporation, as Borrower, arranged by Aegean Baltic Bank S.A. and HSH Nordbank AG, as Arrangers, with Aegean Baltic Bank S.A., as Agent and Aegean Baltic Bank S.A., as Security Agent</td>
</tr>
<tr>
<td>4.13</td>
<td>Amendment and Restatement Agreement in respect of the Facility Agreement dated February 20, 2007 included therein, dated August 1, 2018, by and among Danaos Corporation, as Borrower and its subsidiaries and The Royal Bank of Scotland PLC and Natwest Markets PLC</td>
</tr>
<tr>
<td>4.14</td>
<td>Subordinated Loan Agreement, dated as of August 10, 2018, between Danaos Corporation and Danaos Investment Limited (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018)</td>
</tr>
</tbody>
</table>

8 Subsidiaries

11.1 Code of Business Conduct and Ethics

11.2 Code of Conduct and Ethics for Corporate Officers and Directors

12.1 Certification of Chief Executive Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended

12.2 Certification of Chief Financial Officer pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended

13.1 Certification of Chief Executive Officer pursuant to Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. Section 1350 as added by Section 906 of the Sarbanes-Oxley Act of 2002


15 Consent of Independent Registered Public Accounting Firm

101 Attached as Exhibit 101 to this report are the following Interactive Data Files, formatted in eXtensible Business Reporting Language (XBRL):

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>101.INS</td>
<td>XBRL Instance Document</td>
</tr>
<tr>
<td>101.SCH</td>
<td>XBRL Taxonomy Extension Schema</td>
</tr>
<tr>
<td>101.CAL</td>
<td>XBRL Taxonomy Extension Calculation Linkbase</td>
</tr>
<tr>
<td>101.LAB</td>
<td>XBRL Taxonomy Extension Label Linkbase</td>
</tr>
<tr>
<td>101.PRE</td>
<td>XBRL Taxonomy Extension Presentation Linkbase</td>
</tr>
<tr>
<td>101.DEF</td>
<td>XBRL Taxonomy Extension Definition Linkbase</td>
</tr>
</tbody>
</table>
SIGNATURES

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

DANAOS CORPORATION

/s/ EVANGELOS CHATZIS

Name: Evangelos Chatzis
Title: Chief Financial Officer

Date: March 5, 2019
<table>
<thead>
<tr>
<th>SECTION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report of Independent Registered Public Accounting Firm</td>
<td>F-2</td>
</tr>
<tr>
<td>Consolidated Balance Sheets as of December 31, 2018 and 2017</td>
<td>F-4</td>
</tr>
<tr>
<td>Consolidated Statements of Operations for the Years Ended December 31, 2018, 2017 and 2016</td>
<td>F-5</td>
</tr>
<tr>
<td>Consolidated Statements of Comprehensive Income/(Loss) for the Years Ended December 31, 2018, 2017 and 2016</td>
<td>F-6</td>
</tr>
<tr>
<td>Consolidated Statements of Changes in Stockholders' Equity for the Years Ended December 31, 2018, 2017 and 2016</td>
<td>F-7</td>
</tr>
<tr>
<td>Consolidated Statements of Cash Flows for the Years Ended December 31, 2018, 2017 and 2016</td>
<td>F-8</td>
</tr>
<tr>
<td>Notes to the Consolidated Financial Statements</td>
<td>F-9</td>
</tr>
</tbody>
</table>
To the board of directors and the stockholders of Danaos Corporation

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of Danaos Corporation and its subsidiaries (the "Company") as of December 31, 2018 and 2017, and the related consolidated statements of operations, comprehensive income/(loss), changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2018, including the related notes (collectively referred to as the "consolidated financial statements"). We also have audited the Company's internal control over financial reporting as of December 31, 2018, based on criteria established in Internal Control—Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2018 and 2017, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2018 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2018, based on criteria established in Internal Control—Integrated Framework (2013) issued by the COSO.

Basis for Opinions

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, appearing in "Management's Annual Report on Internal Control over Financial Reporting" under Item 15(b) of the Company's 2018 Annual Report on Form 20-F. Our responsibility is to express opinions on the Company's consolidated financial statements and on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

F-2
Definition and Limitations of Internal Control over Financial Reporting

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 (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) 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 (iii) 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.

/s/ PricewaterhouseCoopers S.A.
Athens, Greece
March 5, 2019

We have served as the Company's auditor since 2000.
<table>
<thead>
<tr>
<th>Notes</th>
<th>December 31, 2018</th>
<th>December 31, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ASSETS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CURRENT ASSETS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Restricted cash</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Inventories</td>
<td>8,844</td>
<td></td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>1,214</td>
<td></td>
</tr>
<tr>
<td>Due from related parties</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Other current assets</td>
<td>5,182</td>
<td></td>
</tr>
<tr>
<td><strong>Total current assets</strong></td>
<td>119,750</td>
<td>125,999</td>
</tr>
<tr>
<td><strong>NON-CURRENT ASSETS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fixed assets at cost, net of accumulated depreciation of $743,924 (2017: $763,190)</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Deferred charges, net</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Investments in affiliates</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Other non-current assets</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td><strong>Total non-current assets</strong></td>
<td>2,560,092</td>
<td>2,860,397</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>$2,679,842</td>
<td>$2,986,396</td>
</tr>
<tr>
<td><strong>LIABILITIES AND STOCKHOLDERS’ EQUITY</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CURRENT LIABILITIES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable</td>
<td>10,477</td>
<td></td>
</tr>
<tr>
<td>Accrued liabilities</td>
<td>11,770</td>
<td></td>
</tr>
<tr>
<td>Current portion of long-term debt, net</td>
<td>113,777</td>
<td></td>
</tr>
<tr>
<td>Accumulated accrued interest, current portion</td>
<td>35,782</td>
<td></td>
</tr>
<tr>
<td>Unearned revenue</td>
<td>19,753</td>
<td></td>
</tr>
<tr>
<td>Other current liabilities</td>
<td>31,142</td>
<td></td>
</tr>
<tr>
<td><strong>Total current liabilities</strong></td>
<td>222,701</td>
<td>2,379,839</td>
</tr>
<tr>
<td><strong>LONG-TERM LIABILITIES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long-term debt, net</td>
<td>1,508,108</td>
<td></td>
</tr>
<tr>
<td>Accumulated accrued interest, net of current portion</td>
<td>200,574</td>
<td></td>
</tr>
<tr>
<td>Unearned revenue, net of current portion</td>
<td>41,730</td>
<td></td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>15,876</td>
<td></td>
</tr>
<tr>
<td><strong>Total long-term liabilities</strong></td>
<td>1,766,288</td>
<td>53,852</td>
</tr>
<tr>
<td><strong>Total liabilities</strong></td>
<td>1,988,989</td>
<td>2,437,691</td>
</tr>
<tr>
<td>Commitments and Contingencies</td>
<td>31,142</td>
<td></td>
</tr>
<tr>
<td><strong>STOCKHOLDERS’ EQUITY</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preferred stock (par value $0.01, 100,000,000 preferred shares authorized and not issued as of December 31, 2018 and December 31, 2017)</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>Common stock (par value $0.01, 750,000,000 common shares authorized as of December 31, 2018 and December 31, 2017, 213,324,455 issued and outstanding as of December 31, 2018 and 109,799,352 as of December 31, 2017)</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>Accumulated other comprehensive loss</td>
<td>7,13</td>
<td></td>
</tr>
<tr>
<td>Additional paid-in capital</td>
<td>118,710</td>
<td></td>
</tr>
<tr>
<td>Retained earnings</td>
<td>81,849</td>
<td></td>
</tr>
<tr>
<td><strong>Total stockholders’ equity</strong></td>
<td>690,853</td>
<td>548,705</td>
</tr>
<tr>
<td><strong>Total liabilities and stockholders’ equity</strong></td>
<td>$2,679,842</td>
<td>$2,986,396</td>
</tr>
</tbody>
</table>

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

F-4
## DANAOS CORPORATION

### CONSOLIDATED STATEMENTS OF OPERATIONS

(Expressed in thousands of United States dollars, except share and per share amounts)

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

### OPERATING REVENUES

<table>
<thead>
<tr>
<th>Notes</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>14, 15</td>
<td>$458,732</td>
<td>$451,731</td>
<td>$498,332</td>
</tr>
</tbody>
</table>

### OPERATING EXPENSES

<table>
<thead>
<tr>
<th>Description</th>
<th>Notes</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voyage expenses</td>
<td>11</td>
<td>$(12,207)</td>
<td>(12,587)</td>
<td>(13,925)</td>
</tr>
<tr>
<td>Vessel operating expenses</td>
<td>11</td>
<td>(104,604)</td>
<td>(106,999)</td>
<td>(109,384)</td>
</tr>
<tr>
<td>Depreciation</td>
<td>4</td>
<td>(107,757)</td>
<td>(115,228)</td>
<td>(129,045)</td>
</tr>
<tr>
<td>Amortization of deferred drydocking and special survey costs</td>
<td>5</td>
<td>(9,237)</td>
<td>(6,748)</td>
<td>(5,528)</td>
</tr>
<tr>
<td>Impairment loss</td>
<td>4</td>
<td>(210,715)</td>
<td>—</td>
<td>(415,118)</td>
</tr>
<tr>
<td>Bad debt expense</td>
<td>13, 16</td>
<td>—</td>
<td>—</td>
<td>(15,834)</td>
</tr>
<tr>
<td>General and administrative expenses</td>
<td>11</td>
<td>(26,334)</td>
<td>(22,672)</td>
<td>(22,105)</td>
</tr>
<tr>
<td>Loss on sale of vessels</td>
<td></td>
<td>—</td>
<td>—</td>
<td>(36)</td>
</tr>
<tr>
<td><strong>Income/(loss) from operations</strong></td>
<td></td>
<td><strong>(12,122)</strong></td>
<td><strong>187,497</strong></td>
<td><strong>(212,643)</strong></td>
</tr>
</tbody>
</table>

### OTHER INCOME (EXPENSES):

<table>
<thead>
<tr>
<th>Description</th>
<th>Notes</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest income</td>
<td></td>
<td>5,781</td>
<td>5,576</td>
<td>4,682</td>
</tr>
<tr>
<td>Interest expense</td>
<td></td>
<td>(85,706)</td>
<td>(86,556)</td>
<td>(82,966)</td>
</tr>
<tr>
<td>Other finance expenses</td>
<td></td>
<td>(3,026)</td>
<td>(4,126)</td>
<td>(4,932)</td>
</tr>
<tr>
<td>Equity income/(loss) on investments</td>
<td></td>
<td>1,365</td>
<td>965</td>
<td>(16,252)</td>
</tr>
<tr>
<td>Gain on debt extinguishment</td>
<td></td>
<td>116,365</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Other income/(expense), net</td>
<td>7, 10</td>
<td>(50,456)</td>
<td>(15,757)</td>
<td>(41,602)</td>
</tr>
<tr>
<td>Net unrealized and realized losses on derivatives</td>
<td></td>
<td>(5,137)</td>
<td>(3,694)</td>
<td>(12,482)</td>
</tr>
<tr>
<td><strong>Total Other Expenses, net</strong></td>
<td></td>
<td><strong>(20,814)</strong></td>
<td><strong>(103,592)</strong></td>
<td><strong>(153,552)</strong></td>
</tr>
</tbody>
</table>

### Net Income/(Loss)

<table>
<thead>
<tr>
<th>Year ended December 31,</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$32,936</td>
<td>$83,905</td>
<td>$(366,195)</td>
</tr>
</tbody>
</table>

### EARNINGS/(LOSS) PER SHARE

<table>
<thead>
<tr>
<th>Description</th>
<th>Notes</th>
<th>2018 (Basic)</th>
<th>2017 (Basic)</th>
<th>2016 (Basic)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic and diluted earnings/(loss) per share</td>
<td></td>
<td>$(0.22)</td>
<td>$0.76</td>
<td>$(3.34)</td>
</tr>
<tr>
<td>Basic and diluted weighted average number of common shares</td>
<td>19</td>
<td>148,719,749</td>
<td>109,824,329</td>
<td>109,801,586</td>
</tr>
</tbody>
</table>

F-5
DANAOS CORPORATION

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME/(LOSS)

(Expressed in thousands of United States dollars)

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

F-6
DANAOS CORPORATION

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY

(Expressed in thousands of United States dollars)

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

F-7
DANAOS CORPORATION
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Expressed in thousands of United States dollars)

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

F-8
1. Basis of Presentation and General Information

The accompanying financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The reporting and functional currency of Danaos Corporation and its subsidiaries (the "Company") is the United States Dollar.

Danaos Corporation, formerly Danaos Holdings Limited, was formed on December 7, 1998 under the laws of Liberia and is presently the sole owner of all outstanding shares of the companies listed below. Danaos Holdings Limited was redomiciled in the Marshall Islands on October 7, 2005. In connection with the redomiciliation, the Company changed its name to Danaos Corporation. On October 14, 2005, the Company filed and the Marshall Islands accepted Amended and Restated Articles of Incorporation. The authorized capital stock of Danaos Corporation is 750,000,000 shares of common stock with a par value of $0.01 and 100,000,000 shares of preferred stock with a par value of $0.01. Refer to Note 18, "Stockholders' Equity".

The Company's vessels operate worldwide, carrying containers for many established charterers.

The Company's principal business is the acquisition and operation of vessels. Danaos conducts its operations through the vessel owning companies whose principal activity is the ownership and operation of containerships (refer to Note 2, "Significant Accounting Policies") that are under the exclusive management of a related party of the Company (refer to Note 11, "Related Party Transactions").

The consolidated financial statements of the Company have been prepared to reflect the consolidation of the companies listed below. The historical balance sheets and results of operations of the companies listed below have been reflected in the consolidated balance sheets and consolidated statements of operations, consolidated statements of comprehensive income/(loss), cash flows and stockholders' equity at and for each period since their respective incorporation dates.

The Company's consolidated financial statements have been prepared on a going concern basis and contemplate the realization of assets and satisfaction of liabilities in the normal course of business. On August 10, 2018, the Company consummated the refinancing agreement (the "Refinancing") reached with certain of the Company's lenders through a debt reduction of approximately $551 million, the resetting of financial and other covenants, modified interest rates and amortization profiles and an extension of existing debt maturities by approximately five years to December 31, 2023, or in some cases to June 30, 2024, as further disclosed in the Note 10 "Long-term debt, net". This alleviated substantial doubt about the Company's ability to continue as a going concern reported in the Note 3, "Going Concern" to the consolidated financial statements in the Annual Report on Form 20-F for the year ended December 31, 2017.
As of December 31, 2018, Danaos consolidated the vessel owning companies (the "Danaos Subsidiaries") listed below. All vessels are container vessels:

<table>
<thead>
<tr>
<th>Company</th>
<th>Date of Incorporation</th>
<th>Vessel Name</th>
<th>Year Built</th>
<th>TEU(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Megacarrier (No. 1) Corp.</td>
<td>September 10, 2007</td>
<td>Hyundai Honour</td>
<td>2012</td>
<td>13,100</td>
</tr>
<tr>
<td>Megacarrier (No. 2) Corp.</td>
<td>September 10, 2007</td>
<td>Hyundai Respect</td>
<td>2012</td>
<td>13,100</td>
</tr>
<tr>
<td>Megacarrier (No. 3) Corp.</td>
<td>September 10, 2007</td>
<td>Maersk Enping</td>
<td>2012</td>
<td>13,100</td>
</tr>
<tr>
<td>Megacarrier (No. 4) Corp.</td>
<td>September 10, 2007</td>
<td>Maersk Exeter</td>
<td>2012</td>
<td>13,100</td>
</tr>
<tr>
<td>Megacarrier (No. 5) Corp.</td>
<td>September 10, 2007</td>
<td>MSC Ambition</td>
<td>2012</td>
<td>13,100</td>
</tr>
<tr>
<td>CellContainer (No. 6) Corp.</td>
<td>October 31, 2007</td>
<td>Express Berlin</td>
<td>2011</td>
<td>10,100</td>
</tr>
<tr>
<td>CellContainer (No. 7) Corp.</td>
<td>October 31, 2007</td>
<td>Express Rome</td>
<td>2011</td>
<td>10,100</td>
</tr>
<tr>
<td>CellContainer (No. 8) Corp.</td>
<td>October 31, 2007</td>
<td>Express Athens</td>
<td>2011</td>
<td>10,100</td>
</tr>
<tr>
<td>Karlita Shipping Co. Ltd.</td>
<td>February 27, 2003</td>
<td>Pusan C (ex CSCL Pusan)</td>
<td>2006</td>
<td>9,580</td>
</tr>
<tr>
<td>Ramona Marine Co. Ltd.</td>
<td>February 27, 2003</td>
<td>Le Havre (ex CSCL Le Havre)</td>
<td>2006</td>
<td>9,580</td>
</tr>
<tr>
<td>Teucarrier (No. 5) Corp.</td>
<td>September 17, 2007</td>
<td>CMA CGM Melisande</td>
<td>2012</td>
<td>8,530</td>
</tr>
<tr>
<td>Teucarrier (No. 1) Corp.</td>
<td>January 31, 2007</td>
<td>CMA CGM Attila</td>
<td>2011</td>
<td>8,530</td>
</tr>
<tr>
<td>Teucarrier (No. 2) Corp.</td>
<td>January 31, 2007</td>
<td>CMA CGM Tancredi</td>
<td>2011</td>
<td>8,530</td>
</tr>
<tr>
<td>Teucarrier (No. 3) Corp.</td>
<td>January 31, 2007</td>
<td>CMA CGM Bianca</td>
<td>2011</td>
<td>8,530</td>
</tr>
<tr>
<td>Teucarrier (No. 4) Corp.</td>
<td>January 31, 2007</td>
<td>CMA CGM Samson</td>
<td>2011</td>
<td>8,530</td>
</tr>
<tr>
<td>Oceanew Shipping Ltd.</td>
<td>January 14, 2002</td>
<td>Europe</td>
<td>2004</td>
<td>8,468</td>
</tr>
<tr>
<td>Oceanprize Navigation Ltd.</td>
<td>January 21, 2003</td>
<td>America (ex CSCL America)</td>
<td>2004</td>
<td>8,468</td>
</tr>
<tr>
<td>Boxcarrier (No. 2) Corp.</td>
<td>June 27, 2006</td>
<td>CMA CGM Musset</td>
<td>2010</td>
<td>6,500</td>
</tr>
<tr>
<td>Boxcarrier (No. 3) Corp.</td>
<td>June 27, 2006</td>
<td>CMA CGM Nerval</td>
<td>2010</td>
<td>6,500</td>
</tr>
<tr>
<td>Boxcarrier (No. 4) Corp.</td>
<td>June 27, 2006</td>
<td>CMA CGM Rabelais</td>
<td>2010</td>
<td>6,500</td>
</tr>
<tr>
<td>Boxcarrier (No. 5) Corp.</td>
<td>June 27, 2006</td>
<td>CMA CGM Racine</td>
<td>2010</td>
<td>6,500</td>
</tr>
<tr>
<td>Boxcarrier (No. 1) Corp.</td>
<td>June 27, 2006</td>
<td>CMA CGM Moliere</td>
<td>2009</td>
<td>6,500</td>
</tr>
<tr>
<td>Expresscarrier (No. 1) Corp.</td>
<td>March 5, 2007</td>
<td>YM Mandate</td>
<td>2010</td>
<td>6,500</td>
</tr>
<tr>
<td>Expresscarrier (No. 2) Corp.</td>
<td>March 5, 2007</td>
<td>YM Maturity</td>
<td>2010</td>
<td>6,500</td>
</tr>
<tr>
<td>Actaea Company Limited</td>
<td>October 14, 2014</td>
<td>Performance</td>
<td>2002</td>
<td>6,402</td>
</tr>
<tr>
<td>Asteria Shipping Company Limited</td>
<td>October 14, 2014</td>
<td>Dimitra C (ex Priority)</td>
<td>2002</td>
<td>6,402</td>
</tr>
<tr>
<td>Continen Marine Inc.</td>
<td>March 22, 2006</td>
<td>Zim Monaco</td>
<td>2009</td>
<td>4,253</td>
</tr>
<tr>
<td>Medsea Marine Inc.</td>
<td>May 8, 2006</td>
<td>Zim Dalian</td>
<td>2009</td>
<td>4,253</td>
</tr>
<tr>
<td>Blacksea Marine Inc.</td>
<td>May 8, 2006</td>
<td>Zim Luanda</td>
<td>2009</td>
<td>4,253</td>
</tr>
<tr>
<td>Bayview Shipping Inc.</td>
<td>March 22, 2006</td>
<td>Zim Rio Grande</td>
<td>2008</td>
<td>4,253</td>
</tr>
<tr>
<td>Channelview Marine Inc.</td>
<td>March 22, 2006</td>
<td>Zim Sao Paolo</td>
<td>2008</td>
<td>4,253</td>
</tr>
<tr>
<td>Balticsea Marine Inc.</td>
<td>March 22, 2006</td>
<td>Zim Kingston</td>
<td>2008</td>
<td>4,253</td>
</tr>
<tr>
<td>Seacarriers Services Inc.</td>
<td>June 28, 2005</td>
<td>YM Seattle</td>
<td>2007</td>
<td>4,253</td>
</tr>
<tr>
<td>Seacarriers Lines Inc.</td>
<td>June 28, 2005</td>
<td>YM Vancouver</td>
<td>2007</td>
<td>4,253</td>
</tr>
<tr>
<td>Containers Services Inc.</td>
<td>May 30, 2002</td>
<td>ANL Tongala (ex Deva)</td>
<td>2004</td>
<td>4,253</td>
</tr>
<tr>
<td>Boulevard Shiptrade S.A</td>
<td>September 12, 2013</td>
<td>Dimitris C</td>
<td>2001</td>
<td>3,430</td>
</tr>
</tbody>
</table>
1. Basis of Presentation and General Information (Continued)

<table>
<thead>
<tr>
<th>Company</th>
<th>Date of Incorporation</th>
<th>Vessel Name</th>
<th>Year Built</th>
<th>TEU(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CellContainer (No. 4) Corp.</td>
<td>March 23, 2007</td>
<td>Express Spain</td>
<td>2011</td>
<td>3,400</td>
</tr>
<tr>
<td>CellContainer (No. 5) Corp.</td>
<td>March 23, 2007</td>
<td>Express Black Sea</td>
<td>2011</td>
<td>3,400</td>
</tr>
<tr>
<td>CellContainer (No. 1) Corp.</td>
<td>March 23, 2007</td>
<td>Express Argentina</td>
<td>2010</td>
<td>3,400</td>
</tr>
<tr>
<td>CellContainer (No. 2) Corp.</td>
<td>March 23, 2007</td>
<td>Express Brazil</td>
<td>2010</td>
<td>3,400</td>
</tr>
<tr>
<td>CellContainer (No. 3) Corp.</td>
<td>March 23, 2007</td>
<td>Express France</td>
<td>2010</td>
<td>3,400</td>
</tr>
<tr>
<td>Trindade Maritime Company</td>
<td>April 10, 2013</td>
<td>Amalia C</td>
<td>1998</td>
<td>2,452</td>
</tr>
<tr>
<td>Sarond Shipping Inc.</td>
<td>January 18, 2013</td>
<td>Danae C</td>
<td>2001</td>
<td>2,524</td>
</tr>
<tr>
<td>Speedcarrier (No. 7) Corp.</td>
<td>December 6, 2007</td>
<td>Highway</td>
<td>1998</td>
<td>2,200</td>
</tr>
<tr>
<td>Speedcarrier (No. 6) Corp.</td>
<td>December 6, 2007</td>
<td>Progress C (ex Hyundai Progress)</td>
<td>1998</td>
<td>2,200</td>
</tr>
<tr>
<td>Speedcarrier (No. 8) Corp.</td>
<td>December 6, 2007</td>
<td>Bridge</td>
<td>1998</td>
<td>2,200</td>
</tr>
<tr>
<td>Speedcarrier (No. 1) Corp.</td>
<td>June 28, 2007</td>
<td>Vladivostok</td>
<td>1997</td>
<td>2,200</td>
</tr>
<tr>
<td>Speedcarrier (No. 2) Corp.</td>
<td>June 28, 2007</td>
<td>Advance</td>
<td>1997</td>
<td>2,200</td>
</tr>
<tr>
<td>Speedcarrier (No. 3) Corp.</td>
<td>June 28, 2007</td>
<td>Stride</td>
<td>1997</td>
<td>2,200</td>
</tr>
<tr>
<td>Speedcarrier (No. 5) Corp.</td>
<td>June 28, 2007</td>
<td>Future</td>
<td>1997</td>
<td>2,200</td>
</tr>
<tr>
<td>Speedcarrier (No. 4) Corp.</td>
<td>June 28, 2007</td>
<td>Sprinter</td>
<td>1997</td>
<td>2,200</td>
</tr>
</tbody>
</table>

(1) Twenty-foot equivalent unit, the international standard measure for containers and containership capacity.

2. Significant Accounting Policies

**Principles of Consolidation:** The accompanying consolidated financial statements represent the consolidation of the accounts of the Company and its wholly-owned subsidiaries. The subsidiaries are fully consolidated from the date on which control is obtained by the Company.

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

Inter-company transaction balances and unrealized gains/(losses) on transactions between the companies are eliminated.

**Investments in affiliates:** The Company's investments in affiliates are accounted for using the equity method of accounting. Under the equity method of accounting, investments are stated at initial
2. Significant Accounting Policies (Continued)

cost and are adjusted for subsequent additional investments and the Company's proportionate share of earnings or losses and distributions. The Company evaluates its investments in affiliates for impairment when events or circumstances indicate that the carrying value of such investments may have experienced other than temporary decline in value below their carrying value. If the estimated fair value is less than the carrying value and is considered an other than temporary decline, the carrying value is written down to its estimated fair value and the resulting impairment is recorded in the Consolidated Statements of Operations.

**Use of Estimates:** The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the dates of the financial statements and the reported amounts of revenues and expenses during the reporting periods. On an on-going basis, management evaluates the estimates and judgments, including those related to future drydock dates, the selection of useful lives for tangible assets, expected future cash flows from long-lived assets to support impairment tests, provisions necessary for accounts receivables, provisions for legal disputes, and contingencies. Management bases its estimates and judgments on historical experience and on various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from those estimates under different assumptions and/or conditions.

**Reclassifications in Other Comprehensive Income/(Loss):** The Company had the following reclassifications out of Accumulated Other Comprehensive Loss as of December 31, 2018, 2017 and 2016, respectively (in thousands):

<table>
<thead>
<tr>
<th>Location of Reclassification into Income</th>
<th>Year ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
</tr>
<tr>
<td>Amortization of deferred realized losses</td>
<td>Net unrealized and realized losses on derivatives</td>
</tr>
<tr>
<td>on cash flow hedges</td>
<td>Accelerated amortization of deferred realized losses on cash flow hedges</td>
</tr>
<tr>
<td>Reclassification of unrealized losses to earnings</td>
<td>Net unrealized and realized losses on derivatives</td>
</tr>
<tr>
<td>Total Reclassifications</td>
<td>$ 5,137</td>
</tr>
</tbody>
</table>

**Foreign Currency Translation:** The functional currency of the Company is the U.S. dollar. The Company engages in worldwide commerce with a variety of entities. Although its operations may expose it to certain levels of foreign currency risk, its transactions are predominantly U.S. dollar denominated. Additionally, the Company's wholly-owned vessel subsidiaries transacted a nominal amount of their operations in Euros; however, all of the subsidiaries' primary cash flows are U.S. dollar denominated. Transactions in currencies other than the functional currency are translated at the exchange rate in effect at the date of each transaction. Differences in exchange rates during the period
2. Significant Accounting Policies (Continued)

between the date a transaction denominated in a foreign currency is consummated and the date on which it is either settled or translated, are recognized in the Consolidated Statements of Operations. The foreign currency exchange gains/(losses) recognized in the accompanying Consolidated Statements of Operations for each of the years ended December 31, 2018, 2017 and 2016 were $0.1 million loss, $0.4 million loss and $0.1 million loss, respectively.

**Cash and Cash Equivalents:** Cash and cash equivalents consist of interest bearing call deposits, where the Company has instant access to its funds and withdrawals and deposits can be made at any time, as well as time deposits with original maturities of three months or less which are not restricted for use or withdrawal. Cash and cash equivalents of $77.3 million as of December 31, 2018 (December 31, 2017: $66.9 million) comprised cash balances and short-term deposits.

**Restricted Cash:** Cash restricted accounts include retention accounts. Until the full repayment of the KEXIM ABN Amro loan facility in June 2018, the Company was required to deposit one-third of quarterly and one-sixth of the semi-annual principal installments and interest payments, respectively, due on the outstanding loan balance monthly in a retention account. On the rollover settlement date, both principal and interest were paid from the retention account. Refer to Note 3, "Cash, Cash Equivalents and Restricted Cash".

**Accounts Receivable, Net:** The amount shown as Accounts Receivable, net, at each balance sheet date includes estimated recoveries from charterers for hire and demurrage billings, 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 based on the Company's history of write-offs, level of past due accounts based on the contractual term of the receivables and its relationships with and economic status of its customers. Bad debts are written off in the period in which they are identified.

**Insurance Claims:** Insurance claims represent the claimable expenses, net of deductibles, which are expected to be recovered from insurance companies. Any costs to complete the claims are included in accrued liabilities. The Company accounts for the cost of possible additional call amounts under its insurance arrangements in accordance with the accounting guidance for contingencies based on the Company's historical experience and the shipping industry practices. Insurance claims are included in the consolidated balance sheet line item "Other current assets".

**Prepaid Expenses and Inventories:** Prepaid expenses consist mainly of insurance expenses, and inventories consist of bunkers, lubricants and provisions remaining on board the vessels at each period end, which are valued at cost as determined using the first-in, first-out method. Costs of spare parts are expensed as incurred.

**Deferred Financing Costs:** Loan arrangement fees incurred for obtaining new loans, for loans that have been accounted for as modified and the fees paid to third parties for loans that have been accounted for as extinguished, where there is a replacement debt and the lender remains the same, are deferred and amortized over the loans' respective repayment periods using the effective interest rate method and are presented in the consolidated balance sheets as a direct deduction from the carrying amount of debt liability. Unamortized deferred financing costs for extinguished facilities are written-off. Loan arrangement fees related to the facilities accounted for under troubled debt restructuring with future undiscounted cash flows greater than the net carrying value of the original debt are capitalized.
2. Significant Accounting Policies (Continued)

and amortized over the loan respective repayment period using the effective interest rate method. Additionally, amortization of deferred finance costs amounting to $15.0 million, $11.2 million and $12.7 million is included in interest expenses in the Consolidated Statements of Operations for the years ended December 31, 2018, December 31, 2017 and December 31, 2016, respectively.

**Fixed Assets:** Fixed assets consist of vessels. Vessels are stated at cost, less accumulated depreciation. The cost of vessels consists of the contract purchase price and any material expenses incurred upon acquisition (improvements and delivery expenses). Subsequent 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 expenditures are charged to expense as incurred. Interest costs while under construction are included in vessels' cost.

The Company has acquired certain vessels in the secondhand market in prior years, all of which were considered to be acquisitions of assets. Following adoption of ASU 2017-01 "Business Combinations (Topic 805)" on January 1, 2018, the Company evaluates if any vessel acquisition in secondhand market constitutes a business or not. When substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets, the set is not a business. The following assets are considered as a single asset for the purposes of the evaluation (i) a tangible asset that is attached to and cannot be physically removed and used separately from another tangible assets (or an intangible asset representing the right to use a tangible asset); (ii) in place lease intangibles, including favorable and unfavorable intangible assets or liabilities, and the related leased assets.

**Depreciation:** The cost of the Company's vessels is depreciated on a straight-line basis over the vessels' remaining economic useful lives after considering the estimated residual value (refer to Note 4, "Fixed Assets, net"). Management has estimated the useful life of the Company's vessels to be 30 years from the year built.

**Vessels held for sale:** Vessels are classified as "Vessels held for sale" when all of the following criteria are met: management has committed to a plan to sell the vessel; the vessel is available for immediate sale in its present condition subject only to terms that are usual and customary for sales of vessels; an active program to locate a buyer and other actions required to complete the plan to sell the vessel have been initiated; the sale of the vessel is probable and transfer of the vessel is expected to qualify for recognition as a completed sale within one year; the asset is being actively marketed for sale at a price that is reasonable in relation to its current fair value and actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. Vessels classified as held for sale are measured at the lower of their carrying amount or fair value less cost to sell. These vessels are not depreciated once they meet the criteria to be held for sale.

**Accounting for Special Survey and Drydocking Costs:** The Company follows the accounting guidance for planned major maintenance activities. Drydocking and special survey costs, which are reported in the balance sheet within "Deferred charges, net", include planned major maintenance and overhaul activities for ongoing certification including the inspection, refurbishment and replacement of steel, engine components, electrical, pipes and valves, and other parts of the vessel. The Company follows the deferral method of accounting for special survey and drydocking costs, whereby actual costs incurred are deferred and amortized on a straight-line basis over the period until the next scheduled survey and
2. Significant Accounting Policies (Continued)

drydocking, which is two and a half years. If special survey or drydocking is performed prior to the scheduled date, the remaining unamortized balances are immediately written off.

The amortization periods reflect the estimated useful economic life of the deferred charge, which is the period between each special survey and drydocking.

Costs incurred during the drydocking period relating to routine repairs and maintenance are expensed. The unamortized portion of special survey and drydocking costs for vessels sold is included as part of the carrying amount of the vessel in determining the gain/(loss) on sale of the vessel.

**Impairment of Long-lived Assets:** The accounting standard for impairment of long-lived assets requires that long-lived assets and certain identifiable intangibles held and used or disposed of by an entity be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. In the case of long-lived assets held and used, if the future net undiscounted cash flows are less than the carrying value of the asset, an impairment loss is recorded equal to the difference between the asset's carrying value and fair value.

As of December 31, 2018, the Company concluded that events and circumstances triggered the existence of potential impairment of its long-lived assets. These indicators included volatility in the charter market and the vessels' market values, as well as the potential impact the current marketplace may have on our future operations. As a result, the Company performed step one of the impairment assessment of the Company's long-lived assets by comparing the undiscounted projected net operating cash flows for each vessel to its carrying value. The Company's strategy is to charter its vessels under multi-year, fixed rate period charters that range from less than 1 to 18 years for vessels in its fleet, providing the Company with contracted stable cash flows. The significant factors and assumptions the Company used in its undiscounted projected net operating cash flow analysis included, among others, operating revenues, off-hire revenues, drydocking costs, operating expenses and management fees estimates. Revenue assumptions were based on contracted time charter rates up to the end of life of the current contract of each vessel as well as the estimated average time charter equivalent rates for the remaining life of the vessel after the completion of its current contract. The estimated daily time charter equivalent rates used for non-contracted revenue days are based on a combination of (i) recent charter market rates, (ii) conditions existing in the containership market as of December 31, 2018; (iii) historical average time charter rates, based on publications by independent third party maritime research services, and (iv) estimated future time charter rates, based on publications by independent third party maritime research services that provide such forecasts. Recognizing that the container transportation industry is cyclical and subject to significant volatility based on factors beyond the Company's control, management believes the use of revenue estimates, based on the combination of factors (i) to (iv) above, to be reasonable as of the reporting date. In addition, the Company used an annual operating expenses escalation factor and estimates of scheduled and unscheduled off-hire revenues based on historical experience. All estimates used and assumptions made were in accordance with the Company's internal budgets and historical experience of the shipping industry. As at December 31, 2018, the Company's assessment concluded that step two of the impairment analysis was required for certain of its vessels, as the undiscounted projected net operating cash flows of certain vessels did not exceed the carrying value of the respective vessels. Fair value of each vessel was determined by management with the assistance from valuations obtained by third party independent shipbrokers. As of December 31, 2018, the Company recorded an impairment loss of $210.7 million for
2. Significant Accounting Policies (Continued)

ten of its vessels that are held and used, which is reflected under "Impairment loss" in the accompanying Consolidated Statements of Operations.

As of December 31, 2017, the Company concluded that there are no events and circumstances, which may trigger the existence of potential impairment of the Company's vessels. The indicators which were considered were mainly the improved charter market and the improved vessel's market values compared to the prior year, as well as the potential impact the marketplace may have on the future operations. As of December 31, 2016, the Company concluded that events and circumstances triggered the existence of impairment of its long-lived assets and recorded an impairment loss of $415.1 million for its vessels that were held and used.

**Investments in Debt Securities:** The Company classified its debt securities originally as held-to-maturity based on management's positive intent and ability to hold to maturity and were reported at amortized cost, subject to impairment up until December 31, 2016.

During 2017, the Company sold a portion of its debt securities, originally classified as held to maturity and as such reclassified remaining held to maturity debt securities into the available for sale category. The transfer between the categories is accounted for at fair value. The unrealized holding gain/(loss) upon transfer from held to maturity category to available for sale category is recorded in accumulated other comprehensive income/(loss). Available for sale securities are carried at fair value with net unrealized gain/(loss) included in accumulated other comprehensive income/(loss), subject to impairment. An unrealized loss exists when the current fair value of an individual security is less than its amortized cost basis. Interest income, including amortization of premiums and accretion of discounts are recognized in the interest income in the consolidated statements of operations. Upon sale, realized gain/(loss) is recognized in the consolidated statement of operations based on specific identification method. Management evaluates securities for other than temporary impairment on a quarterly basis. An investment is considered impaired if the fair value of the investment is less than its amortized cost. Consideration is given to: 1) if the Company intends to sell the security (that is, it has decided to sell the security); 2) it is more likely than not that the Company will be required to sell the security before the recovery of its entire amortized cost basis; or 3) a credit loss exists—that is, the Company does not expect to recover the entire amortized cost basis of the security (the present value of cash flows expected to be collected is less than the amortized cost basis of the security).

**Investments in Equity Securities:** The Company classifies its equity securities of ZIM at cost as the Company does not have the ability to exercise significant influence. Equity securities of HMM were acquired and held principally for the purpose of resale in the near term and were classified as trading securities based on management's intention on the date of acquisition and were recorded at fair value based on quoted market prices with changes in fair value and realized gains/(losses) presented under "Other income/(expenses), net" in the Consolidated Statements of Operations. The Company sold equity securities of HMM in 2016.

Management evaluates the equity security for other than temporary impairment on a quarterly basis. An investment is considered impaired if the fair value of the investment is less than its cost. Consideration is given to significant deterioration in the earnings performance, credit rating, asset quality, or business prospects of the investee, significant adverse change in the regulatory, economic, or technological environment of the investee, significant adverse change in the general market condition of either the geographic area or the industry in which the investee operates, as well as factors that raise
significant concerns about the investee's ability to continue as a going concern, such as negative cash flows from operations, working capital deficiencies, or noncompliance with statutory capital requirements or debt covenants.

**Pension and Retirement Benefit Obligations-Crew:** The crew on board the companies' vessels serve in such capacity under short-term contracts (usually up to seven months) and accordingly, the vessel-owning companies are not liable for any pension or post-retirement benefits.

**Accounting for Revenue and Expenses:** Revenues from time chartering of vessels are accounted for as operating leases and are thus recognized on a straight line basis as the average revenue over the rental periods of such charter agreements, as service is performed. The Company earns revenue from bareboat and time charters. Bareboat and time charters involve placing a vessel at the charterers' disposal for a period of time during which the charterer uses the vessel in return for the payment of a specified daily hire rate. Under a time charter, the daily hire rate includes the crew, lubricants, insurance, repair and maintenance, spares and stores. Under a bareboat charter, the charterer is provided only with the vessel.

**Voyage Expenses:** Voyage expenses include port and canal charges, bunker (fuel) expenses (bunker costs are normally covered by the Company's charterers, except in certain cases such as vessel re-positioning), address commissions and brokerage commissions. Under multi-year time charters and bareboat charters, such as those on which the Company charters its containerships and under short-term time charters, the charterers bear the voyage expenses other than brokerage and address commissions. As such, voyage expenses represent a relatively small portion of the vessels' overall expenses.

**Vessel Operating Expenses:** Vessel operating expenses include crew wages and related costs, the cost of insurance, expenses for repairs and maintenance, the cost of spares and consumable stores, tonnage taxes and other miscellaneous expenses. Aggregate expenses increase as the size of the Company's fleet increases. Under multi-year time charters, the Company pays for vessel operating expenses. Under bareboat charters, the Company's charterers bear most vessel operating expenses, including the costs of crewing, insurance, surveys, drydockings, maintenance and repairs.

**General and Administrative Expenses:** General and administrative expenses include management fees paid to the vessels' manager (refer to Note 11, "Related Party Transactions"), audit fees, legal fees, board remuneration, executive officers compensation, directors & officers insurance and stock exchange fees.

**Repairs and Maintenance:** All repair and maintenance expenses are charged against income when incurred and are included in vessel operating expenses in the accompanying Consolidated Statements of Operations.

**Dividends:** Dividends, if any, are recorded in the Company's financial statements in the period in which they are declared by the Company's board of directors.

**Troubled Debt Restructuring and Accumulated Accrued Interest:** Prior to the finalization of the Refinancing (refer to Note 10, "Long-Term Debt, Net"), the Company concluded that it was experiencing financial difficulty and that certain of the lenders granted a concession (as part of the Refinancing). The Company was experiencing financial difficulty primarily as a result of the projected
2. Significant Accounting Policies (Continued)

cash flows not being sufficient to service the balloon payment due as of December 31, 2018 without restructuring and the Company was not able to obtain funding from sources other than existing creditors at an effective interest rate equal to the current market interest rate for similar debt. As a result, the accounting guidance for troubled debt restructuring ("TDR") was applied at the Closing Date. The TDR accounting guidance requires the Company to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments not to exceed the carrying amount of the original debt. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. As a result of the TDR accounting, the interest expense related to the future periods on certain facilities was recognized under the accumulated accrued interest line in the Balance Sheet. Interest payments relating to the future interest recognized in accumulated accrued interest, are recognized as a reduction to the accumulated accrued interest payable when these are paid. As a result, these interest payments are not recorded as interest expense.

In the future, when interest rates change, actual cash flows will differ from the cash flows measured on the Refinancing date. The accounting treatment for changes in cash flows due to changes in interest rates depends on whether there is an increase or a decrease from the spot interest rate used in the initial TDR accounting ("threshold interest rate"). Fluctuations in the effective interest rate after the Refinancing from changes in the interest rate or other cause are accounted for as changes in estimates in the periods in which these changes occur. Upon an increase in the interest rates from the threshold interest rate used to calculate accumulated accrued interest payable, the Company recognizes additional interest expenses in the period the expense is incurred. The additional interest expense is calculated by multiplying the difference between the current interest rate and the threshold interest rate with the current carrying value of the debt. A gain due to decrease in interest rates ("interest windfall") will not be recognized until the debt facilities have been settled and there are no future interest payments. In case there are subsequent increases in interest rates above the threshold interest rate after a previous decrease in interest rates, the carrying amount of the accumulated accrued interest will be reduced by the interest payments in excess of the threshold interest rate until the prior interest windfall due to decrease in the interest rates is recaptured on a cumulative basis.

The Paid-in-kind interest ("PIK interest") related to each period will increase the carrying value of the loan facility and correspondingly decrease the carrying value of the accumulated accrued interest. PIK interest in excess of the amount recognized in the accumulated accrued interest is expensed in the period the expense is incurred.

**Segment Reporting:** The Company reports financial information and evaluates its operations by total charter revenues. Although revenue can be identified for different types of charters, management does not identify expenses, profitability or other financial information for different 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, and thus the Company has determined that it has only one operating and reportable segment.

**Going Concern:** The management of the Company assesses the Company's ability to continue as a going concern at each period end. The assessment evaluates whether there are conditions that give rise to substantial doubt to continue as a going concern within one year from the consolidated financial statements issuance date.
2. Significant Accounting Policies (Continued)

If a substantial doubt to continue as a going concern is identified and after considering management's plans this substantial doubt is alleviated the Company discloses the following: (i) principal conditions or events that raised substantial doubt about the Company's ability to continue as a going concern (before consideration of management's plans), (ii) management's evaluation of the significance of those conditions or events in relation to the Company's ability to meet its obligations, (iii) management's plans that alleviated substantial doubt about the Company's ability to continue as a going concern.

If a substantial doubt to continue as a going concern is identified and after considering management's plans this substantial doubt is not alleviated the Company discloses the following: (i) a statement indicating that there is substantial doubt about the Company's ability to continue as a going concern, (ii) principal conditions or events that raised substantial doubt about the Company's ability to continue as a going concern, (iii) management's evaluation of the significance of those conditions or events in relation to the Company's ability to meet its obligations, and (iv) management's plans that are intended to mitigate the conditions or events that raised substantial doubt about the Company's ability to continue as a going concern.

The Company updates the going concern disclosure in subsequent periods until the period in which substantial doubt no longer exists disclosing how the relevant conditions or events that raised substantial doubt were resolved.

**Derivative Instruments:** The Company entered into interest rate swap contracts to create economic hedges for its interest rate risks. The Company recorded these financial instruments at their fair value. When such derivatives do not qualify for hedge accounting, changes in their fair value are recorded in the Consolidated Statement of Operations. When the derivatives do qualify for hedge accounting, depending upon the nature of the hedge, changes in the fair value of derivatives are either offset against the fair value of assets, liabilities or firm commitments through income, or recognized in other comprehensive income (effective portion) and are reclassified to earnings when the hedged transaction is reflected in earnings. The ineffective portion of a derivative's change in fair value is immediately recognized in income.

At the inception of the transaction, the Company documents the relationship between hedging instruments and hedged items, as well as its risk management objective and the strategy for undertaking various hedging transactions. The Company also documents its assessment, both at the hedge inception and on an ongoing basis, of whether the derivative financial instruments that are used in hedging transactions are highly effective in offsetting changes in fair values or cash flows of hedged items.

On July 1, 2012, the Company elected to prospectively de-designate fair value and cash flow interest rate swaps for which it was obtaining hedge accounting treatment due to the compliance burden associated with this accounting policy. As a result, all changes in the fair value of the Company's cash flow interest rate swap agreements were recorded in earnings under "Net Unrealized and Realized Losses on Derivatives" from the de-designation date forward.

The Company evaluated whether it is probable that the previously hedged forecasted interest payments are probable to not occur in the originally specified time period. The Company has concluded that the previously hedged forecasted interest payments are probable of occurring. Therefore, unrealized gains or losses in accumulated other comprehensive loss associated with the
previously designated cash flow interest rate swaps will remain frozen in accumulated other comprehensive loss and recognized in earnings when the interest payments will be recognized. If such interest payments were to be identified as being probable of not occurring, the accumulated other comprehensive loss balance pertaining to these amounts would be reversed through earnings immediately.

The Company does not use financial instruments for trading or other speculative purposes.

**Earnings/(Loss) Per Share:** The Company has presented net earnings/(loss) per share for all years presented based on the weighted average number of outstanding shares of common stock of Danaos Corporation at the reported periods. Diluted earnings per share reflect the potential dilution that would occur if securities or other contracts to issue common stock were exercised. The warrants issued in 2011 were excluded from the diluted earnings/(loss) per share for the year ended December 31, 2018, 2017 and 2016, because they were antidilutive. Unvested shares of restricted stock are included in the calculation of the diluted earnings per share, unless considered antidilutive, based on the weighted average number of shares of restricted stock outstanding during the period.

**Equity Compensation Plan:** The Company has adopted an equity compensation plan (the "Plan") in 2006, which is generally administered by the compensation committee of the Board of Directors. The Plan allows the plan administrator to grant awards of shares of common stock or the right to receive or purchase shares of common stock to employees, directors or other persons or entities providing significant services to the Company or its subsidiaries. The actual terms of an award will be determined by the plan administrator and set forth in written award agreement with the participant. Any options granted under the Plan will be accounted for in accordance with the accounting guidance for share-based compensation arrangements.

The aggregate number of shares of common stock for which awards may be granted under the Plan cannot exceed 6% of the number of shares of common stock issued and outstanding at the time any award is granted. Awards made under the Plan that have been forfeited, cancelled or have expired, will not be treated as having been granted for purposes of the preceding sentence. Unless otherwise set forth in an award agreement, any awards outstanding under the Plan will vest immediately upon a "change of control", as defined in the Plan. The Plan will automatically terminate ten years after it has been most recently approved by the Company's stockholders. Refer to Note 17, "Stock Based Compensation".

As of April 18, 2008, the Company established the Directors Share Payment Plan ("Directors Plan") under the Plan. The purpose of the Directors Plan is to provide a means of payment of all or a portion of compensation payable to directors of the Company in the form of Company's Common Stock. Each member of the Board of Directors of the Company may participate in the Directors Plan. Pursuant to the terms of the Directors Plan, Directors may elect to receive in Common Stock all or a portion of their compensation. On the last business day of each quarter, the rights of common stock are credited to each Director's Share Payment Account. Following December 31st of each year, the Company will deliver to each Director the number of shares represented by the rights credited to their Share Payment Account during the preceding calendar year. Refer to Note 17, "Stock Based Compensation".
2. Significant Accounting Policies (Continued)

As of April 18, 2008, the Board of Directors and the Compensation Committee approved the Company's ability to provide, from time to time, incentive compensation to the employees of Danaos Shipping Company Limited (the "Manager"), in the form of free shares of the Company's common stock under the Plan. Prior approval is required by the Compensation Committee and the Board of Directors. The plan was effective since December 31, 2008. Pursuant to the terms of the plan, employees of the Manager may receive (from time to time) shares of the Company's common stock as additional compensation for their services offered during the preceding period. The stock will have no vesting period and the employee will own the stock immediately after grant. The total amount of stock to be granted to employees of the Manager will be at the Company's Board of Directors' discretion only and there will be no contractual obligation for any stock to be granted as part of the employees' compensation package in future periods. Refer to Note 17, "Stock Based Compensation".

Newly Implemented Accounting Policies:

Statement of Cash Flows

In August 2016, the FASB issued ASU 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments" ("ASU 2016-15"). The guidance adds or clarifies guidance on the classification of certain cash receipts and payments in the statement of cash flows. Additionally, in November 2016, the FASB issued ASU 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash" ("ASU 2016-18"), which requires that amounts generally described as restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The Company adopted these standards effective January 1, 2018. Prior periods were retrospectively adjusted to conform to the current period's presentation. The adoption of ASU 2016-15 did not have a material impact on the consolidated statements of cash flows. Upon adoption of ASU 2016-18, the Company reclassified the restricted cash balance of $2.8 million as of December 31, 2017 and $2.8 million as of December 31, 2016 to the cash, cash equivalents and restricted cash balances within the consolidated statements of cash flows. Refer to Note 3 "Cash, Cash Equivalents and Restricted Cash" for further details.

Financial Instruments

In January 2016, the FASB issued Accounting Standards Update No. 2016-01, "Recognition and Measurement of Financial Assets and Financial Liabilities" ("ASU 2016-01"). ASU 2016-01 requires all equity investments to be measured at fair value with changes in the fair value recognized through net income (other than those accounted for under equity method of accounting or those that result in consolidation of the investee). The amendments in this Update also require an entity to present separately in other comprehensive income the portion of the total change in the fair value of a liability resulting from a change in the instrument-specific credit risk when the entity has elected to measure the liability at fair value in accordance with the fair value option for financial instruments. In addition the amendments in this Update eliminate the requirement to disclose the methods and significant assumptions used to estimate the fair value that is required to be disclosed for financial instruments measured at amortized cost on the balance sheet for public business entities. The Company adopted this standard effective January 1, 2018. The Company's investment in ZIM equity securities does not have readily determinable fair value. As a result, the Company elected to record this equity investment at cost, less impairment, adjusted for subsequent observable price changes. The adoption of this
2. Significant Accounting Policies (Continued)

standard did not have a material effect on the consolidated financial statements and notes disclosures. As of December 31, 2018, the Company did not identify any observable prices for the same or similar securities that would indicate a change in the carrying value of the Company's equity.

Revenue Recognition

In May 2014, the FASB issued Accounting Standards Update No. 2014-9 "Revenue from Contracts with Customers" ("ASU 2014-09"), which superseded the current revenue recognition guidance and outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers. In March 2016, the FASB issued ASU 2016-08, "Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)" ("ASU 2016-08"), which clarifies the implementation guidance on principal versus agent considerations. In addition, in 2016, the FASB issued four amendments, which clarified the guidance on certain items such as reporting revenue as a principal versus agent, identifying performance obligations, accounting for intellectual property licenses, assessing collectability and presentation of sales taxes. The Company adopted this standard effective January 1, 2018 using modified retrospective approach. The adoption of this standard did not have any effect on the retained earnings or on the financial results for year ended December 31, 2018 of the Company since all the Company's vessels generated revenues from time charter and bareboat charter agreements.

Recent Accounting Pronouncements:

In February 2016, the FASB issued Accounting Standards Update No. 2016-02, "Leases (Topic 842)" ("ASU 2016-02"). ASU 2016-02 will apply to both types of leases—capital (or finance) leases and operating leases. According to the new Accounting Standard, lessees will be required to recognize assets and liabilities on the balance sheet for the rights and obligations created by all leases with terms of more than 12 months. ASU 2016-02 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early application is permitted. This guidance requires companies to identify lease and non-lease components of a lease agreement. Lease components relate to the right to use the leased asset and non-lease components relate to payments for goods or services that are transferred separately from the right to use the underlying asset. Total lease consideration is allocated to lease and non-lease components on a relative standalone basis. The recognition of revenues related to lease components will be governed by ASC 842 while revenue related to non-lease components will be subject to ASC 606. In March 2018, the FASB tentatively approved a proposed amendment to ASU 842, that would provide an entity the optional transition method to initially account for the impact of the adoption with a cumulative adjustment to retained earnings on the effective date of the ASU, January 1, 2019 rather than January 1, 2017, which would eliminate the need to restate amounts presented prior to January 1, 2019. In addition, lessors can elect, as a practical expedient, not to allocate the total consideration to lease and non-lease components based on their relative standalone selling prices. As adopted by the Accounting Standards Update No. 2018-11 in July 2018, this practical expedient will allow lessors to elect and account for the combined component based on its predominant characteristic. ASC 842 provides practical expediens for entities to (i) reassess whether any expired or existing contracts are considered or contain leases; (ii) reassess the lease classification for any expired or existing leases; and (iii) reassess initial direct costs for any existing leases. In July 2018, the FASB issued Accounting Standards Update No. 2018-10, "Codification Improvements to Topic 842, Leases" and in December 2018 the Accounting
2. Significant Accounting Policies (Continued)

Standards Update No. 2018-20 “Narrow-scope improvements for lessors”, which further improve and clarify ASU 2016-02. The Company plans to adopt the standard on January 1, 2019 and expects to elect the use of all practical expedients. Based on a preliminary assessment, the Company is expecting that the adoption will not have a material effect on its consolidated financial statements since the Company is primarily a lessor and the changes are fairly minor.

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

3. Cash, Cash Equivalents and Restricted Cash

Cash, cash equivalents and restricted cash consisted of the following (in thousands):

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<thead>
<tr>
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<th>As of December 31, 2018</th>
<th>As of December 31, 2017</th>
<th>As of December 31, 2016</th>
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</thead>
<tbody>
<tr>
<td>Cash and cash equivalents</td>
<td>$77,275</td>
<td>$66,895</td>
<td>$73,717</td>
</tr>
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<td>Restricted cash</td>
<td>—</td>
<td>2,812</td>
<td>2,812</td>
</tr>
<tr>
<td>Total</td>
<td>$77,275</td>
<td>$69,707</td>
<td>$76,529</td>
</tr>
</tbody>
</table>

The Company was required to maintain cash of $2.8 million as of December 31, 2017 and December 31, 2016 in retention bank accounts as a collateral for the upcoming scheduled debt payments of its KEXIM-ABN Amro credit facility, which were recorded under current assets in the Company's Consolidated Balance Sheets. This credit facility was fully repaid in July 2018.
4. Fixed Assets, Net

Fixed assets, net consisted of the following (in thousands):

<table>
<thead>
<tr>
<th>Vessel Costs</th>
<th>Accumulated Depreciation</th>
<th>Net Book Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of January 1, 2016</td>
<td>$4,137,117</td>
<td>$690,794</td>
</tr>
<tr>
<td>Additions</td>
<td>4,561</td>
<td>—</td>
</tr>
<tr>
<td>Impairment Loss</td>
<td>(586,995)</td>
<td>171,877</td>
</tr>
<tr>
<td>Depreciation</td>
<td>—</td>
<td>(129,045)</td>
</tr>
<tr>
<td>As of December 31, 2016</td>
<td>$3,554,683</td>
<td>$647,962</td>
</tr>
<tr>
<td>Additions</td>
<td>4,478</td>
<td>—</td>
</tr>
<tr>
<td>Depreciation</td>
<td>—</td>
<td>(115,228)</td>
</tr>
<tr>
<td>As of December 31, 2017</td>
<td>$3,559,161</td>
<td>$763,190</td>
</tr>
<tr>
<td>Additions</td>
<td>2,830</td>
<td>—</td>
</tr>
<tr>
<td>Impairment Loss</td>
<td>(337,738)</td>
<td>127,023</td>
</tr>
<tr>
<td>Depreciation</td>
<td>—</td>
<td>(107,757)</td>
</tr>
<tr>
<td>As of December 31, 2018</td>
<td>$3,224,253</td>
<td>$743,924</td>
</tr>
</tbody>
</table>

As of December 31, 2018, the Company concluded that events and circumstances triggered the existence of potential impairment of its long-lived assets. These indicators included volatility in the charter market and the vessels' market values, as well as the potential impact the current marketplace may have on our future operations. As a result, the Company performed step one of the impairment assessment of the Company's long-lived assets by comparing the undiscounted projected net operating cash flows for each vessel to its carrying value. As at December 31, 2018, the Company's assessment concluded that step two of the impairment analysis was required for certain of its vessels, as the undiscounted projected net operating cash flows of certain vessels did not exceed the carrying value of the respective vessels. Fair value of each vessel was determined by management with the assistance from valuations obtained by third party independent shipbrokers. As of December 31, 2018, the Company recorded an impairment loss of $210.7 million for ten of its vessels that are held and used, which is reflected under "Impairment loss" in the accompanying Consolidated Statements of Operations.

As of December 31, 2017, the Company concluded that there are no events and circumstances, which may trigger the existence of potential impairment of the Company's vessels. The indicators which were considered were mainly the current improved charter market and the improved vessel's market values compared to the prior year, as well as the potential impact the marketplace may have on the future operations. As of December 31, 2016, the Company's testing for impairment resulted in an impairment loss of $415.1 million for its twenty-five held and used vessels. This impairment loss was caused mainly by the loss of a charterer, volatility in the spot market and decline in the vessels's market values.

The residual value (estimated scrap value at the end of the vessels' useful lives) of the fleet was estimated at $378.2 million as of December 31, 2018 and December 31, 2017. The Company has calculated the residual value of the vessels taking into consideration the 10 year average and the 5 year average of the scrap. The Company has applied uniformly the scrap value of $300 per ton for all vessels. The Company believes that $300 per ton is a reasonable estimate of future scrap prices, taking
4. Fixed Assets, Net (Continued)

into consideration the cyclicality of the nature of future demand for scrap steel. Although the Company believes that the assumptions used to determine the scrap rate are reasonable and appropriate, such assumptions are highly subjective, in part, because of the cyclical nature of future demand for scrap steel.

In connection with the Refinancing, the Company has undertaken to seek to refinance two of its 13,100 TEU vessels, the Hyundai Honour and Hyundai Respect. The net proceeds are to be applied pro rata to repay the existing credit facilities secured by mortgages on such vessels.

5. Deferred Charges, Net

Deferred charges, net consisted of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Drydockings and Special Survey Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>As of January 1, 2016</td>
<td>$4,751</td>
</tr>
<tr>
<td>Additions</td>
<td>8,976</td>
</tr>
<tr>
<td>Amortization</td>
<td>(5,528)</td>
</tr>
<tr>
<td>As of December 31, 2016</td>
<td>$8,199</td>
</tr>
<tr>
<td>Additions</td>
<td>7,511</td>
</tr>
<tr>
<td>Amortization</td>
<td>(6,748)</td>
</tr>
<tr>
<td>As of December 31, 2017</td>
<td>$8,962</td>
</tr>
<tr>
<td>Additions</td>
<td>13,306</td>
</tr>
<tr>
<td>Amortization</td>
<td>(9,237)</td>
</tr>
<tr>
<td>As of December 31, 2018</td>
<td>$13,031</td>
</tr>
</tbody>
</table>

The Company follows the deferral method of accounting for drydocking and special survey costs in accordance with accounting for planned major maintenance activities, whereby actual costs incurred are deferred and amortized on a straight-line basis over the period until the next scheduled survey, which is two and a half years. If special survey or drydocking is performed prior to the scheduled date, the remaining unamortized balances are immediately written off. Furthermore, when a vessel is drydocked for more than one reporting period, the respective costs are identified and recorded in the period in which they were incurred and not at the conclusion of the drydocking.

6. Investments in affiliates

In August 2015, an affiliated company Gemini Shipholdings Corporation ("Gemini") was formed by the Company and Virage International Ltd. ("Virage"), a company controlled by the Company's largest shareholder. Gemini acquired a 100% interest in two entities with capital leases for the container vessels Suez Canal and Genoa and two entities that own the container vessels Catherine C (ex NYK Lodestar) and Leo C (ex NYK Leo). Gemini financed these acquisitions with the assumption of capital lease obligations of $35.4 million, $19.0 million of borrowings under secured loan facilities and an aggregate of $47.4 million from equity contributions from the Company and Virage, which
6. Investments in affiliates (Continued)

subscribed in cash for 49% and 51%, respectively, of Gemini's issued and outstanding share capital. As of December 31, 2018, Gemini consolidated its wholly owned subsidiaries listed below:

<table>
<thead>
<tr>
<th>Company</th>
<th>Vessel Name</th>
<th>Year Built</th>
<th>TEU</th>
<th>Date of vessel delivery</th>
</tr>
</thead>
<tbody>
<tr>
<td>Averto Shipping S.A.</td>
<td>Suez Canal</td>
<td>2002</td>
<td>5,610</td>
<td>July 20, 2015</td>
</tr>
<tr>
<td>Sinoi Marine Ltd.</td>
<td>Genoa</td>
<td>2002</td>
<td>5,544</td>
<td>August 2, 2015</td>
</tr>
<tr>
<td>Kingsland International Shipping Limited</td>
<td>Catherine C (ex NYK Lodestar)</td>
<td>2001</td>
<td>6,422</td>
<td>September 21, 2015</td>
</tr>
<tr>
<td>Leo Shipping and Trading S.A.</td>
<td>Leo (ex NYK Leo)</td>
<td>2002</td>
<td>6,422</td>
<td>February 4, 2016</td>
</tr>
</tbody>
</table>

The Company has determined that Gemini is a variable interest entity of which the Company is not the primary beneficiary, and as such, this affiliated company is accounted for under the equity method and recorded under "Equity income/(loss) on investments" in the Consolidated Statements of Operations. The Company does not guarantee the debt of Gemini and its subsidiaries and has the right to purchase all of the beneficial interest in Gemini that it does not own for fair market value at any time after December 31, 2018, to the extent permitted under its credit facilities. The net assets of Gemini total $15.0 million and $12.2 million as of December 31, 2018 and December 31, 2017, respectively. The Company's exposure is limited to its share of the net assets of Gemini proportionate to its 49% equity interest in Gemini.

A condensed summary of the financial information for equity accounted investments 49% owned by the Company shown on a 100% basis are as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current assets</td>
<td>$ 8,327</td>
<td>$ 10,014</td>
<td></td>
</tr>
<tr>
<td>Non-current assets</td>
<td>$ 41,155</td>
<td>$ 40,901</td>
<td></td>
</tr>
<tr>
<td>Current liabilities</td>
<td>$ 5,201</td>
<td>$ 6,131</td>
<td></td>
</tr>
<tr>
<td>Long-term liabilities</td>
<td>$ 29,254</td>
<td>$ 32,544</td>
<td></td>
</tr>
<tr>
<td>Net operating revenues</td>
<td>$ 18,885</td>
<td>$ 17,388</td>
<td>$ 13,909</td>
</tr>
<tr>
<td>Impairment loss</td>
<td>—</td>
<td>—</td>
<td>$ 29,881</td>
</tr>
<tr>
<td>Net income/(loss)</td>
<td>$ 2,787</td>
<td>$ 1,969</td>
<td>$(33,168)</td>
</tr>
</tbody>
</table>

7. Other Non-current Assets

Other non-current assets consisted of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Available for sale securities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ZIM notes, net</td>
<td>$ 21,044</td>
<td>$ 21,093</td>
</tr>
<tr>
<td>HMM notes, net</td>
<td>7,847</td>
<td>13,509</td>
</tr>
<tr>
<td>Equity participation ZIM</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Advances for vessels additions</td>
<td>5,420</td>
<td></td>
</tr>
<tr>
<td>Other assets</td>
<td>25,058</td>
<td>14,864</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 59,369</strong></td>
<td><strong>$ 49,466</strong></td>
</tr>
</tbody>
</table>
7. Other Non-current Assets (Continued)

a. ZIM

In July 2014, after the charter restructuring agreements with ZIM, the Company obtained equity participation in ZIM and interest bearing unsecured ZIM notes maturing in 2023, consisting of $8.8 million Series 1 Notes and $41.1 million of Series 2 Notes. ZIM notes were originally classified as held to maturity securities and recorded at amortized costs less other than temporary impairment since initial recognition. The Company classifies its equity participation in ZIM at cost as the Company does not have the ability to exercise significant influence. In 2016, the Company tested for impairment of its equity participation in ZIM based on the existence of triggering events that indicate the interest in equity may have been impaired and recorded an impairment loss of $28.7 million, thus reducing its book value to nil. The Company also tests periodically for impairment of its investments in debt securities based on the existence of triggering events that indicate debt instruments may have been impaired. As of December 31, 2016, the Company recorded an impairment loss of $0.7 million impairment loss on ZIM notes, which were recognized under "Other Income/(Expenses), net" in the accompanying Consolidated Statements of Operations.

In relation to ZIM Notes, the Company received redemption of $0.3 million in the year ended December 31, 2016. The Company recognized $1.4 million, $1.3 million and $1.3 million in relation to their fair value unwinding of ZIM notes in the Consolidated Statements of Operations in "Interest income" for years ended December 31, 2018, December 31, 2017 and December 31, 2016, respectively. Furthermore, for each of the years ended December 31, 2018, December 31, 2017 and December 31, 2016, the Company recognized in the Consolidated Statements of Operations in "Interest income", a non-cash interest income of $0.9 million in relation to ZIM notes, which is accrued quarterly with deferred cash payment on maturity.

Furthermore, in July 2014, an amount of $39.1 million, which represents the additional compensation received from ZIM, was recorded as unearned revenue representing compensation to the Company for the future reductions in the daily charter rates payable by ZIM under its time charters, expiring in 2020 or 2021, for six of the Company's vessels. This amount is recognized in the Consolidated Statements of Operations in "Operating revenues" over the remaining life of the respective time charters. For each of the years ended December 31, 2018, December 31, 2017 and December 31, 2016, the Company recorded an amount of $6.0 million of unearned revenue amortization in "Operating revenues". As of December 31, 2017, the corresponding outstanding balances of the current and non-current portion of unearned revenue in relation to ZIM amounted to $6.0 million and $6.5 million, respectively. As of December 31, 2017, the corresponding outstanding balances of the current and non-current portion of unearned revenue amounted to $6.0 million and $12.5 million, respectively. Refer to Note 13, "Financial Instruments—Fair value of Financial Instruments".

b. HMM

In July 2016, after the charter restructuring agreements with HMM, the Company obtained interest bearing senior unsecured HMM notes consisting of $32.8 million Loan Notes 1 maturing in July 2024 and $6.2 million Loan Notes 2 maturing in December 2022 and 4.6 million HMM shares. The HMM notes were originally classified as held to maturity securities and recorded at amortized costs less other than temporary impairment since initial recognition. Based on the management's intention, the HMM shares were held principally for the purpose of the resale in the near term and were classified as trading securities. The Company also tests periodically for impairment of its investments in debt securities based on the existence of triggering events that indicate debt instruments may have been impaired.
On September 1, 2016, the Company sold all HMM shares obtained after the charter restructuring agreements with HMM for cash proceeds on sale of $38.1 million resulting in a loss on sale of $12.9 million, which was recorded under "Other income/(expenses), net" in the Consolidated Statement of Operations for the year ended December 31, 2016. The HMM shares were considered trading securities and the proceeds were classified as operating activities in the Consolidated Statement of Cash Flows for the year ended December 31, 2016. The proceeds were used to repay outstanding debt obligations. Furthermore, for the years ended December 31, 2018, December 31, 2017 and December 31, 2016, the Company recognized $1.8 million, $1.8 million and $1.0 million, respectively, of non-cash interest income and fair value unwinding of HMM notes under "Interest income" in the Consolidated Statement of Operations.

On July 18, 2016, the Company recognized unearned revenue of $75.6 million representing compensation to the Company for the future reductions in the daily charter rates payable by HMM under the time charter agreements, which represents non-cash transaction for the Statement of Cash Flows for the year ended December 31, 2016. The amortization of unearned revenue is recognized in the Consolidated Statement of Operations under "Operating revenues" over the remaining life of the respective charters. For the years ended December 31, 2018, December 31, 2017 and December 31, 2016, the Company recorded an amount of $8.8 million, $15.6 million and $7.9 million, respectively, of unearned revenue amortization. As of December 31, 2018, the outstanding balances of the current and non-current portion of unearned revenue in relation to HMM amounted to $8.2 million and $35.2 million, respectively. As of December 31, 2017, the corresponding outstanding balances of the current and non-current portion of unearned revenue amounted to $8.8 million and $43.4 million, respectively. Refer also to Note 13, "Financial Instruments—Fair value of Financial Instruments".

c. Transfer to Available for sale category

On March 28, 2017, the Company sold $13.0 million principal amount of HMM Loan Notes 1 maturing in July 2024 carried at amortized costs of $8.6 million for gross cash proceeds on sale of $6.2 million, which were received in April 2017. The sale resulted in a loss of $2.4 million, which was recognized in the "Other income/(expenses), net" in the accompanying Consolidated Statements of Operations for year ended December 31, 2017. The proceeds were used to repay related outstanding debt obligations in April 2017. The sale of these notes resulted in a transfer of all remaining held to maturity HMM and ZIM notes into the available for sale securities at fair value. The unrealized losses, which were recognized in other comprehensive loss, are analyzed as follows as of December 31, 2018 (in thousands):

<table>
<thead>
<tr>
<th>Description of securities</th>
<th>Amortized cost basis</th>
<th>Fair value</th>
<th>Unrealized loss</th>
</tr>
</thead>
<tbody>
<tr>
<td>ZIM notes</td>
<td>$ 44,676</td>
<td>$ 21,044</td>
<td>$(23,632)</td>
</tr>
<tr>
<td>HMM notes</td>
<td>20,593</td>
<td>7,847</td>
<td>(12,746)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>65,269</strong></td>
<td><strong>28,891</strong></td>
<td><strong>(36,378)</strong></td>
</tr>
</tbody>
</table>
7. Other Non-current Assets (Continued)

The Company has agreed to install scrubbers on seven of its vessels and have an option to install them on two more vessels, with estimated total costs amounting to approximately $21.6 million out of which advances of $5.0 million were paid before December 31, 2018 and the remaining amount of $16.6 million is expected to be paid in 2019.

Other assets mainly include non-current assets related to straight-lining of the Company's revenue amounting to $23.1 million and $10.8 million as of December 31, 2018 and December 31, 2017, respectively.

8. Accrued Liabilities

Accrued liabilities consisted of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accrued payroll</td>
<td>$924</td>
<td>$928</td>
</tr>
<tr>
<td>Accrued interest</td>
<td>6,304</td>
<td>9,953</td>
</tr>
<tr>
<td>Accrued expenses</td>
<td>4,542</td>
<td>4,345</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$11,770</strong></td>
<td><strong>$15,226</strong></td>
</tr>
</tbody>
</table>

Accrued expenses mainly consisted of accruals related to the operation of the Company's fleet and other expenses as of December 31, 2018 and December 31, 2017.

9. Lease Arrangements

**Charters-out**

The future minimum rentals, expected to be earned on non-cancellable time charters consisted of the following as of December 31, 2018 (in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>$366,659</td>
</tr>
<tr>
<td>2020</td>
<td>345,174</td>
</tr>
<tr>
<td>2021</td>
<td>319,423</td>
</tr>
<tr>
<td>2022</td>
<td>257,533</td>
</tr>
<tr>
<td>2023</td>
<td>172,454</td>
</tr>
<tr>
<td>2024 and thereafter</td>
<td>116,111</td>
</tr>
<tr>
<td><strong>Total future rentals</strong></td>
<td><strong>$1,577,354</strong></td>
</tr>
</tbody>
</table>
9. Lease Arrangements (Continued)

Rentals from time charters are not generally received when a vessel is off-hire, including time required for normal periodic maintenance of the vessel. In arriving at the future minimum rentals, an estimated time off-hire to perform periodic maintenance on each vessel has been deducted, although there is no assurance that such estimate will be reflective of the actual off-hire in the future. The off-hire assumptions used relate mainly to drydocking and special survey maintenance carried out approximately every 2.5 years per vessel, or every 5 years for vessels less than 15-years old, and which may last approximately 10 to 15 days.

10. Long-Term Debt, net

Long-term debt consisted of the following (in thousands):

<table>
<thead>
<tr>
<th>Credit Facility</th>
<th>Balance as of December 31, 2018</th>
<th>Balance as of December 31, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Royal Bank of Scotland $475.5 mil. Facility</td>
<td>$474,743</td>
<td>$634,864</td>
</tr>
<tr>
<td>The Royal Bank of Scotland (January 2011 Facility)</td>
<td>—</td>
<td>24,316</td>
</tr>
<tr>
<td>HSH Nordbank AG—Aegean Baltic Bank—Pireaus Bank $382.5 mil. Facility</td>
<td>379,762</td>
<td>622,851</td>
</tr>
<tr>
<td>HSH Nordbank AG—Aegean Baltic Bank—Pireaus Bank (January 2011 Facility)</td>
<td>—</td>
<td>17,205</td>
</tr>
<tr>
<td>Citibank $114 mil. Facility</td>
<td>110,644</td>
<td>117,316</td>
</tr>
<tr>
<td>Credit Suisse $171.8 mil. Facility</td>
<td>167,990</td>
<td>176,189</td>
</tr>
<tr>
<td>Citibank—Eurobank $37.6 mil. Facility</td>
<td>35,544</td>
<td>37,645</td>
</tr>
<tr>
<td>Club Facility $206.2 mil.</td>
<td>202,439</td>
<td>220,689</td>
</tr>
<tr>
<td>Sinosure Cexim—Citibank—ABN Amro $203.4 mil. Facility</td>
<td>61,020</td>
<td>81,360</td>
</tr>
<tr>
<td>Citibank $123.9 mil. Facility</td>
<td>122,523</td>
<td>—</td>
</tr>
<tr>
<td>Citibank $120 mil. Facility</td>
<td>115,973</td>
<td>—</td>
</tr>
<tr>
<td>Deutsche Bank</td>
<td>—</td>
<td>156,062</td>
</tr>
<tr>
<td>ABN Amro—Bank of America Merrill Lynch—Burlington Loan Management—National Bank of Greece (January 2011 Credit Facility)</td>
<td>—</td>
<td>8,771</td>
</tr>
<tr>
<td>The Export—Import Bank of Korea &amp; ABN Amro</td>
<td>—</td>
<td>23,109</td>
</tr>
<tr>
<td>Fair value of debt</td>
<td>(26,065)</td>
<td>—</td>
</tr>
<tr>
<td>Comprehensive Financing Plan exit fees accrued</td>
<td>21,583</td>
<td>21,099</td>
</tr>
<tr>
<td><strong>Total long-term debt</strong></td>
<td><strong>$1,666,156</strong></td>
<td><strong>$2,340,778</strong></td>
</tr>
<tr>
<td>Less: Deferred finance costs, net</td>
<td>(44,271)</td>
<td>(11,177)</td>
</tr>
<tr>
<td>Less: Current portion</td>
<td>(113,777)</td>
<td>$2,329,601</td>
</tr>
<tr>
<td><strong>Total long-term debt net of current portion and deferred finance cost</strong></td>
<td><strong>$1,508,108</strong></td>
<td>—</td>
</tr>
</tbody>
</table>

Each of the new credit facilities are collateralized by first and second preferred mortgages over the vessels financed, general assignment of all hire freights, income and earnings, the assignment of their insurance policies, as well as any proceeds from the sale of mortgaged vessels, the Company's
investments in ZIM and Hyundai Merchant Marine securities, stock pledges and benefits from corporate guarantees.

As of December 31, 2018, there was no remaining borrowing availability under the Company's credit facilities. The weighted average interest rate on long-term borrowings for the years ended December 31, 2018, 2017 and 2016 was 4.3%, 3.1% and 2.6%, respectively. Total interest paid during the years ended December 31, 2018, 2017 and 2016 was $71.9 million, $74.6 million and $69.2 million, respectively. The total amount of interest cost incurred and expensed in 2018 was $70.7 million (2017: $75.4 million, 2016: $70.3 million).

The Refinancing and the New Credit Facilities

The Company entered into a debt refinancing agreement with certain of its lenders holding debt of $2.2 billion maturing by December 31, 2018, for a debt refinancing (the "Refinancing") which was consummated on August 10, 2018 (the "Closing Date") that superseded, amended and supplemented the terms of each of the Company's then-existing credit facilities (other than the Sinosure-CEXIM-Citibank-ABN Amro credit facility which is not covered thereby). The Refinancing provided for, among other things, the issuance of 99,342,271 new shares of common stock to certain of the Company's lenders (which represented 47.5% of the Company's outstanding common stock immediately after giving effect to such issuance and diluted existing shareholders ratably), a principal amount debt reduction of approximately $551 million, revised amortization schedules, maturities, interest rates, financial covenants, events of defaults, guarantee and security packages and $325.9 million of new debt financing from one of the Company's lenders—Citibank (the "Citibank—New Money"). The Company's largest stockholder, Danaos Investment Limited as Trustee of the 883 Trust ("DIL"), contributed $10 million to the Company on the Closing Date, for which DIL did not receive any shares of common stock or other interests in the Company. The maturities of most of the new loan facilities covered by this debt refinancing were extended by five years to December 31, 2023 (or, in some cases, June 30, 2024).

In addition, the Company agreed to make reasonable efforts to source investment commitment for new shares of common stock with net proceeds not less than $50 million in aggregate no later than 18 months after the Closing Date ($10 million of which is to be underwritten by DIL).

As part of the Refinancing the Company entered into new credit facilities for an aggregate principal amount of approximately $1.6 billion due December 31, 2023 through an amendment and restatement or replacement of existing credit facilities. The following are the new term loan credit facilities (the "New Credit Facilities"):

(i) a $475.5 million credit facility provided by the Royal Bank of Scotland (the "RBS Facility"), which refinanced the prior Royal Bank of Scotland credit facilities

(ii) a $382.5 million credit facility provided by HSH Nordbank AG—Aegean Baltic Bank—Piraeus Bank (the "HSH Facility"), which refinanced the prior HSH Nordbank AG—Aegean Baltic Bank—Piraeus Bank credit facilities

(iii) a $114.0 million credit facility provided by Citibank (the "Citibank $114 mil. Facility"), which refinanced the prior Citibank credit facility
10. Long-Term Debt, net (Continued)

   (iv) a $171.8 million credit facility provided by Credit Suisse (the "Credit Suisse $171.8 mil. Facility"), which refinanced the prior Credit Suisse credit facility

   (v) a $37.6 million credit facility provided by Citibank—Eurobank (the "Citibank—Eurobank $37.6 mil. Facility"), which refinanced the prior Citibank—Eurobank credit facility

   (vi) a $206.2 million credit facility provided by Citibank—Credit Suisse—Sentina (the "Club Facility $206.2 mil."), which refinanced the prior EnTrustPermal—Credit Suisse—Citigroup Club facility

   (vii) a $120.0 million credit facility provided by Citibank (the "Citibank $120 mil. Facility"), which refinanced the prior ABN Amro—Bank of America Merrill Lynch—Burlington Loan Management—National Bank of Greece facilities

   (viii) a $123.9 million credit facility provided by Citibank (the "Citibank $123 mil. Facility"), which refinanced the prior Deutsche Bank facility

Interest and Fees

The interest rate payable under the New Credit Facilities (which does not include the Sinosure-CEXIM-Citibank-ABN Amro credit facility) is LIBOR+2.50% (subject to a 0% floor), with subordinated tranches of two credit facilities incurring additional PIK interest of 4.00%, compounded quarterly, payable in respect of $282 million principal related to the RBS Facility and HSH Facility, which tranches have maturity dates of June 30, 2024.

The Company was required to pay a cash amendment fee of $69.2 million in the aggregate, out of which $23.9 million was paid in cash before December 31, 2018 and the remaining portion will be paid in instalments. The unpaid amendment fee of $30.5 million was accrued under "Other current liabilities" and of $14.8 million under "Other long-term liabilities" in the consolidated balance sheet as of December 31, 2018. Of the cash amendment fee, $17.2 million was deferred and will be amortized over the life of the respective credit facilities with the effective interest method and $52.0 million was expensed to the consolidated statement of operations.

The Company was also required to issue 14.7 million shares of common stock as part of the amendments fees on the Closing Date, or $25.0 million fair value in the aggregate. Of this amount, recognition of $18.1 million was deferred and will be amortized over the life of the respective credit facilities with the effective interest method and $6.9 million was expensed in the accompanying consolidated statements of operations. The fair value of the shares issued at the Closing Date are based on a Level 1 measurement of the share's price, which was $1.70 as of August 10, 2018.

The Company incurred $51.3 million and $14.3 million of professional fees related to the refinancing discussions with its lenders reported under "Other income/(expenses), net" in the accompanying consolidated statements of operations for the year ended December 31, 2018 and 2017, respectively. Additionally, the Company deferred $11.7 million of professional fees related to the Citibank facilities and will be amortized over the life of the respective credit facilities.
Covenants, Events of Defaults, Collaterals and Guarantees

The New Credit Facilities contain financial covenants requiring the Company to maintain:

(i) minimum collateral to loan value coverage on a charter-free basis increasing from 57.0% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter,

(ii) minimum collateral to loan value coverage on a charter-attached basis increasing from 69.5% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter,

(iii) minimum liquidity of $30 million throughout the term of the new credit facilities,

(iv) maximum consolidated net leverage ratio, declining from 7.50x as of December 31, 2018 to 5.50x as of September 30, 2023 and thereafter,

(v) minimum interest coverage ratio of 2.50x throughout the term of the new credit facilities and

(vi) minimum consolidated market value adjusted net worth increasing from negative $510 million as of December 31, 2018 to $60 million as of September 30, 2023 and thereafter.

The New Credit Facilities contain certain restrictive covenants and customary events of default, including those relating to cross-acceleration and cross-defaults to other indebtedness, non-compliance, or repudiation of security documents, material adverse changes to the Company's business, the Company's common stock ceasing to be listed on the NYSE (or another recognized stock exchange), foreclosure on a vessel in the Company's fleet, a change in control of the Manager, a breach of the management agreement by the Manager and a material breach of a charter by a charterer or cancellation of a charter (unless replaced with a similar charter acceptable to the lenders) for the vessels securing the respective new credit facilities.

In connection with the refinancing, the Company has also undertaken to seek to refinance two of our 13,100 TEU vessels, the Hyundai Honour and the Hyundai Respect. The net proceeds are to be applied pro rata to repay the respective new credit facilities secured by mortgages on such vessels.

Exit Fee

As of December 31, 2018, the Company has an accrued Exit Fee of $21.6 million relating to its debt facilities and is reported under "Long-term debt, net" in the consolidated Balance Sheet. The payment of the exit fees accrued under the long-term debt prior to the debt refinancing shall be postponed on the earlier of maturity, acceleration or prepayment or repayment in full of the amended facilities or the relevant facility refinancing. The exit fees will accrete in the consolidated statement of operations of the Company over the life of the respective facilities covered by the Refinancing (which does not include the Sinosure-CEXIM-Citibank-ABN Amro credit facility) up to the agreed full exit fees payable amounting to $24.0 million.

Sinosure-CEXIM-Citibank-ABN Amro credit facility and KEXIM-ABN Amro credit facility

On the Closing Date the Company amended and restated the Sinosure-CEXIM-Citibank-ABN Amro credit facility, dated as of February 21, 2011, primarily to align its financial covenants with those contained in the new credit facilities and provide second lien collateral to lenders under certain of the New Credit Facilities.
On June 27, 2018, the Company gave notice to the lenders under the KEXIM-ABN Amro credit facility and fully repaid the $17.5 million outstanding under this facility on July 20, 2018.

Principal Payments

The Sinosure—Cexim—Citibank—ABN Amro credit facility provides for semi-annual amortization payments. The New Credit Facilities provide for quarterly fixed and variable amortization payments, together representing approximately 85% of actual free cash flows from the relevant vessels securing such credit facilities, subject to certain adjustments. The new credit facilities have maturity dates of December 31, 2023 (or in some cases as indicated below, June 30, 2024). After giving effect to the debt refinancing consummated on August 10, 2018, scheduled debt maturities of total long-term debt subsequent to December 31, 2018 are as follows (in thousands):

<table>
<thead>
<tr>
<th>Payments due by period ended</th>
<th>Fixed principal repayments</th>
<th>Final payments*</th>
<th>Total principal payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 31, 2019</td>
<td>$ 113,777</td>
<td>—</td>
<td>$ 113,777</td>
</tr>
<tr>
<td>December 31, 2020</td>
<td>119,674</td>
<td>—</td>
<td>119,674</td>
</tr>
<tr>
<td>December 31, 2021</td>
<td>119,603</td>
<td>—</td>
<td>119,603</td>
</tr>
<tr>
<td>December 31, 2022</td>
<td>89,773</td>
<td>—</td>
<td>89,773</td>
</tr>
<tr>
<td>December 31, 2023</td>
<td>77,194</td>
<td>$ 864,118</td>
<td>941,312</td>
</tr>
<tr>
<td>Thereafter</td>
<td>—</td>
<td>286,499</td>
<td>286,499</td>
</tr>
<tr>
<td><strong>Total long-term debt</strong></td>
<td><strong>$ 520,021</strong></td>
<td><strong>$ 1,150,617</strong></td>
<td><strong>$ 1,670,638</strong></td>
</tr>
</tbody>
</table>

* The final payments include the unamortized remaining principal debt balances under the new credit facilities, as such amount will be determinable following the fixed amortization. As mentioned above, the Company is also subject to variable principal amortization based on actual free cash flows, which are included under “Final payments” in this table.

Accounting for the Restructuring Agreement

The Company performed an accounting analysis on a lender by lender basis to determine which accounting guidance applied to each of the amendments to its Existing Credit Facilities. The following guidance was used to perform the analysis:

(i) As set forth in ASC 470-60, "Accounting by Debtors and Creditors for Troubled Debt Restructurings" troubled debt restructuring (“TDR”) accounting is required when the debtor is experiencing financial difficulty and the creditor has granted a concession. A concession is granted when the effective borrowing rate on the restructured debt is less than the effective borrowing rate on the original debt. The application of TDR accounting requires a comparison of the recorded value of each debt instrument prior to restructuring to the sum of the undiscounted future cash flows to be received by a creditor under the newly restructured debt instrument. Interest expense in future periods is determined by the effective interest rate required to discount the newly restructured future cash flows to equal the recorded value of the debt instrument without regard to how the parties allocated these cash flows to principal and interest in the restructured agreement. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the
restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. In this instance, no future interest expense will be recorded on the affected facilities, as the adjusted recorded value and the undiscounted future cash flows are equal and the effective interest rate is zero.

(ii) For lenders on which the Company has concluded that the above changes to the terms of long-term debt do not constitute a troubled debt restructuring as no concession has been granted, the Company applied the guidance in ASC 470-50, Modifications and Extinguishments. The accounting treatment is determined by whether (1) the lender (creditor) remains the same and (2) terms of the new debt and original debt are substantially different. The new debt and the old debt are considered "substantially different" pursuant to ASC 470-50 when the present value of the cash flows under the terms of the new debt instrument is at least 10% different from the present value of the remaining cash flows under the terms of the original instrument. If the original and new debt instruments are substantially different, the original debt is derecognized and the new debt should be initially recorded at fair value, with the difference recognized as an extinguishment gain or loss.

Based on the analysis, we concluded for the lenders that participated in both the Existing Credit Facilities and the New Credit Facilities, the following accounting:

Troubled Debt Restructuring

Prior to the finalization of the Refinancing, the Company concluded that it was experiencing financial difficulty and that certain of the lenders granted a concession (as part of the Refinancing). The Company was experiencing financial difficulty primarily as a result of the projected cash flows not being sufficient to service the balloon payment due as of December 31, 2018 without restructuring and the Company was not able to obtain funding from sources other than existing creditors at an effective interest rate equal to the current market interest rate for similar debt. As a result, the following accounting has been applied at the Closing Date:

(i) As of the Closing Date, the outstanding balance of HSH Facility was $639.2 million. In exchange for reduction of principal of $251.0 million, the lenders received a total of 49.4 million shares of common stock with a fair value of $83.9 million, resulting in a net concession of $167.1 million. Accumulated accrued interest of $129.3 million was recognized using the Libor rate of 2.34% as of August 10, 2018. The TDR accounting guidance requires the Company to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. For the HSH Facility, the total undiscounted future cash flows total $518.6 million, which results in a gain of $36.6 million. The amendment fees to be paid to HSH Facility lenders of $9.5 million were recorded in the consolidated statement of operations and reduced the net gain on debt extinguishment.

(ii) As of the Closing Date, the outstanding balance of RBS Facility was $660.9 million. In exchange for reduction of principal of $179.2 million, the lender received a total of 35.2 million shares of common stock with a fair value of $59.9 million, resulting in a net
10. Long-Term Debt, net (Continued)

concession of $119.3 million and accumulated accrued interest of $119.3 million as of August 10, 2018. The TDR accounting guidance requires the Company to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments not to exceed the carrying amount of the original debt. For the RBS Facility, the undiscounted cash flows exceed the recorded value of the modified debt, and as such, the modified and new debt will be accreted up to its maturity value using the effective interest rate inherent in the restructured cash flows. The amendment fees to be paid to RBS of $9.3 million were deferred and recognized through the consolidated statement of operations using the effective interest method.

Following the issuance of the shares of common stock, HSH and RBS are considered related parties. The fair value of the shares issued at the Closing Date are based on a Level 1 measurement of the share's price, which was $1.70 as of August 10, 2018.

Modification and Extinguishment Accounting

Based on the accounting analysis performed, the Company concluded that:

(i) As of the Closing Date, the outstanding balance for the Credit Suisse Facility, the Credit Suisse and Sentina portions of the New Club Facility and the Eurobank portion of the Citibank—Eurobank Facility was $173.5 million, $125.6 million and $7.2 million, respectively. The present value of the cash flows under the Credit Suisse facilities and Sentina portion of the New Club Facility and Eurobank portion of the Citibank—Eurobank Facility, as amended by the debt refinancing, were not substantially different from the present value of the remaining cash flows under the terms of the original instruments prior to the debt refinancing, and, as such, were accounted for the debt refinancing as a modification. Accordingly, no gain or loss was recorded and a new effective interest rate was established based on the carrying value of the long-term loan prior to the debt refinancing becoming effective and the revised cash flows pursuant to the debt refinancing, including the fair value of the shares issued to the lender as part of the amendment fees. Total amendment fees paid in cash and shares to the Credit Suisse Facility, New Club Facility and Eurobank portion of the Citibank—Eurobank Facility were $15.1 million, $10.9 million and $0.1 million, respectively, and are deferred over the life of the facilities and recognized through the new effective interest method.

(ii) The present value of the cash flows for all of the Existing Citibank facilities amounting to $152.9 million plus the Citibank—New Money amounting to $325.9 million, was substantially different from the present value of the remaining cash flows under the terms of the original instrument prior to the debt refinancing, and, as such, accounted for the debt refinancing as an extinguishment. Accordingly, we derecognized the carrying value of the prior Citibank debt facilities and recorded the refinanced debt at fair value totaling $448.2 million. Total new fees of $49.5 million were recorded directly in the consolidated statement of operations under the gain on debt extinguishment. The fair value of the new Citibank facilities was determined by the Company through an independent valuation using an issue date, risk adjusted market interest rate of 7.15% per annum, similar to the market yield for unsecured high yield bonds to the shipping companies, and considered to be a Level 2 input in the ASC 820 fair value hierarchy.
10. Long-Term Debt, net (Continued)

The outstanding principal and related exit fee payable for the Deutsche Bank Facility, the EnTrustPermal portion of the Club Facility and the ABN Amro—Bank of America Merrill Lynch—Burlington Loan Management—National Bank of Greece Facility (“Other facilities”) totaling $450.8 million were extinguished with the proceeds from the Citibank—New Money amounting to $325.9 million and with corporate cash amounting to $12.0 million, resulting in a net gain on debt extinguishment of $89.3 million.

11. Related Party Transactions

Management Services: Pursuant to a ship management agreement between each of the vessel owning companies and Danaos Shipping Company Limited (the “Manager”), the Manager acts as the fleet's technical manager responsible for (i) recruiting qualified officers and crews, (ii) managing day to day vessel operations and relationships with charterers, (iii) purchasing of stores, supplies and new equipment for the vessels, (iv) performing general vessel maintenance, reconditioning and repair, including commissioning and supervision of shipyards and subcontractors of drydock facilities required for such work, (v) ensuring regulatory and classification society compliance, (vi) performing operational budgeting and evaluation, (vii) arranging financing for vessels, (viii) providing accounting, treasury and finance services and (ix) providing information technology software and hardware in the support of the Company's processes. The Company's controlling shareholder also controls the Manager.

On August 10, 2018, the term of the Company's management agreement with the Manager was extended until December 31, 2024. The Manager agreed to apply all or some of the amount of DIL's unfulfilled obligations, if any, under the Backstop Agreement as a credit towards any fees payable by the Company to the Manager. Pursuant to the management agreement, the management fees are as follows for the years presented in the Consolidated Statements of Operations: i) a daily management fee of $850, ii) a daily vessel management fee of $425 for vessels on bareboat charter and iii) a daily vessel management fee of $850 for vessels on time charter. Additionally, the fee of 1.25% on gross freight, charter hire, ballast bonus and demurrage with respect to each vessel in the fleet and the fee of 0.5% based on the contract price of any vessel bought and sold by the Manager on the Company's behalf are due to the Manager.

Management fees in 2018 amounted to approximately $16.8 million (2017: $16.9 million, 2016: $17.1 million), which are presented under "General and administrative expenses" on the Consolidated Statements of Operations. Commissions to the Manager in 2018 amounted to approximately $5.4 million (2017: $5.3 million, 2016: $6.3 million), which are presented under "Voyage expenses" in the Consolidated Statements of Operations.

The Company pays advances on account of the vessels' operating expenses. These prepaid amounts are presented in the consolidated balance sheet under "Due from related parties" totaling $18.0 million and $34.0 million as of December 31, 2018 and 2017, respectively.

The Company employs its executive officers. The executive officers received an aggregate of €2.7 million ($3.2 million), €1.5 million ($1.8 million) and €1.5 million ($1.7 million) in compensation for the years ended December 31, 2018, 2017 and 2016, respectively. An amount of $0.6 million was due to executive officers and is presented under "Accounts payable" in the Consolidated Balance Sheet as of December 31, 2018.
11. Related Party Transactions (Continued)

Dr. John Coustas, the Chief Executive Officer of the Company, is a member of the Board of Directors of The Swedish Club, the primary provider of insurance for the Company, including a substantial portion of its hull & machinery, war risk and protection and indemnity insurance. During the years ended December 31, 2018, 2017 and 2016 the Company paid premiums to The Swedish Club of $3.9 million, $4.6 million and $5.6 million, respectively, which are presented under Vessel operating expenses in the Consolidated Statements of Operations. As of December 31, 2018 and 2017, the Company did not have any outstanding balance to The Swedish Club.

12. Taxes

Under the laws of the countries of the Company's ship owning subsidiaries' incorporation and/or vessels' registration, the Company's ship operating subsidiaries are not subject to tax on international shipping income, however, they are subject to registration and tonnage taxes, which have been included in Vessel Operating Expenses in the accompanying Consolidated Statements of Operations.

Pursuant to the U.S. Internal Revenue Code (the "Code"), U.S.-source income from the international operation of ships is generally exempt from U.S. tax if the company operating the ships meets certain requirements. Among other things, in order to qualify for this exemption, the company operating the ships must be incorporated in a country which grants an equivalent exemption from income taxes to U.S. corporations.

All of the Company's ship-operating subsidiaries satisfy these initial criteria. In addition, these companies must be more than 50% owned by individuals who are residents, as defined, in the countries of incorporation or another foreign country that grants an equivalent exemption to U.S. corporations. These companies satisfied the more than 50% beneficial ownership requirement for 2018. In addition, should the beneficial ownership requirement not be met, the management of the Company believes that by virtue of a special rule applicable to situations where the ship operating companies are beneficially owned by a publicly traded company like the Company, the more than 50% beneficial ownership requirement can also be satisfied based on the trading volume, the Company's shareholder composition and the anticipated widely-held ownership of the Company's shares, but no assurance can be given that this will be the case or remain so in the future, since continued compliance with this rule is subject to factors outside of the Company's control.

13. Financial Instruments

The principal financial assets of the Company consist of cash and cash equivalents, trade receivables and other assets. The principal financial liabilities of the Company consist of long-term bank loans. The following is a summary of the Company's risk management strategies and the effect of these strategies on the Company's consolidated financial statements.

**Interest Rate Risk:** Interest rate risk arises on bank borrowings. The Company monitors the interest rate on borrowings closely to ensure that the borrowings are maintained at favorable rates. The interest rates relating to the long-term loans are disclosed in Note 10, "Long-term Debt, net".

**Concentration of Credit Risk:** Financial instruments that are potentially subject the Company to significant concentrations of credit risk consist principally of cash and trade accounts receivable. The Company places its temporary cash investments, consisting mostly of deposits, with established financial institutions. The Company performs periodic evaluations of the relative credit standing of those
13. Financial Instruments (Continued)

Financial institutions that are considered in the Company's investment strategy. The Company is exposed to credit risk in the event of non-performance by counterparties to derivative instruments, however, the Company limits this exposure by diversifying among counterparties with high credit ratings. The Company depends upon a limited number of customers for a large part of its revenues. Refer to Note 14, "Operating Revenue", for further details on revenue from significant clients. Credit risk with respect to trade accounts receivable is generally managed by the selection of customers among the major liner companies in the world and their dispersion across many geographic areas.

**Fair Value:** The carrying amounts reflected in the accompanying consolidated balance sheets of financial assets and liabilities (excluding long-term bank loans and certain other non-current assets) approximate their respective fair values due to the short maturity of these instruments. The fair values of long-term floating rate bank loans approximate the recorded values, generally due to their variable interest rates. The fair value of available for sale securities is estimated based on either observable market based inputs or unobservable inputs that are corroborated by market data. The Company is exposed to changes in fair value of available for sale securities as there is no hedging strategy.

**Interest Rate Swaps:** The Company currently has no outstanding interest rate swaps agreements. However, in the past years, the Company entered into interest rate swap agreements with its lenders in order to manage its floating rate exposure. Certain variable-rate interests on specific borrowings were associated with vessels under construction and were capitalized as a cost of the specific vessels. In accordance with the accounting guidance on derivatives and hedging, the amounts related to realized gains or losses on cash flow hedges that have been entered into and qualified for hedge accounting, in order to hedge the variability of that interest, were recognized in accumulated other comprehensive loss and are reclassified into earnings over the depreciable life of the constructed asset, since that depreciable life coincides with the amortization period for the capitalized interest cost on the debt. An amount of $3.7 million, $3.7 million and $4.0 million was reclassified into earnings for the years ended December 31, 2018, 2017 and 2016, respectively, representing amortization over the depreciable life of the vessels. Additionally, the Company recognized accelerated amortization of these deferred realized losses of $1.4 million, nil and $7.7 million in connection with the impairment losses recognized on the respective vessels for the years ended December 31, 2018, 2017 and 2016. An amount of $3.6 million is expected to be reclassified into earnings within the next 12 months.

**Fair Value of Financial Instruments**

The estimated fair values of the Company's financial instruments are as follows:

<table>
<thead>
<tr>
<th>As of December 31, 2018</th>
<th>As of December 31, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Book Value</td>
</tr>
<tr>
<td>Book Value (in thousands of $)</td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$77,275</td>
</tr>
<tr>
<td>Restricted cash</td>
<td>—</td>
</tr>
<tr>
<td>Due from related parties</td>
<td>$17,970</td>
</tr>
<tr>
<td>ZIM notes</td>
<td>$21,044</td>
</tr>
<tr>
<td>Equity investment in ZIM</td>
<td>—</td>
</tr>
<tr>
<td>HMM notes</td>
<td>$7,847</td>
</tr>
<tr>
<td>Long-term debt, including current portion</td>
<td>$1,666,156</td>
</tr>
</tbody>
</table>

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13. Financial Instruments (Continued)

The estimated fair value of the financial instruments that are measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows as of December 31, 2018 (in thousands):

<table>
<thead>
<tr>
<th>Financial Instrument</th>
<th>Level I</th>
<th>Level II</th>
<th>Level III</th>
</tr>
</thead>
<tbody>
<tr>
<td>ZIM notes(1)</td>
<td>$21,044</td>
<td>—</td>
<td>$21,044</td>
</tr>
<tr>
<td>HMM notes(1)</td>
<td>$7,847</td>
<td>—</td>
<td>$7,847</td>
</tr>
</tbody>
</table>

The estimated fair value of the financial instruments that are not measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows as of December 31, 2018 (in thousands):

<table>
<thead>
<tr>
<th>Financial Instrument</th>
<th>Level I</th>
<th>Level II</th>
<th>Level III</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long-term debt, including current portion(2)</td>
<td>$1,666,156</td>
<td>—</td>
<td>$1,666,156</td>
</tr>
</tbody>
</table>

The estimated fair value of the financial instruments that are measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows as of December 31, 2017:

<table>
<thead>
<tr>
<th>Financial Instrument</th>
<th>Level I</th>
<th>Level II</th>
<th>Level III</th>
</tr>
</thead>
<tbody>
<tr>
<td>ZIM notes(1)</td>
<td>$21,093</td>
<td>—</td>
<td>$21,093</td>
</tr>
<tr>
<td>HMM notes(1)</td>
<td>$13,509</td>
<td>—</td>
<td>$13,509</td>
</tr>
</tbody>
</table>

The estimated fair value of the financial instruments that are not measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows as of December 31, 2017:

<table>
<thead>
<tr>
<th>Financial Instrument</th>
<th>Level I</th>
<th>Level II</th>
<th>Level III</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long-term debt, including current portion(2)</td>
<td>$2,325,209</td>
<td>—</td>
<td>$2,325,209</td>
</tr>
</tbody>
</table>

(1) The fair value is estimated based on either observable market based inputs or unobservable inputs that are corroborated by market data, including currently available information on the Company's counterparty, other contracts with similar terms, remaining maturities and interest rates.

(2) Long-term debt, including current portion is presented gross of deferred finance costs of $44.3 million and $11.2 million as of December 31, 2018 and December 31, 2017,
13. Financial Instruments (Continued)

The Company's assets measured at fair value on a non-recurring basis were:

The Company recorded an impairment loss of $210.7 million on ten of its vessels as of December 31, 2018, thus reducing the vessels' carrying value at December 31, 2018 from $337.4 million to $126.7 million. Fair value of each vessel was determined by management with the assistance from valuations obtained by third party independent shipbrokers.

14. Operating Revenue

Operating revenue from significant customers (constituting more than 10% of total revenue) for the years ended December 31, were as follows:

15. Operating Revenue by Geographic Location

Operating revenue by geographic location of the customers for the years ended December 31, was as follows (in thousands):

16. Commitments and Contingencies

On September 1, 2016, Hanjin Shipping, a charterer of eight of the Company's vessels, referred to the Seoul Central District Court, which issued an order to commence the rehabilitation proceedings of Hanjin Shipping. Hanjin Shipping has cancelled all eight charter party agreements with the Company. On February 17, 2017, the Seoul Central District Court (Bankruptcy Division), declared the bankruptcy of Hanjin Shipping, converting the rehabilitation proceeding to a bankruptcy proceeding. The Seoul
16. Commitments and Contingencies (Continued)

Central District Court (Bankruptcy Division) appointed a bankruptcy trustee to dispose of Hanjin Shipping's remaining assets and distribute the proceeds from the sale of such assets to Hanjin Shipping's creditors according to their priorities. The Company ceased recognizing revenue from Hanjin Shipping effective from July 1, 2016 onwards and recognized a bad debt expense amounting to $15.8 million in its Consolidated Statements of Operations for the year ended December 31, 2016. The Company has a total unsecured claim submitted to the Seoul Central District Court for unpaid charter hire, charges, expenses and loss of profit against Hanjin Shipping totaling $597.9 million, which is not recognized in the accompanying Consolidated Balance Sheet as of December 31, 2018 and 2017.

There are no other material legal proceedings to which the Company is a party or to which any of its properties are the subject, or other contingencies that the Company is aware of, other than routine litigation incidental to the Company's business. Furthermore, the Company does not have any commitments outstanding.

See the Note 7 "Other Non-current Assets" for capital commitments related to the installation of scrubbers on certain of the Company's vessels.

17. Stock Based Compensation

As of April 18, 2008, the Board of Directors and the Compensation Committee approved incentive compensation of the Manager's employees with its shares from time to time, after specific for each such time, decision by the compensation committee and the Board of Directors in order to provide a means of compensation in the form of free shares to certain employees of the Manager of the Company's common stock. The plan was effective as of December 31, 2008. Pursuant to the terms of the plan, employees of the Manager may receive (from time to time) shares of the Company's common stock as additional compensation for their services offered during the preceding period. The stock will have no vesting period and the employee will own the stock immediately after grant. The total amount of stock to be granted to employees of the Manager will be at the Company's Board of Directors' discretion only and there will be no contractual obligation for any stock to be granted as part of the employees' compensation package in future periods.

On September 14, 2018, the Company granted 4,182,832 shares of restricted stock to executive officers of the Company, 50% of which are scheduled to vest on December 31, 2019 and 50% of which are scheduled to vest on December 31, 2021, subject to the executive's continued employment with the Company as of such dates or earlier death or disability, under its 2006 Equity Compensation Plan, as amended. During 2017, no shares of common stock were granted and as of December 14, 2017, the Company cancelled the grant of 25,000 shares to employees from previous year. In settlement of the shares granted in 2014 and 2015, 17,608 shares were issued and distributed to the employees of the Manager in 2016.

The Company has also established the Directors Share Payment Plan under its 2006 equity compensation plan. The purpose of the plan is to provide a means of payment of all or a portion of compensation payable to directors of the Company in the form of Company's Common Stock. The plan was effective as of April 18, 2008. Each member of the Board of Directors of the Company may participate in the plan. Pursuant to the terms of the plan, Directors may elect to receive in Common Stock all or a portion of their compensation. Following December 31 of each year, the Company delivers to each Director the number of shares represented by the rights credited to their Share
17. Stock Based Compensation (Continued)

Payment Account during the preceding calendar year. During 2018, 2017 and 2016, none of the directors elected to receive in Company shares his compensation.

18. Stockholders' Equity

Our largest stockholder DIL contributed $10 million to the Company in connection with the consummation of the Refinancing on August 10, 2018. DIL did not receive any shares of common stock or other interests in the Company as a result of this contribution.

Additionally, on August 10, 2018, in connection with the Refinancing, the Company issued 99,342,271 new shares of common stock to certain of the Company's lenders, which represented 47.5% of the outstanding common stock immediately after this issuance.

On September 14, 2018, the Company granted 4,182,832 shares of restricted stock to executive officers of the Company, 50% of which are scheduled to vest on December 31, 2019 and 50% of which are scheduled to vest on December 31, 2021, subject to the executive's continued employment with the Company as of such dates or earlier death or disability, under its 2006 Equity Compensation Plan, as amended. These shares of restricted stock are issued and outstanding as of December 31, 2018.

As of December 31, 2018 and December 31, 2017, the shares issued and outstanding were 213,324,455 and 109,799,352, respectively. Under the Articles of Incorporation as amended on September 18, 2009, the Company's authorized capital stock consists of 750,000,000 shares of common stock with a par value of $0.01 and 100,000,000 shares of preferred stock with a par value of $0.01.

During 2017, no shares of common stock were issued. During 2016, the Company issued 17,608 shares of common stock, all of which were newly issued shares, to the employees of the Manager in partial settlement of 2015 and 2014 grants. Refer to Note 17, "Stock Based Compensation".

During 2018, 2017 and 2016, the Company did not declare any dividends. The Company is not permitted to pay cash dividends under the terms of the Refinancing until (1) the Company receives in excess of $50 million in net cash proceeds from offerings of Common Stock and (2) the payment in full of the first installment of amortization payable following the consummation of the debt refinancing under each new credit facility and provided that an event of default has not occurred and the Company is not, and after giving effect to the payment of the dividend, in breach of any covenant.

In 2011, the Company issued an aggregate of 15,000,000 warrants to its lenders under the 2011 bank agreement with its lenders and the January 2011 credit facilities to purchase, solely on a cashless exercise basis, an aggregate of 15,000,000 shares of its common stock, which warrants have an exercise price of $7.00 per share. All of these warrants expired on January 31, 2019.
19. Earnings/(Loss) per Share

The following table sets forth the computation of basic and diluted earnings/(loss) per share for the years ended December 31 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income/(loss)</td>
<td>$(32,936)</td>
<td>$83,905</td>
<td>$(366,195)</td>
</tr>
</tbody>
</table>

Denominator (number of shares in thousands):

<table>
<thead>
<tr>
<th>Denominator</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic and diluted weighted average common shares outstanding</td>
<td>148,719.7</td>
<td>109,824.3</td>
<td>109,801.6</td>
</tr>
</tbody>
</table>

The warrants issued and outstanding amounting to 15,000,000 were excluded from the diluted earnings/(loss) per share for the years ended December 31, 2018, 2017 and 2016, because they were antidilutive. The unvested restricted shares were also excluded from the diluted earnings/(loss) per share for the year ended December 31, 2018, because they were antidilutive.

Basic and diluted earnings per share amount related to the gain on debt extinguishment of $116.4 million recorded on the Refinancing (see Note 10) are $0.78.
ARTICLES OF AMENDMENT
TO
RESTATED ARTICLES OF INCORPORATION
OF
DANAOS CORPORATION

Under Section 90 of the
Marshall Islands Business Corporations Act (the “BCA”)

DANAOS CORPORATION, a corporation domesticated in and existing under the law of the Republic of The Marshall Islands (the “Corporation”), hereby certifies as follows:

(a) The name of the Corporation is “DANAOS CORPORATION”;

(b) The Corporation was originally incorporated in the Republic of Liberia on December 7, 1998. Articles of Domestication and Articles of Incorporation of the Corporation were filed with the Office of the Registrar of Corporations of the Republic of The Marshall Islands on October 7, 2005. The Articles of Incorporation were amended and restated on October 14, 2005 and Articles of Amendment to such Amended and Restated Articles of Incorporation were filed with the Registrar of Corporations of the Republic of The Marshall Islands on September 14, 2006. The Amended and Restated Articles of Incorporation were further amended and restated on September 18, 2006. A Statement of Designations was filed pursuant to Section 35(5) of the BCA on October 5, 2006 in respect of the right, preferences and privileges of series A participating preferred stock of the Corporation. Articles of Amendment to such Amended and Restated Articles of Incorporation were filed with the Registrar of Corporations of the Republic of The Marshall Islands on September 18, 2009. Restated Articles of Incorporation were filed with the Registrar of Corporations of the Republic of The Marshall Islands on July 8, 2010.

(c) The Restated Articles of Incorporation are hereby further amended to add new Section ELEVENTH to the Restated Articles of Incorporation to read in its entirety as follows:

“Prior to the earlier to occur of (1) the fifth (5th) anniversary of the effective date of this amendment to the Corporation’s Restated Articles of Incorporation and (2) (x) the lenders of the Corporation’s financial indebtedness (the “Lenders”) having the opportunity to register the Common Stock received by such Lenders in the transactions contemplated by the Amended and Restated Restructuring Support Agreement dated June 19, 2018 pursuant to a shelf registration statement that has been declared effective by the U.S. Securities and Exchange Commission and (y) a registered offering of Common Stock with aggregate net proceeds to the Corporation of at least $50.0 million, the Corporation shall not take any of the following actions without an affirmative vote by the holders of not less than sixty-six and two-thirds percent (66-2/3%) of the outstanding stock of the Corporation entitled to vote generally for the election of directors, at any annual meeting or at any special meeting:

(i) amending these Restated Articles of Incorporation or the bylaws of the Corporation in a manner that adversely affects the rights of the holders of the Common Stock;

(ii) consummating any merger, consolidation, spin-off or sale of all or substantially all of the assets of the Corporation or the Corporation and its subsidiaries, taken as a whole;
(iii) delisting the Common Stock such that the Common Stock is not listed or quoted on any of the New York Stock Exchange, the Nasdaq Global Select Market, the Nasdaq Global Market or the Nasdaq Capital Market (or any of their respective successors);

(iv) deregistering the Common Stock under Section 12 of the U.S. Securities Exchange Act of 1934, as amended; or

(v) substantially changing the nature of the business of the Corporation from the ownership, operation and management of maritime shipping assets.”

(d) The Restated Articles of Incorporation are hereby further amended by adding “but subject to Section ELEVENTH of these Restated Articles of Incorporation” to Section TENTH of the Restated Articles of Incorporation, such that it reads in its entirety as follows:

“TENTH: The Board of Directors of the Corporation is expressly authorized to make, alter, amend or repeal bylaws of the Corporation, notwithstanding any other provisions of these Restated Articles of Incorporation, but subject to Section ELEVENTH of these Restated Articles of Incorporation, or the bylaws of the Corporation (and notwithstanding the fact that some lesser percentage may be specified by law, these Restated Articles of Incorporation or the bylaws of the Corporation), the affirmative vote of not less than sixty-six and two-thirds percent (66-2/3%) of the directors then in office.”

(e) These amendments to the Restated Articles of Incorporation were duly adopted in accordance with Section 88(1) of the BCA. On June 25, 2018, the Board of Directors of the Corporation adopted resolutions by the unanimous written consent in accordance with Section 55(4) of the BCA setting forth and declaring advisable that these amendments to the Restated Articles of Incorporation be adopted by the stockholders of the Corporation. On July 20, 2018, the holders of a majority of all of the outstanding shares of the Corporation entitled to vote thereon authorized the adoption of these amendments to the Restated Articles of Incorporation at a duly convened meeting of the stockholders of the Corporation in accordance with the Restated Articles of Incorporation and Section 88(1) of the BCA, and such authorization has been filed with the minutes of the proceedings of stockholders of the Corporation.

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment to the Restated Articles of Incorporation to be signed as of the 10th day of August 2018, by its President and Chief Executive Officer, who hereby affirms and acknowledges, under penalty of perjury, that these Articles of Amendment are the act and deed of the Corporation and that the facts stated herein are true.

DANAOS CORPORATION

By: /s/ John Coustas
Name: John Coustas
Title: President and Chief Executive Officer

RESTATED ARTICLES OF INCORPORATION
OF
DANAOS CORPORATION
PURSUANT TO THE MARSHALL ISLANDS BUSINESS CORPORATIONS ACT

The undersigned, the President and Chief Executive Officer of Danaos Corporation, a corporation domesticated under the law of the Republic of The Marshall Islands (the “Corporation”), for the purpose of restating the Articles of Incorporation of the Corporation pursuant to Section 93 of the Business Corporations Act (the “BCA”), hereby certifies that:

1. The name of the Corporation is: Danaos Corporation.

2. The Corporation’s Articles of Domestication and Articles of Incorporation were filed with the Office of the Registrar of Corporations of the Republic of the Marshall Islands (the “Registrar”) on October 7, 2005. Amended and Restated Articles of Incorporation were filed with the Registrar on October 14, 2005. Articles of Amendment were filed with the Registrar on September 14, 2006. Amended and Restated Articles of Incorporation were filed with the Registrar on September 18, 2006. A Statement of Designation was filed with the Registrar on October 5, 2006. Articles of Amendment were filed with the Registrar on September 18, 2009. The Company was previously incorporated in the Republic of Liberia on December 7, 1998.

3. The Corporation’s Articles of Incorporation are restated by the Restated Articles of Incorporation attached hereto. The Restated Articles of Incorporation only restate and integrate and do not further amend the Corporation’s Articles of Incorporation, as heretofore amended or supplemented, and there is no discrepancy between those provisions and the provisions of the Restated Articles of Incorporation attached hereto.

4. The Restated Articles of Incorporation were adopted in accordance with Section 93 of the BCA by the Board of Directors of the Corporation by unanimous written consent in accordance with Article III, Section 10, of the Bylaws of the Corporation and Section 55(4) of the BCA, without a vote of the shareholders of the Corporation, and such written consent has been filed with the minutes of the proceedings of the Board of Directors of the Corporation.

IN WITNESS WHEREOF, the Corporation has caused these Restated Articles of Incorporation to be signed as of the 30th of June, 2010, by its President and Chief Executive Officer, who hereby affirms and acknowledges, under penalty of perjury, that these Restated Articles of Incorporation are the act and deed of the Corporation and that the facts stated herein are true.

DANAOS CORPORATION

By: /s/ John Coustas
Name: John Coustas
Title: President and Chief Executive Officer
RESTATED ARTICLES OF INCORPORATION
OF
DANAOS CORPORATION

PURSUANT TO THE MARSHALL ISLANDS BUSINESS CORPORATIONS ACT

FIRST: The name of the Corporation shall be: Danaos Corporation.

SECOND: The purpose of the Corporation is to engage in any lawful act or activity relating to the business of chartering, rechartering or operating containerships, drybulk carriers or other vessels or any other lawful act or activity customarily conducted in conjunction with shipping, and any other lawful act or activity approved by the Board of Directors.

THIRD: The registered address of the Corporation in the Marshall Islands is Trust Company Complex, Ajeltake Island, Ajeltake Road, Majuro, Marshall Islands MH96960. The name of the Corporation’s registered agent at such address is The Trust Company of the Marshall Islands, Inc. However, the Board of Directors may establish branches, offices or agencies in any place in the world and may appoint legal representatives anywhere in the world.

FOURTH: The aggregate number of shares of stock that the Corporation is authorized to issue is eight hundred fifty million (850,000,000) registered shares with a par value of one cent (US $0.01), consisting of seven hundred fifty million (750,000,000) shares of common stock with a par value of one cent (US $0.01) ("Common Stock") and one hundred million (100,000,000) shares of preferred stock with a par value of one cent (US $0.01) (the "Preferred Stock").

(a) Preferred Stock. The designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, in respect of the Preferred Stock are as follows:

The Board of Directors is expressly authorized, by resolution or resolutions, to provide, out of the unissued shares of the Preferred Stock, for series of the Preferred Stock. The Board of Directors has authority to fix, by resolution or resolutions, the following provisions of the shares thereof:

(i) the designation of such series, the number of shares that constitute such series and the stated value thereof if different from the par value thereof;

(ii) whether the shares of such series shall have voting rights, in addition to any voting rights provided by law, and, if so, the terms of such voting rights (which may be special voting rights), whether the shares of such series shall have one vote per share or less than one vote per share, whether the holders of such series shall be entitled to vote on certain matters as a separate class (which for such purpose may be comprised solely of such series or of such series and one or more other series or classes of stock of the Corporation), whether all the shares of such series entitled to vote on a particular matter shall be deemed to be voted on such matter in the manner that a specified
portion of the voting power of the shares of such series or separate class are voted and the relation which such voting rights shall bear to the voting rights of any other class or any other series of this class;

(iii) the annual dividend rate (or method of determining such rate), if any, payable on such series, the basis on which such holders shall be entitled to receive dividends (which may include, without limitation, a right to receive such dividends or distributions as may be declared on the shares of such series by the board of directors of the Corporation, a right to receive such dividends or distributions, or any portion or multiple thereof, as may be declared on the Common Stock or any other class of stock or, in addition to or in lieu of any other right to receive dividends, a right to receive dividends at a particular rate or at a rate determined by a particular method, in which case such rate or method of determining such rate may be set forth), the form of such dividend, the conditions and the dates upon which such dividends shall be payable, and the preference or relation which such dividends shall bear to the dividends payable on any other class or any other series of this class;

(iv) whether dividends on the shares of such series shall be cumulative and, in the case of shares of a series having cumulative dividend rights, the date or dates (or method of determining the date or dates) from which dividends on the shares of such series shall be cumulative;

(v) whether the shares of such series shall be subject to redemption in whole or in part, at the option of the Corporation or at the option of the holder or holders thereof or upon the happening of a specified event or events and, if so, the times, the prices therefor (in cash, securities or other property or a combination thereof) and any other terms and conditions of such redemption;

(vi) the amount or amounts payable upon shares of such series upon, and the rights of the holders of such series in, the voluntary or involuntary liquidation, dissolution or winding up of the Corporation and the relative rights of priority, if any, of payment of the shares of such series;

(vii) whether the shares of such series shall be subject to the operation of a retirement or sinking fund and, if so, the extent to which and the manner in which any such retirement or sinking fund shall be applied to the purchase or redemption of the shares of such series for retirement or other corporate purposes and the terms and provisions relative to the operation thereof, including the price or prices (in cash, securities or other property or a combination thereof), the period or periods within which and any other terms and conditions upon which the shares of such series shall be redeemed or purchased, in whole or in part, pursuant to the operation of such retirement or sinking fund;

(viii) whether the shares of such series shall be convertible into, or exchangeable for, at the option of the holder or the Corporation or upon the happening of a specified event, shares of stock of any other class or of any other series of this class or any other securities or property of the Corporation or any other entity,
and, if so, the price or prices (in cash, securities or other property or a combination thereof) or the rate or rates of conversion or exchange and the method, if any, of adjusting the same;

(ix) the limitations and restrictions, if any, to be effective while any shares of such series are outstanding upon the payment of dividends or the making of other distributions on, and upon the purchase, redemption or other acquisition by the Corporation of, the Common Stock, any other series of the Preferred Stock or any other class of capital stock;

(x) the conditions or restrictions, if any, upon the creation of indebtedness of the Corporation or upon the issue of any additional stock, including additional shares of such series or of any other series of the Preferred Stock or of any other class of capital stock; and

(xi) any other powers, preferences or rights, or any qualifications, limitations or restrictions thereof.

Except as otherwise provided by such resolution or resolutions, all shares of the Preferred Stock shall be of equal rank. All shares of any one series of the Preferred Stock shall be identical in all respects with all other shares of such series, except that shares of any one series issued at different times may differ as to the dates from which dividends thereon shall be cumulative.

Except as otherwise provided by such resolution or resolutions, all shares of Preferred Stock that are converted, redeemed, repurchased, exchanged or otherwise acquired by the Corporation shall be cancelled and retired and shall not be reissued.

For all purposes, these Restated Articles of Incorporation shall include each statement of designation (if any) setting forth the terms of a series of Preferred Stock.

Except as otherwise required by law or provided in a statement of designation establishing the voting powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions of the relevant series, holders of Common Stock, as such, shall not be entitled to vote on any amendment of these Restated Articles of Incorporation that alters or changes the powers, preferences, rights or other terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other series of Preferred Stock, to vote thereon as a separate class pursuant to these Restated Articles of Incorporation or pursuant to the BCA as then in effect.

(b) Options, Warrants and Other Rights. The Board of Directors of the Corporation is authorized to create and issue options, warrants and other rights from time to time entitling the holders thereof to purchase securities or other property of the Corporation or of any other entity, including any class or series of stock of the Corporation or of any other entity and whether or not in connection with the issuance or sale of any securities or other property of the Corporation, for such consideration (if any), at such times and upon such other terms and conditions as may be determined or authorized by the Board of
Directors and set forth in one or more agreements or instruments. Among other things and without limitation, such terms and conditions may provide for the following:

(i) adjusting the number or exercise price of such options, warrants or other rights or the amount or nature of the securities or other property receivable upon exercise thereof in the event of a subdivision or combination of any securities, or a recapitalization, of the Corporation, the acquisition by any person of beneficial ownership of securities representing more than a designated percentage of the voting power of any outstanding series, class or classes of securities, a change in ownership of the Corporation’s securities or a merger, statutory share exchange, consolidation, reorganization, sale of assets or other occurrence relating to the Corporation or any of its securities, and restricting the ability of the Corporation to enter into an agreement with respect to any such transaction absent an assumption by another party or parties thereto of the obligations of the Corporation under such options, warrants or other rights;

(ii) restricting, precluding or limiting the exercise, transfer or receipt of such options, warrants or other rights by any person that becomes the beneficial owner of a designated percentage of the voting power of any outstanding series, class or classes of securities of the Corporation or any direct or indirect transferee of such a person, or invalidating or voiding such options, warrants or other rights held by any such person or transferee; and

(iii) permitting the Board of Directors (or certain directors specified or qualified by the terms of the governing instruments of such options, warrants or other rights) to redeem, repurchase, terminate or exchange such options, warrants or other rights.

This paragraph shall not be construed in any way to limit the power of the board of directors of the Corporation to create and issue options, warrants or other rights.

(c) Preemptive and Similar Rights. Except as otherwise provided in a statement of designation establishing the terms of a series of Preferred Stock, no holder of shares of the Corporation shall, by reason thereof, have any preemptive or other preferential right to acquire, by subscription or otherwise, any unissued or treasury stock of the Corporation, or any other share of any class or series of the Corporation’s shares to be issued because of an increase in the authorized capital stock of the Corporation, or any bonds, certificates of indebtedness, debentures or other securities convertible into shares of the Corporation. However, the Board of Directors may issue or dispose of any such unissued or treasury stock, or any such additional authorized issue of new shares or securities convertible into shares upon such terms as the Board of Directors may, in its discretion, determine, without offering to stockholders then of record, or any class of stockholders, any thereof, on the same terms or any terms.

FIFTH: The Corporation shall have every power which a corporation now or hereafter organized under the BCA may have.

SIXTH: There shall be a minimum of two (2) directors and a maximum of fifteen (15) directors
who shall constitute the Board of Directors of the Corporation. The number of directors constituting the Board of Directors shall be fixed from time to
time by the Board of Directors.

Effective as of the annual meeting of stockholders in 2006, the directors of the Corporation shall be divided into three classes, each of which will
consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board of Directors. The initial term of office
of the first such class of directors shall expire at the annual meeting of stockholders in 2009, the initial term of office of the second such class of
directors shall expire at the annual meeting of stockholders in 2008, and the initial term of office of the third such class of directors shall expire at the
annual meeting of stockholders in 2007, with each such class of directors to hold office until their successors have been duly elected and qualified. At
the annual meeting of stockholders in 2006, the stockholders shall designate which directors elected at such meeting will be in the first, second or third
classes of directors of the Corporation. At each annual meeting of stockholders, directors elected to succeed the directors whose terms expire at such
annual meeting shall be elected to hold office for a term expiring at the annual meeting of stockholders in the third year following the year of their
election and until their successors have been duly elected and qualified. If the number of directors is changed, any increase or decrease shall be
apportioned among the classes in such manner as the board of directors or stockholders of the Corporation shall determine, but no decrease in the
number of directors may shorten the term of any incumbent director.

No director who is part of any such class of directors may be removed except both for cause and with the affirmative vote of the holders of not less
than sixty-six and two-thirds percent (66-2/3%) of the voting power of all outstanding shares of stock of the Corporation entitled to vote generally in
the election of directors, considered for this purpose as a single class.

Vacancies and newly created directorships resulting from any increase in the authorized number of directors or from any other cause (other than
vacancies and newly created directorships which the holders of any class or classes of stock or series thereof are expressly entitled by these Restated
Articles of Incorporation to fill) shall be filled by, and only by, a vote of not less than the majority of the directors then in office, although less than a
quorum, or by the sole remaining director. Any director appointed to fill a vacancy or a newly created directorship shall hold office until the annual
meeting of stockholders next succeeding his or her appointment without regard to classification of the director which such director replaced, and until
his or her successor is elected and qualified or until his or her earlier resignation or removal.

Notwithstanding the foregoing, in the event that the holders of any class or series of Preferred Stock of the Corporation shall be entitled, voting
separately as a class, to elect any directors of the Corporation, then the number of directors that may be elected by such holders voting separately as a
class shall be in addition to the number otherwise fixed pursuant to resolution of the board of directors of the Corporation. Except as otherwise
provided in the terms of such class or series, (i) the terms of the directors elected by such holders voting separately as a class shall expire at the annual
meeting of stockholders next succeeding their election without regard to the classification of other directors and (ii) any director or directors elected by
such holders voting separately as a class may be
removed, with or without cause, by the holders of sixty-six and two-thirds percent (66-2/3%) of the voting power of all outstanding shares of stock of the Corporation entitled to vote separately as a class in an election of such directors.

Cumulative voting, as defined in Section 71(2) of the BCA, shall not be used to elect directors. Notwithstanding any other provisions of these Restated Articles of Incorporation or the bylaws of the Corporation (and notwithstanding the fact that some lesser percentage may be specified by law, these Restated Articles of Incorporation or the bylaws of the Corporation), the affirmative vote of the holders of sixty-six and two-thirds percent (66-2/3%) or more of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors (considered for this purpose as one class) shall be required to amend, alter, change or repeal this Article SIXTH.

No director of the Corporation shall have personal liability to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director; provided, however, that this paragraph shall not eliminate or limit the liability of a director: (i) for any breach of the director’s duty of loyalty to the Corporation or its stockholders; (ii) for acts or omissions not undertaken in good faith or which involve intentional misconduct or a knowing violation of law; or (iii) for any transaction from which the director derived an improper personal benefit.

SEVENTH:

(a) The Corporation may not engage in any Business Combination with any Interested Stockholder for a period of three years following the time of the transaction in which the person became an Interested Stockholder, unless:

(1) prior to such time, the Board of Directors of the Corporation approved either the Business Combination or the transaction which resulted in the stockholder becoming an Interested Stockholder; or

(2) upon consummation of the transaction which resulted in the stockholder becoming an Interested Stockholder, the Interested Stockholder owned at least eighty-five percent (85%) of the voting stock of the Corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer, provided, however, that pursuant to an offer made to all stockholders if any such transaction involves the purchase of voting stock from any stockholder of the Corporation, an offer to purchase such shares shall have been or be made to all stockholders of the Corporation on substantially the same terms and provisions offered to such stockholder; or

(3) at or subsequent to such time, the Business Combination is approved by the Board of Directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least sixty-six and two-thirds percent (66-2/3%) of the outstanding voting stock.
that is not owned by the Interested Stockholder; or

(4) the stockholder was or became an Interested Stockholder prior to the consummation of the initial public offering of the Corporation’s Common Stock under the United States Securities Act of 1933, as amended.

(b) The restrictions contained in this section shall not apply if:

(1) A stockholder becomes an Interested Stockholder inadvertently and (i) as soon as practicable divests itself of ownership of sufficient shares so that the stockholder ceases to be an Interested Stockholder; and (ii) would not, at any time within the three-year period immediately prior to a Business Combination between the Corporation and such stockholder, have been an Interested Stockholder but for the inadvertent acquisition of ownership; or

(2) The Business Combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required hereunder of a proposed transaction which (i) constitutes one of the transactions described in the following sentence; (ii) is with or by a person who either was not an Interested Stockholder during the previous three years or who became an Interested Stockholder with the approval of the Board; and (iii) is approved or not opposed by a majority of the members of the Board then in office (but not less than one) who were Directors prior to any person becoming an Interested Stockholder during the previous three years or were recommended for election or elected to succeed such Directors by a majority of such Directors. The proposed transactions referred to in the preceding sentence are limited to:

(i) a merger or consolidation of the Corporation (except for a merger in respect of which, pursuant to the BCA, no vote of the stockholders of the Corporation is required);

(ii) a sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), whether as part of a dissolution or otherwise, of assets of the Corporation or of any direct or indirect majority-owned subsidiary of the Corporation (other than to any direct or indirect wholly-owned subsidiary or to the Corporation) having an aggregate market value equal to fifty percent (50%) or more of either that aggregate market value of all of the assets of the Corporation determined on a consolidated basis or the aggregate market value of all the outstanding shares; or

(iii) a proposed tender or exchange offer for fifty percent (50%) or more of the outstanding voting stock of the Corporation.

The Corporation shall give not less than twenty (20) days notice to all Interested Stockholders prior to the consummation of any of the transactions described in clause (i) or (ii) of section (b)(2) of this Article SEVENTH.
For the purpose of this Article SEVENTH only, the term:

1. "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

2. "Associate," when used to indicate a relationship with any person, means: (i) Any corporation, partnership, unincorporated association or other entity of which such person is a director, officer or partner or is, directly or indirectly, the owner of twenty percent (20%) or more of any class of voting stock; (ii) any trust or other estate in which such person has at least a twenty percent (20%) beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same residence as such person.

3. "Business Combination," when used in reference to the Corporation and any Interested Stockholder of the Corporation, means:
   (i) Any merger or consolidation of the Corporation or any direct or indirect majority-owned subsidiary of the Corporation with (A) the Interested Stockholder or any of its affiliates, or (B) with any other corporation, partnership, unincorporated association or other entity if the merger or consolidation is caused by the Interested Stockholder;
   (ii) Any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a stockholder of the Corporation, to or with the Interested Stockholder, whether as part of a dissolution or otherwise, of assets of the Corporation or of any direct or indirect majority-owned subsidiary of the Corporation which assets have an aggregate market value equal to ten percent (10%) or more of either the aggregate market value of all the assets of the Corporation determined on a consolidated basis or the aggregate market value of all the outstanding shares of the Corporation;
   (iii) Any transaction which results in the issuance or transfer by the Corporation or by any direct or indirect majority-owned subsidiary of the Corporation of any shares, or any share of such subsidiary, to the Interested Stockholder or any affiliate or associate of the Interested Stockholder, except: (A) pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into shares, or shares of any such subsidiary, which securities were outstanding prior to the time that the Interested Stockholder became such; (B) pursuant to a merger with a direct or indirect wholly-owned subsidiary of the Corporation solely for purposes of forming a holding company; (C) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into shares, or shares of any such subsidiary, which security is distributed, pro
rata to all holders of a class or series of shares subsequent to the time the Interested Stockholder became such; (D) pursuant to an exchange offer by the Corporation to purchase shares made on the same terms to all holders of said shares; or (E) any issuance or transfer of shares by the Corporation; \textit{provided however}, that in no case under items (C)-(E) of this subparagraph shall there be an increase in the Interested Stockholder’s and/or its affiliates’ and associates’ proportionate share of the any class or series of shares;

(iv) Any transaction involving the Corporation or any direct or indirect majority-owned subsidiary of the Corporation which has the effect, directly or indirectly, of increasing the proportionate share of any class or series of shares, or securities convertible into any class or series of shares, or shares of any such subsidiary, or securities convertible into such shares, which is owned by the Interested Stockholder or any affiliate or associate of the Interested Stockholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares not caused, directly or indirectly, by the Interested Stockholder; or

(v) Any receipt by the Interested Stockholder of the benefit, directly or indirectly (except proportionately as a stockholder of the Corporation), of any loans, advances, guarantees, pledges or other financial benefits (other than those expressly permitted in subparagraphs (i)-(iv) of this paragraph) provided by or through the Corporation or any direct or indirect majority-owned subsidiary of the Corporation.

(4) “\textit{Control}” including the terms “\textit{controlling}”, “\textit{controlled by}” and “\textit{under common control with}”, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract or otherwise. A person who is the owner of twenty percent (20%) or more of the outstanding voting stock of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding the foregoing, a presumption of control shall not apply where such person holds voting stock, in good faith and not for the purpose of circumventing this provision, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such entity.

(5) “\textit{Interested Stockholder}” means any person (other than the Corporation and any direct or indirect majority-owned subsidiary of the Corporation) that (i) is the owner of fifteen percent (15%) or more of the outstanding voting stock of the Corporation, or (ii) is an affiliate or associate of the Corporation and was the owner of fifteen percent (15%) or more of the outstanding voting stock of the Corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such person is an
Interested Stockholder; and the affiliates and associates of such person; provided, however, that the term “Interested Stockholder” shall not include any person whose ownership of shares in excess of the fifteen percent (15%) limitation set forth herein is the result of action taken solely by the Corporation; provided that such person shall be an Interested Stockholder if thereafter such person acquires additional shares of voting stock of the Corporation, except as a result of further Corporation action not caused, directly or indirectly, by such person. For the purpose of determining whether a person is an Interested Stockholder, the voting stock of the Corporation deemed to be outstanding shall include voting stock deemed to be owned by the person through application of paragraph (8) below, but shall not include any other unissued shares which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(6) “Person” means any individual, corporation, partnership, unincorporated association or other entity.

(7) “Voting stock” means, with respect to any corporation, shares of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of such entity.

(8) “Owner” including the terms “own” and “owned,” when used with respect to any shares, means a person that individually or with or through any of its affiliates or associates:

(i) Beneficially owns such shares, directly or indirectly; or

(ii) Has (A) the right to acquire such shares (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; provided, however, that a person shall not be deemed the owner of shares tendered pursuant to a tender or exchange offer made by such person or any of such person’s affiliates or associates until such tendered shares is accepted for purchase or exchange; or (B) the right to vote such shares pursuant to any agreement, arrangement or understanding; provided, however, that a person shall not be deemed the owner of any shares because of such person’s right to vote such shares if the agreement, arrangement or understanding to vote such shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(iii) Has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in item (B) of subparagraph (ii) of this paragraph), or disposing of such shares with any other person that
beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such shares.

(d) Any amendment of this Article SEVENTH shall not be effective until 12 months after the approval of such amendment at a meeting of the stockholders of the Corporation and shall not apply to any Business Combination between the Corporation and any person who became an Interested Stockholder of the Corporation at or prior to the time of such approval.

(e) Notwithstanding any other provisions of these Restated Articles of Incorporation or the bylaws of the Corporation (and notwithstanding the fact that some lesser percentage may be specified by law, these Restated Articles of Incorporation or the bylaws of the Corporation), the affirmative vote of the holders of sixty-six and two-thirds percent (66-2/3%) or more of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors (considered for this purpose as one class) shall be required to amend, alter, change or repeal this Article SEVENTH.

EIGHTH: If a meeting of stockholders is adjourned for lack of quorum on two successive occasions, at the next and any subsequent adjournment of the meeting there must be present either in person or by proxy stockholders of record holding at least forty-percent (40%) of the issued and outstanding stock and entitled to vote at such meeting in order to constitute a quorum.

NINTH: The Corporation may transfer its corporate domicile from the Marshall Islands to any other place in the world.

TENTH: The Board of Directors of the Corporation is expressly authorized to make, alter, amend or repeal bylaws of the Corporation with, notwithstanding any other provisions of these Restated Articles of Incorporation or the bylaws of the Corporation (and notwithstanding the fact that some lesser percentage may be specified by law, these Restated Articles of Incorporation or the bylaws of the Corporation), the affirmative vote of not less than sixty-six and two-thirds percent (66-2/3%) of the directors then in office.
Dated 31 July 2018

DANAOS CORPORATION

as Borrower

and

THE GUARANTORS NAMED HEREIN

as Guarantors

and

HSH NORDBANK AG and AEGEAN BALTIC BANK S.A.

as Arrangers

and

THE BANKS AND FINANCIAL INSTITUTIONS NAMED HEREIN

as Original Lenders

and

AEGEAN BALTIC BANK S.A.

as Agent and Security Agent

AMENDMENT AND RESTATEMENT AGREEMENT IN RESPECT OF TWO FACILITY AGREEMENTS IN RESPECT OF A $700M LOAN FACILITY AND A $125M LOAN FACILITY
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THIS AGREEMENT is dated 31 July 2018 and made between:

(1) DANAOS CORPORATION (the Borrower);

(2) ACTAEA COMPANY LIMITED and
ASTERIA SHIPPING COMPANY LIMITED and
TRINDADE MARITIME COMPANY and
VILOS NAVIGATION COMPANY LTD and
SAROND SHIPPING INC. and
BOULEVARD SHIPTRADE S.A. and
SPEEDCARRIER (NO.1) CORP. and
SPEEDCARRIER (NO.3) CORP. and
SPEEDCARRIER (NO.4) CORP. and
SPEEDCARRIER (NO.5) CORP. and
SPEEDCARRIER (NO.2) CORP. and
CONTAINER SERVICES INC. and
MEGACARRIER (NO.4) CORP. and
CELLCONTAINER (NO.7) CORP. and
BOXCARRIER (NO.4) CORP. and
OCEANEW SHIPPING LIMITED and
KARLITA SHIPPING COMPANY LIMITED (together the Guarantors);

(3) HSH NORDBANK AG and AEGEAN BALTIC BANK S.A. as mandated lead arrangers (whether acting individually or together the Arrangers);

(4) HSH NORDBANK AG, AEGEAN BALTIC BANK S.A. and PIRAEUS BANK S.A. (together the Original Lenders);

(5) AEGEAN BALTIC BANK S.A. as agent of the other Finance Parties (the Agent); and

(6) AEGEAN BALTIC BANK S.A. as security trustee for the Finance Parties (the Security Agent),

each a Party and together the Parties.

WHEREAS:

(A) The Parties (other than the Guarantors) entered into a facility agreement dated 14 November 2006 as amended and restated by an amendment agreement dated 11 June 2007 and otherwise amended and supplemented from time to time (the Original 700m Facility Agreement) in respect of a revolving credit and term loan of originally up to USD
700,000,000.00 which has been converted into a term loan in line with the restructuring agreement 2011 (the **700m Facility**). The 700m Facility was disbursed in full.

(B) The Parties (other than the Guarantors) entered into a facility agreement dated 24 January 2011 as amended from time to time (the **Original 125m Facility Agreement**) in respect of a term loan of originally up to USD 125,000,000.00 (the **125m Facility**, together with the 700m Facility the **Original Facilities**). The 125m Facility was disbursed in full.

(C) The Parties entered into the Amended and Restated Restructuring Support Agreement on 19 June 2018 (the **Restructuring Support Agreement**). In connection therewith, the Parties wish to amend and restate the Original 700m Facility Agreement and the Original 125m Facility Agreement (together the **Original Facility Agreements**) as well as amend and supplement the security documentation provided in connection with each of the Original Facility Agreements with effect from the Effective Date to give effect to the Restructuring Support Agreement and to effect the accession of the Guarantors to the Original Facility Agreements on the terms of this Agreement.

**IT IS AGREED** as follows:

1 **Definitions and interpretation**

1.1 **Definitions**

Terms defined in the Amended and Restated Facility Agreement have, unless defined differently in this Agreement, the same meaning when used in this Agreement. In addition, in this Agreement:

- **125m Facility** has the meaning ascribed to it in Recital B.
- **700m Facility** has the meaning ascribed to it in Recital A.
- **Amended and Restated Facility Agreement** means the Original Facility Agreements, as amended and restated in the form as set out in Schedule 2 (**Amended and Restated Facility Agreement**).
- **Amended RA Facilities** shall have the same meaning as defined in the Term Sheet.
- **Consolidated Facility** shall have the meaning assigned to it in Clause 2.2.
- **Effective Date** has the meaning assigned to it in Clause 3(a).
- **Existing Security Documents** means the documents listed in Schedule 3 (**Existing Security Documents**) and **Existing Security Document** means any of them.
**Finance Parties** means the Arrangers, the Original Lenders, the Agent and the Security Agent.

**Global Restructuring Implementation Deed** means the global restructuring implementation deed entered into or to be entered into by among others, the Borrower, certain of its subsidiaries, the Lender and other stakeholders and creditors of the Borrower on or about the date of this Deed.


**Original 125m Facility Agreement** has the meaning ascribed to it in Recital B.

**Original 700m Facility Agreement** has the meaning ascribed to it in Recital A.

**Original Facility Agreements** has the meaning ascribed to it in Recital C.

**Original Facilities** has the meaning ascribed to it in Recital B.

**Original Finance Documents** means each of the ‘Finance Documents’ as defined in the Original Facility Agreements.

**Amended Security Documents** means the documents listed in Schedule 4 (Amended Security Documents) and **Amended Security Document** means any of them.

**Relevant Documents** has the meaning assigned to it in Schedule 1 (Conditions precedent), no. 1(b)(i).

**Restructuring Effective Time** has the meaning given to it in the Global Restructuring Implementation Deed.

**Restructuring Support Agreement** means the Amended and Restated Restructuring Support Agreement signed on 19 June 2018 including all its exhibits and annexes.

**Second Lien Provider** means together TEUCARRIER (NO.2) CORP., Liberia TEUCARRIER (NO.3) CORP., Liberia TEUCARRIER (NO.4) CORP., Liberia and MEGACARRIER (NO.5) CORP., Liberia.

**Security Documents** means the documents listed in Schedule 3 (Existing Security Documents), Schedule 4 (Amended Security Documents) and Schedule 5 (New Security Documents).

**Term Sheet** means the term sheet setting out the material terms and conditions of the out-of-court restructuring as contained in Exhibit D of the Restructuring Support Agreement.

**Write Off 700m Facility** has the meaning assigned to it in Clause 2.1.
1.2 Incorporation by reference

Clauses 1.2 (Construction), 1.3 (Currency symbols and definitions), 1.4 (Third party rights) and 1.5 (Finance Documents) of the Amended and Restated Facility Agreement shall apply to this Agreement as if set out in it but with all necessary changes and as if references in such clauses to Finance Documents referred to this Agreement.

1.3 Contractual recognition of bail-in

The provisions of clause 50 (Contractual recognition of bail-in) of the Amended and Restated Facility Agreement apply to this Agreement as if set out in it, but with all necessary changes, and as if references to Finance Documents in that document refer to this Agreement.

2 Write Off and Consolidation of Loans

2.1 Write Off

With effect from the Effective Date, the Original Lenders grant forgiveness (i) in respect of the 700m Facility in the total amount of USD 251,056,000.00 (in words: United States Dollars two hundred fifty-one million fifty-six thousand) of the outstanding principal amount of the 700m Facility (the Write Off 700m Facility) allocated according to the share of their initial commitments. The Original Lenders further waive any rights to receive payment from the Borrower in respect of any of the amounts in respect of principal and/or interest subject to the Write Off Original Facilities.

2.2 Consolidation

With effect from the Effective Date, the Parties agree that any part of the Original Facilities not subject to the Write Off Original Facilities shall be consolidated into a single loan facility (the Consolidated Facility). The participations in the Consolidated Facility as on 31 July 2018 are as follows:

<table>
<thead>
<tr>
<th>Original Lender (Facility Office)</th>
<th>Tranche A</th>
<th></th>
<th>Tranche B</th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Amount (USD)</td>
<td>Share (%)</td>
<td>Amount (USD)</td>
<td>Share (%)</td>
</tr>
<tr>
<td>HSH Nordbank AG (Hamburg)</td>
<td>223,843,900.00</td>
<td>89%</td>
<td>116,590,000.00</td>
<td>89%</td>
</tr>
<tr>
<td>Aegean Baltic Bank S.A. (Athens)</td>
<td>2,515,100.00</td>
<td>1%</td>
<td>1,310,000.00</td>
<td>1%</td>
</tr>
<tr>
<td>Piraeus Bank S.A. (Athens)</td>
<td>25,151,000.00</td>
<td>10%</td>
<td>13,100,000.00</td>
<td>10%</td>
</tr>
<tr>
<td>Total</td>
<td>251,510,000.00</td>
<td>100%</td>
<td>131,000,000.00</td>
<td>100%</td>
</tr>
</tbody>
</table>
2.3 Accrued Interest under the Original Facility Agreements

Interest shall be calculated on the outstanding amount in respect of the 125m Facility and the 700m Facility respectively and continue to accrue or have accrued under each Original Facility Agreement for the period starting on the last day on which interest was received by the Agent and ending on the Effective Date. Such amount shall be calculated on the basis of the outstanding principal and shall include any broken funding costs but for the avoidance of doubt exclude any default interest accrued. Such interest shall be due and payable on the Effective Date at the latest.

3 Amendment and restatement

(a) The provisions of clause 2 (Write Off and Consolidation of Loans), the assumptions of liability in clause 4 (Assumption of liability and obligations), the amendments to the Existing Security Documents in line with clause 6 (General Amendments to the Existing Security Documents) and the amendments to the Existing Security Documents in line with clause 7 (Specific Amendments to the Existing Security Documents) and the rights and obligations of the Parties thereunder shall only be effective and the Original Facility Agreements will each be amended and restated to take the form of the Amended and Restated Facility Agreement on the date (the Effective Date) when:

(i) the Agent has received all the documents duly executed and other evidence as listed in Schedule 1, Part A, (Conditions precedent and subsequent) in a form and substance satisfactory to it, acting reasonably (as to which, the Agent shall notify Borrower in writing promptly on being so satisfied); and

(ii) the Restructuring Effective Time has occurred.

(b) None of the Finance Parties shall be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

(c) The conditions in this clause 3 are inserted solely for the benefit of the Original Lenders and may be waived in whole or in part with the approval of the Agent (acting on the instructions of all Original Lenders).

(d) For the avoidance of doubt, the amendment and restatement of the Original Facility Agreements and the consolidation of the 125m Facility and the 700m Facility as contemplated by this Agreement shall not constitute a novation.

(e) Should the conditions subsequent listed in Schedule 1 (Conditions Precedent and Subsequent), Part B, not have been satisfied or waived by the Agent (acting on the instructions of all Original Lenders) by expiry of 03 August 2018 (UK Time), such failure shall constitute an Event of Default under the Amended and Restated Facility Agreement.

4 Assumption of liability and obligations

4.1 Additional parties

It is hereby agreed that, on and with effect from the Effective Date, the Guarantors shall be, and are hereby made, additional parties to the Amended and Restated Facility Agreement on the terms of the Amended and Restated Facility Agreement.

4.2 Assumption of Liability

The Guarantors hereby agree with the Security Agent, the other Finance Parties and the Borrower that, as and with effect from the Effective Date, they shall:

(a) be bound by the terms of the Amended and Restated Facility Agreement; and

(b) duly and punctually perform all the liabilities and obligations whatsoever from time to time to be performed or discharged by the Guarantors under the Amended and Restated Facility Agreement.
5 Continuing security and obligations

5.1 Extension of Original Finance Documents

Each Original Obligor who is a party hereby confirms for the benefit of the Finance Parties with effect from the Effective Date that:

(a) each Original Finance Document to which it is a party extends, in accordance with its terms, to the obligations of the Borrower and the Guarantors arising under such document as amended and restated by this Agreement, the Amended and Restated Facility Agreement and the Finance Documents; and

(b) the obligations of the Original Obligors under each such Original Finance Document to which they are a party and any Security Interests contained therein are not otherwise affected by this Agreement or anything contained in this Agreement and shall, in accordance with their terms, remain in full force and effect,

provided that, without prejudice to the foregoing, the Original Obligors who are a party shall do all such acts and things as the Agent or Security Agent reasonably require for the purposes of ensuring that all obligations and Security Interests purported to be created under the Original Finance Documents are and shall remain in full force and effect and fully perfected in favour of the Finance Parties.

5.2 Further assurances

(a) Each of the Obligors that is a Party shall promptly, and in any event within the time period specified by the Agent do all such acts (including procuring or arranging any registration, notarisation or authentication or the giving of any notice) or execute or procure execution of all such documents (including assignments, transfers, mortgages, charges, undertakings, notices, instructions, acknowledgements, proxies and powers of attorney), as the Agent may reasonably specify (and in such form as the Agent may reasonably require in favour of the Agent or its nominee(s)) to implement the terms and provisions of this Agreement.

(b) Each of the Obligors that is a Party shall promptly, and in any event within the time period specified by the Security Agent of the relevant Security Document do all such acts (including procuring or arranging any registration, notarisation or authentication or the giving of any notice) or execute or procure execution of all such documents (including assignments, transfers, mortgages, charges, undertakings, notices, instructions, acknowledgements, proxies and powers of attorney), as the Security Agent of the relevant
Security Document may specify (and in such form as the Security Agent may require in favour of itself or its nominee(s)):

(i) to create, perfect, vest in favour of the Security Agent or protect the priority of the security or any right or any kind created or intended to be created under or evidenced by the Finance Documents as amended and restated or amended by this Agreement or by each further amendment or restatement of the Finance Documents (which may include the execution of a mortgage, charge, assignment or other security over all or any of the assets which are, or are intended to be, the subject of the security created or intended to be created by the Security Documents) or for the exercise of any rights, powers and remedies of the Security Agent, any receiver or the Finance Parties provided by or pursuant to the Finance Documents as amended and restated or amended by this Agreement or by each further amendment or restatement of the Finance Documents or by law;

(ii) to facilitate or expedite the realisation and/or sale of, the transfer of title to or the grant of, any interest in or right relating to the assets which are, or are intended to be, the subject of the security intended to be conferred by or pursuant to the Finance Documents or to exercise any power specified in any Finance Document as amended and restated or amended by this Agreement or by each further amendment or restatement of the Finance Documents in respect of which the security has become enforceable; and/or

(iii) to enable or assist the Security Agent to enter into any transaction to commence, defend or conduct any proceedings and/or to take any other action relating to any asset or property subject to the security intended to be conferred by or pursuant to the Finance Documents.

(c) Each of the Obligors that is a Party shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents as amended and restated or amended by this Agreement or by each further amendment or restatement of the Finance Documents.

6 General Amendments to the Existing Security Documents

6.1 With effect from the Effective Date, each of the Existing Security Documents referred to Schedule 3 (Existing Security Documents) shall be, and shall be deemed by this Agreement to be, amended as follows:
(a) any reference throughout each of the Existing Security Documents to one or all of the Original Facility Agreements or any of the other Original Finance Documents shall be construed as if the same referred to the Amended and Restated Facility Agreement and those Original Finance Documents as amended and restated by this Agreement;

(b) by construing references throughout each of the Existing Security Documents to “this Agreement”, “this Deed” and other like expressions as if the same referred to such documents as amended, restated and supplemented by this Agreement;

(c) any reference throughout each of the Existing Security Documents to another Existing Security Document or an Amended Security Document shall be construed as if the same referred to such Existing Security Document or Amended Security Document as amended and restated by this Agreement;

6.2 With effect from the Effective Date the ISDA Master Agreement concluded between the Borrower and HSH Nordbank AG dated 18 February 2011 shall be terminated.

6.3 With effect from the Effective Date the Master Swap Agreements Security Deed concluded between the Borrower and the Security Agent dated 18 February 2011 in relation to the Original 125m Facility Agreement (as amended from time to time) shall be terminated.

6.4 With effect from the Effective Date the “Agency and Trust Agreement” between the Borrower and the Arrangers dated 14 November 2006 in relation to the Original 700m Facility Agreement and the “Agency and Trust Deed” between the Borrower and the Arrangers dated 24 January 2011 in relation to the Original 125m Facility Agreement shall be replaced in its entirety by the provisions of Section 10 of the Amended and Restated Facility Agreement and, for the avoidance of doubt, the agency and trust declared pursuant to the said “Agency and Trust Agreement” and the “Agency and Trust Deed” shall be continued on the said terms.

7 Specific Amendments to the Existing Security Documents

With effect on and from the Effective Date, each of the Existing Security Documents referred to Schedule 3 (Existing Security Documents) shall be, and shall be deemed by this Agreement to be, amended as follows:

7.1 Specific Amendments to all Existing Security Documents

(a) any reference throughout each of the Existing Security Documents to “Security Trustee” shall be construed as if the same referred to the Security Agent.
Any reference to the mail address of the Security Agent shall be construed as if the same referred to “91, Megalou Alexandrou & 25th Martiou Str., 151 24 Maroussi, Greece”

7.2 Specific Amendments to the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

(a) Any reference to a “Mortgage” in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 shall be construed as if the same referred to the Mortgage as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(b) Any reference to a “General Assignment” in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 shall be construed as if the same referred to the General Assignment as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(c) Any reference to “Charterparty Assignment” in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10, 11 shall be construed to refer to the relevant new charterparty assignment referred to in Schedule 5.

(d) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 in Clause 1.3 to “Clauses 1.2 to 1.5 inclusive of the Loan Agreement” shall be construed to mean “Clauses 1.2 and 1.3 of the Amended and Restated Facility Agreement”.

(e) Any reference to a “Creditor Party” or “Creditor Parties” in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 shall be construed as if the same referred to a “Finance Party” or “Finance Parties” as defined in the Amended and Restated Facility Agreement.

(f) Any reference to a “Security Period” in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 shall be construed as if the same referred to a “Facility Period” as defined in the Amended and Restated Facility Agreement.

(g) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 in Clause 4.1 to “Clause 21 of the Loan Agreement” shall be construed as if the same referred to “Clauses 11 and 16 of the Amended and Restated Facility Agreement”.

(h) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 in Clause 7.2 to “Clause 8 of the Loan Agreement” shall be construed to mean “Clause 8.3 in the Amended and Restated Facility Agreement”.
(i) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 in Clause 7.3 to “under Clause 8 thereof” shall be construed to mean “under Clause 8.3 in the Amended and Restated Facility Agreement”.

(j) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 to “Security Party” or “Security Parties” shall be construed as if the same referred to “Obligor” or “Obligors” as defined in the Amended and Restated Facility Agreement.

(k) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 to “Pertinent Jurisdiction” shall be construed to mean pertinent jurisdiction.

(l) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 to “Designated Transactions” shall be construed to mean designated transactions.

(m) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 to “Potential Event of Default” shall be construed to mean “an event or circumstance which, with the giving of any notice, lapse of time, a determination of the Majority Lenders (in the case of any provision of the Amended and Restated Facility Agreement or any of the other Finance Documents which is made subject to the determination of the Majority Lenders) and/or the satisfaction of any other condition, would constitute an Event of Default”.

(n) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 in Clause 12.1 to “Clause 14 (Insurance Covenants) of the Loan Agreement” shall be construed as if the same referred to “Clause 24 (Insurance) of the Amended and Restated Facility Agreement”.

(o) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 in Clause 13.1 to “Clause 15 (Ship Covenants) of the Loan Agreement” shall be construed as if the same referred to “Clause 23 (Condition and operation of Ship) of the Amended and Restated Facility Agreement”.

(p) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 in Clause 14.2 to “Clause 22.5 of the Loan Agreement” shall be construed as if the same referred to “Clause 14.1 of the Amended and Restated Facility Agreement”.

(q) The reference in the Guarantees referred to in Schedule 3 with Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 in Clause 19.2 to “Clauses 29.3, 29.4 and 29.5 of the Loan Agreement” shall be construed as if the same referred to “Clause 42.3 of the Amended and Restated Facility Agreement”.

7.3 Specific Amendments to the Guarantee listed in Schedule 3 with No. 13

(a) Any reference to “Mortgages” in the Guarantee referred to in Schedule 3 with No. 13 shall be construed as if the same referred to the Mortgages as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(b) Any reference to “General Assignments” in the Guarantee referred to in Schedule 3 with No. 13 shall be construed as if the same referred to the General Assignments as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(c) Any reference to “Charter Assignments” in the Guarantee listed in Schedule 3 with No. 13 shall be construed to refer to the charter party assignments in Schedule 3 under No. 32 and 33 as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case and to the new charter party assignment referred to in Schedule 5 No.12.

(d) Any reference to the “Company” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to the “Borrower” as defined in the Amended and Restated Facility Agreement.

(e) Any reference to the “Creditors” or “Existing Creditors” or “Combined Creditors” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to the “Finance Parties” as defined in the Amended and Restated Facility Agreement.

(f) Any reference to the “Lenders” or “Existing Lenders” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to the “Lenders” as defined in the Amended and Restated Facility Agreement.

(g) Any reference to “Group Company” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to the “Group Member” as defined in the Amended and Restated Facility Agreement.

(h) Any reference to the “Existing Finance Documents” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to the “Finance Documents” as defined in the Amended and Restated Facility Agreement.
(i) The reference in the Guarantee listed referred to in Schedule 3 with No. 13 to “Potential Event of Default” shall be construed to mean “an event or circumstance which, with the giving of any notice, lapse of time, a determination of the Majority Lenders (in the case of any provision of the Amended and Restated Facility Agreement or any of the other Finance Documents which is made subject to the determination of the Majority Lenders) and/or the satisfaction of any other condition, would constitute an Event of Default”.

(j) Any reference to the “Existing Loan” or “Loan” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to the “Loan” as defined in the Amended and Restated Facility Agreement.

(k) Any reference to the “Final Discharge Date” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to the “end of the Facility Period” as defined in the Amended and Restated Facility Agreement.

(l) Any reference to an “Underlying Document” or “Underlying Documents” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to the relevant document or documents referred to in Schedule (1) (Condition Precedent) of this Agreement.

(m) Any reference to a “Restructuring Document” or the “Restructuring Documents” in the Guarantee listed in Schedule 3 with No. 13 shall be deleted.

(n) Any reference to the “Restructuring Termination Date” in the Guarantee listed in Schedule 3 with No. 13 shall be construed as if the same referred to “Acceleration in accordance with Clause 30.29 of the Amended and Restated Facility Agreement”.

(o) The reference in the Guarantee listed in Schedule 3 with No. 13 in Clause 2.5 to “Clause 3.3 of the Facility Agreement” shall be construed as if the same referred to “Clause 8.3 of the Amended and Restated Loan Agreement”.

(p) The reference in the Guarantee listed in Schedule 3 with No. 13 in Clause 3 to “Save as otherwise expressly provided in the Restructuring Agreement” shall be deleted. The words “Clause 5.2 of the Agency Agreement” shall be deleted and replaced with the words “the terms of the Amended and Restated Facility Agreement”.

(q) The reference in the Guarantee listed in Schedule 3 with No. 13 in Clause 5.1 to “Restructuring Agreement and at the times set out in the Restructuring Agreement” shall be construed as if the same referred to “Amended and Restated Facility Agreement and at the times set out in the Amended and Restated Facility Agreement”.

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Clauses 5.3 (a) and (b) in the Guarantee listed in Schedule 3 with No. 13 shall be deleted and Clause 5.3 (c) shall read “the Ship is (i) in the absolute ownership of the relevant Guarantor who is the sole, legal and beneficial owner of the Ship; (ii) registered in the name of the relevant Guarantor under the laws and flag of the relevant Flag State through the relevant ship registry; and (iii) classed with the relevant Classification free of all requirements and recommendations or conditions of the relevant Classification Society”, and Clause 5.3 (d) shall read “on the date of the Amended and Restated Facility Agreement, there are No agreements whereby Earnings may be shared with any other person than the Finance Parties.”

The reference in the Guarantee listed in Schedule 3 with No. 13 in Clause 5.3 (g) to “Clause 10 of the Facility Agreement” shall be construed as if the same referred to Schedule 1 (Condition Precedent) of this Agreement.

The reference in the Guarantee listed in Schedule 3 with No. 13 in Clause 6.1 (a) (i) to “under Clauses 4.7, 4.8, 4.9, 4.10 and 4.11 of the Facility Agreement” shall be construed to read “under the Amended and Restated Facility Agreement”; and Clause 6.1 (a) (ii) is to be deleted.

The reference in the Guarantee listed in Schedule 3 with No. 13 in Clause 6.1 (g) and (h) to “Rabelais Owner” shall be construed as if the same referred to “Guarantors whose Ships are registered in Malta”.

The reference in the Guarantee listed in Schedule 3 with No. 13 in Clause 7.2 to “Clause 15 of the Facility Agreement” shall be construed to mean “the Amended and Restated Facility Agreement”; the words “subject to the provisions of the Restructuring Agreement” shall be deleted; the words “in the manner specified in Clause 5.2 of the Agency Agreement” shall be construed to mean “in accordance with the terms of the Amended and Restated Facility Agreement”; and the reference to “Earnings Account Pledge” shall be construed as if the same referred to “Earnings Account Pledges” under this Agreement.

Specific Amendments to the Guarantees referred to in Schedule 3 with Nos. 12, 14 and 15

(a) Any reference to “Mortgages” in the Guarantees referred to in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the Mortgages as amended and supplemented by this Agreement, including their priority as at the Effective Date, and/or any additional amendment or supplement as required in each case.
Any reference to “General Assignments” in the Guarantees referred to in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the General Assignments as amended and supplemented by this Agreement, including their priority as at the Effective Date, and/or any additional amendment or supplement as required in each case.

Any reference to “Charter Assignments” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed to refer to the new charter party assignments referred to in Schedule 5 No.11.

Any reference to the “Company” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the “Borrower” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Creditors” or “Existing Creditors” or “Combined Creditors” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the “Finance Parties” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Lenders” or “Existing Lenders” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the “Lenders” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Group Company” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the “Group Member” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Existing Finance Documents” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the “Finance Documents” as defined in the Amended and Restated Facility Agreement.

The reference in the Guarantees listed referred to in Schedule 3 with Nos. 12, 14 and 15 to “Potential Event of Default” shall be construed to mean “an event or circumstance which, with the giving of any notice, lapse of time, a determination of the Majority Lenders (in the case of any provision of the Amended and Restated Facility Agreement or any of the other Finance Documents which is made subject to the determination of the Majority Lenders) and/or the satisfaction of any other condition, would constitute an Event of Default”.

Any reference to the “Existing Loan” or “Loan” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the “Loan” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Final Discharge Date” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the “end of the Facility Period” as defined in the Amended and Restated Facility Agreement.

Any reference to an “Underlying Document” or the “Underlying Documents” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to the relevant documents referred to in Schedule (1) (Condition Precedent) of this Agreement.

Any reference to a “Restructuring Document” or “Restructuring Documents” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be deleted.

Any reference to the “Restructuring Termination Date” in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be construed as if the same referred to “Acceleration in accordance with Clause 30.29 as defined in the Amended and Restated Facility Agreement”.

The reference in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 in Clause 2.5 to “Clause 3.3 of the Facility Agreement” shall be construed as if the same referred to “Clause 8.3 as defined in the Amended and Restated Loan Agreement”.

The reference in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 in Clause 3 to “Save as otherwise expressly provided in the Restructuring Agreement” shall be deleted; and the reference to “Clause 5.2 of the Agency Agreement” shall be construed as if the same referred to “the terms of the Amended and Restated Facility Agreement”.

The reference in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 in Clause 5.1 to “Restructuring Agreement and at times set out in the Restructuring Agreement” shall be construed as if the same referred to “Amended and Restated Facility Agreement and at times set out in the Amended and Restated Facility Agreement”.

Clause 5.3.1(b) in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 shall be replaced with “on the date of the Amended and Restated Facility Agreement, there are No agreements whereby Earnings may be shared with any other person than the Finance Parties.”

The reference in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 in Clause 7.2 to “Clause 15 of the Facility Agreement” shall be construed to mean “the Amended and Restated Facility Agreement”; the words “but subject to the provisions of the Restructuring Agreement” shall be deleted; the words “in Clause 5.2 of the Agency Agreement” shall be construed to read “in accordance with the terms of the Amended and Restated Facility Agreement”.

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Agreement”; and the reference “Earnings Account Pledge” shall be construed as if the same referred to “Earnings Account Pledges” under this Agreement.

(t) The reference in the Guarantees listed in Schedule 3 with Nos. 12, 14 and 15 in Clause 9.1 to “Clause 16 of the Facility Agreement” shall be construed as if the same referred to “Clause 31 of the Amended and Restated Facility Agreement”.

7.5 Specific Amendments to the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26

(a) Any reference to a “Mortgage” in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 shall be construed as if the same referred to the Mortgage as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(b) Any reference to a “Guarantee” in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 shall be construed as if the same referred to the Guarantee as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(c) The reference in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 to in Clause 1.3 to “Clauses 1.2 to 1.5 inclusive of the Loan Agreement” shall be construed as if the same referred to Clauses 1.2 and 1.3 in the Amended and Restated Facility Agreement.

(d) Any reference to a “Creditor Party” or “Creditor Parties” in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 shall be construed as if the same referred to a “Finance Party” or “Finance Parties” as defined in the Amended and Restated Facility Agreement.

(e) Any reference to a “Security Period” in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 shall be construed as if the same referred to a “Facility Period” as defined in the Amended and Restated Facility Agreement.

(f) The words in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 in Clause 4.1 “in accordance with Clause 19 of the Loan Agreement” shall be construed to mean “in accordance with the Amended and Restated Facility Agreement”.

(g) The reference in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 to “Security Party” or “Security Parties” shall be construed as
if the same referred to “Obligor” or “Obligors” as defined in the Amended and Restated Facility Agreement.

(h) The reference in the Guarantees referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 to “Pertinent Jurisdiction” shall be construed to mean pertinent jurisdiction.

(i) Clause 6.2 in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 in shall be replaced with “The Owner shall comply with the provisions of Clauses 23 (Condition and operation of Ship) and 24 (Insurance) of the Amended and Restated Agreement”.

(j) The reference in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 in Clause 8.1, to “Clause 20.2 of the Loan Agreement” shall be construed as if the same referred to Clause 30.29 of the Amended and Restated Facility Agreement”.

(k) The words in the General Assignments referred to in Schedule 3 with Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 in Clause 9.1 (d) “in accordance with Clause 18 of the Loan Agreement” shall be construed to mean “in accordance with the Amended and Restated Facility Agreement”.

7.6 Specific Amendments to the General Assignments referred to in Schedule 3 with Nos. 28 and 29

(a) Any reference to “Mortgage” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the Mortgage as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(b) Any reference to “Owner’s Guarantee” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the Owners’ Guarantee as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(c) Any reference to the “Mortgagee” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the “Security Agent” as defined in the Amended and Restated Facility Agreement.

(d) Any reference to the “Guarantors” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the “Guarantors” as defined in the Guarantee referred to in Schedule 3 No. 13.
Any reference to the “Company” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the “Borrower” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Creditors” or “Existing Creditors” or “Combined Creditors” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the “Finance Parties” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Existing Loan” or “Loan” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the “Loan” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Lenders” or “Existing Lenders” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the “Lenders” as defined in the Amended and Restated Facility Agreement.

Any reference to the “Existing Finance Documents” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the “Finance Documents” as defined in the Amended and Restated Facility Agreement.

The reference in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 to “Potential Event of Default” shall be construed to mean “an event or circumstance which, with the giving of any notice, lapse of time, a determination of the Majority Lenders (in the case of any provision of the Amended and Restated Facility Agreement or any of the other Finance Documents which is made subject to the determination of the Majority Lenders) and/or the satisfaction of any other condition, would constitute an Event of Default”.

Any reference to the “Final Discharge Date” in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 shall be construed as if the same referred to the “end of the Facility Period” as defined in the Amended and Restated Facility Agreement.

The reference in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 in Clause 2.2 to “Approved Brokers” shall be construed as if the same referred to “brokers approved by the Security Agent”.

The words in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 in Clause 2.3 “in the manner specified in Clause 5.2 of the Agency Agreement” shall be construed to mean “in accordance with the terms of the Amended and Restated Facility Agreement”.
(n) The reference in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 in Clause 5.1 to “Clause 11.21 (Acceleration) of the Facility Agreement” shall be construed as if the same referred to Clause 30.29 of the Amended and Restated Facility Agreement.

(o) The reference in the General Assignments referred to in Schedule 3 with Nos. 28 and 29 in Clause 12.2 to “Clause 16 of the Facility Agreement” shall be construed as if the same referred to “Clause 31” of the Amended and Restated Facility Agreement.

7.7 Specific Amendments to the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31

(a) Any reference to “Mortgage” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the Mortgage as amended and supplemented by this Agreement, including their priority as at the Effective Date, and/or any additional amendment or supplement as required in each case.

(b) Any reference to “Owner’s Guarantee” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the Owners’ Guarantee as amended and supplemented by this Agreement, including their priority as at the Effective Date, and/or any additional amendment or supplement as required in each case.

(c) Any reference to the “Mortgagee” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the “Security Agent” as defined in the Amended and Restated Facility Agreement.

(d) Any reference to the “Company” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the “Borrower” as defined in the Amended and Restated Facility Agreement.

(e) Any reference to the “Creditors” or “Existing Creditors” or “Combined Creditors” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the “Finance Parties” as defined in the Amended and Restated Facility Agreement.

(f) Any reference to the “Existing Loan” or “Loan” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the “Loan” as defined in the Amended and Restated Facility Agreement.
(g) Any reference to the “Lenders” or “Existing Lenders” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the “Lenders” as defined in the Amended and Restated Facility Agreement.

(h) Any reference to the “Existing Finance Documents” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the “Finance Documents” as defined in the Amended and Restated Facility Agreement.

(i) The reference in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 to “Potential Event of Default” shall be construed to mean “an event or circumstance which, with the giving of any notice, lapse of time, a determination of the Majority Lenders (in the case of any provision of the Amended and Restated Facility Agreement or any of the other Finance Documents which is made subject to the determination of the Majority Lenders) and/or the satisfaction of any other condition, would constitute an Event of Default”.

(j) Any reference to the “Final Discharge Date” in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 shall be construed as if the same referred to the “end of the Facility Period” as defined in the Amended and Restated Facility Agreement.

(k) The reference in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 in Clause 2.2 to “Approved Brokers” shall be construed as if the same referred to “brokers approved by the Security Agent”.

(l) The words in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 in Clause 2.3 “in the manner specified in Clause 5.2 of the Agency Agreement” shall be construed to mean “in accordance with the terms of the Amended and Restated Facility Agreement”.

(m) The reference in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 in Clause 5.1 to “Clause 11.21 (Acceleration) of the Facility Agreement” shall be construed as if the same referred to Clause 30.29 of the Amended and Restated Facility Agreement.

(n) The reference in the General Assignments referred to in Schedule 3 with Nos. 27, 30 and 31 in Clause 12.2 to “Clause 16 of the Facility Agreement” shall be construed as if the same referred to Clause 31 of the Amended and Restated Facility Agreement.

7.8 Specific Amendments to the charterparty assignments referred to in Schedule 3 Nos. 32 and 33
(a) Any reference to “Charter” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the Charter as amended from time to time.

(b) Any reference to “Mortgage” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the Mortgage as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(c) Any reference to “Owner’s Guarantee” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the Owners’ Guarantee as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(d) Any reference to the “Mortgagee” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the “Security Agent” as defined in the Amended and Restated Facility Agreement.

(e) Any reference to “General Assignment” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the General Assignment as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(f) Any reference to the “Guarantors” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the “Guarantors” as defined in the Guarantee referred to in Schedule 3 No. 13.

(g) Any reference to the “Company” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the “Borrower” as defined in the Amended and Restated Facility Agreement.

(h) Any reference to the “Creditors” or “Existing Creditors” or “Combined Creditors” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the “Finance Parties” as defined in the Amended and Restated Facility Agreement.

(i) Any reference to the “Lenders” or “Existing Lenders” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the “Lenders” as defined in the Amended and Restated Facility Agreement.
Any reference to the “Existing Finance Documents” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the “Finance Documents” as defined in the Amended and Restated Facility Agreement.

The reference in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 to “Potential Event of Default” shall be construed to mean “an event or circumstance which, with the giving of any notice, lapse of time, a determination of the Majority Lenders (in the case of any provision of the Amended and Restated Facility Agreement or any of the other Finance Documents which is made subject to the determination of the Majority Lenders) and/or the satisfaction of any other condition, would constitute an Event of Default”.

Any reference to the “Final Discharge Date” in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 shall be construed as if the same referred to the “end of the Facility Period” as defined in the Amended and Restated Facility Agreement.

The reference in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 in Clause 6.2 to “Clause 11.22 of the Facility Agreement” shall be construed as if the same referred to “Clause 30.29 (a) of the Amended and Restated Facility Agreement”.

The reference in the charterparty assignments referred to in Schedule 3 Nos. 32 and 33 in Clause 13.2 to “Clause 16 of the Facility Agreement” shall be construed as if the same referred to “Clause 31 of the Amended and Restated Facility Agreement”.

Specific Amendments to the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39:

(a) Any reference to a “Mortgage” in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 shall be construed as if the same referred to the Mortgage as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(b) Any reference to a “Guarantee” in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 shall be construed as if the same referred to the Guarantee as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case,

(c) The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 1.2 under the definition Event of Default to “clause 20.1 of the Loan Agreement” shall be construed to mean “Clause 30 of the Amended and Restated Facility Agreement”.

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The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 1.2 under the definition ISM Code to “Approved Manager” shall be construed to mean “the manager approved by the Security Agent”.

The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 1.2 to “Secured Liabilities” shall include the following additional wording after the words “any Finance Document”: “including without limitation the Guarantee as well as the further Guaranteed Obligations under Clause 17.1 (a) of the Amended and Restated Facility Agreement.”

The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 to “Security Party” or “Security Parties” shall be construed as if the same referred to “Obligor” or “Obligors” as defined in the Amended and Restated Facility Agreement.

Any reference to a “Creditor Party” or “Creditor Parties” in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 shall be construed as if the same referred to a “Finance Party” or “Finance Parties” as defined in the Amended and Restated Facility Agreement.

The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 1.5 to “Clauses 1.2 to 1.5 inclusive of the Loan Agreement” shall be construed to mean “Clauses 1.2 and 1.3 of the Amended and Restated Facility Agreement”.

Any reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 to a “Security Period” shall be construed as if the same referred to a “Facility Period” as defined in the Amended and Restated Facility Agreement.

The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 2.4 (a) to (c) is to be deleted and replaced with “(a) at the rate described in and in accordance with Clause 8.3 in the Amended and Restated Facility Agreement and (b) on demand”.

The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 4.2 shall include the following additional wording after the words “Guarantee”: “or in the Amended and Restated Facility Agreement”.

The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 5.2 to “clauses 14 (insurance) and 15 (ship covenants) of the
Loan Agreement” shall be construed as if the same referred to “clauses 23 (Condition and operation of Ship) and 24 (Insurance) of the Amended and Restated Facility Agreement”.

(m) The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 7.1 to “Clause 20.2 of the Loan Agreement” shall be construed as if the same referred to “Clause 30.29 (a) of the Amended and Restated Facility Agreement” and the following additional words shall be included after “clause 2.1 of the Guarantee”; “or under Clause 17 of the Amended and Restated Facility Agreement”.

(n) The reference in the Existing Deeds of Covenants referred to in Schedule 3 Nos. 34, 35, 36, 37, 38, and 39 in Clause 8.1 c) to “Clause 18 of the Loan Agreement” shall be construed as if the same referred to “in accordance with the Amended and Restated Facility Agreement”.

7.10 Specific Amendments to the Existing Deed of Covenants referred to in Schedule 3 No. 40:

(a) Any reference to “Mortgage” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the Mortgage as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(b) Any reference to “General Assignments” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the General Assignments as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(c) Any reference to “Charter Assignments” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the Charter Assignments as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(d) Any reference to “Owners’ Guarantee” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the Owners’ Guarantee in Schedule 3 No. 13 as amended and supplemented by this Agreement and/or any additional amendment or supplement as required in each case.

(e) Any reference to the “Guarantors” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the “Guarantors” as defined in the Guarantee referred to in Schedule 3 No. 13.

(f) Any reference to “Mortgagee” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall mean “Trustee Agent”.

(g) Any reference to the “Company” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the “Borrower” as defined in the Amended and Restated Facility Agreement.

(h) Any reference to the “Creditors” or “Existing Creditors” or “Combined Creditors” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the “Lenders” as defined in the Amended and Restated Facility Agreement.

(i) Any reference to the “Lenders” or “Existing Lenders” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the “Lenders” as defined in the Amended and Restated Facility Agreement.

(j) Any reference to the “Existing Finance Documents” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the “Finance Documents” as defined in the Amended and Restated Facility Agreement.

(k) The reference in the Existing Deed of Covenants referred to in Schedule 3 No. 40 to “Potential Event of Default” shall be construed to mean “an event or circumstance which, with the giving of any notice, lapse of time, a determination of the Majority Lenders (in the case of any provision of the Amended and Restated Facility Agreement or any of the other Finance Documents which is made subject to the determination of the Majority Lenders) and/or the satisfaction of any other condition, would constitute an Event of Default”.

(l) Any reference to the “Existing Loan” or “Loan” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the “Loan” as defined in the Amended and Restated Facility Agreement.

(m) Any reference to “Owner’s Group” or the “Group” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the “Group Member” as defined in the Amended and Restated Facility Agreement.

(n) Any reference to the “Final Discharge Date” the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred to the “end of the Facility Period” as defined in the Amended and Restated Facility Agreement.

(o) Any reference to an “Compulsory Acquisition” in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be construed as if the same referred “compulsory acquisition”.

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(p) The references in Clauses 2.1.4 and 8.1.1 in the Existing Deed of Covenants referred to in Schedule 3 No. 40 to “Clause 5.2 of the Agency Agreement” shall be deleted and replaced with the words “the terms of the Amended and Restated Facility Agreement”.

(q) Clause 3.1.5 in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall include the following additional wording after “Finance Documents”: “including without limitation the Guarantee as well as the additional guarantee set out Clause 17 of the Amended and Restated Facility Agreement”.

(r) Clause 3.1.6 in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall include the following additional wording after “Owners’ Guarantee”: “and the Amended and Restated Facility Agreement as agreed from time to time”.

(s) Sub-clauses 5.1 (a) (i) to (iii) in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall be deleted and replaced with the following: “(i) the Market Value of the Ship for the time being; and (ii) such amount as when aggregated with the insured values of all Fleet Vessels is at least equal to one hundred and twenty per cent (120%) of the aggregate of the Loan;

and upon such terms as shall from time to time be approved in writing by the Trustee Agent.”

(t) The reference in Clause 5.1 (i) in the Existing Deed of Covenants referred to in Schedule 3 No. 40 to “or otherwise contrary to the provisions of the Restructuring Agreement” shall be deleted.

(u) Any reference in the Existing Deed of Covenants referred to in Schedule 3 No. 40 to “Government Entity” shall read “government entity”:

(v) The reference in Clause 5.1 (m) in the Existing Deed of Covenants referred to in Schedule 3 No. 40 to “Security (other than as permitted by the Restructuring Agreement)” shall be deleted and replaced with the words “security”.

(w) Clause 7.1 in the Existing Deed of Covenants referred to in Schedule 3 No. 40 shall include the following additional wording after “Owners’ Guarantee”: “or the Guarantee set out in Clause 17 of the Amended and Restated Facility Agreement, as applicable.”.

(x) The reference in the Existing Deed of Covenants referred to in Schedule 3 No. 40 in Clause 15.2 to “Clause 16 of the Facility Agreement and the equivalent provision in the Existing Facility Agreement” shall be construed as if the same referred to “Clause 31 of the Amended and Restated Facility Agreement”.

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For the avoidance of doubt, each relevant Original Obligor who is a party hereby confirms to the Finance Parties that the debt certificates issued by Hyundai Merchant Marine Co. Ltd. on 18 July 2016 to Speedcarrier (No.1) Corp., Speedcarrier (No.2) Corp., Speedcarrier (No.3) Corp., Speedcarrier (No.4) Corp., Speedcarrier (No.5) Corp., and Megacarrier (No.4) Corp., as listed in Schedule 6 of the Amended and Restated Loan Agreement, were assigned by the relevant Original Obligors to the Security Agent as part of the assigned property assigned under the General Assignments listed in Schedule 3 Nos. 22, 26, 23, 24, 25, and the Deed of Covenant at Schedule 3 No.40 respectively, and that those debt certificates remain part of the assigned property in the relevant General Assignments, as amended and restated by this agreement.

8 Representations and Warranties

Each Obligor hereby represents and warrants to the Finance Parties (i) all representations and warranties pursuant to Clause 18 of the Amended and Restated Loan Agreement and further (ii) that at the date of this Agreement as well as the Effective Date:

(a) it has the power to enter into and perform this Agreement and the transactions contemplated hereby and has taken all necessary action to authorise the entry into and performance of this Agreement and such transactions and will duly perform and observe the terms thereof;

(b) this Agreement constitutes the legal, valid and binding obligations of each Obligor enforceable in accordance with its terms subject to any general principles of law limiting its obligations which are referred to in any legal opinion delivered to the Agent or Security Agent pursuant to this Agreement; and

(c) the entry into and performance of this Agreement and the transactions contemplated hereby do not and will not conflict with (i) any law or regulation or any official or judicial order or (ii) the constitutional documents of it or (iii) any agreement or document to which it is a party or which is binding upon it or any of its assets, nor result in the creation or imposition of any encumbrance on any of its assets pursuant to the provisions of any such agreement or document.

9 Designation

This Agreement is a Finance Document.
10 Miscellaneous

10.1 Partial invalidity

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired.

10.2 No impairment

If, at any time after its date, any provision of this Agreement is not binding on or enforceable in accordance with its terms against a person expressed to be a Party, neither the binding nature nor the enforceability of that provision or any other provision of this Agreement will be impaired as against the other Parties.

10.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under a this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement. No election to affirm this Agreement on the part of the Finance Parties 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.

10.4 Amendments

Any term of this Agreement may be amended or waived only with the consent of the Parties.

10.5 Costs

The Obligors as joint and several debtors undertake on a full indemnity basis to pay to, and to reimburse or indemnify the Finance Parties promptly on demand against all reasonable costs, expenses, charges and fees, which shall include, without limitation, stamp, registration fees and legal fees and disbursements of external legal advisers, incurred or sustained by any Finance Party in connection with the preparation, drafting, negotiation, registration, execution and enforcement of this Agreement. All reasonable costs, expenses, charges and fees payable by any Obligor pursuant to this Clause shall be paid together with value added tax or any similar tax, if any, properly chargeable thereon.

10.6 Counterparts

This Agreement may be executed in any number of counterparts, and this has the same effect as of the signatures on the counterparts were on a single copy of this Agreement.
10.7 **English language**

(a) Any notice given under or in connection with this Agreement must be in English.

(b) All other documents provided under or in connection with this Agreement must be:

   (i) in English; or

   (ii) if not in English, and if so required by the Lender, 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.

11 **Governing law and enforcement**

11.1 **Governing law**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

11.2 **Jurisdiction**

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a **Dispute**).

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) Notwithstanding paragraph (a) above, the Finance Parties shall not 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.

(d) Without prejudice to any other mode of service allowed under any relevant law, any Original Obligor who is a Party (unless incorporated in England and Wales):

   (i) irrevocably appoints the person named in schedule 1 (**The original parties**) of the Amended and Restated Facility Agreement as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement;
(ii) agrees that failure by the process agent to notify it of the process shall not invalidate the proceedings concerned; and

(iii) if any person appointed as its process agent is unable for any reason to act as agent for service of process, it must immediately (and in any event within 10 days of such event taking place) appoint another agent on terms acceptable to the Finance Parties. Failing this, the Finance Parties may appoint another agent for this purpose.

This Agreement has been entered into on the date stated at the beginning of this Agreement.
Part A - Conditions Precedent

1 Original Obligors’ corporate documents

(a) A copy of the Constitutional Documents of each Original Obligor and each Second Lien Provider.

(b) A copy of a resolution of the board of directors of each Original Obligor and each Second Lien Provider (or, in the case of the Borrower, if applicable, any independent committee of such board empowered to approve and authorise the following matters):

   (i) approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party (its Relevant Documents) and resolving that it execute, deliver and perform the Relevant Documents to which it is a party;

   (ii) authorising a specified person or persons to execute its 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 and any Selection Notice) to be signed and/or despatched by it under or in connection with its Relevant Documents.

(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 specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to its Relevant Documents and related documents.

(e) If required by the Agent, a copy of a resolution signed by all the holders of the issued shares in each Original Obligor (other than the Borrower) and each Second Lien Provider, approving the terms of, and the transactions contemplated by, its Relevant Documents.

(f) If required by the Agent, a copy of a resolution of the board of directors of each corporate shareholder of each Original Obligor (other than the Borrower) and each Second Lien Provider approving the terms of the resolution referred to in paragraph (e) above.

(g) A certificate of the Borrower, each other Original Obligor and each Second Lien Provider (each signed by a director) confirming that borrowing or guaranteeing or securing, as
appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on the Borrower, any other Original Obligor and any Second Lien Provider to be exceeded.

(h) A copy of any power of attorney under which any person is appointed by any Original Obligor and any Second Lien Provider to execute any of its Relevant Documents on its behalf.

(i) A certificate of an authorised signatory of each relevant Original Obligor and each Second Lien Provider certifying that each copy document relating to it specified in this Schedule is correct, complete and in full force, and effect and has not been amended or superseded as at a date no earlier than the Effective Date and that any such resolutions or power of attorney have not been revoked.

(j) A certificate of good standing for each Original Obligor and each Second Lien Provider or other evidence that each Original Obligor and each Second Lien Provider is in good standing in its country of incorporation.

(k) Duly executed copy of each of the following equity documents

(i) Amended and restated articles of incorporation of the Borrower reflecting the governance rights agreed in the Restructuring Support Agreement,

(ii) Amended and restated bylaws of the Borrower.

2 Legal opinions

The following legal opinions, each addressed to the Agent:

(a) a legal opinion of Ince & Co LLP on matters of English law, substantially in the form distributed to the Agent and approved by the Agent prior to signing this Agreement; and

(b) a legal opinion of the legal advisers to the Agent in each jurisdiction in which an Obligor is incorporated and/or which is or is to be the Flag State of a Mortgaged Ship, or in which an Account opened at the relevant time is established substantially in the form distributed to the Agent and approved by the Agent prior to signing this Agreement.

3 Transaction Documents

(a) Duly executed copy of the Amended and Restated Facility Agreement;

(b) Duly executed copy of the Cash Out Agreements (as defined in the Term Sheet);
(c) Duly executed copy of the Updated Commitment Letter (as defined in the Term Sheet);

(d) Duly executed copy of each of the following equity documents

   (i) Subordinated Loan Agreement (as defined in the Term Sheet),

   (ii) Shareholders Agreement (as defined in the Term Sheet),

   (iii) Escrow Agreement in respect of Dividend Reinvestment Commitment under Shareholders Agreement (all as defined in the Restructuring Support Agreement),

   (iv) Registration Rights Agreement (as defined in the Restructuring Support Agreement),

   (v) [F-1 Shelf Registration Statement (as defined in the Restructuring Support Agreement),]

   (vi) Plan Sponsor Capital Contribution Agreement (as defined in the Term Sheet),

   (vii) Backstop Agreement (as defined in the Term Sheet),

   (viii) Pool A Observer Side Letters (as defined in the Term Sheet), and

   (ix) Pool B Observer Side Letters (as defined in the Term Sheet);

(e) Duly executed copy of the executive employment contract of Dr. John Coustas;

(f) Duly executed copy of the Amended Management Agreement;

(g) Duly executed copy of the Amended Restrictive Covenant Undertaking;

(h) Duly executed copy of the Management Agreement Deed of Undertaking;

(i) Evidence of the issuance of the New Shares to the Finance Parties;

(j) Duly executed copy of the Fee letter in relation to the Agency and security agent fee

(k) Duly executed copy of the Fee letter in relation to the amendment fee

(l) Duly executed copy of the Fee letter in relation to the exit fee

(m) Duly executed copy of the Global Restructuring Implementation Deed.
Other documents and evidence

(a) Evidence that any process agent referred to in clause 52.2 (Service of process) of the Amended and Restated Facility Agreement or any equivalent provision of any other Finance Document entered into on or before the Effective 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 considers to be necessary or desirable (if it has notified the Obligors 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) Evidence that the fees, commissions, costs and expenses then due from the Obligors pursuant to clause 11 (Fees) of the Amended and Restated Facility Agreement and clause 16 (Costs and expenses) of the Amended and Restated Facility Agreement and all legal and adviser fees payable in connection with the Restructuring Support Agreement have been paid or will be paid by the Effective Date.

(e) The Financial Model circulated to the Finance Parties on [13 June 2018].

(f) The Management Agreement (including the Restrictive Covenant Agreement) duly executed by the parties thereto.

(g) Funds flow statement including distributions (and all wire transfers to be made) on the Effective Date.

(h) An original of each Intercreditor Agreement duly executed by each party to it, being:
   (i) the Global Intercreditor Agreement;
   (ii) the Joint Pool B Intercreditor Agreement;
   (iii) the Written Down Lender / Pool D Intercreditor Agreement;
   (iv) the Written Down Lender / Pool E Intercreditor Agreement; and
   (v) the Intra-Written Down Lender Group Intercreditor Agreement.

(i) Group Structure Chart showing, both immediately prior to and as of the Effective Date (assuming completion of the transactions contemplated thereby):
   (i) the shareholders of the Borrower;
   (ii) that each Danaos SPV (as defined in the Term Sheet) is a direct wholly owned subsidiary of the applicable Danaos Intermediate Holdco (as defined in the Term Sheet) and that each Danaos Intermediate Holdco is a direct wholly owned subsidiary of the Borrower;
   (iii) all outstanding facilities owing by any Group Member and the principal amounts outstanding, obligors and security provided in respect thereof;
   (iv) all fees, interest or other compensation paid or payable to all lenders to the Group (disregarding amounts paid or payable to third party advisors) during the period 14 May 2018 to the final termination date of all Amended RA Facilities.

(j) A confirmation from an officer of the Borrower that:
   (i) no consents, authorisations, licences and approvals are necessary in any Relevant Jurisdiction to enable it to borrow the Loan and it or any other Original Obligor to perform its obligations under this Agreement and each of the other Transaction Documents to which it is a party;
   (ii) the fees, interest or other compensation referred to in item (o)(iv) are in each case consistent in all respects with the amounts set out in the Term Sheet, 22 May 2018 presentation and schedule of fees circulated on 6 June 2018;
   (iii) there is no agreement, arrangement or understanding for the allocation of any New Shares issued to the Original Lenders in accordance with the Term Sheet to be reallocated or transferred to or for the benefit of any of the existing shareholders of the Borrower or any of their affiliates or related persons;
   (iv) the Restructuring Support Agreement has not been terminated and is in full force and effect;
   (v) as of the Effective Date there are no agreements, arrangements, or understandings between any Group Member and (i) any lender under an Amended RA Facility, (ii) any other lender of financial indebtedness, or (iii) any Affiliate of (i) or (ii), in respect of the Existing Fleet that is not set out in the Restructuring Support Agreement, the Term Sheet, the Amended RA Facilities or that has not otherwise been disclosed to the lenders in the Term Sheet, 22 May 2018 presentation or fee schedule circulated on 6 June 2018;
(vi) the list of Dormant Subsidiaries appended to this director’s certificate is true, accurate and complete; and
(vii) no information has been disclosed under item no. 20 below which has not also been provided on reasonable notice to all other Supporting Lenders (as defined in the Restructuring Support Agreement).

(k) Evidence in a form reasonably satisfactory to the Agent that the restructuring agreement dated 24 January 2011, entered into among, inter alia, the Borrower, the Group Members party thereto and the Participating Lenders (as defined therein), as amended, supplemented or otherwise modified from time to time, has been terminated in its entirety.

(l) Evidence that the conditions precedent under each other Amended RA Facility Agreement and the Sinosure Facility (as defined in the Restructuring Support Agreement) have been satisfied.

(m) Evidence that KEXIM-ABN Amro Facility (as defined in the Restructuring Support Agreement) has been repaid in full and that the relevant security has been or will discharged.

(n) A corresponding notice of reassignment issued by the security trustee under the KEXIM-ABN Amro Facility (as defined in the Restructuring Support Agreement) in relation to the general assignment, assignment of insurances and assignment of earnings concerning the relevant ships, including a wording clarifying that the former second ranking assignments being part of the Amended Security Documents shall become first ranking ranking assignments with the reassignment taking effect.

(o) Evidence that under each of Cash Out Agreements the Completion Conditions (as defined therein) have been satisfied or waived, and the transactions contemplated in each of those agreements have completed or will be completed on the Effective Date.

(p) Evidence that the Plan Sponsor Capital Contribution (as defined in the Term Sheet) has been or will be released from the Escrow Account (as defined in the Restructuring Support Agreement) on the Effective Date.

(q) Evidence that the board of directors of the Borrower is, as of the Effective Date, composed of (i) the current members of the board of directors of the Borrower (i.e., Dr John Coustas, Iraklis Prokopakis, George Economou, William Repko, Myles R. Itkin and Miklós Konkoly-Thege) and (ii) Petros Christodoulou as an independent non-executive director (or any other person satisfactory to the Agent, acting reasonably).

(r) Evidence that all interest pursuant to Clause 2.3 has been paid or will be in full on the Effective Date.
Evidence that the Excess Cash Loans between the Borrower and each Guarantor as well as each Second Lien Provider have been concluded in a form acceptable to the Agent.

5 Bank Accounts

Evidence that any Account required to be established under clause 28 (Bank accounts) has been opened and established, that any Account Security in respect of each such Account has been executed and delivered by the relevant Account Holder(s) 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.

6 Security

(a) The amendments to the Original Security Documents as listed in Schedule 4 (Amended Security Documents) duly executed by the parties named therein, and, to the extent applicable, registered with the competent register.

(b) The New Security Documents as listed in Schedule 5 (New Security Documents) duly executed by the parties named therein, and, to the extent applicable, registered with the competent register unless explicitly designated as a condition subsequent pursuant to Part B of this Schedule.

(c) Duly executed notices of assignment and acknowledgements of those notices as required by any of the above Security Documents.

(d) Duly executed notices of assignment and acknowledgements of receipts concerning the HMM Notes (as listed in Schedule 6 [HMM Notes] of the Amended and Restated Loan Agreement) in the form substantially set out in Schedule 6 (Notice of Assignment of HMM Notes) hereto.

7 Ship related Documents

(a) The Charters for each of the Ships, duly executed, on such terms (including as to the identity of the relevant Charterer, the charter rates and their tenors) and otherwise approved by the Agent.

(b) A copy, certified to be a true and complete copy, of each of the Management Agreements for each of the Ships, duly executed.

(c) Evidence that each of the Ships and their Earnings, Insurances and Requisition Compensation are free of any Security Interest, as evidenced by the relevant of Deed of Release.

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“Know your customer” information

Such documentation and information as the Agent may reasonably request to comply with “know your customer” or similar identification procedures under all laws and regulations applicable to the Agent.

Regulatory approvals and conditions

Such information and assistance as may be reasonably requested by the Agent to satisfy, and the satisfaction of, any regulatory, competition or other approvals required by any competent governmental authority in connection with the transactions contemplated in the Transaction Documents, including receipt of New Shares.

Registration of Ship

Evidence that each of the Ships:

(a) is legally and beneficially owned by the relevant Owner and registered in the name of the relevant Owner and relevant Second Lien Provider through the relevant Registry as a ship under the laws and flag of the relevant Flag State;

(b) A certificate of class maintained in respect of each Ship issued no more than 3 Business Days before the Effective Date confirming that each of the Ships is classed with the relevant Classification free of all requirements and recommendations of the relevant Classification Society as may be required by the Agent.

(c) is insured in the manner required by the Finance Documents;

(d) has been delivered, and accepted for service, under its Charter; and

(e) is free of any other charter commitment which would require approval under the Finance Documents.

Readiness for Mortgage registration

Evidence (in the form of pre-clearance of the registration and confirmation from local counsel that all relevant documents and/or formalities to effect the de-registration and/or registration are prepared on the closing date, including that any relevant filing fees have been paid or that amounts in relation thereto are available for payment on the Effective Date) that the Mortgage or the addendum to the Mortgage in respect of each of the Ships is ready to be registered against each of the Ships through the relevant Registry under the laws and flag of the relevant Flag State.
12 Insurance

In relation to each of the Ships’ Insurances:

(a) an opinion from insurance consultants acceptable to the Original Lenders on such Insurances;

(b) evidence that such Insurances have been placed in accordance with clause 24 (Insurance) of the Amended and Restated Facility Agreement; and

(c) evidence that approved brokers, insurers and/or associations have issued or will issue letters of undertaking in favour of the Agent in an approved form in relation to the Insurances.

13 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 each of the Ships for the purposes of that code;

(b) the safety management certificate in respect of each of the Ships issued in accordance with the ISM Code;

(c) the international ship security certificate in respect of each of the Ships issued under the ISPS Code; and

(d) if so requested by the Agent, any other certificates issued under any applicable code required to be observed by each of the Ships or in relation to its operation under any applicable law.

14 Valuations

(a) Valuations in respect of all Fleet Vessels obtained not earlier than 30 June 2018 in accordance with clause 25 (Valuations) of the Amended and Restated Facility Agreement.

(b) The Borrower to deliver to the relevant Agent:

(i) a market check and scrap value assessment prepared by the Borrower on all relevant vessels securing any relevant Written Down Facility (on a first lien basis) that are older than 20 years, not on contract with at least 12 months’ remaining term and not recently dry-docked;
(ii) together with the explanation from the relevant Guarantor(s) — whether the Guarantors or the Borrower — of the commercial decision of the board of directors, as certified by an officer of each relevant Guarantor, not to scrap such vessel.

15 Fees

(a) A confirmation from the legal and financial advisors of the Finance Parties to the Borrower that all legal and advisor fees in connection with the negotiation, preparation and execution of the Definitive Documentation have been paid.

(b) An executed fee letter in relation to the fees payable to the Agent and Security Agent.

(c) An executed fee letter in relation to the HSH Amendment Fees (as defined in the Term Sheet).

(d) An executed fee letter in relation to the Exit Fee (as defined in the Term Sheet) payable to the Borrower.

16 Pool D/E Second Lien Security Documents

The Junior Security Documents, as set out in the Written Down Lender / Pool D Intercreditor Agreement and the Written Down Lender / Pool E Intercreditor Agreement duly executed in a form satisfactory to the Agent unless explicitly designated as a condition subsequent pursuant to Part B of this Schedule.

17 Other disclosure

Such other information reasonably requested by any Finance Party in connection with the Restructuring, including disclosure of any fee arrangements, transaction cash flows, any dealings or agreements with or for the benefit of the shareholders of the Borrower prior to the Effective Date and any Affiliates and/or related parties of the Borrower and the ultimate beneficial owners of any outstanding debt owed by the Group to the Finance Party.
Part B - Conditions Subsequent

1. Mortgage registration of an amendment mortgage in relation to the first priority Maltese ship mortgage over vessel MV PERFORMANCE with IMO No 9250971 dated 5 November 2011;

2. Mortgage registration of an amendment mortgage in relation to the first priority Maltese ship mortgage over vessel MV PRIORITY with IMO No 9250995 dated 5 November 2011;

3. Mortgage registration of an amendment mortgage in relation to the first priority Maltese ship mortgage over vessel MV AMALIA C with IMO No 9166649 dated 14 May 2013;

4. Mortgage registration of an amendment mortgage in relation to the first priority Maltese ship mortgage over vessel MV MSC ZEBRA with IMO No 9231157 dated 25 June 2013;

5. Mortgage registration of an amendment mortgage in relation to the first priority Maltese ship mortgage over vessel MV DANAE C with IMO No 9226425 dated 13 November 2013;

6. Mortgage registration of an amendment mortgage in relation to the first priority Maltese ship mortgage over vessel MV DIMITRIS C with IMO No 9210074 dated 21 November 2013;

7. Mortgage registration of an addendum to the first priority Panamanian ship mortgage over vessel MV VLADIVOSTOK with IMO No 9149823 dated 12 September 2007 as amended 18 February 2011;

8. Mortgage registration of an addendum to the first priority Panamanian ship mortgage over vessel MV STRIDE with IMO No 9149835 dated 12 September 2007 as amended 18 February 2011;

9. Mortgage registration of an addendum to the first priority Panamanian ship mortgage over vessel MV SPRINTER with IMO No 9149861 dated 16 October 2007 as amended 18 February 2011;

10. Mortgage registration of an addendum to the first priority Panamanian ship mortgage over vessel MV FUTURE with IMO No 9149847 dated 3 October 2007 as amended 18 February 2011;
11. Mortgage registration of an addendum to the first priority Panamanian ship mortgage over vessel MV ADVANCE with IMO No 9149859 dated 12 September 2007 as amended 18 February 2011;

12. Mortgage registration of an addendum to the initially second preferred Liberian ship mortgage (having first priority as at the date of this agreement) over vessel MV ANL TONGALA (ex DEVA) with IMO No 9278105 dated 20 July 2015;

13. Mortgage registration of an addendum to the first preferred Liberian mortgage over vessel MV EXPRESS ROME with IMO No 9484936 dated 6 April 2011;

14. Mortgage registration of an amendment mortgage in relation to the first priority Maltese ship mortgage over vessel MV CGA CGM RABALAI with IMO No 9406635 dated 22 March 2011;

15. Mortgage registration of a first priority Cypriot ship mortgage over vessel MV EUROPE with IMO No 9285988;

16. Mortgage registration of a first priority Cypriot ship mortgage over vessel MV PUSAN C with IMO No 9307229;

17. Mortgage registration of a first priority Greek ship mortgage over vessel MV MAERSK EXETER with IMO No 9475698;

18. Mortgage registration of a second-preferred Liberian ship mortgage over vessel MSC AMBITION (ex HYUNDAI AMBITION) with IMO No 9475703;

19. Mortgage registration of a second-priority Maltese ship mortgage over vessel MV CMA CGM BIANCA with IMO No 9436367;

20. Mortgage registration of a second-priority Maltese ship mortgage over vessel MV CMA CGM SAMSON with IMO No. 9436379;

21. Mortgage registration of a second-priority Maltese ship mortgage over vessel MV CMA V CMA CGM TANCREDI with IMO No 9436355;

22. Execution and registration of a Deed of Covenants, subject to English law, for vessel MV CMA CGM TANCREDI with IMO No 9436355 between Teucarrier (No.2) Corp. and Aegean Baltic Bank S.A.;
23. Execution and registration of a Deed of Covenants, subject to English law, for vessel MV CMA CGM BIANCA with IMO No 9436367 between Teucarrier (No.3) Corp. and Aegean Baltic Bank S.A.;

24. Execution and registration of a Deed of Covenants, subject to English law, for vessel MV CMA CGM SAMSON with IMO No. 9436379 between Teucarrier (No.4) Corp. and Aegean Baltic Bank S.A.;

25. Execution and registration of a Deed of Covenants, subject to Cypriot law, for vessel MV EUROPE with IMO No 9285988 between OCEANEW SHIPPING LIMITED and Aegean Baltic Bank S.A.

26. Execution and registration of a Deed of Covenants, subject to Cypriot law, for vessel MV PUSAN C with IMO No 9307229 between KARLITA SHIPPING COMPANY LIMITED and Aegean Baltic Bank S.A.;

Schedule 2
Amended and Restated Facility Agreement

DANAOS CORPORATION
as Borrower
arranged by
AEGEAN BALTIC BANK S.A

HSH NORDBANK AG
as Arrangers

with

AEGEAN BALTIC BANK S.A.

as Agent

AEGEAN BALTIC BANK S.A.

as Security Agent

AMENDED AND RESTATED
FACILITY AGREEMENT
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THIS AGREEMENT is originally dated 14 November 2006/24 January 2011 as amended and restated on the Effective Date August 2018 and made between:

(1) **DANAOS CORPORATION** as borrower (as further described in Schedule 1 (The original parties)) (the **Borrower**);

(2) the guarantors (as further described in Schedule 1 (The original parties)) (the **Guarantors**);

(3) **AEGEAN BALTIC BANK S.A.** and **HSI NORDBANK AG** as mandated lead arrangers (whether acting individually or together the **Arrangers**);

(4) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (The original parties) as lenders (the **Original Lenders**);

(5) **AEGEAN BALTIC BANK S.A.** as agent of the other Finance Parties (the **Agent**); and

(6) **AEGEAN BALTIC BANK S.A.** as security trustee for the 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:

Acceptable Bank means:

(a) a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of A- or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or A-equivalent or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or

(b) any RA Lender and any legal successor of HSH Nordbank AG; or

(c) any other bank or financial institution approved by the Agent (acting on the instructions of the Majority Lenders).
Account means any bank account, deposit or certificate of deposit opened, made or established in accordance with clause 27 (Bank accounts).

Account Bank means, in relation to any Account, either the bank or financial institution specified as such in Schedule 1 (The original parties), any RA Lender or another bank or financial institution approved by the Majority Lenders at the request of the Borrower.

Account Holder(s) means, in relation to any Account, each Obligor in whose name that Account is held.

Account Security means, in relation to an Account, a first ranking (or, in the case of an Account of a Collateral Owner or which relates to a Collateral Ship second ranking) deed or other instrument by the relevant Account Holder(s) in favour of the Security Agent (or, in the case of a Collateral Ship, the RL Intercreditor Agent) in an agreed form conferring a Security Interest over that Account.

Accounting Principles has the meaning given to that term in clause 20.2 (Financial definitions).

Accounting Reference Date means 31 December or such other date as may be approved by the Lenders.

Actual Free Cash Flow has the meaning given to that term in clause 5.3 (Variable amortisation on Tranche B).

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 the Finance Documents.

Amended Articles of Association means the amended and restated articles of association of the Borrower, as in effect on the Effective Date and reflecting the governance rights agreed in the Out-of-Court Term Sheet.

Amended and Restated Sinosure Facility has the meaning given to the term “Sinosure Facility” in the Global Intercreditor Deed.

Amended RA Facilities means the Citibank Facility, the Citibank DB Refinancing Facility, the Citi-Eurobank Facility, the Citibank Pool C Refinancing Facility, the Club Facility, the Credit Suisse Facility, the Facility, the RBS Tranche 1 Facility and the RBS Tranche 2 Facility, as such terms are defined in the Global Intercreditor Deed (and in any event excluding the Amended and
Restated Sinosure Facility); and wherever any such facility is referenced in this Agreement by such designation, it shall have the meaning given to that term in the Global Intercreditor Deed.

**Amendment and Restatement Agreement** means the amendment and restatement agreement in respect of this Agreement dated 31 July 2018 between the Parties and entered into pursuant to the Restructuring Support Agreement.

**Amendment Fee** has the meaning assigned to it in clause 11.1 (Amendment Fee).

**Annual Financial Statements** has the meaning given to that term in clause 19.2 (Defined terms).

**Approved Flag State** means each of the Republic of Liberia, the Republic of Panama, the Republic of Malta, the Republic of Cyprus, Marshall Islands and the Hellenic Republic.

**Assignment Agreement** means an agreement substantially in the form set out in Part 1 of Schedule 3 (Form of Assignment Agreement and Transfer Certificate) or any other form agreed between the relevant assignor and assignee provided that if that other form does not contain the undertaking set out in the form set out in Part 1 of Schedule 3 (Form of Assignment Agreement and Transfer Certificate) it shall not be a Creditor Accession Undertaking as defined in, and for the purposes of, the Global Intercreditor Deed.

**Associate** has the meaning given to that term in section 435 of the Insolvency Act 1986 of England and Wales, provided that only sub-sections (2) and (5) of such section (and any reference to the term “associate” in such sub-section (5) shall be a reference to such term as defined in sub-section (2)) shall apply insofar as it relates to the definition of Coustas Family.


**Auditors** means one of PricewaterhouseCoopers, Ernst & Young, KPMG or Deloitte & Touche or any other firm appointed by the Borrower as its statutory auditors.

**Authorisation** means any authorisation, consent, concession, approval, resolution, licence, exemption, filing, notarisation or registration.

**Backstop Agreement** means the backstop agreement dated on or around the Closing Date and entered into between the Borrower, the Manager and the Plan Sponsor.
Balloon means the amount of USD 136,410,000.00 (in words: United States Dollars one hundred thirty six million four hundred ten thousand) at the date of this Agreement which may be reduced from time to time by way of prepayments in accordance with this Agreement.

Bail-In Action means the exercise of any Write-down and Conversion Powers.

Bail-In Legislation means:

(a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and

(b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

Balancing Payment has the meaning given to that term in clause 5.3 (Variable amortisation).

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 Regulations applicable to such Finance Party) 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 in force as at the date hereof 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 to the extent that such law or regulation re-enacts a Basel II Regulation.

**Borrower Affiliate** means the Borrower, each of its Affiliates, any member of the Coustas Family or any funds controlled by the Coustas Family, any trust of which the Borrower or any of its Affiliates or any member of the Coustas Family or any funds controlled by the Coustas Family is a trustee, any partnership of which the Borrower or any of its Affiliates or any member of the Coustas Family or any funds controlled by the Coustas Family is a partner and any trust, fund or other entity which is managed by, or is under the control of, or is accustomed to follow the directions of or guidance from the Borrower or any of its Affiliates or any member of the Coustas Family or any funds controlled by the Coustas Family.

**Borrower Change of Control** occurs if at any time:

(a) the Coustas Family (and/or any funds controlled by the Coustas Family) do not ultimately beneficially own at least 15 per cent and one share of the issued voting share capital of the Borrower; or

(b) the Coustas Family ceases to have the power to cast at a general meeting of the Borrower at least 15 per cent and one share of the maximum number of votes of the issued voting share capital that might be cast at a general meeting of the Borrower; or
(c) the Plan Sponsor ceases to beneficially hold all of the economic interest in the unsecured, subordinated loan made to the Borrower under the Subordinated Loan Agreement; or

(d) Dr John Coustas ceases to be both the Chief Executive Officer of the Borrower and a director of the Borrower, unless this is due to his death or disability and, in such case, a replacement person is appointed by the Borrower’s board of directors, following consultation with the Lenders, in accordance with the applicable corporate policy of the Borrower within 60 days of such cessation and such replacement has given a legally binding acceptance of an offer of employment (and, if appropriate, has resigned from his or her existing employment within that time period); or

(e) any group of the existing members of the board of directors of the Borrower as of the Closing Date and any directors appointed following nomination by the existing board of directors as of the Closing Date (or any directors nominated by the existing board of directors as of the Closing Date) does not comprise a majority of the board of directors of the Borrower; or

(f) any one or more persons who are not members of the Coustas Family (without taking into account any Participating Lender) acting in concert legally or beneficially own or control a greater number of shares of the Borrower than the Coustas Family provided that no Borrower Change of Control shall be deemed to occur under this paragraph (f) if it occurs as a direct result of the sale of Danaos Shares to or by any of the Participating Lenders; or

(g) any one or more persons (who are not members of the Coustas Family) acting in concert controls the Borrower.

For the purposes of this definition, **acting in concert** means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Borrower by any of them, either directly or indirectly, to obtain or consolidate control of the Borrower.

**Break Costs** means the amount (if any) by which:

(a) the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in the Loan or relevant part of it or Unpaid Sum to the last day of the current Interest Period in respect of the Loan or relevant part of it or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:
the amount which that Lender would be able to obtain by placing an amount equal to the relevant principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of that Interest Period.

**Budget** means:

(a) in relation to the Financial Year ending 31 December 2018, the Financial Model; and

(b) in relation to any other period, any budget delivered by the Borrower to the Agent pursuant to clause 19.6 (Budget).

**Business Day** means a day (other than a Saturday or Sunday):

(a) which is not a public holiday in Athens or Piraeus; and

(b) on which banks are open for general business in London and Hamburg and, in respect of a day on which a payment or purchase in dollars is to be made under a Finance Document, New York.

**Capital Contribution Agreement** means the contribution agreement governing the capital contribution of $10 million in cash to be made on or prior to the Effective Date by the Plan Sponsor to the Borrower in accordance with the Out-of-Court Term Sheet and dated on or about the Effective Date.

**Cash** has the meaning given to that term in clause 20.2 (Financial definitions).

**Cash Equivalents** has the meaning given to that term in clause 20.2 (Financial definitions).

**Cash Interest** means interest on the Loan that is paid in cash.

**CEO Employment Agreement** means the executive employment agreement of Dr John Coustas as President and Chief Executive Officer of the Borrower dated 10 May 2018.

**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 Transaction Security.

**Charter** means, in relation to a Ship, the charter commitment for that Ship details of which are provided in Schedule 2 (Ship information), any Long Term Charter or (where the conditions specified in paragraph (b) of clause 30.20 (Breach of Charter) have been satisfied in accordance with that paragraph in relation to that Ship) the relevant Replacement Charter in relation to that Ship.
**Charter Assignment** means, in relation to a Ship and its Charter Documents, a first ranking (or, in the case of a Collateral Ship, second ranking) assignment by the relevant Owner of its interest in such Charter Documents in favour of the Security Agent (or, in the case of a Collateral Ship, the RL Intercreditor Agent) in the agreed form.

**Charter Documents** means, in relation to a Ship, the Charter of that Ship or the Long Term Charter of that Ship, any documents supplementing it and any guarantee or security given by any person for the relevant Charterer’s obligations under the Charter of that Ship or the Long Term Charter of that Ship.

**Charterer** means, in relation to a Ship, the charterer named in Schedule 2 (Ship information) as charterer of that Ship or (where the conditions specified in paragraph (b) of clause 30.20 (Breach of Charter) have been satisfied in accordance with that paragraph) the person chartering the Ship under the relevant Replacement Charter for that Ship.

**Classification** means, in relation to a Ship, the classification specified in respect of such Ship in Schedule 2 (Ship information) with the relevant Classification Society, the equivalent classification with another 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.

**Closing Date** has the meaning given to that term in the Restructuring Support Agreement.

**Code** means the US Internal Revenue Code of 1986.

**Collateral Owner** means, in relation to a Collateral Ship, the person specified against the name of that Collateral Ship in Schedule 2 (Ship information).

**Collateral Ships** means each of the ships described as “Collateral Ships” in Schedule 2 (Ship information) and **Collateral Ship** means any of them.

**Collateral Ship Security Documents** means, in relation to a Collateral Ship, together, the Mortgage, any General Assignment, any Deed of Covenant and any Charter Assignment for that Collateral Ship, the Account Security for the Earnings Account in respect of such Collateral Ship and any Manager’s Undertaking in respect of that Collateral Ship.
Commitment means:

(c) 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 assigned to it under this Agreement; and

(d) in relation to any other Lender, the amount of any Commitment assigned to it under this Agreement, to the extent not cancelled, reduced or assigned by it under this Agreement.

Compliance Certificate means a certificate substantially in the form set out in Part 1 of Schedule 4 (Form of Compliance Certificate and Ring Fencing Compliance Certificate) or otherwise approved by the Majority Lenders.

Confidential Information means all information relating to an Obligor, the Group, the Transaction 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 Group Member or any of its advisers; or

(b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any Group Member or any of its advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

(i) information that:

(A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of clause 47 (Confidential Information); or

(B) is identified in writing at the time of delivery as non-confidential by any Group Member or any of its advisers; or

(C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance
Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and

(ii) any Funding Rate.

Confidentiality Undertaking means a confidentiality undertaking substantially in the appropriate recommended form of the Loan Market Association or in any other form agreed between the Borrower and the Agent.

Constitutional Documents means, in respect of an Obligor, such Obligor’s memorandum and articles of association, by-laws or other constitutional documents including as referred to in any certificate relating to an Obligor delivered pursuant to the Amendment and Restatement Agreement.

Corporate Waiver Event of Default has the meaning given to that term in the Global Intercreditor Deed.

Coustas Family means Dr John Coustas and any Associate of Dr John Coustas.

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.

Danaos Shares means the common shares of the Borrower.

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 ranking (or, in the case of a Collateral Ship, second ranking) deed of covenant in respect of such Ship by the relevant Owner (including an assignment of its interest and such Ship’s Earnings, Insurances and Requisition Compensation) in favour of the Security Agent (or, in the case of a Collateral Ship, the RL Intercreditor Agent) in the agreed form.

Default means an Event of Default or any event or circumstance specified in clause 30 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

Defaulting Lender means any Lender:

(a) which has rescinded or repudiated a Finance Document; or

(b) with respect to which an Insolvency Event has occurred and is continuing.

Delegate means any delegate, agent, attorney, additional trustee or co-trustee appointed by the Security Agent.

Disposal Proceeds means the consideration received by any Group Member for any disposal of an asset after deducting:

(a) any reasonable expenses which are incurred by any Obligor with respect to that disposal to persons who are not Group Members or any Borrower Affiliate; and

(b) any Tax incurred and required to be paid by the seller under that disposal in connection with that disposal (as reasonably determined by the seller, on the basis of existing rates and taking account of any available credit, deduction or allowance).

Disposal Repayment Date means in relation to:

(a) a Total Loss of a Mortgaged Ship, the applicable Total Loss Repayment Date; and

(b) a sale (including, without limitation, a sale for scrapping) of a Mortgaged Ship by the relevant Owner or a sale of the shares in the 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.

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.

**Distribution** means, in respect of a person, that person:

(a) declares or pays (including by way of set-off, combination of accounts or otherwise) any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital) or any warrants for the time being in issue;

(b) repays or distributes any dividend or share premium reserve;

(c) pays any management, advisory or other fee to or to the order of any of the shareholders of the relevant person;

(d) redeems, repurchases, defeases, retires or repays any of its share capital or resolves to do so; or

(e) makes any payment (including by way of set-off, combination of accounts or otherwise) by way of interest, repayment, redemption, purchase or other payment, in respect of any shareholder loan, loan stock or similar instrument.

**Dividend Reinvestment Escrow Account** means the escrow agreement in respect of dividends distributed by the Borrower as contemplated by and substantially in the form attached to the Shareholders Agreement.

**Dormant Subsidiary** means a Group Member which does not trade (for itself or as agent for any person) and does not own, legally or beneficially, assets (including, without limitation,
indebtedness owed to it) which in aggregate have a value of USD 50,000.00 or more or its equivalent in other currencies.

**Earnings** means, in relation to a Ship and a person, all money at any time due or payable to that person for or in relation to the use or operation of such Ship including 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, income arising out of pooling or sharing arrangements, 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 or other contract for the employment of such Ship and, if applicable, any sums recoverable under any loss of earnings insurance.

**Earnings Account** means any Account designated as an “Earnings Account” under clause 27 (Bank accounts).

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

**Effective Date** has the meaning given to that term in the Amendment and Restatement Agreement.

**Eligible Institution** means any Lender or other bank, financial institution, trust, fund or other entity selected by the Borrower and which, in each case, is not a Borrower Affiliate or a Group Member.

**Environmental Claims** means:

(a) enforcement, clean-up, removal or other governmental or regulatory action or orders or proceedings or formal notices or investigations 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 Fleet Vessel 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 Fleet Vessel 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.

Equity Document means each of:

(a) the Amended Articles of Association;
(b) the Subordinated Loan Agreement;
(c) the Registration Rights Agreement;
(d) the Capital Contribution Agreement; and
(e) the Backstop Agreement.

EU Bail-In Legislation Schedule means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

Event of Default means any event or circumstance specified as such in clause 30 (Events of Default).

Excess Cash has the meaning given to that term in the Global Intercreditor Deed and to be calculated in accordance with Schedule 7 (Restructured Facility Waterfall of Excess Cash).

Excess Cash Loan means a documented unsecured loan documenting amounts advanced by an Owner or an Existing Fleet Group Member (as applicable) to the Borrower or amounts advanced by the Borrower to an Owner or an Existing Fleet Group Member (as applicable), in each case, which complies with the terms of clause 4.2 (Terms of Excess Cash Loans) of the Global Intercreditor Deed.

Excess Cash Loan Security means, in relation to Excess Cash Loans advanced by a Guarantor, a deed or other instrument by the relevant Guarantor in favour of the Security Agent in an agreed form conferring a Security Interest over those Excess Cash Loans.

Existing Fleet Group Member means at any time any Group Member who is a party to or an obligor in respect of an Amended RA Facility, to the Amended and Restated Sinosure Facility or any Permitted Refinancing in respect of any such facility.

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 that 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 or offices through which it will perform its obligations under this Agreement; or

(b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

**Facility Period** means the period from and including the date of this Agreement to and including the date on which the Total Commitments have reduced to zero and all indebtedness of the Obligors under the Finance Documents has been fully paid and discharged.

**Facility Representative** means the Facility Representative under (and as defined in) the Global Intercreditor Deed for the HSH Facility (as defined in the Global Intercreditor Deed) or the Facility Representative under (and as defined in) the Intra-Restructuring Lenders Intercreditor Deed for the HSH Facility Agreement (as defined in the Intra-Restructuring Lenders Intercreditor Deed), as applicable.

**FATCA** means:

(a) sections 1471 to 1474 of the Code or any associated regulations;

(b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

(c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

**FATCA Application Date** means:

(a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;

(b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,
or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change
in FATCA after the date of this Agreement.

FATCA Deduction means a deduction or withholding from a payment under a Finance Document required by FATCA.

FATCA Exempt Party means a Party that is entitled to receive payments free from any FATCA Deduction.

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

Fee Letter means any letter or letters dated on or about or before the Effective Date between the Arrangers, the Original Lenders (or any of their Affiliates)
and the Borrower (or the Agent and the Borrower or the Security Agent and the Borrower) setting out any of the fees referred to in clause 11 (Fees) and
includes any agreement setting out any fees payable to a Finance Party under any other Finance Document.

Final Repayment Date means, subject to clause 40.8 (Business Days)

(a) in relation to Tranche A: 31 December 2023; and

(b) in relation to Tranche B: 30 June 2024.

Finance Documents means this Agreement, the Amendment and Restatement Agreement, any Compliance Certificate, any Fee Letter, the Hedging Strategy
Letter, any Ring Fencing Compliance Certificate, the Security Documents, the Intercreditor Agreements and any deed of accession supplemental to it, the
Observer Side Letters and any other document designated as such by the Agent and the Borrower.

Finance Lease has the meaning given to that term in clause 20.2 (Financial definitions).

Finance Party means the Agent, the Security Agent, any Arranger 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 (including, without limitation, any debit balance in respect of the Earnings Account);

(b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);

(c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a Finance Lease;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for derecognition under the Accounting Principles);

(f) 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);

(g) 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;

(h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before all amounts outstanding under the Finance Documents have been discharged in full or are otherwise classified as borrowings under the Accounting Principles;

(i) any amount of any liability under an advance or deferred purchase agreement if (i) 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 (ii) 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;

(j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
(k) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above.

**Financial Model** means the financial model delivered to the Original Lenders on 13 June 2018.

**Financial Quarter** means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

**Financial Year** means the annual accounting period of the Borrower ending on or about the Accounting Reference Date in each year.

**First Priority Security** means, in relation to a Collateral Ship and/or its Collateral Owner, all first priority security ranking ahead of the Collateral Ship Security Documents, as such first priority security is described and/or contemplated in the Restructuring Lenders/Citi-Eurobank Lenders Intercreditor Deed and/or the Restructuring Lenders/Sinosure Lenders Intercreditor Deed.

**First Repayment Date** means, subject to clause 40.8 (Business Days), 15 November 2018.

**Fixed Amortisation Amount** means the repayment instalments in respect of Trache A as set out in clause 5.2 (a) (Scheduled repayment of Facility).

**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 the Lenders pursuant to clause 22.2 (Ship’s name and registration), 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, operated, managed or crewed by any Group Member.

**Follow-on Equity Raise** means investment commitments for Danaos Shares, the net cash proceeds of which received by the Borrower are in an aggregate amount of not less than $50,000,000.

**Funding Rate** means any individual rate notified by a Lender to the Agent pursuant to paragraph (a)(ii) of clause 10.3 (Cost of funds).

**GAAP** means generally accepted accounting principles in the United States of America.

**Gemini JV** means Gemini Shipholdings Corporation, a Marshall Islands company beneficially owned 49 per cent. by the Borrower.
**General Assignment** means, in relation to a Ship in respect of which the mortgage is not an account current form (other than a Ship registered in Cyprus), a first ranking (or, in the case of a Collateral Ship, second ranking) assignment of its interest in the Ship’s Insurances, Earnings and Requisition Compensation, in its Charter Documents by the relevant Owner in favour of the Security Agent (or, in the case of a Collateral Ship, the RL Intercreditor Agent) in the agreed form.

**Global Intercreditor Agent** has the meaning given to that term in the Global Intercreditor Deed.

**Global Intercreditor Deed** means the global intercreditor deed dated on or about the date of this Agreement between, amongst others, the Borrower, the financial institutions referred to therein as Lenders, the financial institutions referred to therein as Facility Agents, the financial institutions referred to therein as Security Agents and Aegean Baltic Bank S.A. as Global Intercreditor Agent.

**Group** means the Borrower and its Subsidiaries for the time being and, for the purposes of clause 19.3 *(Financial statements)* and clause 20 *(Financial covenants)*, any other entity required to be treated as a subsidiary in its consolidated accounts in accordance with the Accounting Principles and/or any applicable law.

**Group Earnings Account** has the meaning given to it in clause 28.3 (b) (iii).

**Group Member** means any Obligor and any other entity which is a member of the Group (but, for the purposes of clause 20 *(Financial covenants)*, excluding the Manager).

**Group Structure Chart** means the group structure chart in the agreed form.

**Hedging Contract** means any Hedging Transaction between the Borrower and any Hedging Provider pursuant to any Hedging Master Agreement and includes any 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 Master Agreement** means any agreement made or (as the context may require) to be made between the Borrower and a Hedging Provider comprising an ISDA Master Agreement as amended and supplemented from time to time by the Schedules and annexes thereto.

**Hedging Provider** means any Lender, any Original Participating Lender (as defined in the Intercreditor Agreement) or any other person that enters into a Hedging Contract with the Borrower from time to time.

**Hedging Strategy Letter** means the letter between (amongst others) the Borrower and the Agent setting out the hedging strategy of the Group.
Hedging Transaction has, in relation to any Hedging Master Agreement, the meaning given to the term “Transaction” in that Hedging Master Agreement.

HMM Note means any note issued by Hyundai Merchant Marine or any of its Subsidiaries (together HMM) and held by an Obligor, details of which notes are set out in Schedule 6 (HMM Notes).

HMM Note Security means, in relation to a HMM Note, a deed or other instrument by the relevant holder in favour of the Security Agent in an agreed form conferring a Security Interest over that HMM Note.

Holding Company means, in relation to a person, any other person in respect of which it is a Subsidiary.

Impaired Agent means the Agent at any time when:
(a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;
(b) the Agent otherwise rescinds or repudiates a Finance Document;
(c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) of the definition of “Defaulting Lender”; or
(d) an Insolvency Event has occurred and is continuing with respect to the Agent;

unless, in the case of paragraph (a) above:
(i) its failure to pay is caused by:
   (A) administrative or technical error; or
   (B) a Disruption Event; and
   payment is made within three (3) Business Days of its due date; or
(ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

Implementation Deed means the global restructuring implementation deed dated on or about the Effective Date between, among others, the Borrower, the Manager, the Plan Sponsor and the RA Lenders.

Increased Costs has the meaning given to that term in paragraph (b) of clause 13.1 (Increased costs).

Indemnified Person means:
(a) each Finance Party, each Receiver, any Delegate and any other person appointed by them under the Finance Documents;
(b) each Affiliate of those persons; and
(c) any officers, directors, employees, advisers (including attorneys), representatives or agents of any of the above persons.

Information Package has the meaning given to that term in clause 18.7 (No misleading information).

Insolvency Event in relation to an entity means that the entity:
(a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
(b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
(c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
(d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
(e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in 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 (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);

(i) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other enforcement action or legal process levied, enforced, taken 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.

**Instalment Date** means 15 February, 15 May, 15 August and 15 November in each year.

**Insurance Notice** means, in relation to a Ship, a notice of assignment in the form scheduled to the 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 re-insurance; and
all entries in a protection and indemnity or war risks or other mutual insurance association;

which are from time to time, in place taken out or entered in respect of a Ship or its Earnings or otherwise and all benefits of such policies and contracts (including, without limitation, any and all rights or claims which the Owner owning that Ship may have under or in connection with any cut-through clause relative to any reinsurance contract relating to the aforesaid policies or contracts of insurance) 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.

**Intellectual Property** means:

(c) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and

(d) the benefit of all applications and rights to use such assets of each Obligor (which may now or in the future subsist).

**Interbank Market** means the London interbank market.

**Intercreditor Agreement** means any of the Global Intercreditor Deed, the Intra-Restructuring Lenders Intercreditor Deed, the Restructuring Lenders/Citi- Eurobank Lenders Intercreditor Deed and the Restructuring Lenders/Sinosure Lenders Intercreditor Deed; and wherever any such agreement or deed (excluding the Global Intercreditor Deed) is referenced in this Agreement by such designation, it shall have the meaning given to that term in the Global Intercreditor Deed.

**Interest Period** means, in relation to the Loan (or any part of the Loan), each period determined in accordance with clause 9 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with clause 8.3 (Default interest).

**Interpolated Screen Rate** means, in relation to LIBOR for an Interest Period with respect to the Loan or any part of it or any Unpaid Sum, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

(a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the relevant Interest Period; and

(b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the relevant Interest Period.
each as of 11:00 a.m. on the relevant Quotation Day.

**ISM Code** means The International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the International Maritime Organisation as Resolutions A.741(18) and A.913(22) (as amended, supplemented or replaced from time to time).

**ISPS Code** means The International Ship and Port Facility Security Code as adopted by the International Maritime Organisation (as amended, supplemented or replaced from time to time).

**Joint Venture** means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

**Legal Opinion** means any legal opinion delivered to the Agent under the Amendment and Restatement Agreement.

**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 Act 1980 and the Foreign Limitation Periods Act 1984, 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;

(c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and

(d) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinion delivered to the Agent under the Amendment and Restatement Agreement.

**Lender** means:

(a) any Original Lender; and

(b) any bank, financial institution, trust, fund or other entity which has become a Party as a “Lender” in accordance with clause 31 (*Changes to the Lenders*),

which in each case has not ceased to be a Party as such 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 as of 11:00 a.m. on the relevant Quotation Day for the currency of the Loan for a period equal in length to the Interest Period of the Loan or relevant part of it or Unpaid Sum; or

(b) as otherwise determined pursuant to clause 10.1 (Unavailability of Screen Rate),

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

Loan means the loan made under the Facility, consisting of Tranche A and Tranche B, or the principal amount outstanding for the time being.

Long Term Charter means any time charter in respect of a Ship exceeding a term of 12 months (including options), but excluding the charter commitment for that Ship details of which are provided in Schedule 2 (Ship information).

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 the Ship’s General Assignment or Deed of Covenant or in another form approved or required by the Majority Lenders.

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.

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 in Schedule 2 (Ship information) against the name of such Ship or the equivalent in any other currency.

Majority Club Lenders means until any Original Lender transfers any part of its Commitment to a New Lender (as defined in clause 31.1 (Assignment and transfers by the Lenders)), all Lenders and following such transfer to a New Lender the Majority Lenders.

Majority Corporate Lenders has the meaning given to that term in the Global Intercreditor Deed.

Majority Lenders means a Lender or Lenders whose Commitments aggregate more than 66⅔ per cent of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66⅔ per cent of the Total Commitments immediately prior to that reduction).
Manager means Danaos Shipping Company Limited or such other manager as may be appointed from time to time pursuant to clause 22.4 (Manager).

Manager Change of Control means Dr John Coustas and the Plan Sponsor cease at any time collectively:

(a) to be the ultimate beneficial owner of at least 80 per cent of the outstanding capital stock of the Manager; or

(b) to hold or be the ultimately beneficial owner of at least 80 per cent of the voting rights attaching to the outstanding capital stock of the Manager; or

(c) to control (as contemplated under clause 1.2 (xi), paragraph (A)(3) of the definition of control in clause 1.2 (Construction)) the Manager.

Management Agreement means the amended and restated Management Agreement dated as of the Closing Date between the Manager and the Borrower, and which shall include each Shipmanagement Agreement.

Managers Undertaking means, in relation to a Ship, a first ranking (or, in the case of a Collateral Ship, second ranking) undertaking by any manager of the Ship to the Security Agent (or, in the case of a Collateral Ship, the RL Intercreditor Agent) in the agreed form pursuant to clause 22.4 (Manager) pursuant to which the Manager shall, amongst other things, (i) subordinate its rights under the Management Agreement to the rights of the Finance Parties under the Transaction Documents and (ii) assign its rights, title and interest in and to the benefit of the Insurances, if applicable.

Margin means 2.50 % (two point five zero per cent) per annum.

Material Adverse Effect means a material adverse effect on:

(a) the business, operations or condition (financial or otherwise) of the Group taken as a whole; or

(b) the ability of the Obligors (taken as a whole) to perform their obligations under 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.
Month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in the calendar month in which that period is to end (if there is one) or on the immediately preceding Business Day (if there is not);

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

(c) if an Interest Period or a PIK Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period or PIK Interest Period is to end.

The above rules will only apply to the last Month of any period.

Mortgage means, in relation to a Ship, a first ranking (or, in the case of a Collateral Ship, second ranking) mortgage of the Ship in the agreed form by the relevant Owner in favour of the Security Agent (or, in the case of a Collateral Ship, the RL Intercreditor Agent).

Mortgage Period means, in relation to a Mortgaged Ship, the period from the date the Mortgage over that Ship is executed and registered or an amendment of such Mortgage is registered under the Amendment and Restatement Agreement until the date such Mortgage is released and discharged or, if earlier, its Total Loss Date (provided that such total loss falls within lit. (a), (b) or (c) of the definition of Total Loss Date).

Mortgaged Ship means, at any relevant time, any Ship which is subject to a Mortgage and/or whose Earnings, Insurances and Requisition Compensation are subject to a Security Interest under the Finance Documents.

NED means an independent (within the meaning of the NYSE listing rules applicable to US domestic issuers) disinterested non-executive director of the Borrower.

New Lender has the meaning given to that term in clause 31 (Changes to the Lenders).

New Owner has the meaning given to that term in the definition of Permitted Ship Purchase.

New Vessel has the meaning given to that term in the definition of Permitted Ship Purchase.
Notifiable Debt Purchase Transaction has the meaning given to that term in clause 46.9 (Disenfranchisement of Borrower Affiliates).

Obligors means the Borrower, the Guarantors, the Owners, the Shareholders and the Manager and Obligor means any one of them.

Obligors’ Agent means the Borrower, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to clause 2.3 (Obligors’ agent).

Observer Side Letters means each of the three side letters dated on or around the Effective Date under which the Borrower grants the right to appoint an observer to the Borrower’s board of directors two of which shall be issued in favour of HSH Nordbank AG and one in favour of Pireaus Bank S.A.

OFAC means the Office of Foreign Assets Control of the U.S. Department of Treasury.

Original 700m Facility Agreement has the meaning assigned to that term in the Amendment and Restatement Agreement.

Original 125m Facility Agreement has the meaning assigned to that term in the Amendment and Restatement Agreement.

Original Financial Statements means the audited consolidated financial statements of the Group for its Financial Year ended 31 December 2017.

Original Jurisdiction means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the Effective Date or, in the case of any other Obligor, as at the date on which that Obligor becomes an Obligor.

Original Security Documents means:

(a) the Mortgages over each of the Ships;
(b) the payment guarantees of the Owners provided in connection with the Mortgages;
(c) the Deeds of Covenant in relation to each of the Ships in respect of which the Mortgage is in account current form (or the Ship is registered in Cyprus);
(d) the General Assignments in relation to each of the Ships in respect of which the Mortgage is in preferred form (or the Ship is registered in Cyprus);
(e) the Share Security in relation to each Owner;
(f) the Charter Assignment in relation to each Ship’s Charter Documents;
(g) the Account Security in relation to each Account;
(h) the Excess Cash Loan Security;
(i) the HMM Notes Security;
(j) the Support Payment Security; and
(k) the Manager’s Undertaking in relation to each Ship.

**Out-of-Court Term Sheet** means the restructuring term sheet attached as Exhibit D to the Restructuring Support Agreement.

**Owner** means, in relation to a Ship, the person specified against the name of that Ship in Schedule 2 (Ship information) and, in the case of a Collateral Ship, it includes its Collateral Owner.

**Owner Change of Control** means:

(a) any Owner ceases at any time to be a wholly-owned direct Subsidiary of the Shareholder in respect of which it is a Subsidiary as at the Closing Date; and/or
(b) any Shareholder ceases at any time to be a wholly-owned direct subsidiary of the Borrower.

**Participating Lender** means each of the banks or financial institutions party to the Restructuring Support Agreement (excluding, for the avoidance of doubt, Group Members, the Manager and the Plan Sponsor) together with any of its or their Affiliates and Related Funds.

**Participating Member State** means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

**Party** means a party to this Agreement.

**Permitted Group Level Acquisition** means:

(a) an acquisition by the Borrower in the ordinary course of trading (not being new businesses or vessels unless a Permitted Ship Purchase);
(b) a Permitted Ship Purchase;
(c) in connection with a Permitted Ship Purchase:

(i) the acquisition of 100 per cent of a newly incorporated special purpose Subsidiary to act as either a vessel-owning company or a Holding Company of such a vessel-owning Subsidiary; or

(ii) the acquisition of 100 per cent of one or more special purpose entities owning vessels or Holding Companies of such a vessel-owning entity; or

(d) the acquisition of Cash and Cash Equivalents.

Permitted Group Level Distribution means

(a) any Distribution in cash by the Borrower (but no other Group Member), provided that:

(i) the Borrower has received net cash proceeds from issuances of common stock in the Borrower (after all underwriting and other discounts, commissions or deductions and all other costs and expenses of such transaction, including professional and other fees and expenses and any other transaction costs of any kind related thereto in connection with such issuance of common stock) since the Closing Date in an aggregate amount in excess of $50,000,000 (excluding, for the avoidance of doubt, any proceeds received in connection with the Capital Contribution Agreement or the Subordinated Loan Agreement);

(ii) the Distribution is not made before the First Repayment Date;

(iii) no Default is continuing (including, in the case of a Corporate Waiver Event of Default, where such Corporate Waiver Event of Default would be continuing but for it having been waived by the Majority Corporate Lenders) or would occur immediately after the making of the Distribution; and

(iv) the board of directors of the Borrower has concluded, in compliance with its fiduciary duties and subject to all applicable laws, that it is appropriate for the Borrower to declare and make such a Distribution; and

(iv) in the case of a repurchase of any of the Borrower’s share capital, such repurchase is effected by tender offer open to all shareholders and all NEDs have consented to such repurchase on the basis of reasonable valuation evidence received from a major, reputable, international accounting or financial advisory firm or international investment bank; and

(b) the payment of management fees under and in accordance with the Management Agreement.

Permitted Group Level Financial Indebtedness means:

(a) Financial Indebtedness incurred under the Amended RA Facilities or the Amended and Restated Sinosure Facility (in each case in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed), the Finance Documents and the Hedging Contracts for Hedging Transactions entered into pursuant to clause 29.2 (Hedging);

(b) Financial Indebtedness owed by the Borrower to a Group Member and vice versa under Excess Cash Loans, or Permitted Subordinated Loans, which are governed by the terms of the Global Intercreditor Deed;

(c) Financial Indebtedness which is unsecured and has been approved by the Majority Lenders; and

(d) Financial Indebtedness constituting a Permitted Refinancing or incurred in connection with a Permitted Ship Purchase or a Permitted SLB Transaction.

Permitted Group Level Loans Out means:

(a) loans or credits to an Obligor or any other Existing Fleet Group Member in respect of Support Payments or Permitted Subordinated Loans that are Permitted Payments; and

(b) loans or credits to any Obligor or any other Group Member (other than an Existing Fleet Group Member or the Manager) provided that such loans or credit would not otherwise be prohibited under the terms of the Global Intercreditor Deed.

Permitted Group Level Security Interest means, any Security Interest which is:

(a) granted pursuant to the Finance Documents or pursuant to any Amended RA Facilities or the Amended and Restated Sinosure Facility (in each case, in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed, or any Permitted Refinancing in respect of any such facility, and (in each case) permitted by the terms of the Intercreditor Deeds; or
(b) approved by the Majority Lenders and not restricted by the terms of the Global Intercreditor Deed; or

(c) a Security Interest securing Financial Indebtedness incurred in connection with a Permitted Ship Purchase and is only granted over the relevant New Vessel (and/or its New Owner, other assets of the New Owner and/or over the shares of the New Owner or any Holding Company of the New Owner (other than the Borrower)) acquired as part of such Permitted Ship Purchase and any earnings account in connection with such vessel, but excluding (for the avoidance of doubt) any Security Interest over any assets of, shares of or claims relating to, an Existing Fleet Group Member (other than the Borrower), any Excess Cash Loans or any Earnings Account.

**Permitted Maritime Liens** means, in relation to any Mortgaged Ship:

(a) any ship repairer’s or outfitter’s possessory lien in respect of the Ship for an amount not exceeding the Major Casualty Amount;

(b) any lien on the Ship for master’s, officer’s or crew’s wages outstanding or master’s disbursements in the ordinary course of its trading, provided that such liens are not more than 30 days overdue;

(c) any lien on the Ship for salvage or general average; and

(d) any other lien on the Ship arising by operation of law for claims incurred in the ordinary course of the operation, repair or maintenance of the Ship and which are outstanding for not longer than 30 days.

**Permitted Payment** means any payment under an Excess Cash Loan or a Permitted Subordinated Loan or any Support Payment, or any other payment which is expressly permitted by the Global Intercreditor Deed to be made.

**Permitted Refinancing** means any Financial Indebtedness (the **New Debt**) incurred after the Closing Date by an Obligor or any other Existing Fleet Group Member secured by a Security Interest over a Fleet Vessel, provided that:

(a) if such New Debt refines an Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) secured by the first priority security over such Fleet Vessel (the **Existing Debt**), the proceeds of such New Debt are applied in such manner so that, and upon the advance of such New Debt the Borrower ensures that, all amounts outstanding under the Existing Debt are prepaid in full in accordance with the terms of such Existing Debt, unless:
(i) the lenders in respect of the Existing Debt agree otherwise pursuant to the provisions of the same;

(ii) the Obligors would be in compliance with the Consolidated Net Leverage financial covenant under (and as defined in) clause 20 (Financial covenants) immediately prior to such incurrence of Financial Indebtedness (calculated on a pro forma basis to reflect the incurrence of the Financial Indebtedness); and

(iii) no change is made to the Security Interests of such lenders under such Existing Debt, or to the priority of payments under it, without the consent of all of the lenders thereunder;

(b) if such New Debt is of the type described in paragraph (a) above:

(i) any surplus proceeds of such New Debt following the prepayment provided for in paragraph (a) above (after all costs and expenses of such Permitted Refinancing, including professional and other fees and expenses and any other transaction costs of any kind related thereto) are applied to prepay the Restructured Facilities (on a pro rata basis) in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed; and

(ii) the New Debt does not provide for an interest rate that exceeds the interest payable on the Existing Debt which it refinances (for these purposes, treating upfront fees as interest by calculating the percentage of principal refinanced that such fees represent and dividing that percentage by the number of years’ duration of the refinancing loan); and

(iii) the New Debt does not have a shorter weighted average life to maturity than, and the stated maturity of such New Debt does not fall earlier than the stated maturity of, the Existing Debt which it refines;

(c) if such New Debt constitutes additional or increased Financial Indebtedness advanced under the same facility constituting, and consolidated into, the Existing Debt it is advanced by the same lenders as the Existing Debt and:

(i) any proceeds of such New Debt are applied to prepay the Restructured Facilities (on a pro rata basis) in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed;

(ii) the Obligors would be in compliance with the Consolidated Net Leverage financial covenant under (and as defined in) clause 20 (Financial covenants) immediately
prior to such incurrence of Financial Indebtedness (calculated on a pro forma basis to reflect the incurrence of the Financial Indebtedness);

(iii) the New Debt does not provide for an interest rate that exceeds the interest payable on the Existing Debt to which it is added or which it increases (for these purposes, treating upfront fees as interest by calculating the percentage of the additional or increased principal such fees represent and dividing that percentage by the number of years’ duration of the new or additional financing);

(iv) the New Debt does not have a shorter weighted average life to maturity than, and the stated maturity of such New Debt does not fall earlier than the stated maturity of, the Existing Debt to which it is added or which it increases; and

(d) in any event, the nature and scope of any property of Group Members that is subject to any Security Interest securing the New Debt does not exceed the same in respect of the Existing Debt which it refinances or to which it is added or which it increases.

Permitted Reflagging means, in relation to a Fleet Vessel owned directly by an Existing Fleet Group Member (other than an Obligor), the change of flag of such Fleet Vessel:

(a) with the prior written approval or at the request of the requisite number of lenders of the Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable), where such approval is required under any such facility; and

(b) which is secured by a first ranking mortgage over such Fleet Vessel, in each case pursuant to the provisions of that Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable), which is accompanied by a discharge of certain of the first ranking Security Interests in favour of the lender or lenders of that facility (and/or their security trustee), including the first ranking ship mortgage over such Fleet Vessel, and their replacement by other first ranking Security Interests in favour of the same lender or lenders of that facility (and/or their security trustee), including a replacement first ranking ship mortgage over such Fleet Vessel, provided that, in the case of such replacement security, the new security provides the said lender or lenders (and/or the security trustee), in their opinion, with substantially the same rights as the discharged security; and

(c) which does not result in any Finance Party having any liability in respect of Tax in any Flag State or having or being deemed to have a place of business in any Flag State or any Relevant Jurisdiction of any Obligor.
Permitted Ship Purchase means the purchase, chartering-in or other acquisition of a new build vessel or a second hand vessel (a New Vessel) (excluding any Fleet Vessel owned by an Existing Fleet Group Member) by a wholly-owned Subsidiary of the Borrower (a New Owner) (and excluding any Existing Fleet Group Member), provided that:

(a) the Obligors would be in compliance with the financial covenants under clause 20 (Financial covenants) immediately prior to such purchase, chartering-in or other acquisition (calculated on a pro forma basis to reflect (i) the incurrence of any Financial Indebtedness in connection with such purchase, charter or other acquisition and (ii) the net book value (in the case where the New Vessel is a vessel under construction) or (charter free) market value (in the case where the New Vessel is a vessel that is operational and trading or capable of trading) based on valuations obtained in respect of the New Vessel in accordance with clause 25 (Valuations) and prepared no earlier than seven (7) days prior to the completion of such transaction, but in any event without any pro forma adjustment to Consolidated EBITDA);

(b) the terms of any Financial Indebtedness incurred in connection with such purchase, charter-in or other acquisition do not include non-market restrictions on Distributions or loans made by the New Owner or its Subsidiaries to the Borrower;

(c) any Financial Indebtedness incurred in connection with such purchase, charter-in or acquisition does not decrease the applicable Minimum Corporate Cover (Charter Free) or Minimum Corporate Cover (Charter Attached) ratio calculated in accordance with clause 20.3 (Minimum Corporate Cover (Charter Free)) and clause 20.4 (Minimum Corporate Cover (Charter Attached));

(d) such New Vessel continues to be owned or chartered-in by the New Owner after such purchase, charter-in or acquisition; and

(e) no Event of Default is continuing or would result from the purchase.

Permitted SLB Transaction means a sale or other disposal of a Fleet Vessel by an Existing Fleet Group Member (other than an Obligor) to a person who is not a Borrower Affiliate, and the concurrent chartering-in or lease-back of the same Fleet Vessel by the same or another Group Member (who is not the Borrower and is a wholly-owned Subsidiary of the Borrower), provided that:

(a) in respect of a Fleet Vessel owned by an Existing Fleet Group Member other than the Pooled Facilities Joint Collateral Ships, the following conditions are met:
the Disposal Proceeds are applied in prepayment in such manner so that, and upon payment of such Disposal Proceeds the Borrower ensures that, all amounts outstanding under the Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) secured by the first priority mortgage over such Fleet Vessel are prepaid in full in accordance with the terms of such Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable), unless:

(A) the lenders of the said Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) agree otherwise pursuant to the provisions of the same; and

(B) the Obligors would be in compliance with the financial covenants under clause 20 (Financial covenants) immediately prior to such transaction (calculated on a pro forma basis to reflect the said transaction but without any pro forma adjustment to Consolidated EBITDA); and

(ii) any surplus Disposal Proceeds of such transaction following the prepayment provided for in paragraph (a) above are applied to prepay the Restructured Facilities (on a pro rata basis) in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed;

(iii) no Default or Event of Default is continuing at the relevant time under any of the Amended RA Facilities nor will result from the entry into the sale and leaseback transaction;

(iv) such cost to the relevant Group Member of the said transaction (when comparing the interest portion of any lease or other charter payments thereunder, to the interest cost of the Financial Indebtedness that is being prepaid by the relevant Disposal Proceeds and which was previously secured by the first ranking mortgage over the relevant Fleet Vessel) is not higher than the interest payable under the said Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) which is being prepaid (for these purposes, treating upfront fees and related disposal and leaseback upfront costs as interest by calculating the percentage of principal prepaid such fees represent and dividing that percentage by the number of years’ duration of the new charter-in);

(v) the firm tenor of such charter-in or leaseback contract does not have a shorter weighted average life to re-delivery of the relevant Fleet Vessel thereunder, than the said Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) which is being prepaid by the relevant Disposal Proceeds; and
(vi) each of:

(A) first ranking Security Interest over any charter, Earnings, Insurances and Requisition Compensation in respect of the relevant Fleet Vessel by way of security;

(B) first-ranking Security Interest over both the chartering-in, leaseback or similar contract conferring on the Group Member the right to use the Fleet Vessel (including Security Interest over any buy-out option); and

(C) first-ranking Security Interest over the shares of the Group Member chartering-in or leasing-back the Fleet Vessel,

(in each case) is, at the cost of the Borrower, provided to the Restructuring Lenders in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed on a first-ranking basis, provided that if first-ranking Security Interest over any charter, Earnings, Insurances or Requisition Compensation in respect of the relevant Fleet Vessel or the shares of that Group Member chartering-in or leasing-back the Fleet Vessel is required to be granted to the lessor counterparty under such chartering-in or sale and leaseback arrangement, then the relevant Security Interest provided to Restructuring Lenders may be on a second-ranking basis.

(b) in respect of a Pooled Facilities Joint Collateral Ship, the following conditions are met:

(i) the Borrower has provided, and the chief financial officer of the Borrower has presented, to all the RA Lenders such materials describing in reasonable detail (A) the key terms of the proposed sale and leaseback transaction, (B) the economic benefit of such a transaction as compared to other alternatives including the sale of the relevant Pooled Facilities Joint Collateral Ship and (C) a confirmation that the aggregate of (I) the costs payable pursuant to the relevant charter-in or leaseback contract and (II) the operating expenses, capital expenditure, drydocking and maintenance costs in respect of that Pooled Facilities Joint Collateral Ship are less than the charter hire payable under the charter or contract of employment relating to that Pooled Facilities Joint Collateral Ship;

(ii) a confirmation, in the form of a certificate from an officer of the Borrower, that the sale and leaseback transaction will be conducted on standard arm’s length terms has been provided to all RA Lenders;
(iii) no Default or Event of Default is continuing at the relevant time under any of the Amended RA Facilities or the Amended Sinosure Facility or will result from the entry into the proposed sale and leaseback transaction;

(iv) the Disposal Proceeds from such transaction are applied to prepay the Pooled Facilities in accordance with the Pooled Facilities Intercreditor Deed;

(v) any surplus Disposal Proceeds of such transaction following the prepayment provided for in paragraph (iv) above are applied to prepay the Restructured Facilities (on a pro rata basis) in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed;

(vi) the firm tenor of the charter-in or leaseback contract does not have a shorter weighted average life to re-delivery of the relevant Pooled Facilities Joint Collateral Ship than in respect of the current long term charter of that Pooled Facilities Joint Collateral Ship any of the Pooled Facilities.

**Permitted Subordinated Loan** means any loan made by any Group Member to another Group Member that complies with the terms of clause 4.9 (Subordination) of the Global Intercreditor Deed.

**PIK Interest** means interest calculated at the rate of four per cent (4%) per annum on the outstanding principal amount of Tranche B from time to time which will be capitalised on a quarterly basis and aggregated with the principal outstanding amount of Tranche B in accordance with the terms of this Agreement.

**PIK Interest Period** has the meaning assigned to it in clause 9.1 (c) (Interest Periods).

**Plan Sponsor** means Danaos Investment Limited as trustee of the 883 Trust.

**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.

**Pooled Facilities Joint Collateral Ships** means m.v."Hyundai Respect" (IMO No. 9475674) and m.v. “Hyundai Honour” (IMO No. 9473731).

**Prohibited Person** means:

(a) any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed;
(b) any person, entity or any other party located, domiciled, resident or incorporated in, or the government of, any Restricted Country; and/or

(c) any person, entity or any other party controlling, owned, or controlled by, or under the common control of or affiliated with, any person, entity or any other party as defined in paragraphs (a) or (b) above.

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

**Quasi-Security** has the meaning given to that term in clause 28.2 *(General negative pledge).*

**Quotation Day** means, in relation to any period for which an interest rate is to be determined, two Business Days (only in London) before the first day of that period unless market practice in the Interbank Market differs, in which case the Quotation Day shall be determined by the Agent in accordance with market practice in the Interbank Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days).

**RA Lender** has the meaning given to that term in clause 20.2 *(Financial definitions).*

**Receiver** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property appointed under any Security Document.

**Registration Rights Agreement** means the New York law governed registration rights agreement to be entered into between the Borrower, the Equitising Lenders and the Pool B Equity Allocation Lenders (as defined in the Out-of-Court Term Sheet) and Danaos Investment Limited as plan sponsor dated the Effective Date.

**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.

**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 Jurisdiction** means, in relation to an Obligor:

(a) its Original Jurisdiction;

(b) any jurisdiction where any Charged Property owned by it is situated;
any jurisdiction where it conducts its business; and

any jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

**Relevant Period** has the meaning given to that term in clause 20.2 *(Financial definitions).*

**Relevant Proceeds** has the meaning given to the term “Existing Fleet Sale/Total Loss Proceeds” in the Global Intercreditor Deed.

**Repayment Date** means:

(a) the First Repayment Date;

(b) each Instalment Date thereafter up to but excluding the Final Repayment Date in respect of Tranche A; and

(c) the Final Repayment Date in respect of Tranche A.

**Repeating Representations** means each of the representations set out in clauses 18.1 *(Status)* to clause 18.11 *(Ownership of Charged Property)*, clause 18.12 *(No Insolvency)* clause 18.19 *(No Default)*, clause 18.21 *(Anti-corruption law and Sanctions)*, clause 18.22 *(No money laundering)*, clause 18.25 *(Good title to assets)*, and clause 18.35 *(No immunity)*.

**Replacement Charter** means, in relation to a Ship, a replacement charter commitment in relation to that Ship referred to as such in paragraph (b) of clause 30.20 *(Breach of Charter)*.

**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.

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

**Restricted Country** means a country or jurisdiction that is, or whose government is, the subject of Sanctions broadly prohibiting dealings with such government, country, or jurisdiction (currently, Cuba, Iran, North Korea, Syria and the region of Crimea).

**Restrictive Covenant Agreement** means the amended and restated restrictive covenant agreement dated on or about the Closing Date between the Borrower, the Plan Sponsor and Dr John Coustas.

**Restructured Facilities** means the Facility, the RBS Tranche 1 Facility, the RBS Tranche 2 Facility and the Citibank Pool C Refinancing Facility.

**Restructuring Support Agreement** means the amended and restated restructuring support agreement dated 19 June 2018 entered into between, amongst others, the Borrower, the Guarantors and the Manager.

**Ring Fencing Compliance Certificate** means a certificate substantially in the form set out in Part 2 of Schedule 4 *(Form of Compliance Certificate and Ring Fencing Compliance Certificate)* or otherwise approved.

**RL Intercreditor Agent** means Aegean Baltic Bank S.A. appointed pursuant to the Intra-Restructuring Lenders Intercreditor Deed (as defined in the Global Intercreditor Deed) as security agent and trustee of *(inter alios)* the Lender and certain other lenders under certain other Amended RA Facilities.

**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, or administered by, the United Kingdom (including HM Treasury and the Foreign and Commonwealth Office of the United Kingdom), the Council of the European Union, the United Nations or its Security Council, the United States of America (including OFAC), the Swiss State Secretariat for Economic Affairs, the Swiss Directorate of International Law, the Hong Kong Monetary Authority or the Monetary Authority of Singapore whether or not any Obligor, any other Group Member or any Affiliate is legally bound to comply with the foregoing; or

(b) otherwise imposed by any law or regulation by which any Obligor, any other Group Member or any Affiliate of any of them is bound or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of any Obligor, any other Group Member or any Affiliate of any of them.

**Screen Rate** means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for dollars and the relevant period displayed (before any correction, recalculation or republication by
the administrator) 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 and the Lenders.

Secured Obligations means all indebtedness and obligations (whether present or future) at any time due, owing or incurred by any Obligor to any Finance Party (whether for its own account or as agent or trustee for itself and/or other Finance Parties or in any other capacity whatsoever and whether owed jointly or severally) under, or related to, the Finance Documents (as the same may be assigned, transferred or novated from time to time).

Security Agent includes any person as may be appointed as such under the Finance Documents and includes any separate trustee or co-trustee appointed under clause 34.7 (Additional trustees).

Security Documents means:

(a) the Original Security Documents; and

(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 Property means:

(a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Finance Parties and all proceeds of that Transaction Security;

(b) all obligations expressed to be undertaken by any Obligor to pay amounts in respect of the Secured Obligations to the Security Agent as trustee for the Finance Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor in favour of the Security Agent as trustee for the Finance Parties; and

(c) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as trustee on trust for the Finance Parties.
Share Security means, in relation to each Owner, the document constituting a first ranking (or, in the case of a Collateral Owner, second ranking) Security Interest by the relevant Shareholder in favour of the Security Agent (or, in the case of a Collateral Owner, the RL Intercreditor Agent) in the agreed form in respect of all of the shares in such Owner.

Shareholder means, in relation to each Owner, the person listed as a shareholder in Schedule 1 (The original parties).

Ship Representations means each of the representations and warranties set out in clauses 18.36 (Ship status) and 18.37 (Ship’s employment).

Shipmanagement Agreement means each Shipmanagement Agreement (as defined in the Management Agreement) in respect of a Ship to which an Owner is a party.

Ships means each of the ships described in Schedule 2 (Ship information) (including the Collateral Ships) and Ship means any of them.

Spill means any actual or threatened spill, release or discharge of a Pollutant into the environment.

Spot Rate of Exchange of the Agent or the Security Agent (as applicable) means the Agent’s or Security Agent’s spot rate of exchange or, if the Agent or Security Agent (as applicable) does not have an available spot rate of exchange, any other publicly available spot rate of exchange selected by the Agent or Security Agent (as applicable and acting reasonably), for the purchase of the relevant currency with dollars in the London foreign exchange market at or about 11:00 a.m. on a particular day.

Subordinated Loan Agreement has the meaning given to that term in the Global Intercreditor Deed.

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 beneficially entitled to receive more than 50 per cent,

and a person is a wholly-owned Subsidiary of another person if it has no members except that other person and that other person’s wholly-owned Subsidiaries or persons acting on behalf of that other person or its wholly-owned Subsidiaries.
Support Payment has the meaning given to that term in the Global Intercreditor Deed.

Support Payment Security means, in relation to Support Payments advanced by the Borrower to any Guarantor, a deed or other instrument by the Borrower in favour of the Security Agent in an agreed form conferring a Security Interest over those Support Payments.

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 Available Cash has the meaning given to that term in the Global Intercreditor Deed.

Total Commitments means the aggregate of the Commitments.

Total Loss means, in relation to a Ship:

(a) its actual, constructive, compromised or arranged total loss; or

(b) its requisition for title, confiscation or other compulsory acquisition by a government entity; or

(c) the hijacking, theft, condemnation, capture (whether by piracy or otherwise), seizure, arrest, detention or confiscation of such Ship (other than where the same amounts to the compulsory acquisition of such Ship covered by limb (b) above) unless such Ship be released and restored to the relevant Owner from such hijacking, theft, condemnation, capture (whether by piracy or otherwise), seizure, arrest, detention or confiscation within 60 days thereof in the case of hijacking, theft or capture (whether by piracy or otherwise) or within 30 days thereof in all other cases.

Total Loss Date means, in relation to the Total Loss of a Ship:

(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 (provided a claim for total loss is admitted by the insurers); or

(ii) if the insurers do not admit such a claim, the date upon which either a total loss is subsequently admitted by the insurers or a total loss is later determined by a
competent court of law or arbitration tribunal 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, theft, condemnation, capture, seizure, arrest or detention, the date 60 days after the date upon which it happened in the case of hijacking, theft or capture (whether by piracy or otherwise) or 30 days after the date upon which it happened in all other cases.

Total Loss Repayment Date means, where a Mortgaged Ship has become a Total Loss, the earlier of:

(a) the date 90 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.

Tranche means each of Tranche A and Tranche B.

Tranche A means the amount of USD 251,510,000 (in words: United States Dollars two hundred fifty one million and five hundred ten thousand) continued to be made available under this Agreement or the principal amount thereof outstanding for the time being.

Tranche B means the amount of USD 131,000,000 (in words: United States Dollars one hundred and thirty one million), continued to be made available under this Agreement or the principal amount thereof as the same may be increased or decreased from time to time outstanding for the time being.

Tranche B Target Amount means each of the target amounts in respect of the repayment of Tranche B as further set out in Schedule 8 (Tranche B Target Amounts).

Transaction Document means:

(a) each of the Finance Documents;

(b) each Charter Document;
(c) each Amended RA Facility;
(d) the Pooled Facilities Intercreditor Deed;
(e) the Amended and Restated Sinosure Facility;
(f) each Equity Document;
(g) the Shipmanagement Agreement;
(h) the Restrictive Covenant Agreement;
(i) the CEO Employment Agreement;
(j) the Subordinated Loan Agreement;
(k) the Implementation Deed; and
(l) the deed of undertaking in respect of the Management Agreement and the Restrictive Covenant Agreement dated on or about the Closing Date granted by the Manager in favour of the Lenders.

Transaction Security means the Security Interests created or evidenced or expressed to be created or evidenced under or pursuant to the Security Documents.

Transfer Certificate means a certificate substantially in the form set out in Part 2 of Schedule 3 (Form of Assignment Agreement and Transfer Certificate) or any other form agreed between the Agent and the Borrower provided that if that other form does not contain the undertaking set out in the form set out in Part 2 of Schedule 3 (Form of Assignment Agreement and Transfer Certificate) it shall not be a Creditor Accession Undertaking as defined in, and for the purposes of, the Global Intercreditor Deed.

Transfer Date means, in relation to an assignment pursuant to an Assignment Agreement or a transfer pursuant to a Transfer Certificate, the later of:

(a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
(b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.
**Treasury Transaction** means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

**Unpaid Sum** means any sum due and payable but unpaid by an Obligor under the Finance Documents.

**US** means the United States of America.

**US GAAP** means current generally accepted accounting principles in the United States of America from time to time.

**US Tax Obligor** means:

(a) a Borrower which is resident for tax purposes in the US; or

(b) an Obligor some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

**Utilisation** means the making of the Loan.

**VAT** means:

(a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

(b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

**Write-down and Conversion Powers** means:

(a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and

(b) in relation to any other applicable Bail-In Legislation:

(i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities
or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been
exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to
or ancillary to any of those powers; and

(ii) any similar or analogous powers under that Bail-In Legislation.

1.2 Construction

(a) Unless a contrary indication appears, a reference in any of the Finance Documents to:

(i) **Sections, clauses, Schedules and paragraphs** are to be construed as references to the Sections and clauses of, and the Schedules to, or the paragraph of the relevant clause of or Schedule to, the relevant Finance Document and references to a Finance Document include its Schedules;

(ii) **a Finance Document** or a **Transaction Document** or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as it may from time to time be amended, supplemented, restated, novated or replaced, however fundamentally;

(iii) words importing the plural shall include the singular and vice versa;

(iv) a time of day are to London time;

(v) any person (including, without limitation, the **Agent**, the **Arrangers**, any **Finance Party**, any **Lender**, any **Obligor**, any **Party** and the **Security Agent**) includes its successors in title, permitted assignees or transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;

(vi) the **knowledge**, **awareness** and/or **belief** (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;

(vii) **a document in agreed form** means:

(A) where a Finance Document has already been executed by all of the relevant parties, such Finance Document in its executed form;
prior to the execution of a Finance Document, the form of such Finance Document separately agreed in writing between the Agent and the Borrower as the form in which that Finance Document is to be executed or another form approved at the request of the Borrower;

(viii) 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 (and subject to satisfaction of) such conditions as they may respectively impose in their absolute discretion) and otherwise approved means approved in writing by the Agent (acting on the instructions of the Majority Lenders, on (and subject to satisfaction of) such conditions as they may impose in their absolute discretion) and approval and approve shall be construed accordingly;

(ix) assets includes present and future properties, revenues and rights of every description;

(x) 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;

(xi) control of an entity means:

(A) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

1. cast, or control the casting of, more than 50 per cent of the maximum number of votes that might be cast at a general meeting of that entity; or

2. appoint or remove all, or the majority, of the directors or other equivalent officers of that entity; or

3. 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

(B) the holding beneficially of more than 50 per cent 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
(b) The determination of the extent to which a rate is for a period equal in length to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.

(c) 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.

(d) Section, clause and Schedule headings are for ease of reference only.
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.

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 remedied or waived.

A reference in this Agreement to the date of this Agreement shall be interpreted as a reference to August 2018.

1.3 Currency symbols and definitions

S$, USD and dollars denote the lawful currency of the United States of America.

1.4 Third party rights

(a) 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 enjoy the benefit of any term of the relevant Finance Document.

(b) 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).

(c) 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.

1.5 Finance Documents

Where any other Finance Document provides that this clause 1.5 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.

1.6 Conflict of documents

The terms of the Finance Documents (other than the Global Intercreditor Deed and any other Intercreditor Agreement to which a Finance Party under this Agreement is a party in its capacity as such, 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 the Global Intercreditor Deed and any other Intercreditor Agreement to which a Finance Party under this Agreement is a party in its capacity as such, and other than in relation to the creation and/or perfection of security) the provisions of this Agreement shall prevail.

1.7 Global Intercreditor Deed and other Intercreditor Agreements

The terms of the Finance Documents are subject to the terms of the Global Intercreditor Deed and to those of any other Intercreditor Agreement to which a Finance Party under this Agreement is a party in its capacity as such, and, in the event of any conflict between any provision of any Finance Documents and any provision of the Global Intercreditor Deed or any such other Intercreditor Agreement, the relevant provision of the Global Intercreditor Deed or (as applicable) such other Intercreditor Agreement shall prevail over the provisions of this Agreement.
Section 2 - The Facility

2 The Facility

2.1 The Facility

Subject to the terms of this Agreement, the Lenders agree to continue to make available to the Borrower a term loan facility in an aggregate amount equal to the Total Commitments and consisting of Tranche A and Tranche B.

2.2 Finance Parties’ rights and obligations

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by an Obligor which relates to a Finance Party’s participation in a Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by that Obligor.

(c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

2.3 Obligors’ agent

(a) Each Obligor (other than the Borrower) by its execution of this Agreement irrevocably appoints the Borrower (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:

(i) the Borrower on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding
that they may affect the Obligor, without further reference to or the consent of that Obligor; and

(ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Borrower, and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

(b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors’ Agent or given to the Obligors’ Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors’ Agent and any other Obligor, those of the Obligors’ Agent shall prevail.

3 Purpose

3.1 Purpose

The Borrower shall apply all amounts borrowed under the Facility in accordance with the terms of this Agreement in effect prior to the Closing Date.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.
4 Utilisation

(a) As at the Effective Date, the Utilisation of the Total Commitments has already taken place and the Loan has been advanced by the Lenders to the Borrower, in each case pursuant to the terms of this Agreement in effect prior to the Effective Date and there are no undrawn Commitments under this Agreement.

(b) As at the Effective Date, the outstanding principal amount of the Loan under this Agreement is $382,510,000.00, consisting of Tranche A amounting to $251,510,000.00 and Tranche B amounting to $131,000,000.00; and all outstanding principal amounts under this Agreement under or in respect of any advances, loans or tranches (howsoever described) prior to the Effective Date have been consolidated into the Loan and form part of such amount. No other principal amount is outstanding under this Agreement.
Section 4 - Repayment, Prepayment and Cancellation

5 Repayment

5.1 Repayment

The Parties acknowledge that the outstanding principal amount of the Loan is, as at the Effective Date, $382,510,000.00. The Borrower shall on each Repayment Date repay such part of the outstanding principal amount in respect of Tranche A as is required to be repaid on that Repayment Date by clause 5.2 (Scheduled repayment of Facility) and clause 5.3 (Variable amortisation).

5.2 Scheduled repayment of Facility

(a) Subject to clause 5.4 (Variable Amortisation of Tranche A) and to the extent not previously reduced, Tranche A shall be repaid, and the respective Commitments shall be reduced accordingly, by instalments on each Repayment Date by the amount specified below (as revised by clause 5.3 (Adjustment of scheduled repayments) and each such repayment instalment shall be a Fixed Amortisation Amount (as defined and referred to in the Global Intercreditor Deed) for the purpose of Tranche A of the Facility.

<table>
<thead>
<tr>
<th>Repayment Date</th>
<th>Amount ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First (15 November 2018)</td>
<td>4,838,000</td>
</tr>
<tr>
<td>Second (15 February 2019)</td>
<td>1,613,000</td>
</tr>
<tr>
<td>Third (15 May 2019)</td>
<td>4,838,000</td>
</tr>
<tr>
<td>Fourth (15 August 2019)</td>
<td>1,613,000</td>
</tr>
<tr>
<td>Fifth (15 November 2019)</td>
<td>4,838,000</td>
</tr>
<tr>
<td>Sixth (15 February 2020)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Seventh (15 May 2020)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Eighth (15 August 2020)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Ninth (15 November 2020)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Repayment Date</td>
<td>Amount ($)</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Tenth (15 February 2021)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Eleventh (15 May 2021)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Twelfth (15 August 2021)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Thirteenth (15 November 2021)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Fourteenth (15 February 2022)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Fifteenth (15 May 2022)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Sixteenth (15 August 2022)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Seventeenth (15 November 2022)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Eighteenth (15 February 2023)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Nineteenth (15 May 2023)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Twentieth (15 August 2023)</td>
<td>6,085,000</td>
</tr>
<tr>
<td>Twenty-first (15 November 2023)</td>
<td>6,085,000</td>
</tr>
<tr>
<td><strong>TOTAL (USD):</strong></td>
<td><strong>115,100,000</strong></td>
</tr>
</tbody>
</table>

(b) The Balloon is due and payable on 31 December 2023.

(c) On the Final Repayment Date in respect of Tranche A (without prejudice to any other provision of this Agreement), Tranche A shall be repaid in full.

5.3 Variable Amortisation of Tranche B

(a) In addition to the payments described above, on each Repayment Date Tranche B shall be repaid by a variable instalment required to be paid on that day, referred to in the Global Intercreditor Deed as a “Balancing Payment” for that Repayment Date (each such payment a **Balancing Payment** ) and calculated in the manner as set out in more detail in the Global Intercreditor Deed. The Balancing Payment payable on each Repayment Date is the amount equal to:
85 per cent of the Actual Free Cash Flow for the Facility for the Financial Quarter ending immediately prior to that Repayment Date provided that for the First Repayment Date the Actual Free Cash Flow for the Facility shall be calculated for the period from the day the Effective Date occurs until and including 30 September 2018; less

the sum of the Fixed Amortisation Amount for the Facility paid on that Repayment Date,

and if such sum is negative, zero.

For the purposes of this clause 5.3 and the other provisions of this Agreement, Actual Free Cash Flow for the Facility shall be as defined in, and calculated in the manner provided for in the Global Intercreditor Deed; provided that in respect of the Balancing Payment payable on the First Repayment Date, the Actual Free Cash Flow for this Facility is to be calculated for the period from the day the Effective Date occurs until and including 30 September 2018.

On the Final Repayment Date in respect of Tranche B (without prejudice to any other provision of this Agreement), Tranche B shall be repaid in full.

5.4 Variable Amortisation of Tranche A

After full and final repayment of Tranche B, the repayment instalments of Tranche A shall be increased on each Repayment Date by the Balancing Payments.

5.5 Adjustment of scheduled repayments

If the Total Commitments in respect of Tranche A have been partially reduced under this Agreement (other than under clause 5.2 (Scheduled repayment of Facility), clause 5.2(c) (Variable amortisation), clause 6.3 (Voluntary prepayment), clause 6.7 (Disposals of HMM Notes) and 6.8 (Relevant Proceeds)) before any Repayment Date, then the amount of each instalment by which Tranche A shall be repaid under clause 5.2 on each Repayment Date (for the avoidance of doubt excluding the Balloon and as reduced by any earlier operation of this clause 5.5 or any other provision of this Agreement) shall be reduced by, if the reduction of the Total Commitments has arisen from the sale of Total Loss of a Mortgaged Ship, the amount of fixed amortisation attributable to such Mortgage Ship set out in the Financial Model (the Amortization Adjustment). To the extent that the Disposal Proceeds or the prepayment amount required to be made in a Total Loss of a Mortgaged Ship under clause 6.6 (Sale or Total Loss) is greater than the aggregate amount of the Amortization Adjustment, then the absolute value of such excess shall decrease.
the Balloon by the same amount. To the extent that the Disposal Proceeds or the prepayment amount required to be made in a Total Loss of a Mortgaged Ship under clause 6.6 (Sale or Total Loss) is less than the aggregate amount of the Amortization Adjustment, then the absolute value of such deficiency shall increase the Balloon by the same amount.

6 Illegality, prepayment and cancellation

6.1 Illegality

If, in the reasonable determination of a Lender or in the determination of any regulator of a Lender, it is or becomes unlawful under any law or regulation or in any applicable jurisdiction for that Lender to perform any of its obligations as contemplated by this Agreement, to fund or maintain its participation in the Loan or otherwise to continue to provide the Loan, or it is or becomes unlawful under any law or regulation or in any applicable jurisdiction 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; and

(b) upon the Agent notifying the Borrower, the Commitment of that Lender will be immediately cancelled; and

(c) to the extent that the Lender’s participation has not been transferred pursuant to clause 6.5 (Replacement of Lender), the Borrower shall repay that Lender’s participation in the Loan on the last day of the Interest Period occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender’s corresponding Commitment shall be cancelled in the amount of the participation repaid.

6.2 Borrower Change of control

(a) The Obligors shall promptly notify the Agent upon any Obligor becoming aware of a Borrower Change of Control.

(b) If a Borrower Change of Control occurs, then all amounts outstanding under the Finance Documents shall become immediately due and payable, together with all associated Break Costs and fees and expenses and related amounts expressed to be payable or repayable in connection with such repayment.

6.3 Voluntary prepayment

(a) The Borrower may, if it gives the Agent not less than 15 Business Days’ (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of the Loan, on the last day of an Interest Period in respect of the amount to be prepaid.

(b) The Borrower shall not make any voluntary prepayments under this clause 6.3 except if they are in compliance with the provisions of the Global Intercreditor Deed requiring (amongst other things) that certain voluntary prepayments be made across all the Amended RA Facilities, as more specifically set out in the Global Intercreditor Deed.

6.4 Right of cancellation and prepayment in relation to a single Lender

(a) If:

(i) any sum payable to any Lender by an Obligor is required to be increased under clause 12.2 (Tax gross-up); or

(ii) any Lender claims indemnification from the Borrower or any Obligor under clause 12.3 (Tax indemnity) or clause 13.1 (Increased costs),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and their intention to procure the repayment of that Lender’s participation in the Loan.

(b) On receipt of a notice referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Borrower has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender’s participation in the Loan together with all interest and other amounts accrued under the Finance Documents which is then owing to it.

6.5 Replacement of Lender

(a) If:

(i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (d) below); or

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(ii) the Borrower becomes obliged to repay any amount in accordance with clause 6.1 (Illegality) to any Lender; or

(iii) any of the circumstances set out in paragraph (a) of clause 6.4 (Right of cancellation and prepayment in relation to a single Lender) apply to a Lender,

the Borrower may, on five Business Days’ prior written notice to the Agent and such Lender, replace such Lender by requiring such Lender to transfer (and, to the extent permitted by law, such Lender shall transfer) pursuant to clause 31 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement (and any Security Document to which that Lender is a party in its capacity as a Lender) to an Eligible Institution (a Replacement Lender) which confirms its willingness to undertake and does undertake all the obligations of the transferring Lender in accordance with clause 31 (Changes to the Lenders) for a purchase price in cash payable at the time of the transfer in an amount 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;

(C) the Break Costs which would have been payable to such Lender pursuant to clause 10.5 (Break Costs) had the Borrower prepaid in full that Lender’s participation in the Loan on the date of the assignment; and

(D) all other amounts payable to that Lender under the Finance Documents on the date of the transfer.

(b) The replacement of a Lender pursuant to this clause 6.5 shall be subject to the following conditions:

(i) the Borrower shall have no right to replace the Agent or the Security Agent;

(ii) neither the Agent nor any Lender shall have any obligation to find a Replacement Lender;

(iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than ten Business Days after the date on which that Lender is deemed a Non-Consenting Lender;
(iv) in no event shall the Lender replaced under this clause 6.5 be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and

(v) the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer.

(c) A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

(d) In the event that:

(i) the Borrower or the Agent (at the request of the Borrower) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;

(ii) the consent, waiver or amendment in question requires the approval of all the Lenders; and

(iii) Lenders whose Commitments aggregate more than 75 per cent of the Total Commitments have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a Non-Consenting Lender.

6.6 Sale or Total Loss

(a) On the Disposal Repayment Date of a Mortgaged Ship (other than a Collateral Ship):

(i) the Total Commitments will be reduced:

(1) in the case of a sale or other disposal of a Mortgaged Ship, by the actual Disposal Proceeds for that Mortgaged Ship; or

(2) in the case of a Total Loss of a Mortgaged Ship, by the higher of (x) the Applicable Fraction of the Total Commitments and (y) the amount payable under the Insurances of such Mortgaged Ship in respect of such Total Loss.
(which amount under (y) shall in any event be not less than the amount for which such Mortgaged Ship is required to be insured under clause 24 (Insurance)); and

(ii) the Borrower shall prepay such amount of the Loan as may be necessary to ensure that the outstanding Loan after such date will not exceed the Total Commitments (as so reduced).

(b) On the Disposal Repayment Date of a Mortgaged Ship which is a Collateral Ship:

(i) the Total Commitments will be reduced:

(A) in the case of a sale or other disposal of a Mortgaged Ship, by the actual Disposal Proceeds for that Mortgaged Ship (but net of the amount of such proceeds applied in reduction of the Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) which is secured by First Priority Security over that Mortgaged Ship, in accordance with its terms, and assuming such net amount is higher than zero), as such reduction is or is to be allocated to the Facility and other Amended RA Facilities pursuant to the provisions of the applicable Intercreditor Agreements; or

(B) in the case of a Total Loss of a Mortgaged Ship, by the actual amount payable under the Insurances of such Mortgaged Ship in respect of such Total Loss for that Mortgaged Ship (but net of the amount of such proceeds applied in reduction of the Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) which is secured by First Priority Security over that Mortgaged Ship, in accordance with its terms, and assuming such net amount is higher than zero, as such reduction is or is to be allocated to the Facility and other Amended RA Facilities pursuant to the provisions of the applicable Intercreditor Agreements; and

the Borrower shall prepay such amount of the Loan as may be necessary to ensure that the outstanding Loan after such date will not exceed the Total Commitments (as so reduced).

(c) For the purposes of this clause, Applicable Fraction means, in relation to a Mortgaged Ship being sold or which has become a Total Loss, a fraction having a numerator equal to the market value of the Mortgaged Ship being sold or which has become a Total Loss and a denominator equal to the market value of all the Mortgaged Ships (excluding the
Collateral Ships), in each case as determined by the Agent on or before the relevant Mortgaged Ship’s Disposal Repayment Date.

(d) For the purposes of the definition of Applicable Fraction above, the market value of a Mortgaged Ship shall be determined in accordance with the most recent (charter free) valuations obtained in accordance with clause 25 (Valuations) for that Mortgaged Ship, provided that if the Mortgaged Ship’s Disposal Repayment Date is more than 30 days after the date of the most recent (charter free) valuations obtained in accordance with clause 25 (Valuations), the Majority Lenders shall have the right to request and/or obtain new (charter free) valuations for that Mortgaged Ship pursuant to such clause 25 (Valuations). If such new valuations are so requested and obtained, the market value of that Mortgaged Ship for the purposes of calculation of Applicable Fraction above, shall be determined by reference to such new valuations and in accordance with clause 25 (Valuations) which shall apply to this clause mutatis mutandis.

(e) In any event, if the relevant Mortgaged Ship sold or subject to Total Loss is the final Mortgaged Ship under the Facility and such Ship is not a Collateral Ship, then on the Disposal Repayment Date for that Mortgaged Ship, the Borrower must prepay the Loan in full, together with interest thereon and all other amounts payable under this Agreement and the other Finance Documents.

6.7 Disposals of HMM Notes

Upon receipt by an Owner of any Disposal Proceeds arising from the disposal or other realisation in respect of any of the HMM Notes such Disposal Proceeds shall promptly be applied by it in prepayment of the Facility in accordance with clause 6.9 (Application).

6.8 Relevant Proceeds

Upon receipt of any Relevant Proceeds by any of the Obligors, such Relevant Proceeds shall be applied in prepayment of the Loan in accordance with the terms of the Global Intercreditor Deed.

6.9 Application

(a) Any prepayments attributable to (i) a sale of a Mortgaged Ship (but excluding a sale for scrap) or (ii) a Total Loss of a Mortgaged Ship shall firstly be applied in prepayment towards the repayment instalments of Tranche A pro rata in accordance with clause 5.5 (Adjustment of scheduled repayments) and after Tranche A has been fully repaid such prepayments are to be applied towards Tranche B.
Any prepayments attributable to (i) a sale of a Mortgaged Ship for scrap or (ii) otherwise generated in connection with the scrapping of a Mortgaged Ship shall firstly be applied in prepayment towards Tranche B and after Tranche B has been fully repaid such prepayments are to be applied to Tranche A in inverse chronological order.

Any prepayments attributable to a disposal of the HMM Notes shall firstly be applied in the inverse order of maturity in prepayment towards the repayment instalments of Tranche A, commencing with the Balloon, and after Tranche A has been fully repaid such prepayments are to be applied towards Tranche B.

Any voluntary prepayments made under clause 6.3 (Voluntary prepayment) shall firstly be applied in prepayment towards Tranche A in inverse chronological order and after Tranche A has been fully repaid such prepayments are to be applied to Tranche B.

7 Restrictions

7.1 Notices of cancellation and prepayment

Any notice of cancellation or prepayment given by any Party under clause 6 (Illegality, prepayment and cancellation) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made, the amount of that cancellation or prepayment.

7.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid, any additional amounts payable under clause 12 (Tax gross-up and indemnities), all other sums payable by the Borrower to the Agent, the Security Agent and/or the other Finance Parties under this Agreement or any of the other Finance Documents including, without limitation, any amounts payable under clause 11 (Fees) or clause 14 (Other indemnities) and any Break Costs, but otherwise without premium or penalty.

7.3 No reborrowing

The Borrower may not re-borrow any part of the Facility which is prepaid or repaid.

7.4 Prepayment in accordance with Agreement

The Borrower shall not repay or prepay all or any part of the Loan or cancel all or any part of the
Commitments except at the times and in the manner expressly provided for in this Agreement.

7.5 **No reinstatement of Commitments**

No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

7.6 **Agent’s receipt of notices**

If the Agent receives a notice under clause 6 (*Illegality, prepayment and cancellation*) it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.

7.7 **Prepayment elections**

The Agent shall notify the Lenders as soon as possible of any proposed prepayment of any part of the Facility under clause 6.3 (*Voluntary Prepayments*) or clause 6.6 (*Sale or Total Loss*).

7.8 **Effect of repayment and prepayment on Commitments**

If all or part of any Lender’s participation in the Loan is repaid or prepaid, an amount of that Lender’s Commitment equal to the amount of the participation which is repaid or prepaid will be deemed to be cancelled on the date of repayment or prepayment.

7.9 **Application of cancellations**

If the Total Commitments are partially reduced and/or the Loan partially prepaid under this Agreement (other than under clause 6.1 (*Illegality*) and clause 6.4 (*Right of cancellation and prepayment in relation to a single Lender*)), the Commitments of the Lenders shall be reduced rateably.

7.10 **Application of prepayments**

(a) Any prepayment required as a result of a cancellation in full of an individual Lender’s Commitment under clause 6.1 (*Illegality*) or clause 6.4 (*Right of cancellation and prepayment in relation to a single Lender*) shall be applied in prepaying the relevant Lender’s participation in the Loan.

(b) Any other prepayment shall be applied *pro rata* to each Lender’s participation in the Loan.
Section 5 - Costs of Utilisation

8 Interest

8.1 Calculation of interest and PIK Interest

(a) The rate of interest on the Loan (or any relevant part of it for which there is a separate Interest Period) for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(i) Margin; and

(ii) LIBOR for the relevant Interest Period.

(b) The rate of additional PIK Interest on Tranche B (or any relevant part of it for which there is a separate PIK Interest Period) for each PIK Interest Period shall be the PIK Interest.

8.2 Payment of interest and PIK Interest

(a) The Borrower shall pay accrued interest on the Loan (or any relevant part of it) on the last day of each Interest Period.

(b) PIK Interest on Tranche B shall be capitalised at the end of each PIK Interest Period and be automatically added to the amount of Tranche B outstanding from time to time.

8.3 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document to a Finance Party 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 paragraph (c) below, is two per cent per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted the Loan (in the currency of the Loan) for successive Interest Periods, each of a duration selected by the Agent (acting reasonably).

(b) Any interest accruing under this clause 8.3 shall be immediately payable by the Obligor on demand by the Agent.

(c) If any overdue amount consists of all or part of the Loan (or any relevant part of it) 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:
(i) 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 or the relevant part of it; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent per annum higher than the rate which would have applied if the overdue amount had not become due.

(d) Default interest payable under this clause 8.3 (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

(a) The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

(b) The Agent shall promptly notify the Borrower of each Funding Rate relating to the Loan (or any relevant part of it).

9 Interest Periods

9.1 Interest Periods

(a) The first Interest Period for the Loan following the Closing Date will start on the Closing Date and end on 16 August 2018.

(b) Each subsequent Interest Period will, save as otherwise provided in this Agreement or agreed by all Lenders, start on each Repayment Date and end on the day immediately prior to the next Repayment Date provided that, if an Interest Period would otherwise extend beyond the Final Repayment Date in respect of either Tranche, that Interest Period will be shortened to end on the Final Repayment Date in respect that Tranche.

(c) The first interest period in relation to PIK Interest (each such period, a “PIK Interest Period”) in relation to Tranche B shall start on the Closing Date and end on 16 August 2018 and each subsequent PIK Interest Period shall start on the last day of the preceding PIK Interest Period and end 3 months thereafter, save for the last PIK Interest Period which shall end on the Final Repayment Date in respect of Tranche B.
9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

10 Changes to the calculation of interest

10.1 Unavailability of Screen Rate

(a) If no Screen Rate is available for LIBOR for an Interest Period, LIBOR shall be the Interpolated Screen Rate for a period equal in length to that Interest Period.

(b) If no Screen Rate is available for LIBOR for:

(i) dollars; or

(ii) the relevant Interest Period and it is not possible to calculate the Interpolated Screen Rate,

there shall be no LIBOR for that Interest Period and clause 10.3 (Cost of funds) shall apply for that Interest Period.

10.2 Market disruption

If before close of business in London on the Quotation Day for an Interest Period the Agent receives notifications from a Lender or Lenders (whose participations in the Loan exceed 30 per cent of the Loan) that the cost to it of funding its participation in the Loan or relevant part of it from whatever source it may reasonably select would be in excess of LIBOR then clause 10.3 (Cost of funds) shall apply to the Loan or relevant part of it for the relevant Interest Period.

10.3 Cost of funds

(a) If this clause 10.3 applies, the rate of interest on each Lender’s share of the Loan or relevant part of it for the Interest Period shall be the percentage rate per annum which is the sum of:

(i) the Margin; and

(ii) the rate notified to the Agent by that Lender as soon as practicable and in any event by close of business on the date falling ten Business Days after the Quotation Day (or, if earlier, on the date falling ten Business Days before the date on which interest is due to be paid in respect of that Interest Period), to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in the Loan or relevant part of it from whatever source it may reasonably select.

(b) If this clause 10.3 applies and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest provided that no amendment or waiver has been made pursuant to clause 46.5 (Replacement of Screen Rate). If a substitute basis for determining the rate of interest is not agreed, paragraph (a) shall apply.

(c) Subject to clause 46.5 (Replacement of Screen Rate), any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.

(d) If this clause 10.3 applies pursuant to clause 10.2 (Market disruption) and:

(i) a Lender’s Funding Rate is less than LIBOR; or

(ii) a Lender does not supply a quotation by the time specified in paragraph (a)(ii) above,

the cost to that Lender of funding its participation in the Loan or relevant part of it for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR.

10.4 Notification to Borrower

If clause 10.3 (Cost of funds) applies, the Agent shall, as soon as is practicable, notify the Borrower.

10.5 Break Costs

(a) The Borrower 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 any relevant part of it or Unpaid Sum being paid by the Borrower (or, if relevant, any Group Member) on a day other than the last day of an Interest Period for the Loan or that relevant part of it or Unpaid Sum.
(b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.
11 Fees

11.1 Amendment fee

The Borrower shall pay to the Agent (for the distribution to the Lenders, pro rata to their Commitments), on the day when the payment is due, a non-refundable amendment fee which is calculated, for the base as well as the incremental fee, on the outstanding aggregate principal under the Original 700m Facility Agreement and the Original 125m Facility Agreement at the day before the Effective Date occurs as advised by the Agent to the Borrower (the Amendment Fee) in the amount and at the times set out in a Fee Letter.

11.2 Agency fee

The Borrower shall pay to the Agent (for its own account) a non-refundable agency fee in the amount and at the times set out in a Fee Letter.

11.3 Security Agent fee

The Borrower shall pay to the Security Agent (for its own account) a non-refundable agency fee in the amount and at the times set out in a Fee Letter.

11.4 Exit fees

The Borrower shall pay to each Original Lender the exit fee in the amount and at the times set out in a Fee Letter.
12 Tax gross-up and indemnities

12.1 Definitions

(a) 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 Credit means a credit against, relief or remission for, or repayment of any Tax.

Tax Deduction means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

Tax Payment means either the increase in a payment made by an Obligor to a Finance Party under clause 12.2 (Tax gross-up) or a payment under clause 12.3 (Tax indemnity).

(b) Unless a contrary indication appears, in this clause 12 a reference to determines or determined means a determination made in the absolute discretion of the person making the determination.

(c) For the avoidance of doubt, in the event of any inconsistency between this clause 12 and the relevant tax provisions in any Hedging Contract, the provisions of the Hedging Contract shall prevail in respect of the Hedging Contract only.

12.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it under, and in connection with, any Finance Document without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Borrower shall, promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction), notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in...
respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower and that Obligor.

(c) If the Borrower pays an amount of interest as PIK Interest and is required to pay a Tax Payment in respect of PIK Interest, such Tax Payment shall be paid as PIK Interest. In other cases, such Tax Payment shall be paid as Cash Interest.

(d) 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.

(e) 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.

(f) 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 that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

12.3 Tax indemnity

(a) Each Obligor who is a Party shall (within three Business Days of demand by a Finance Party) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

(b) Paragraph (a) above shall not apply:

(i) with respect to any Tax assessed on a Finance Party:

(A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(B) under the law of the jurisdiction in which that Finance Party’s Facility Office is located in respect of amounts received or receivable in that jurisdiction,
if that Tax is imposed on or calculated by reference to the overall net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

(ii) to the extent a loss, liability or cost:

(A) is compensated for by an increased payment under clause 12.2 (Tax gross-up); or

(B) relates to a FATCA Deduction required to be made by a Party or any Obligor which is not a Party.

(c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.

(d) A Protected Party shall, on receiving a payment from an Obligor under this clause 12.3, notify the Agent.

12.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

(a) a Tax Credit is attributable (i) to an increased payment of which that Tax Payment forms part, (ii) to that Tax Payment or (iii) to a Tax Deduction in consequence of which that Tax Payment was required; and

(b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

12.5 Indemnities on after Tax basis

(a) If and to the extent that any sum payable to any Protected Party by the Borrower 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 Borrower 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.

(b) 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 Borrower to any person other than that Protected Party, shall be treated as taxable in the hands of the Protected Party, the Borrower 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.

(c) For the purposes of paragraphs (a) and (b) above, 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.

12.6 Stamp taxes

The Borrower 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, documentary and other similar Taxes payable in respect of any Finance Document.

12.7 Value added tax

(a) All amounts 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 any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any party under a Finance Document, and such Finance Party is required to account to the relevant tax authority for the VAT, that party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that party).

(b) If VAT is or becomes chargeable on any supply made by any Finance Party (the Supplier) to any other Finance Party (the Recipient) under a Finance Document, and any party 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 that supply to
the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

(i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Subject Party must pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the 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

(ii) (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.

(c) 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 in respect of such VAT from the relevant tax authority.

(d) Any reference in this clause 12.7 to any party shall, at any time when such party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term representative member to have the same meaning as in the Value Added Tax Act 1994).

(e) In relation to any supply made by a Finance Party to any party under a Finance Document, if reasonably requested by such Finance Party, that party must promptly provide such Finance Party with details of that party’s VAT registration and such other information as is reasonably requested in connection with such Finance Party’s VAT reporting requirements in relation to such supply.
12.8 FATCA information

(a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:

(i) confirm to that other Party whether it is:

(A) a FATCA Exempt Party; or

(B) not a FATCA Exempt Party;

(ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party’s compliance with FATCA; and

(iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party’s compliance with any other law, regulation, or exchange of information regime.

(b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.

(c) Paragraph (a) above shall not oblige any Finance Party to do anything, 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 paragraphs (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
If the Borrower is a US Tax Obligor or the Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of the date of a request from the Agent, supply to the Agent:

(A) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or

(B) any withholding statement or other document, authorisation or waiver as the Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.

The Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrower.

If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Agent). The Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.

The Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraphs (e) or (g) above without further verification. The Agent shall not be liable for any action taken by it under or in connection with paragraphs (e), (f) or (g) above.

12.9 FATCA Deduction and gross-up by Borrower

(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.

(b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Finance Parties.

(c) If a FATCA Deduction is required to be made by the Borrower, the amount of the payment due from the Borrower shall be increased to an amount which (after making any FATCA
Deduction) leaves an amount equal to the payment which would have been due if no FATCA Deduction had been required.

(d) Within thirty (30) days of making either a FATCA Deduction or any payment required in connection with that FATCA Deduction, the Borrower making that FATCA Deduction or payment shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the FATCA Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant governmental or taxation authority.

12.10 FATCA Deduction by a Finance Party

(a) Each Finance 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 Finance 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. A Finance Party which becomes aware that it must make a FATCA Deduction in respect of a payment to another Party (or that there is any change in the rate or the basis of such FATCA Deduction) shall notify that Party and the Agent.

(b) If the Agent is required to make a FATCA Deduction in respect of a payment to a Finance Party which relates to a payment by the Borrower, the amount of the payment due from the Borrower shall be increased to an amount which (after the Facility Agent has made such FATCA Deduction), leaves the Agent with an amount equal to the payment which would have been made by the Facility Agent if no FATCA Deduction had been required.

(c) The Agent shall promptly upon becoming aware that it must make a FATCA Deduction in respect of a payment to a Finance Party which relates to a payment by the Borrowers or any of them (or that there is any change in the rate or the basis of such a FATCA Deduction) notify the Borrowers and the relevant Finance Party.

(d) The Borrower shall (within three (3) Business Days of demand by the Agent) pay to a Finance Party an amount equal to the loss, liability or cost which that Finance Party determines will be or has been (directly or indirectly) suffered by that Finance Party as a result of another Finance Party making a FATCA Deduction in respect of a payment due to it under a Finance Document. This paragraph shall not apply to the extent a loss, liability or cost is compensated for by an increased payment under Clause 12.10 (b) above.

(e) A Finance Party making, or intending to make, a claim under Clause 12.10 (d) above shall promptly notify the Agent of the FATCA Deduction which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.

(f) A Finance Party must, on receiving a payment from the Borrower under this Clause, notify the Agent.

13 Increased Costs

13.1 Increased costs

(a) Subject to clause 13.3 (Exceptions), the Borrower 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:

(i) 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; and/or

(ii) is a Basel III Increased Cost; and/or

(iii) results from compliance with the Dodd Frank Wall Street Reform and Consumer Protection Act or any law or regulation made under or in connection with that Act.

(b) In this Agreement Increased Costs means:

(i) a reduction in the rate of return from the Facility or on a Finance Party’s (or its Affiliate’s) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

13.2 Increased cost claims

(a) A Finance Party intending to make a claim pursuant to clause 13.1 (Increased costs) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.
Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

13.3 Exceptions

(a) Clause 13.1 (Increased costs) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law to be made by an Obligor;

(ii) attributable to a FATCA Deduction required to be made by a Party;

(iii) compensated for under Clause 12.9 (FATCA Deduction and gross-up by Borrower) or 12.10 (FATCA Deduction by a Finance Party);

(iv) compensated for by clause 12.3 (Tax indemnity) (or would have been compensated for under clause 12.3 (Tax indemnity) but was not so compensated solely because any of the exclusions in paragraph (b) of clause 12.3 (Tax indemnity) applied); or

(v) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

(b) In paragraph (a) above, a reference to a Tax Deduction has the same meaning given to the term in clause 12.1 (Definitions).

14 Other indemnities

14.1 Currency indemnity

(a) If any sum due from an Obligor under the Finance Documents (a Sum), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the First Currency) in which that Sum is payable into another currency (the Second Currency) for the purpose of:

(i) making or filing a claim or proof against that Obligor; and/or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall, as an independent obligation, within three 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.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

For the purpose of this clause 14.1, *rate of exchange* means the rate at which the Agent or the relevant Finance Party is able on the relevant date to purchase the Second Currency with the First Currency and shall take into account any commission, premium and other costs of exchange and Taxes payable in connection with such purchase.

14.2 Other indemnities

(a) The Borrower 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:

(i) the occurrence of any Event of Default;

(ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any and all Losses arising as a result of clause 39 (Sharing among the Finance Parties);

(iii) funding, or making arrangements to fund, its participation in a Utilisation requested by the Borrower 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);

(iv) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower; or

(v) any payment made to the Global Intercreditor Agent under clause 10.11 (*Lenders’ indemnity to the Global Intercreditor Agent*) of the Global Intercreditor Deed.

(b) The Borrower shall promptly indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate, against any cost, loss or liability incurred by that Finance Party or its Affiliate (or officer or employee of that Finance Party or Affiliate) in connection with or arising out of the transactions contemplated by or entered into in connection with the Finance Documents (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or
14.3 Environmental indemnity

The Borrower shall indemnify the Agent and each of the other Finance Parties on demand and hold each such Finance Party harmless from and against all Losses or other outgoings of whatever nature (including those arising under Environmental Laws) which may be suffered, incurred or paid by or made or asserted against the Agent or any other Finance Party at any time, whether before or after the prepayment in full of principal and interest under this Agreement, relating to, or arising directly in any manner or for any cause or reason whatsoever out of an Environmental Claim made or asserted against the Agent or any other Finance Party which would or could not have been brought if the Agent or such other Finance Party had not entered into any of the Finance Documents and/or exercised any of its rights, powers and discretions thereby conferred and/or performed any of its obligations thereunder and/or been involved in any of the transactions contemplated by the Finance Documents.

14.4 Indemnity to the Agent and the Security Agent etc.

The Borrower shall promptly indemnify each Indemnified Person against:

(a) any and all Losses (together with any applicable VAT) incurred by that Indemnified Person (acting reasonably) as a result of:

(i) investigating any event which it reasonably believes is an Event of Default;

(ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

(iii) instructing lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts as permitted under the Finance Documents; or

(iv) any action taken by an Indemnified Person or any of its or their representatives, agents or contractors in connection with any powers conferred by any Security Document to remedy any breach of any Obligor’s obligations under the Finance Documents; and
14.5 Indemnity concerning security

(a) The Borrower shall (or shall procure that another Obligor will) promptly indemnify each Indemnified Person against any and all Losses (together with any applicable VAT) incurred by it (otherwise than by reason of that Indemnified Person’s gross negligence or wilful misconduct) as a result of:

(i) any failure by the Borrower to comply with its obligations under clause 16 (Costs and expenses) or any similar provision in any other Finance Document;

(ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

(iii) the taking, holding, protection or enforcement of the Transaction Security;

(iv) the exercise or purported exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent, each Receiver, each Delegate and each Indemnified Person by the Finance Documents or by law (otherwise, in each case, than by reason of the relevant Security Agent’s, Receiver’s, Delegate’s or Indemnified Person’s gross negligence or wilful misconduct);

(v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;

(vi) any claim (whether relating to the environment or otherwise, but without double counting where an Indemnified Person has recovered for the same Loss under any other provision of this Agreement) 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 misconduct of that Indemnified Person);

(vii) instructing lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts as permitted under the Finance Documents; or
(viii) (in the case of the Security Agent, any Receiver and any Delegate) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct).

(b) The Security Agent may, in priority to any payment to the other Finance Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 14.5 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

14.6 Continuation of indemnities

The indemnities by the Borrower in favour of any Indemnified Persons contained in this Agreement shall continue in full force and effect notwithstanding any breach by any Finance Party (otherwise than by reason of that Indemnified Person’s gross negligence or wilful misconduct) or the Borrower of the terms of this Agreement, the repayment or prepayment of the Loan, the cancellation of the Total Commitments or the repudiation by any Finance Party or the Borrower of this Agreement.

14.7 Third Parties Act

(a) 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, or the calculation of, any amount demanded by that Indemnified Person under clause 14.5 (Indemnity concerning security) , subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

(b) Where an Indemnified Person (other than a Finance Party) (the Relevant Beneficiary ) who is:

(i) appointed by a Finance Party under the Finance Documents;

(ii) an Affiliate of any such person or that Finance Party; or

(iii) an officer, director, employee, adviser, representative or agent of any of the above persons or that Finance Party,

is entitled to receive any amount (a Third Party Claim ) under any of the provisions referred to in paragraph (a) above:
the Borrower shall at the same time as the relevant Third Party Claim is due to the Relevant Beneficiary pay to that Finance Party a sum in the amount of that Third Party Claim;

(B) payment of such sum to that Finance Party shall, to the extent of that payment, satisfy the corresponding obligations of the Borrower to pay the Third Party Claim to the Relevant Beneficiary; and

(C) if the Borrower pays the Third Party Claim direct to the Relevant Beneficiary, such payment shall, to the extent of that payment, satisfy the corresponding obligations of the Borrower to that Finance Party under sub-paragraph (A) above.

14.8 Interest

Moneys becoming due by the Borrower to any Indemnified Person under the indemnities contained in this clause 14 (Other indemnities) 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 Borrower 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

Without prejudice to any other provision of the Finance Documents excluding or limiting the liability of any Indemnified Person, 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 misconduct. Any Indemnified Person may rely on this clause 14.9 subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

14.10 Email indemnity

The Borrower shall indemnify the Finance Parties against any and all Losses together with any VAT thereon which a Finance Party may sustain or incur as a consequence of any email communication purporting to originate from the Obligors to the Finance Parties 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 Finance Party claiming indemnification hereunder).
14.11 Waiver

In no event shall any Finance Party be liable on any theory of liability for any special, indirect, consequential or punitive damages and the Obligors who are a Party 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

(a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in the Facility ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of clause 6.1 (Illegality), clause 12 (Tax gross-up and indemnities) or clause 13 (Increased costs) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

15.2 Limitation of liability

(a) The Borrower 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).

(b) A Finance Party is not obliged to take any steps under clause 15.1 (Mitigation) if, in the opinion of that Finance Party, to do so might be prejudicial to it.

16 Costs and expenses

16.1 Transaction expenses

The Borrower shall, promptly on demand, pay the Agent, the Security Agent and the Arrangers the amount of all documented costs and expenses (including fees, costs and expenses of lawyers, accountants, tax advisers, insurance consultants, valuers, surveyors or other professional advisers or experts) (together with any applicable VAT) incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation,
preparation, printing, execution, syndication, registration and perfection and any release, discharge or reassignment of:

(a) this Agreement and any other documents referred to in this Agreement and the Security Documents;
(b) any other Finance Documents executed or proposed to be executed after the Closing Date; or
(c) any Security Interest expressed or intended to be granted by a Finance Document.

16.2 Amendment costs

If:

(a) an Obligor requests an amendment, waiver or consent; or

(b) an amendment is required pursuant to clause 40.10 (Change of currency); or

(c) an amendment is required as contemplated in clause 46.5 (Replacement of Screen Rate)

the Borrower shall, within three Business Days of demand, reimburse each of the Agent and the Security Agent for the amount of all documented costs and expenses (including fees, costs and expenses of lawyers, accountants, tax advisers, insurance consultants, valuers, surveyors or other professional advisers or experts) (together with any applicable VAT) incurred by the Agent and the Security Agent (and in the case of the Security Agent by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

16.3 Agent’s and Security Agent’s management time and additional remuneration

(a) Any amount payable to the Agent or the Security Agent under clause 14.4 (Indemnity to the Agent and the Security Agent), clause 14.5 (Indemnity concerning security), clause 16 (Costs and expenses) or clause 33.15 (Lenders’ indemnity to the Agent and others) shall include the cost of utilising the Agent’s or (as the case may be) the Security Agent’s management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent or (as the case may be) the Security Agent may notify to the Borrower and the other Finance Parties, and is in addition to any other fee paid or payable to the Agent or the Security Agent.
Any cost of utilising the Agent’s management time or other resources shall include, without limitation, any such costs in connection with clause 46.8(a) (Disenfranchisement of Borrower Affiliates).

(c) Without prejudice to paragraph (a) above, in the event of:

(i) a Default;

(ii) the Agent or the Security Agent being requested by an Obligor or the other Finance Parties to undertake duties which the Agent or (as the case may be) the Security Agent and the Borrower agree to be of an exceptional nature or outside the scope of the normal duties of the Agent or (as the case may be) the Security Agent under the Finance Documents; or

(iii) the Agent or (as the case may be) the Security Agent and the Borrower agreeing that it is otherwise appropriate in the circumstances, the Borrower shall pay to the Agent or (as the case may be) the Security Agent any additional remuneration that may be agreed between them or determined pursuant to paragraph (d) below including (without limitation) in respect of ongoing costs and/or management time.

(d) If the Agent or (as the case may be) the Security Agent and the Borrower fail to agree upon the nature of the duties, or upon the additional remuneration referred to in paragraph (b) above or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Agent or (as the case may be) the Security Agent and approved by the Borrower or, failing approval, nominated (on the application of the Agent or (as the case may be) the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Borrower) and the determination of any investment bank shall be final and binding upon the Parties.

16.4 Enforcement, preservation and other costs

The Borrower shall, within three (3) Business Days of a demand by a Finance Party, pay to each Finance Party the amount of all costs and expenses (including fees, costs and expenses of lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts) (together with any applicable VAT) incurred by that Finance Party in connection with:

(a) the enforcement of, or the preservation of any rights under, any Finance Document and the Transaction Security 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 (Valuations); or

(c) any inspection carried out under clause 23.9 (Inspection and notice of dry-docking) or any survey carried out under clause 23.17 (Survey report).
17 Guarantee and indemnity

17.1 Guarantee and indemnity

(a) Each Guarantor irrevocably and unconditionally jointly and severally:

(i) guarantees to the Security Agent (as trustee for the Finance Parties) and the other Finance Parties due and punctual performance by each other Obligor of all such Obligor’s present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) which are, or may become, due and payable under or in connection with the Finance Documents (as such documents may be varied, amended, waived, released, novated, supplemented, extended, restated or replaced from time to time, in each case, however fundamentally) together with all costs, charges and expenses incurred by the Agent or any other Finance Party which are, or may become, due, owing or payable by each Obligor under or in connection with any Finance Document (the Guaranteed Obligations);

(ii) undertakes with the Security Agent (as trustee for the Finance Parties) and the other Finance Parties that whenever another Obligor does not pay any Guaranteed Obligations when due under or in connection with any Finance Document, that Guarantor shall immediately and unconditionally on demand (which may be made at any time on or after the date upon which payment is due) pay such Guaranteed Obligations as if it was the principal obligor; and

(iii) 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 and keep indemnified each Finance Party immediately on demand for all Losses incurred by it:

(A) if any Guaranteed Obligation is or becomes unenforceable, invalid or illegal or by operation of law and as a result of the same the Borrower has not paid any amount which would, but for such unenforceability, invalidity, illegality or operation of law, have been payable by the Borrower under any Finance Document on the date when it would have been due; or

(B) 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 (a Change 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 that Guarantor is payable.

(b) The amount payable by a Guarantor under paragraph (a)(iii):

(i) in respect of paragraph (a)(iii)(A) above, shall be the amount it would have had to pay under this clause 17.1 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 (a)(iii)(B) above, shall include:

(A) the difference between the amount (if any) received by the Security Agent and the other Finance Parties from the Borrower and the amount that the Borrower was 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

(B) all further costs, losses and liabilities suffered or incurred by the Security Agent and the other Finance Parties as a result of a Change in Law.

(c) For the purposes of paragraph (b)(ii)(A) above, if payment was not received by the Security Agent or the other Finance Parties in the Original Currency, the amount received by the Security 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 Security Agent’s discretion, on the day of receipt at the then prevailing Spot Rate of Exchange of the Security Agent or if, in the Security 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 Security Agent could, in its opinion, reasonably and properly have made a conversion of the Original Currency with the currency of payment.

(d) If the Original Currency no longer exists, each Guarantor shall make such payment in such currency as is, in the reasonable opinion of the Security Agent, required, after taking into account any payments by the Borrower, to place the Security 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 and the obligations of each Guarantor under this guarantee are continuing and do, and will, extend to the ultimate balance of the Guaranteed Obligations from time to time regardless of any intermediate payment, discharge or satisfaction in whole or in part.

17.3 Reinstatement

If:

(a) 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 event or otherwise; or

(b) the Agent reasonably considers that any payment to, or guarantee or security provided to it or any Finance Party is capable of being avoided, reduced or invalidated by virtue of applicable law, notwithstanding any release or discharge of the Guaranteed Obligations,

in each case:

(i) the liability of each Guarantor under this clause 17 will continue or be reinstated as if the discharge, release or arrangement had not occurred; and

(ii) 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

Without prejudice to any other provision of this guarantee, none of the obligations of any Guarantor under this clause 17, nor the liability of any Obligor or any other person for the Guaranteed Obligations, will be prejudiced, reduced, released or otherwise adversely affected by any act, omission, fact, matter or any other thing (whether or not known to it or any Finance Party) which, but for this clause 17, would or may prejudice, reduce, release or otherwise adversely affect any of its obligations under this clause 17, including (without limitation):

(a) any time, waiver or consent granted, or any other indulgence or concession granted to, or composition with, any Obligor or any other person;
(b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Group Member;

(c) the taking, holding, variation, compromise, exchange, renewal, realisation or release by any person of any rights under or in connection with any guarantee, indemnity, security or any other document including any arrangement or compromise entered into by any Finance Party with any Obligor or any other person;

(d) the refusal, failure or neglect to perfect, take up, hold or enforce by any person any rights against, or security over assets of, any Obligor or other person under or in connection with any guarantee, indemnity, security or other document (including, without limitation, any non-presentation, non-compliance with or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security);

(e) the existence of any claim, set-off or other right which any Obligor may have at any time against any Finance Party or any other person;

(f) the making or absence of any demand for payment or discharge of any of the Guaranteed Obligations;

(g) any amalgamation, merger or reconstruction that may be effected by any Finance Party with any other person, including any reconstruction by any Finance Party involving the formation of a new company and the transfer of all or any of its assets to that company, or any sale or transfer of the whole or any part of the undertaking and assets of any Finance Party to any other person;

(h) 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;

(i) 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;

(j) any change in the identity of any Finance Party;

(k) any unenforceability, illegality or invalidity of any obligation of any Guaranteed Obligation or of any obligation of any person under any other guarantee, indemnity, security or other document;
(l) any law or regulation of any jurisdiction or any other event affecting any term of any Guaranteed Obligations;

(m) any other circumstance that might constitute a defence of that Guarantor; or

(n) any insolvency or similar proceedings.

In this clause 17.4, Dissolution includes, in relation to any person, any corporate action, legal proceedings or other procedure or step 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); (b) any composition, compromise, assignment or arrangement with any of its creditors; (c) the appointment of any liquidator, receiver, administrative receiver, compulsory manager or other similar officer in respect of it or any of its assets; or (d) the enforcement of any security interest over any of its assets, or (in each case) any analogous procedure or step taken in any jurisdiction.

17.5 Guarantor intent

Without prejudice to the generality of clause 17.4 (Waiver of defences), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents.

17.6 Principal debtor

Each Guarantor agrees as an independent and primary obligation to pay on demand, immediately and unconditionally, any Guaranteed Obligation which is not recoverable from each Guarantor on the basis of the guarantee set out in this clause 17. Any amount due under this clause 17.6 will be recoverable from each Guarantor as though the obligation had been incurred by each Guarantor as sole or principal debtor, regardless of any unenforceability, illegality or invalidity of any Guaranteed Obligation.

17.7 Immediate recourse

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this clause 17. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.
17.8 **Appropriations**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account, for as long as it considers fit, any moneys received, recovered or realised under or in connection with the guarantee in, or the Guarantor’s liability under, this clause 17 to the extent of the Guaranteed Obligations, without any obligation on the part of the Agent to apply such moneys in or towards the discharge of such Guaranteed Obligations.

17.9 **Deferral of Guarantor’s rights**

(a) Until such time as the Guaranteed Obligations have been irrevocably paid and discharged in full and unless the Agent otherwise directs in writing, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of (1) any amount being payable, or liability arising, under this clause 17 or (2) under or in relation to any Excess Cash Loans, to:

(i) demand, or accept payment or repayment, in whole or in part, from the Borrower or any other persons liable, of any such cost, claim or other liability;

(ii) exercise, receive, claim or have the benefit of any right of payment, guarantee, indemnity, contribution, subrogation or security from or on account of any Obligor (in whole or in part);

(iii) 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;

(iv) take any step or bring legal or other proceedings to force any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under clause 17 (Guarantee and indemnity);
(v) exercise any right of set-off, combination or counterclaim or any right in relation to any “flawed asset” or “hold back” arrangement as against any Group Member; and/or

(vi) claim, rank, vote or prove as a creditor of any other Group Member in competition with any Finance Party.

(b) If a Guarantor receives any benefit, payment or distribution in relation to or as a result of the exercise of any right referred to in clause 17.9(a), it shall hold such benefit, payment or distribution on trust for the Finance Parties and will immediately pay an amount equal to any payment, benefit or distribution to the Agent for application in accordance with clause 40 (Payment mechanics). This only applies until all Guaranteed Obligations have been irrevocably paid and discharged in full.

(c) If a Guarantor exercises any right of set-off, combination or counterclaim or any “flawed asset” or “hold back” arrangement referred to in clause 17.9(a)(iv), it will immediately pay or transfer an amount equal to the amount set-off, combined, counterclaimed or subjected to any “flawed asset” or “hold back” arrangement to the Agent for application in accordance with clause 40 (Payment mechanics). This only applies until all Guaranteed Obligations have been irrevocably paid and discharged in full.

17.10 Additional security

This guarantee and the obligations of each Guarantor under this guarantee are in addition to, independent of, and in no way prejudiced by (or prejudicial to) any other guarantee or security which may be held at any time by any Finance Party.

17.11 New account

If, for any reason, the obligations of each Guarantor under this clause 17 are determined or otherwise cease to be continuing, all payments made by or on behalf of any Obligor to the Agent or any Finance Party (whether in their capacity as trustee or otherwise) shall be treated as having been credited to a new account of the relevant Obligor and not as having been applied in reduction of the Guaranteed Obligations.

17.12 No security

Each Guarantor does not have, and shall not take or receive, the benefit of any security or any other surety in respect of its rights against any Obligor as a result of its entry into the guarantee in this clause 17. If any Guarantor takes or receive the benefit of any security or any other surety in breach of this clause 17.12, it shall hold such security or other surety on trust for the Agent to the extent necessary to discharge the Guaranteed Obligations in full and shall, upon request by
the Agent, transfer or assign such security or other surety to the Agent as security for the Guaranteed Obligations.

17.13 Non-creation of charge

Nothing in this clause 17 is intended to create or shall create a charge or other security.

17.14 Trusts

If any trust intended to arise pursuant to any provision in this clause 17 fails or for any reason (including the laws of any jurisdiction in which any assets, moneys, payments or distributions may be situated) cannot be given effect to, the relevant Guarantor will pay to the Agent for application in accordance with clause 40.6 (Partial payments) an amount equal to the amount intended to be so held on trust for the Agent.

17.15 Amendments

Any amendment, waiver, discharge, release or consent in relation to the guarantee and/or this clause 17 may only be made or given in writing.
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 18.40 (Times when representations are made).

18.1 Status

(a) Each Obligor and each other Group Member is a corporation with limited liability, duly incorporated and validly existing under the law of its Original Jurisdiction.

(b) Each Obligor and each other Group Member has power and authority to own its assets and to carry on its business as it is now being conducted and to perform its obligations under the Transaction Documents to which it is a party.

(c) The Borrower is not a FATCA FFI or a US Tax Obligor.

18.2 Binding obligations

Subject to the Legal Reservations:

(a) the obligations expressed to be assumed by each Obligor in each Transaction Document 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

(b) (without limiting the generality of paragraph (a) above) 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 Non-conflict

The entry into and performance by each Obligor of, and the transactions contemplated by the Transaction Documents and the granting of the Transaction Security do not and will not conflict with:

(a) any law or regulation applicable to any Obligor;

(b) the Constitutional Documents of any Obligor or any other Group Member; or

(c) any agreement or other instrument binding upon any Obligor or any other Group Member or its or any other Group Member’s assets,

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, under a Security Document) on any Obligor’s or any other Group Member’s assets, rights or revenues.

18.4 Power and authority

(a) Each Obligor has the power to enter into, perform and deliver and comply with its obligations under, and has taken all necessary action to authorise its entry into, performance and delivery of, and compliance with, each Transaction Document to which it is, or is to be, a party and each of the transactions contemplated by those documents.

(b) No limitation on any Obligor’s powers (including powers to borrow, create security or give guarantees) will be exceeded as a result of any transaction under, or the entry into of, any Transaction Document to which such Obligor is, or is to be, a party.

18.5 Validity and admissibility in evidence

(a) All Authorisations required:

(i) to enable each Obligor lawfully to enter into, exercise its rights and comply with its obligations under each Transaction Document to which it is a party;

(ii) to make each Transaction Document to which it is a party admissible in evidence in its Relevant Jurisdictions; and

(iii) to ensure that the Transaction Security has the priority and ranking contemplated by the Security Documents,

have been obtained or effected and are in full force and effect except any Authorisation or filing referred to in clause 18.13 (No filing or stamp taxes), which Authorisation or filing will be promptly obtained or effected within any applicable period.

(b) All Authorisations (other than the Authorisations falling within paragraph (a) above) necessary for the conduct of the business, trade and ordinary activities of each Obligor and each other Group Member 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

Subject to the Legal Reservations:

(a) the choice of governing law of any Transaction Document will be recognised and enforced in each Obligor’s Relevant Jurisdictions; and

(b) any judgment obtained in relation to any Transaction Document in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions.

18.7 No misleading information

(a) Any factual information contained in the Information Package is true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given.

(b) Any financial projection or forecast contained in the Information Package (including, without limitation, the Financial Model) has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration.

(c) The expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the Information Package were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds.

(d) To the best of the Borrower’s knowledge and belief (having made due and careful enquiry), no event or circumstance has occurred or arisen and no information has been omitted from the Information Package and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections contained in the Information Package being untrue or misleading in any material respect.

(e) To the best of the Borrower’s knowledge and belief (having made due and careful enquiry), all other written information provided by any Group Member (including its advisers) to a Finance Party was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

(f) For the purposes of this clause 18.7, Information Package means any written information provided by any Obligor or any other Group Member or any of their respective advisors to
any of the Finance Parties in connection with the Transaction Documents or the transactions referred to in them.

18.8 Original Financial Statements

(a) The Original Financial Statements were prepared in accordance with US GAAP consistently applied.

(b) The Original Financial Statements truly and fairly present the financial condition of the Group as at the end of the relevant Financial Year and its results of operations during the relevant Financial Year (on a consolidated basis).

(c) The Original Financial Statements do not consolidate the results, assets or liabilities of any person or business which does not form part of the Group.

(d) There has been no material adverse change in the assets, business or financial condition of any Obligor (or the assets, business or consolidated financial condition of the Group, in the case of the Borrower) since the date of the Original Financial Statements.

(e) The Borrower’s most recent financial statements delivered pursuant to clause 19.3 (Financial statements):

(i) have been prepared in accordance with the Accounting Principles consistently applied; and

(ii) truly and fairly present the Borrower’s consolidated financial position as at the end of, and its consolidated results of operations for, the period to which they relate.

(f) The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.

(g) Since the date of the most recent financial statements delivered pursuant to clause 19.3 (Financial statements) there has been no material adverse change in the assets, business or financial condition of the Group.

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 the Amendment and Restatement Agreement:

(a) the Transaction Security has (or will have when the relevant Security Documents have been executed) the priority which it is expressed to have in the Security Documents;

(b) the Charged Property is not subject to any Security Interest other than those permitted by clause 28.2 (General negative pledge); and

(c) the Transaction Security will constitute perfected security on the assets described in the Security Documents.

18.11 Ownership of Charged Property

Each Obligor is the sole legal and beneficial owner of the Charged Property over which it purports to grant a Security Interest under the Security Documents.

18.12 No insolvency

No corporate action, legal proceeding or other procedure or step described in clause 30.8 (Insolvency proceedings) or creditors’ process described in clause 30.9 (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 30.7 (Insolvency) applies to any Group Member.

18.13 No filing or stamp taxes

Under the laws of each Obligor’s Relevant Jurisdictions it is not necessary that any Transaction Document 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, documentary or similar Taxes or fees be paid on or in relation to any such Transaction Document or the transactions contemplated by the Transaction Documents 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 and which will be made or paid promptly after the date of the relevant Transaction Document.
18.14 Deduction of Tax

No Obligor is required to make any Tax Deduction (as defined in clause 12.1 (Definitions)) 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 other Transaction Document.

18.15 Tax compliance

(a) No Obligor or other Group Member is overdue in the filing of any Tax returns or overdue in the payment of any amount in respect of Tax.

(b) No claims or investigations are being, or are reasonably 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 for an amount for which adequate reserves have not been provided in the Original Financial Statements and which might reasonably be expected to have a Material Adverse Effect or which would involve a liability, or a potential or alleged liability, exceeding:

(i) $5,000,000 (or its equivalent in other currencies) in relation to the Borrower or the Group taken as a whole; or

(ii) $500,000 (or its equivalent in other currencies) in relation to any Group Member (other than the Borrower).

18.16 Pension exposure

No Group Member is, or may be, liable to contribute funds to any form of pension scheme or similar arrangement (other than a scheme or arrangement where the benefits conferred by it on its members are calculated solely by reference to a payment or payments made by the relevant member or by any other person in respect of that member).

18.17 No Default

(a) No Event of Default and, on the Effective Date, no Default is continuing or might reasonably be expected to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.

(b) No other event or circumstance is outstanding which constitutes (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 reasonably be expected to have a Material Adverse Effect.

18.18 No proceedings

(a) No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of any Obligor’s knowledge and belief (having made due and careful enquiry)) been started or threatened against any Obligor or any other Group Member.

(b) No judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental, arbitral or other regulatory body or agency which is reasonably likely to have a Material Adverse Effect has (to the best of any Obligor’s knowledge and belief (having made due and careful enquiry)) been made against any Obligor or any other Group Member.

18.19 No breach of laws

(a) To the best of any Obligor’s knowledge and belief (having made due and careful enquiry), no Obligor or other Group Member has breached any law or regulation which breach might reasonably be expected to have a Material Adverse Effect.

(b) 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 might reasonably be expected to have a Material Adverse Effect.

18.20 Environmental matters

(a) To the best of any Obligor’s knowledge and belief (having made due and careful enquiry), no Environmental Law applicable to any Fleet Vessel and/or any Obligor or other Group Member has been violated in a manner or to an extent which might reasonably be expected to have, a Material Adverse Effect.

(b) All consents, licences, Authorisations and approvals required or recommended under such Environmental Laws have been obtained and are currently in force.

(c) No Environmental Claim has been made or, to the best of any Obligor’s knowledge and belief (having made due and careful enquiry), is pending against any Group Member or any Fleet Vessel where that claim might have reasonably be expected to have a Material
Adverse Effect and there has been no Environmental Incident which has given, or might give, rise to such a claim.

18.21 Anti-corruption law and Sanctions

The following representations in paragraphs (b) and (c) below are given to the extent that the making, the receiving of the benefit of and/or, where applicable, the repetition of and the compliance with these representations do not result in a violation of or conflict with Council Regulation (EC) No. 2271/96 of 22 November 1996 (the EU Blocking Regulation), Section 7 of the German Foreign Trade Ordinance (§ 7 Außenwirtschaftsverordnung) or a similar applicable anti-boycott statute (together with the EU Blocking Regulation and Section 7 of the German Foreign Trade Ordinance the Anti Boycott Regulations):

(a) Each Group Member has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(b) None of the Obligors nor any other Group Member nor any Affiliate (nor any of its directors or officers) of any of them is a Prohibited Person or is owned or controlled by, or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person and none of such persons owns or controls a Prohibited Person.

(c) Each Obligor, each other Group Member and each Affiliate of any of them is in compliance with all Sanctions.

18.22 No money laundering

Each Obligor who is a Party represents and warrants to each Finance Party that, in relation to the borrowing by it of the Loan, the performance and discharge of its and each Obligor’s obligations and liabilities under the Finance Documents to which it is or is to be a party and the transactions and other arrangements effected or contemplated respectively thereby (a) it is acting for its own account and (b) that the foregoing will not involve or lead to any contravention of any law, official requirement or other regulatory measure or procedure implemented to combat money laundering (as defined in Article 1 of Directive 2015/849/EC of the European Parliament and the Council) and/or Art. 305 bis of the Swiss Penal Code.

18.23 Security and Financial Indebtedness

(a) No Security Interest or Quasi-Security exists over all or any of the present or future assets of any Obligor (other than the Manager) in breach of this Agreement.
(b) No Obligor (other than the Manager) has any Financial Indebtedness outstanding in breach of or other than as permitted by this Agreement.

18.24 Shares

(a) The shares of each Owner are fully paid and not subject to any option to purchase or similar rights and are not bearer shares.

(b) The Constitutional Documents of each Owner do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Security Documents.

(c) 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 Owner (including any option or right of pre-emption or conversion).

18.25 Good title to assets

Each Obligor has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

18.26 Intellectual Property

Each Group Member:

(a) is the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted;

(b) does not, in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or might have a Material Adverse Effect; and

(c) has taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it.
18.27 **Group Structure Chart**

The Group Structure Chart delivered to the Agent under the Amendment and Restatement Agreement is true, complete and accurate in all material respects and shows the following information:

(a) each Group Member, including current name and company registration number, its Original Jurisdiction, its jurisdiction of incorporation and/or its jurisdiction of establishment, a list of shareholders and indicating whether a company is a Dormant Subsidiary; and

(b) all minority interests in any Group Member and any person which any Group Member holds shares in its issued share capital or equivalent ownership interest of such person.

18.28 **Status of Charter Documents**

Subject to any applicable Legal Reservations, the Charter Documents constitute legal, valid, binding and enforceable obligations of the parties to them in accordance with their respective terms.

18.29 **No Owner Change of Control**

There has not been an Owner Change of Control.

18.30 **No Borrower Change of Control**

There has not been a Borrower Change of Control.

18.31 **No Manager Change of Control**

There has not been a Manager Change of Control.

18.32 **Accounting Reference Date**

The Financial Year-end of each Obligor and other Group Member is the Accounting Reference Date.

18.33 **Copies of documents**

The copies of those Transaction Documents which are not Finance Documents and the Constitutional Documents of the Obligors delivered to the Agent under the Amendment and Restatement 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 those Transaction Documents which would affect the transactions or arrangements contemplated by them or modify, waive or release the obligations of any party under them.

18.34 No breach of any Charter Document

(a) No Obligor nor (so far as the Obligors are aware) any other person is in material breach of any Charter Document to which it is a party nor has anything occurred which entitles or may entitle any party to rescind or terminate it or decline to perform their obligations under it.

(b) For the purposes of paragraph (a) (but without limitation), any breach of any Charter Document relating to non-payment of charterhire, reduction of charterhire, frequency of charterhire payment, the termination rights of a Charterer, cancellation of the Charter, assignment and/or transfer of any rights and/or obligations under the Charter or a change in the identity of the Charterer shall be regarded as a material breach.

18.35 No immunity

No Obligor or any of its assets is immune to any legal action or proceeding.

18.36 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 any overdue requirements and recommendations of the relevant Classification Society; and

(d) insured in the manner required by the Finance Documents.

18.37 Ship’s employment

Each Ship shall on the first day of the relevant Mortgage Period:

(a) if it is subject to a Charter on the first day of the relevant Mortgage Period, have been delivered, and accepted for service, under its Charter;

(b) be free of any other charter commitment which, if entered into after that date, would require approval under the Finance Documents; and

(c) not be subject to any agreement or arrangement whereby the Earnings of that Ship may be shared with any other person.

18.38 Address commission

There are no rebates, commissions or other payments in connection with any Charter other than those referred to in it.

18.39 No unencumbered Fleet Vessel

All Fleet Vessels are subject to Security Interests securing an Amended RA Facility or the Amended and Restated Sinosure Facility.

18.40 Times when representations are made

(a) All of the representations and warranties set out in this clause 18 (other than Ship Representations) are deemed to be made on the Effective Date.

(b) The Repeating Representations are deemed to be made and repeated on the first day of each Interest Period.

(c) All of the Ship Representations are deemed to be made on the first day of the Mortgage Period for the relevant Ship.

(d) Each representation or warranty deemed to be made after the Effective Date shall be deemed to be made and repeated by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made or repeated.
19.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 19 will be complied with throughout the Facility Period.

19.2 Defined terms

In this clause 19:

**Annual Financial Statements** means the financial statements of the Group for a Financial Year delivered pursuant to paragraph (a) of clause 19.3 (Financial statements).

**Quarterly Financial Statements** means the financial statements of the Group for a Financial Quarter delivered pursuant to paragraph (b) of clause 19.3 (Financial statements).

19.3 Financial statements

(a) The Borrower shall supply to the Agent (in sufficient copies for all the Lenders) as soon as the same become available, but in any event within 150 days after the end of each Financial Year the audited consolidated financial statements of the Group for that Financial Year.

(b) The Borrower shall supply to the Agent (in sufficient copies for all the Lenders) as soon as the same become available, but in any event within 40 days after the end of each Financial Quarter of each of its Financial Years the unaudited consolidated financial statements of the Group for that Financial Quarter.

19.4 Provision and contents of Compliance Certificate

(a) The Borrower shall supply a Compliance Certificate to the Agent, with each set of Annual Financial Statements and each set of Quarterly Financial Statements for the Group. Each Compliance Certificate shall be accompanied by the most recent valuations obtained in accordance with clause 25 (Valuations).

(b) Each Compliance Certificate shall set out (in reasonable detail):

(i) computations as to compliance with clause 20 (Financial covenants);

(ii) the balance of all the Amended RA Facilities, the Amended and Restated Sinosure Facility and Financial Indebtedness secured on all Fleet Vessels as of the date of the Compliance Certificate;
the amount of Total Available Cash (including details as to its calculation) as of the relevant Quarter Date.

(c) Each Compliance Certificate shall be signed by the chief financial officer of the Borrower or chief operating officer of the Borrower or, in his or her absence, by two directors of the Borrower and, if required to be delivered with the Annual Financial Statements, shall be reported on by the Auditors.

(d) Each Compliance Certificate supplied to the Agent together with a set of the Annual Financial Statements for the Group shall be reviewed by the Auditors in connection with the amounts and calculations in respect of Total Available Cash.

(e) The Compliance Certificate supplied to the Agent in respect of the Quarterly Financial Statements for the Group for the Financial Quarter ending on 30 September 2018 (i) shall set out the actual amount of any cost overrun in respect of advisor’s costs and fees in connection with the restructuring contemplated by the Restructuring Support Agreement compared to the aggregate amount for such costs and fees budgeted in the Financial Model, together with an explanation of any such cost overrun in reasonable detail, and (ii) shall confirm that there has been no change or amendments made or agreed to by any Group Member to any of the cost or fee arrangements with any advisor in connection with the restructuring contemplated under the Restructuring Support Agreement since the date of the Financial Model.

19.5 Requirements as to financial statements

(a) The Borrower shall procure that each set of Annual Financial Statements and Quarterly Financial Statements:

(i) includes a profit and loss account, a balance sheet and a cashflow statement; and

(ii) is accompanied by a statement of an officer or chief officer of the Borrower comparing actual performance for the Relevant Period to which the financial statements relate to the projected performance for that period set out in the Budget and the actual performance for the corresponding period in the preceding Financial Year,

and that, in addition:

(A) each set of Annual Financial Statements shall be audited by the Auditors; and
(B) each set of Quarterly Financial Statements includes a reconciliation of actual costs for that Financial Quarter against budgeted costs for that Financial Quarter (as calculated in accordance with the relevant Budget) and in the event that any actual cost detailed therein exceeds the budgeted cost for such line item an explanation of such variance.

(b) Each set of financial statements delivered pursuant to clause 19.3 (Financial statements) shall:

(i) be prepared in accordance with the Accounting Principles;

(ii) truly and fairly present, and be certified by an officer of the relevant Obligor as truly and fairly presenting, its financial condition and operations as at the date as at which those financial statements were drawn up and, in the case of the Annual Financial Statements, shall be accompanied by any letter addressed to the management of the relevant Obligor by the Auditors and accompanying those Annual Financial Statements;

(iii) in the case of Annual Financial Statements, be accompanied by a statement by the directors of the Borrower comparing actual performance for the period to which the Annual Financial Statements relate to:

(A) the projected performance for that period set out in the Financial Model; and

(B) the actual performance for the corresponding period in the preceding Financial Year of the Group; and

(iv) in the case of Annual Financial Statements, not be the subject of any qualification in the Auditors’ opinion.

(c) The Borrower shall procure that each set of financial statements delivered pursuant to clause 19.3 (Financial statements) shall be prepared using the Accounting Principles, 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 Borrower notifies the Agent that there has been a change in the Accounting Principles or the accounting practices and the Auditors deliver to the Agent:

(i) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices and reference periods upon which corresponding Original Financial Statements were prepared; and
(ii) 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.

(d) 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.

(e) If the Agent (or any Lender) wishes to discuss the financial position of any Group Member with the auditors of that Group Member, the Agent (or any Lender) may notify the Borrower, stating the questions or issues which the Agent wishes to discuss with those auditors. In this event, to the extent the questions or issues arising cannot satisfactorily be explained by the Borrower, the Borrower shall ensure that such auditors are authorised (at the expense of the Borrower and involving the Borrower in all correspondence and discussions):

(i) to discuss the financial position of the relevant Group Member with the Agent on request from the Agent; and

(ii) to disclose to the Agent for the benefit of and distribution to the Lenders any information which the Agent may reasonably request.

(f) Notwithstanding any other term of this Agreement, no Event of Default shall occur, or be deemed to occur, as a result of any restriction on the identity of the Borrower’s Auditors contained in this Agreement being prohibited, unlawful, ineffective, invalid or unenforceable pursuant to the Audit Laws.

19.6 Budget

(a) The Borrower shall supply to the Agent in sufficient copies for all the Lenders, as soon as the same become available but in any event at least 30 days before the start of each of its Financial Years, an annual Budget for that Financial Year.

(b) The Borrower shall ensure that each Budget for a Financial Year:

(i) is in a form reasonably acceptable to the Agent and includes:
(A) a projected consolidated profit and loss (including aggregate revenue and aggregate operating expenses and general and administrative and other corporate expenses), balance sheet and cashflow statement of the Group;

(B) projected capital expenditures (including maintenance and investment capital expenditures), operating expenses and other costs to be incurred by each Fleet Vessel;

(C) projected financial covenant calculations;

(D) projected liquidity of the Group;

(E) consolidated financial projections based on the same principles and with the same level of detail as the Financial Model; and

(F) based on the same principles and with the same or greater level of detail as the Financial Model;

(ii) enables approval by the Majority Lenders of the aggregate operating expenses and general and administrative and other corporate expenses of the Group and the project capital expenditures (including maintenance and investment capital expenditures), operating expenses and other costs to be incurred in respect of each Mortgaged Ship;

(iii) is prepared in accordance with the Accounting Principles; and

(iv) has been approved by the board of directors of the Borrower.

(c) The Borrower shall brief, in the manner set out in clause 19.7(b) (Presentations), the Agent regarding projected capital expenditures (including maintenance and investment capital expenditures), operating expenses and general administrative expenses relating to the Fleet Vessels together with any contingencies and one off or exceptional expenditure in relation to the Fleet Vessels.

(d) If the Agent (acting on the instructions of the Majority Lenders) considers it necessary (acting reasonably having regard to the Borrower’s financial position at the time), it may request, at the expense of the Borrower, that the financial projections set out in the Budget are reviewed by a major accounting firm and that such accounting firm provides a reconciliation of such financial projections.
(e) The Budget that is delivered under this clause which is approved by the Majority Lenders shall be an "Approved Budget" for the purposes of the Global Intercreditor Deed in respect of this Agreement.

19.7 Presentations

(a) Once in every Financial Year, or more frequently if requested to do so by the Agent if the Agent reasonably suspects an Event of Default is continuing or may have occurred or may occur, the Borrower shall procure that at least two of its directors (one of whom shall be the chief financial officer) give a presentation to the Finance Parties about the on-going business and financial performance of the Group and any other matter which a Finance Party may reasonably request.

(b) Once in each calendar month until 31 December 2018 and thereafter every Financial Quarter, the Borrower shall ensure that one or more of the chief executive officer, chief financial officer and chief operating officer gives a briefing (by telephone or in person at the option of the Borrower) to the Lenders about the ongoing business and financial performance of the Group, including:

(i) the information referred to in, or delivered under, this clause 19 (Information undertakings);

(ii) the Borrower’s forward-looking view of the remainder of the Financial Year;

(iii) the Borrower’s current liquidity position and forecasts for its liquidity position;

(iv) the balance of amounts outstanding under each Amended RA Facility, Amended and Restated Sinosure Facility, and any other Financial Indebtedness incurred in connection with a Permitted Ship Purchase;

(v) the earnings per Fleet Vessel (including an aged debtor list), payments, expenses and other amounts incurred (including an aged creditor list) in connection with the operation, maintenance and repair of the Fleet Vessels and the profitability level of the Fleet Vessels;

(vi) an overview about (i) all Fleet Vessel and other ships associated to any Group Member and (ii) all facilities attributable to any Group Member and the outstandings thereunder (other than the facilities referred to in lit. (iv) above; and

(vii) in the final Financial Quarter of each Financial Year, its budget for the forthcoming year, provided that, without prejudice to the other provisions of this Agreement,
nothing in this clause shall oblige the Borrower to produce financial statements other than the financial statements specified in clause 19.3 (Financial statements) in accordance with this Agreement or produce other figures (for example, liquidity or earnings) more than once in any Financial Quarter.

19.8 Year-end

The Borrower shall procure that each Financial Year-end of each Obligor and each Group Member falls on the Accounting Reference Date.

19.9 Information: miscellaneous

The Obligors shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

(a) Save to the extent publicly available, at the same time as they are dispatched, copies of all documents dispatched by the Borrower to any class of its shareholders generally or dispatched by the Borrower or any Obligors to any class of its creditors generally;

(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:

(i) $5,000,000 (or its equivalent in other currencies) in relation to the Borrower or the Group taken as a whole; or

(ii) $500,000 (or its equivalent in other currencies) in relation to any Group Member (other than the Borrower);

(c) promptly, details of any disposal or insurance claim or other event or circumstance which may require a prepayment under this Agreement;

(d) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental, arbitral or other regulatory body or agency which is made against any Group Member and which is reasonably likely to have a Material Adverse Effect; or which would involve a liability, or a potential or alleged liability, exceeding:

(i) $5,000,000 (or its equivalent in other currencies) in relation to the Borrower or the Group taken as a whole; or
(ii) $500,000 (or its equivalent in other currencies) in relation to any Group Member (other than the Borrower).

(e) promptly, such information as the Agent or the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Security Documents;

(f) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any Group Member (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by the Obligors under this Agreement, any changes to management of the Group and an up to date copy of its shareholders’ register (or equivalent in its jurisdiction of incorporation)) as any Finance Party through the Agent may reasonably request;

(g) promptly on request information regarding the condition and employment of each Fleet Vessel;

(h) by no later than 30 June 2023, the Borrower’s proposals on how it will refinance any amounts that will remain outstanding under the Finance Documents on the Final Repayment Date in respect of Tranche A as well as on the Final Repayment Date in respect of Tranche B;

(i) promptly upon becoming aware, notification that Dr John Coustas has ceased to be Chief Executive Officer of the Borrower;

(j) promptly upon becoming aware that any Fleet Vessel is or will become unencumbered; and;

(k) promptly upon becoming aware that there may be a deviation of more than 20 per cent regarding the cashflow forecast in respect of the Group relating to any Financial Quarter.

19.10 Information: Ship Classification

The Obligors shall supply to the Agent, promptly upon its request:

(a) certified true copies of all original class records held by the Classification Society in relation to each Ship; and

(b) written confirmation that:
(i) each Obligor 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 any Obligor is in default of any of its contractual obligations and liabilities to the Classification Society, to specify to the Agent in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the Classification Society.

19.11 Information: Intra-group Funding of Excess Cash

(a) On the last day of each Interest Period, the Borrower shall supply to the Agent (in sufficient copies for all the Lenders) a Ring Fencing Compliance Certificate specifying, amongst other things, the quantum of Excess Cash generated, Excess Cash Loan balances (positive and negative) in respect of each Amended RA Facility, Support Payments, the aggregate balance of all Excess Cash Loans with a negative balance across all Amended RA Facilities and Total Available Cash (including details as to its calculation), each as of the date of the Ring Fencing Compliance Certificate.

(b) Each Ring Fencing Compliance Certificate shall be signed by the chief financial officer of the Borrower or chief operating officer of the Borrower or, in his or her absence, by two directors of the Borrower.

19.12 Information: Follow-on Equity Raise

(a) The Borrower shall provide such information to the Lenders as the Majority Lenders may from time to time request in relation to the status of the Follow-on Equity Raise and the Borrower’s preparations in relation thereto, but (subject to paragraph (b) below) not more frequently than once per Financial Quarter until the date falling one year after the Closing Date and thereafter not more frequently than once per month.

(b) If the Borrower fails to complete the Follow-on Equity Raise within 18 months of the Closing Date, the Borrower shall, whenever reasonably requested by the Majority Lenders, provide to the Lenders such information in relation to the status of the Follow-on Equity Raise as such Lenders may reasonably request from time to time.

19.13 Information: Proposed Permitted Group Level Financial Indebtedness and Joint Ventures

In connection with any proposal to the Lenders to approve (a) any Financial Indebtedness to be incurred by the Borrower pursuant to limb (c) of the definition of “Permitted Group Level Financial Indebtedness” or (b) any Joint Venture to be entered into by the Borrower pursuant to paragraph

(c) of clause 28.12 (Acquisitions and investments), the Borrower shall supply to the Agent (in sufficient copies for all the Lenders) business case presentation, supporting material, third-party reports and any other available documentation (including term sheets and/or draft definitive documentation) relating to such proposed transaction, and any other information that the Lenders may request.

19.14 Notification of Default

(a) The Borrower shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) or any event which might adversely affect the ability of any Obligor to perform its obligations under any of the Finance Documents promptly upon any Obligor becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by two of its directors or senior officers of the Borrower 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).

(c) The Borrower must notify the Agent promptly upon becoming aware that any party to a Transaction Document is seeking to amend, vary or supplement any Transaction Document, or that any party is in breach of any Transaction Document together with reasonable details of the surrounding circumstances.

19.15 Inspection

Each Obligor who is a Party undertakes with the Finance Parties that, for so long as any moneys are owing under any of the Finance Documents, upon the request of the Agent following the occurrence of an Event of Default which is continuing or if the Agent reasonably suspects that an Event of Default is continuing or might occur, it shall provide the Finance Parties or any of their representatives, professional advisors, valuers and contractors with free access at the risk and cost of the relevant Obligor or Borrower to, and permit inspection of, the premises, assets, books, accounts and records of any Group Member and permit such persons to meet and discuss the matter with senior management of the Group, in each case at reasonable times and upon reasonable notice.

19.16 Sufficient copies

The Borrower, 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.
19.17 Use of websites

(a) The Borrower 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 an electronic website designated by the Borrower and the Agent (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) both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Borrower and the Agent.

(b) If a Designated Website has been established for the information required to be delivered under the Finance Documents, then at the request of any Lender, the Borrower will establish an additional Designated Website the title of which includes the terms “Public Only” (the Public Only Website). The Borrower will post all information required to be delivered under the Finance Documents to the Public Only Website, so long as all information so posted is information the Borrower has determined is either public information or information which is not material with respect to any Group Member or any of its respective securities for purposes of applicable securities laws. Each Lender shall be entitled to assume that all information posted on the Public Only Website is public information, and the confidentiality provisions of the Finance Documents will not apply to information on the Public Only Website.

(c) If any Lender (a Paper Form Lender) does not agree to the delivery of information electronically then the Agent shall notify the Borrower accordingly and the Borrower shall at its own cost supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall at its own cost supply the Agent with at least one copy in paper form of any information required to be provided by it.

(d) 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 by the Borrower and the Agent.

(e) The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:

(i) the Designated Website cannot be accessed due to technical failure;
(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

(f) If the Borrower notifies the Agent under paragraphs (e)(i) to (v) above, all information to be provided by the Borrower 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.

(g) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall comply with any such request within ten Business Days.

19.18 “Know your customer” checks

(a) If:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement or the application of the policies and procedures of the Agent or any Lender;

(ii) any change in the status of an Obligor (or of a Holding Company of an Obligor) or the composition of the shareholders of an Obligor (or of a Holding Company of an Obligor) after the date of this Agreement; or

(iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not already a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (ii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Agent or any Lender supply, or procure the supply
of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (ii) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in paragraph (ii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

(b) Each Finance Party shall, promptly upon the request of the Agent or the Security Agent, or any Lender, supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent, the Security Agent or any Lender (for itself) in order for it 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.

19.19 Additional investigation

(a) The Majority Lenders shall, having regard to any concerns at that time which warrant such explanation, be entitled to require the Borrower to respond to such concerns in order to explain and enable Finance Parties to understand management actions and the financial performance of the Borrower and each Obligor. The Majority Lenders shall provide brief details to the Borrower of the reason for requiring such an explanation and the Borrower shall, within 30 days of a request from the Majority Lenders, provide such an explanation.

(b) If the Majority Lenders are not satisfied with any explanation provided under paragraph (a) above, the Majority Lenders shall be entitled to require a major accounting firm (at the expense of the Borrower) to undertake such additional investigative work as may reasonably be required to explain and enable Finance Parties to understand management actions and the financial performance of the Borrower and each Obligor.

19.20 Independent Review of Tranche B

(a) In the event that the Total Commitments in respect of Tranche B are above the Tranche B Target Amount as of any two (2) consecutive Financial Quarters (after taking into account the amount of Balancing Payment payable in respect of such Financial Quarters), any Lender with a Commitment in respect of Tranche B shall have the right to require an independent review of the Group’s business by a major accounting firm for the specific purpose of explaining and enabling the Lenders to understand the financial performance of the Group (such review to be conducted in consultation with the Borrower’s management team), provided that such independent review shall not unduly restrict the management
team from performing its day to day functions.

(b) Any fees, costs and expenses of such independent review shall require approval by the Borrower before being incurred (such consent not to be unreasonably withheld, conditioned or delayed).

(c) The Borrower shall provide, on a common platform basis to all other RA Lenders, extracts from that independent review (such extracts to be limited to Group consolidated information and not to include recommendations, options analysis, valuation work or information specific to the Facility, and such extracts otherwise to be in form and substance satisfactory to the Borrower and the Lenders), subject to the execution by such other RA Lenders of non-reliance / hold-harmless letters required by the report providers in accordance with their usual procedures and on the basis that Lenders are the engaging parties and that the provision of such common platform information does not preclude the Lenders from retaining or continuing to retain any such report providers to perform work and analysis solely on behalf of the Lenders.

19.21 Agency Undertaking

The Borrower shall inform the Facility Agent (for dissemination to each Lender):

(a) in the first quarterly report after the Borrower or any Group Member becomes aware of any charge or invoice in respect of hourly management time by a facility agent under any Amended RA Facility or the Amended and Restated Sinosure Facility and in such case, the Borrower shall provide any such further information reasonably requested by any lender under such facilities in respect of the rationale for such work and the quantum of such invoice; and

(b) upon receiving notice from any facility agent under any Amended RA Facility or the Amended and Restated Sinosure Facility of any proposed material changes to the terms of the agency arrangements by the relevant facility agent, including increased fees or expenses (and shall inform the Facility Agent at least 15 calendar days prior to agreeing any changes to any material term or an increased fee).

20 Financial covenants

20.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 20 will be complied with throughout the
20.2 Financial definitions

In this clause 20:

**Accounting Principles** means US GAAP or, if chosen to be adopted by the Borrower, International Financial Reporting Standards (IFRS Standards) applicable from time to time.

**Bareboat Equivalent Time Charter Income** means, at any time and in relation to a Relevant Vessel, the aggregate charter hire due and payable to a Group Member for that Relevant Vessel for the remaining unexpired term of the charter or other contract of employment in respect of that Relevant Vessel at the relevant time (excluding any relevant renewal or charter extension options at the option of the charterers) less, in the case of a contract of employment other than a bareboat charter, the aggregate operating expenses, insurances and dry-docking costs of that Relevant Vessel which would be ordinarily borne by a bareboat charterer and certified to the satisfaction of the Agent for the same period.

**Borrowings** means, at any time, the aggregate face value of the outstanding principal or capital amount (and any fixed or minimum premium payable on prepayment or redemption) of any indebtedness of Group Members for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions;

(b) any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);

(c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) any Finance Lease;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirements for derecognition under the Accounting Principles);

(f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of an entity which is not a Group Member which liability would fall within one of the other paragraphs of this definition;
any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before all amounts outstanding under the Finance Documents are discharged in full or are otherwise classified as borrowings under the Accounting Principles;

any amount of any liability under an advance or deferred purchase agreement if:

(i) one of the primary reasons behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question; or

(ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of supply;

any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and

(without double counting) 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,

and, for the avoidance of doubt, shall not include any obligation or mark to market fair value recorded in the Financial Statements in respect of derivative financial instruments.

Cash means, at any time, cash denominated in dollars (or any other currency which is freely transferable and freely convertible) in hand or at bank and (in the latter case) credited to an account in the name of any Group Member with an Acceptable Bank or a RA Lender and to which the relevant Group Member is alone beneficially entitled and, where held in an account rather than in hand, for so long as:

(a) that cash is repayable within 30 days after the relevant date of calculation;

(b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any Group Member or of any other person whatsoever or on the satisfaction of any other condition;

(c) there is no Security Interest or Quasi-Security over that cash except for any Security Interest or Quasi-Security which is permitted under clause 28.2 (General negative pledge); and

(d) the cash is freely and (except as mentioned in paragraph (a) above) immediately available to be applied in repayment or prepayment of the Amended RA Facilities and/or the
Cash Equivalents means at any time:

(a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank or an RA Lender;

(b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State (provided always that any such government has a rating for its long-term unsecured and non-credit-enhanced debt obligations of A or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or A2 or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency) or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

(c) commercial paper not convertible or exchangeable to any other security:
   (i) for which a recognised trading market exists;
   (ii) issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
   (iii) which matures within one year after the relevant date of calculation; and
   (iv) which has a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

(d) any investment in money market funds which:
   (i) have a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited;
   (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (c) above; and
can be turned into cash on not more than 30 days’ notice; or

(e) any other debt security approved by the Majority Lenders,

in each case, denominated in dollars (or any other currency which is freely transferable and freely convertible) and to which the Borrower is alone beneficially entitled at that time and which is not issued or guaranteed by any Group Member or subject to any Security Interest (other than any Security Interest permitted under clause 28.2 (General negative pledge)) and the ability to deal in any such instrument or ability to apply the proceeds towards the prepayment or repayment of any Amended RA Facility and/or the Amended and Restated Sinosure Facility is not subject to the prior discharge of any other Financial Indebtedness.

Charter Free Value At End Of Charter means, at any time and in relation to a Relevant Vessel, the Charter Free Vessel Value of that Relevant Vessel at the end of the time charter or other contract of employment which shall be deemed to be equal to the current Charter Free Vessel Value of a vessel with similar characteristics to that Relevant Vessel, but having the age which that Relevant Vessel will have at the expiration of the term of her time-charter or other contract of employment, excluding any relevant renewal or charter extension options at the option of the charterers.

Charter Securities means, at any time, the value of debt and/or equity instruments or other security provided to a Group Member by charterers in consideration for variation or other amendments or the provision of credit in relation to a charter or other contract of employment, as valued and presented within the Financial Statements in accordance with the Accounting Principles.

Consolidated Debt means, at any time, the aggregate of all obligations of any Group Member for or in respect of Borrowings at that time but excluding any such obligations owing by a Group Member to another Group Member.

Consolidated EBITDA means, in respect of any Relevant Period, the Net Income:

(a) before taking into account interest income and interest expense, gains or losses under any derivative financial instruments (whether realised or unrealised), tax, depreciation, amortisation and any other non cash item, capital gains or losses realised from the sale of any Relevant Vessel, Finance Charges and capital losses on Relevant Vessel cancellations each as reflected in the Financial Statements for the Relevant Period; and

(b) before taking into account Non-Recurring Items (subject to the limitation set out in that definition).
Consolidated Market Value Adjusted Net Worth means, at any time, the amount by which Market Value Adjusted Total Consolidated Assets exceeds the Total Consolidated Liabilities.

Consolidated Net Leverage means, in respect of any Relevant Period, the ratio of Consolidated Debt (less Cash and Cash Equivalents) to Consolidated EBITDA in respect of that Relevant Period.

Finance Charges means, for any Relevant Period, the aggregate amount of the accrued interest (excluding any accrued or capitalised PIK interest), commission, exit fees, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Borrowings whether paid, payable or capitalised by any Group Member as included in the Financial Statements (calculated on a consolidated basis) in respect of that Relevant Period:

(a) including any upfront fees or costs which are included as part of the effective interest rate adjustments (including in respect of permitted interest rate caps);

(b) including the interest (but not the capital) element of payments in respect of Finance Leases;

(c) including any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any Group Member under any interest rate hedging arrangement; and

(d) taking no account of any unrealised gains or losses on any derivative financial instruments,

so that no amount shall be added (or deducted) more than once.

Finance Leases means any lease or hire purchase contract which would, in accordance with the Accounting Principles be treated as a finance or capital lease.

Financial Statements means, at any time, the consolidated financial statements of the Borrower (whether quarterly or annual) delivered to the Agent under clause 19.3 (Financial statements)

Fixed Amortization Amounts means, the contractually fixed amortization schedule contained in, and in respect of, each Amended RA Facility.

Interest Cover means, for any Relevant Period, the ratio of Consolidated EBITDA to Net Interest Expense.

Market Value for each Relevant Vessel means, at any time:

(a) Charter Attached Vessel Value for a Relevant Vessel that, at the relevant time, is subject

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...to a charter or other contract of employment having an unexpired term of 12 months or more, excluding any relevant renewal or charter extension options at the option of the charterers (such Relevant Vessel is described as Relevant Vessel (Charter Attached)), shall be the aggregate of:

(i) the present value of the Bareboat Equivalent Time Charter Income of that Relevant Vessel; and

(ii) the present value of the Charter Free Value At End of Charter valuation of that Relevant Vessel.

In calculating the above present values, the applicable discount rate shall be 7 per cent;

(b) Charter Free Vessel Value for a Relevant Vessel shall be its market value determined pursuant to the most recent valuations obtained for that Relevant Vessel in accordance with Clause 25 (Valuations); and

(c) Construction Vessel Value for a Relevant Vessel under construction, shall be the net book value for it as recorded in the Financial Statements.

Market Value Adjusted Total Consolidated Assets means, at any time, Total Consolidated Assets adjusted to reflect the Market Value of all Relevant Vessels that are operational and trading or capable of trading by replacing the aggregate net book value of such Relevant Vessels (as reflected in the Financial Statements for the Relevant Period) with the aggregate of their Market Values as at the relevant date, less Cash and Cash Equivalents. For the avoidance of doubt, net book value of the Relevant Vessels under construction shall not be subject to such adjustment to Total Consolidated Assets.

Minimum Corporate Cover (Charter Attached) means, on each Quarter Date, the ratio of (a) the aggregate of the Charter Attached Vessel Values of all Relevant Vessels (Charter Attached), the Construction Vessel Value of all Relevant Vessels under construction and the Charter Free Vessel Values of all other Relevant Vessels plus Charter Securities to (b) Consolidated Debt.

Minimum Corporate Cover (Charter Free) means on each Quarter Date, the ratio of (a) the aggregate of the Construction Vessel Value of all Relevant Vessels under construction and the Charter Free Vessel Value of all other Relevant Vessels (irrespective of the remaining unexpired term of their charter or other contact of employment) plus Charter Securities to (b) Consolidated Debt.

Minimum Liquidity means the aggregate of all Cash and Cash Equivalents at any time.
Net Income means:

(a) in relation to any Financial Year, the net income of the Group appearing in the Financial Statements for that Financial Year; and

(b) in relation to any Financial Quarter, the net income of the Group appearing in the Financial Statements for that Financial Quarter.

Net Interest Expense in respect of a Relevant Period is equal to consolidated:

(a) interest expense (excluding capitalised interest and PIK interest), less

(b) interest income, less

(c) realised gains on interest rate swaps, plus

(d) realised losses on interest rate swaps,

each as reflected in the Financial Statements for the Relevant Period. For the avoidance of doubt, Net Interest Expense excludes unrealised gains/losses on derivative financial instruments.

Non-Recurring Items means, in respect of a Relevant Period, any exceptional, one off, non-recurring or extraordinary items up to a maximum of 5 per cent of Consolidated EBITDA (excluding Non-Recurring Items), each as reflected in the Financial Statements for that Relevant Period. The 5 per cent limit shall not apply to expenses related to the consummation of the Amended RA Facilities and/or the Amended and Restated Sinosure Facility, which include legal and financial adviser fees to professional advisors of the Borrower and the RA Lenders incurred prior to the Effective Date as well as any upfront fees and Amendment Fees payable to the RA Lenders and any underwriting fees in relation to the raising of equity paid on customary market terms to an equity underwriter who is a broker-dealer of international standing.

RA Lender means, at any time, each financial institution that is a party to an Amended RA Facility as an original party and any financial institutions that become a party to the Amended RA Facilities in accordance with the relevant transfer and accession provisions contained therein.

Relevant Period means each period of twelve months ending on the last day of each Financial Quarter.

Relevant Vessels means, together, all of the vessels from time to time owned or leased (under a lease that constitutes a Finance Lease) or are under construction by Group Members which, at the relevant time, are included within Total Consolidated Assets in the Financial Statements or
which would be included within Total Consolidated Assets in the Financial Statements if the Financial Statements were required to be prepared at that time.

**Total Consolidated Assets** means, at any time, the “Total Assets” of the Group as presented in the Financial Statements, excluding the mark to market fair value of any derivative financial instruments (where the entry into such derivative financial instrument is not prohibited by this Agreement) as recorded within the Financial Statements in accordance with the Accounting Principles.

**Total Consolidated Liabilities** means, at any time, the “Total Liabilities” of the Borrower as presented in its Financial Statements (so as to reflect, if applicable, the face value of such liabilities, excluding the mark to market fair value of any derivative financial instruments (where the entry into such derivative financial instrument is not prohibited by this Agreement) as recorded within the Financial Statements in accordance with the Accounting Principles.

### 20.3 Minimum Corporate Cover (Charter Free)

For each Relevant Period ending on each Quarter Date specified in column 1 below, the Minimum Corporate Cover (Charter Free) shall not be less than the percentage specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Minimum Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>57.0%</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>60.0%</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>60.5%</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>63.0%</td>
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<tr>
<td>31 December 2019</td>
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<td>69.0%</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>69.0%</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>71.0%</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>71.0%</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>74.0%</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>76.5%</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>79.0%</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>79.0%</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>81.0%</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>83.5%</td>
</tr>
<tr>
<td>31 December 2022</td>
<td>86.0%</td>
</tr>
<tr>
<td>31 March 2023</td>
<td>93.5%</td>
</tr>
<tr>
<td>30 June 2023</td>
<td>93.5%</td>
</tr>
<tr>
<td>30 September 2023</td>
<td>100.0%</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
### 20.4 Minimum Corporate Cover (Charter Attached)

For each Relevant Period ending on each Quarter Date specified in column 1 below, the Minimum Corporate Cover (Charter Attached) shall not be less than the percentage specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Minimum Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>69.5%</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>73.0%</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>73.0%</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>76.0%</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>76.0%</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>78.5%</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>79.0%</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>79.0%</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>81.0%</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>81.0%</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>84.0%</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>84.0%</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>86.5%</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>86.5%</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>89.0%</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>89.0%</td>
</tr>
<tr>
<td>31 December 2022</td>
<td>91.0%</td>
</tr>
<tr>
<td>31 March 2023</td>
<td>93.5%</td>
</tr>
<tr>
<td>30 June 2023</td>
<td>98.0%</td>
</tr>
<tr>
<td>30 September 2023</td>
<td>100.0%</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

### 20.5 Minimum Liquidity

For each Relevant Period ending on each Quarter Date specified in column 1 below, Minimum Liquidity shall not at any time be less than the figure specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Minimum Liquidity (million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>$30</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>$30</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>$30</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>$30</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>$30</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>$30</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>$30</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>$30</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>$30</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>$30</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>$30</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>$30</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>$30</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>$30</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>$30</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>$30</td>
</tr>
<tr>
<td>31 December 2022</td>
<td>$30</td>
</tr>
<tr>
<td>31 March 2023</td>
<td>$30</td>
</tr>
<tr>
<td>30 June 2023</td>
<td>$30</td>
</tr>
<tr>
<td>30 September 2023</td>
<td>$30</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>$30</td>
</tr>
</tbody>
</table>
## Consolidated Net Leverage

For each Relevant Period ending on each Quarter Date specified in column 1 below, Consolidated Net Leverage shall not exceed the ratio specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>7.50x</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>7.25x</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>7.25x</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>7.25x</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>7.00x</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>7.00x</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>7.00x</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>7.00x</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>6.75x</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>6.50x</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>6.25x</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>6.25x</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>6.00x</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>6.00x</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>6.00x</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>6.00x</td>
</tr>
<tr>
<td>31 December 2022</td>
<td>6.00x</td>
</tr>
<tr>
<td>31 March 2023</td>
<td>6.00x</td>
</tr>
<tr>
<td>30 June 2023</td>
<td>5.75x</td>
</tr>
<tr>
<td>30 September 2023</td>
<td>5.50x</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>5.50x</td>
</tr>
</tbody>
</table>
For each Relevant Period ending on each Quarter Date specified in column 1 below, Interest Cover shall not be less than the ratio set out in column 2 opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Interest Cover</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 December 2022</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 March 2023</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 June 2023</td>
<td>2.50x</td>
</tr>
<tr>
<td>30 September 2023</td>
<td>2.50x</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>2.50x</td>
</tr>
</tbody>
</table>
For each Relevant Period ending on each Quarter Date specified in column 1 below, its Consolidated Market Value Adjusted Net Worth shall not be less than the figure specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Consolidated Market Value Adjusted Net Worth (million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>$ (510)</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>$ (460)</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>$ (440)</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>$ (380)</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>$ (370)</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>$ (320)</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>$ (300)</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>$ (280)</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>$ (240)</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>$ (230)</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>$ (190)</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>$ (190)</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>$ (150)</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>$ (150)</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>$ (110)</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>$ (110)</td>
</tr>
<tr>
<td>31 December 2022</td>
<td>$ (80)</td>
</tr>
<tr>
<td>31 March 2023</td>
<td>$ (50)</td>
</tr>
<tr>
<td>30 June 2023</td>
<td>$ 10</td>
</tr>
<tr>
<td>30 September 2023</td>
<td>$ 60</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>$ 60</td>
</tr>
</tbody>
</table>

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20.9 Financial testing

The financial covenants set out in this clause 20 shall be calculated in accordance with the Accounting Principles and tested by reference to each set of Financial Statements and/or each Compliance Certificate delivered pursuant to clause 19.4 (Provision and contents of Compliance Certificate). Notwithstanding the foregoing provisions of this Clause 20, the outstanding principal amount of any moneys borrowed or debit balances at banks or financial institutions will for the purposes of this Clause 20 be determined by reference to the actual outstanding principal amounts in respect of such moneys borrowed or the outstanding principal debit balances in each case at the time of determination, irrespective of the treatment of such amounts under the Accounting Principles, and both sub-paragraph (a) of “Borrowings” and “Total Consolidated Liabilities” shall be calculated by reference to such actual amounts.

21 General undertakings

21.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 21 will be complied with by and in respect of each Obligor and each other Group Member throughout the Facility Period.

21.2 Authorisations

Each Obligor 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 Authorisation required under any law or regulation of a Relevant Jurisdiction to:

(i) enable it to perform its obligations under the Transaction Documents;

(ii) ensure the legality, validity, enforceability or admissibility in evidence of any Transaction Document; 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 and Sanctions

To the extent that the making and the receiving of the benefit of and the compliance with the undertakings in this Clause 21.3 (Compliance with laws and Sanctions) do not and will not result
in a violation of or conflict with the EU Blocking Regulation, Section 7 of the German Foreign Trade Ordinance (§ 7 Außenwirtschaftsverordnung) or a similar applicable anti-boycott statute, each Obligor who is a Party undertakes the following:

(a) Each Group Member will comply in all respects with all laws and regulations (including Environmental Laws) and all Sanctions to which it may be subject, if (except as regards Sanctions, to which paragraph (b) below applies) failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

(b) Each Obligor shall comply, and shall procure that each other Group Member and each Affiliate of any of them shall comply, in all respects with all Sanctions, and shall take all steps to avoid becoming a Prohibited Person.

(c) No proceeds of the Loan shall be made available, directly or indirectly, to or for the benefit of a Prohibited Person or otherwise shall be, directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.

(d) Each Group Member acknowledges and agrees that certain of the Finance Parties, be it due to applicable laws or internal rules and regulations, are prohibited to conclude transactions or finance transactions with the government of or any person or entity owned or controlled by the government of a Restricted Country or with a Prohibited Person.

(e) No Group Member shall (and the Borrower shall ensure that no Group Member will) transfer, make use of or provide the benefits of any money, proceeds or services provided by or received from any Finance Party to any such Prohibited Person or conduct any business activity such as entering into any ship acquisition agreement, any ship refinancing agreement and/or any charter agreement related to a vessel, project, asset or otherwise for which money, proceeds or services have been received from a Finance Party with any such Prohibited Person.

(f) Each Obligor shall not and shall procure that no Owner shall knowingly permit or knowingly authorise a Ship to be used directly or indirectly:
   (i) by or for the benefit of any Prohibited Person; or
   (ii) in any trade which will expose that Ship, the relevant Owner or any other Obligor or that Ship’s insurers to enforcement proceedings or any other consequences whatsoever arising from Sanctions.
21.4 Anti-corruption law

(a) No Obligor shall (and shall ensure that no other Group Member will) directly or indirectly use the proceeds of the Facility for any purpose which would or might breach applicable anti-corruption laws, including, but not limited to, the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

(b) Each Obligor shall (and shall ensure that each other Group Member will):

(i) conduct its businesses in compliance with applicable anti-corruption laws and regulations; and

(ii) maintain effective policies and procedures designed to promote and achieve compliance with such laws and regulations.

(c) No Obligor shall (and shall ensure that no Group Member will) conduct its businesses in a manner which might involve or lead to any contravention of any law, official requirement or other regulatory measure or procedure implemented to combat money laundering (as defined in Article 1 of Directive 2015/849/EC of the European Parliament and the Council).

21.5 Tax compliance

(a) Each Obligor shall (and shall ensure that each other Group Member will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

(i) such payment is being contested in good faith;

(ii) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Agent under clause 19.3 (Financial statements); and

(iii) such payment can be lawfully withheld.

21.6 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 Borrower, the other Obligors or the Group taken as a whole from that carried on at the Closing Date.

21.7 Merger

Except as approved by the Majority Lenders, no Obligor shall (and shall ensure that no other Group Member will) enter into any amalgamation, demerger, merger, consolidation, redomiciliation, legal migration or corporate reconstruction (other than the solvent liquidation of any Group Member which is not an Obligor so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other Group Members).

21.8 Pension exposure

The Borrower shall ensure that no Obligor or any other Group Member is, or at any time becomes, liable to contribute funds to any form of pension scheme or similar arrangement (other than a scheme or arrangement where the benefits conferred by it on its members are calculated solely by reference to a payment or payments made by the relevant member or by any other person in respect of that member).

21.9 Further assurance

(a) Each Obligor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Agent may reasonably specify (and in such form as the Agent or the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):

(i) 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 and/or any other Finance Parties provided by or pursuant to the Finance Documents or by law;

(ii) to confer on the Security Agent and/or any other Finance Parties 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;

(iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Documents; and/or

(iv) to facilitate the accession by a New Lender to any Security Document following an assignment in accordance with clause 31.1 (Assignments by the Lenders).
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 Parties by or pursuant to the Finance Documents.

21.10 Negative pledge in respect of Charged Property and Obligor shares

Except as approved by all Lenders and for any Permitted Maritime Liens, no Obligor will grant or allow to exist any Security Interest over any Charged Property or (except for the Transaction Security) the shares in any of the Obligors or any rights deriving from, or related to, such shares.

21.11 Environmental matters

(a) The Agent will be notified in writing as soon as reasonably practicable of any Environmental Claim being made (whether current, pending or threatened) against any Group Member or any Fleet Vessel or any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any Group Member or any Fleet Vessel which, if successful to any extent, might reasonably be expected to have a Material Adverse Effect and of any Environmental Incident which may give rise to such a claim and will be kept 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.

(b) Environmental Laws (and any consents, licences, permits or approvals obtained under them) applicable to Fleet Vessels will not be violated in a way which might have a Material Adverse Effect.

21.12 Consent to transactions

No Obligor or any other Group Member shall (and the Borrower shall ensure no Group Member will) enter into any transaction (including, without limitation, any amendment to the Amended Management Agreement) (except where such amendment to the Management Agreement is permitted by clause 28.9 (Contracts and arrangements with Affiliates and Borrower Affiliates)) with any Borrower Affiliate (other than transactions solely between Group Members excluding the Borrower and the Existing Fleet Group Members) except on standard, arm’s length terms and for full market value and with the consent of all NEDs (as certified in writing to the Agent by the Borrower from time to time).

21.13 Executive compensation

The Borrower shall ensure that no material alterations are made to the terms of the Borrower’s executive compensation plans (as at the Closing Date) without approval by a remuneration or
compensation committee of the Borrower’s board of directors, such committee to be comprised solely of NEDs. The extension of executive compensation plans on identical terms to those existing as at the Closing Date shall not constitute a material alteration for the purposes of this clause 21.13.

21.14 Corporate governance

The Borrower shall ensure that it maintains a board of directors of up to nine directors from time to time, provided that a majority of such directors shall at all times be NEDs.

21.15 Equity issuance

(a) The Borrower shall not issue any preferred equity securities or any class of equity securities other than Danaos Shares in each case without the consent of all NEDs.

(b) Subject to clause 21.15 (c), the Borrower shall use commercially reasonable efforts to complete the Follow-on Equity Raise by no later than 18 months after the Closing Date.

(c) If the Borrower’s board of directors — in the proper exercise of its fiduciary duties (and after consultation with outside legal counsel) and having regard to the Borrower’s obligation to use such commercially reasonable efforts to complete the Follow-on Equity Raise in accordance with paragraph (b) above, reasonably considers in good faith that market conditions are such that it is inappropriate or impractical (including, without limitation, due to the expected price achievable for the sale of the Danaos Shares) to proceed with the Follow-on Equity Raise within 18 months of the Closing Date:

(i) the Borrower shall promptly provide notice to the Agent of the same and shall, for a period of 60 days beginning on the date of such notice, consult with the Agent in relation to the timing within which the Follow-on Equity Raise is expected to be completed; and

(ii) the Borrower shall continue to use commercially reasonable efforts to complete the Follow-on Equity Raise.

21.16 Cash management

Subject to any restrictions on the upstreaming of Excess Cash set out in the Global Intercreditor Deed, the Borrower will ensure that no Obligor or any other Group Member (other than the Borrower and the Manager) holds Cash or Cash Equivalents in excess of that Group Member’s projected cash needs over the next 85 days (calculated on the basis that only one instalment of principal and interest in relation to Financial Indebtedness forms part of that Group Member’s
projected cash needs over the next 85 days) and that each Group Member (other than the Borrower and the Manager) advances to the Borrower by way of Excess Cash Loan or Permitted Subordinated Loan, any Cash or Cash Equivalents in excess of its projected 85-day cash needs.

21.17 Ownership of vessels

Except in connection with the Gemini JV and subject to clause 28.12 (Acquisitions and investments), the Borrower shall ensure that it does not hold, directly or indirectly, any right, title or interest in and to a vessel unless it owns all of the right, title and interest in and to that vessel or all of the share capital in any person that owns (directly or indirectly) 100 per cent of the right, title and interest in and to that vessel.

21.18 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 the occurrence of an Event of Default which is continuing, 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.

21.19 Sale or other disposal of HMM Notes

The Borrower shall ensure that no Obligor sells, transfers, or otherwise disposes of any right, title or interest in or to the HMM Notes without the prior approval of all of the Lenders.

22 Dealings with Ship

22.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 22 will be complied with in relation to each Mortgaged Ship throughout the relevant Ship’s Mortgage Period (other than during a period that any of the following events: (i) hijacking, (ii) theft or (iii) capture (whether by piracy or otherwise) as set out in lit. (d) of the definition of Total Loss Date has occurred, when compliance with clauses 22.9 (Lay up) and 22.10 (Anti-drug abuse) shall not be required).

22.2 Ship’s name and registration

(a) The Ship’s name shall only be changed after prior notice to the Agent;
The Ship shall be registered with the relevant Registry under the laws of its Flag State. Except with approval of the Majority Lenders, 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), provided that no such approval shall be required for the registration of the Ship under the flag of another Approved Flag State as long as replacement Security Interests are granted in respect of the Ship (which are, in the opinion of the Lenders, equivalent to those in place prior to registration) in favour of the Security Agent and/or the other Finance Parties (at the cost of the Borrower) immediately following the registration of the Ship under the flag of that other Approved 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 such renewal at least 30 days before that date.

Nothing will be done and no action will be omitted (including by any Group Member) if that might result in such registration being cancelled, forfeited or imperilled or the Ship being required to be registered under the laws of another state of registry.

22.3 Sale or other disposal of Ship

Except as may be approved by all Lenders (and subject to such conditions as the Lenders may impose in consideration for such approval, including for avoidance of doubt any adjustments to the fixed amortization schedule) the relevant Owner will not sell, or agree to sell, transfer, agree to transfer, abandon or otherwise dispose of the relevant Ship or any share or interest in it.

22.4 Manager

A manager of the Ship shall not be appointed unless that manager and the terms of its appointment are approved by the Agent (acting on the instructions of the Majority Lenders) and it has delivered a duly executed Manager’s Undertaking to the Security Agent. The Manager is approved as at the Closing Date. There shall be no change to the terms of appointment of a manager whose appointment has been approved unless such change is also approved by the Agent (acting on the instructions of the Majority Lenders).

22.5 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.
22.6 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 [●] of [●]. 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.

22.7 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.

22.8 Chartering

Except as approved by the Majority Lenders (and subject to such terms as they may in their absolute discretion require), the relevant Owner shall not enter into any charter commitment for the Ship (except for the Ship’s Charter), which is:

(a) a bareboat or demise charter or passes possession and operational control of the Ship to another person;

(b) a Long Term Charter;

(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;

(d) on terms whereby more than two months’ hire (or equivalent) is payable in advance; or

(e) to another Group Member.
22.9 Lay up

Except as approved by the Majority Lenders the Ship shall not be laid up or deactivated.

22.10 Anti-drug abuse

The relevant Owner shall take all necessary and proper precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to its Ship in any jurisdiction in or to which its Ship shall be employed or located or trade or which may otherwise be applicable to its Ship and/or the relevant Owner and, if the Security Agent shall so require, procure that each Owner enters into a “Carrier Initiative Agreement” with the United States Customs Service and procure that such agreement (or any similar agreement hereafter introduced by any government entity of the United States of America) is maintained in full force and effect and performed by the relevant Owner.

22.11 Sharing of Earnings

Except as approved by the Majority Lenders, the relevant Owner shall not enter into any agreement or arrangement:

(a) under which its Earnings from the Ship may be shared with anyone else;

(b) for the postponement of any date on which any Earnings relative to the Ship are due;

(c) for the reduction of the amount of Earnings relative to the Ship or otherwise for the release or adverse alteration of any right of the relevant Owner to any such Earnings; or

(d) for the release of, or adverse alteration to, any guarantee or Security Interest relating to any Earnings relative to its Ship.

22.12 Payment of Earnings

(a) 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.

(b) If any Earnings are held by brokers or other agents, they shall be duly accounted for and paid to the Security Agent, if it requires this after the Earnings have become payable to it under the Ship’s General Assignment or Deed of Covenant.
23.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 23 will be complied with in relation to each Mortgaged Ship throughout the relevant Ship’s Mortgage Period (other than during a period that any of the following events: (i) hijacking, (ii) theft or (iii) capture (whether by piracy or otherwise) as set out in lit. (d) of the definition of Total Loss Date has occurred, when compliance with clauses 23.3 (Repair), 23.4 (Modification), 23.6 (Third party owned equipment), 23.10 (Anti-drug abuse), 23.5 (Removal of parts), 23.7 (Maintenance of class; compliance with laws and codes), 23.8 (Surveys), 23.9 (Inspection and notice of dry-docking), 23.10 (Prevention of Arrest), 23.16 (Repairer’s liens), 23.17 (Survey report), 23.18 (lawful use), 23.19 (War zones) shall not be required).

23.2 Defined terms

In this clause 23:

- **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, vessel response plans, 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 (including, without limitation, the document of compliance and safety management certificate relating to the Ship under the ISM Code and the International Ship Security Certificate relating to the Ship under the ISPS Code).

23.3 Repair

The Ship shall be kept in a good, safe and efficient state of repair consistent with first-class ship ownership and management practice. 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.

23.4 Modification

Except with approval, 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.
23.5 Removal of parts

Except with approval, 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).

23.6 Third party owned equipment

Except with approval, 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.

23.7 Maintenance of class; compliance with laws and codes

(a) The Ship’s class shall be the relevant Classification, which shall be maintained free of all overdue recommendations, requirements and conditions affecting class.

(b) 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 from time to time applicable to vessels registered under the relevant Flag State or otherwise applicable to the Ship, its ownership, management, operation or to the business or the relevant Owner or to vessels trading to any jurisdiction to which that Ship may trade from time to time including, but not limited to, the ISM Code, the ISM Code documentation, the ISPS Code and the ISPS Code documentation.

(c) 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.

23.8 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.

23.9 Inspection and notice of dry-docking

(a) Not more than once per calendar year (unless a Default is continuing) the Agent and/or surveyors or other persons appointed by it for such purpose shall be allowed to board the Ship (at the cost of the Owner and at the risk of the Owner) at all reasonable times (so as
(b) The Agent shall be given reasonable advance notice of any intended dry-docking of the Ship (whatever the purpose of that dry-docking).

23.10 Prevention of arrest

(a) 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 or any part thereof, or lead to any of the same being arrested, attached or levied upon pursuant to legal process or purported legal process, shall be promptly paid and discharged.

(b) The Owner shall promptly discharge or settle all taxes, dues and other amounts charged and all other outgoings whatsoever in respect of the Ship owned by it, her Earnings or her Insurances.

23.11 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.

23.12 Information about Ship

(a) The Agent shall promptly be given any information which it may require about the Ship, its Earnings (including profitability) and Insurances, or its employment, position and engagements, use or operation (including any expenses incurred or paid, or likely to be incurred or paid, in connection with the operation, maintenance, or repair of the Ship), including details of towages and salvages, and copies of all its charter commitments entered into by or on behalf of any Obligor and certified true copies of any applicable operating certificates.

(b) Without prejudice to the generality of paragraph (a) above, by no later than six months prior to the expiration of any time charter or other contract of employment in respect of a Ship with an initial term of 12 months or longer and by no later than one month prior to the expiration of any other time charter or other contract of employment in respect of a Ship, the Borrower shall provide the Agent with its proposals as to the chartering or employment of the relevant Ship upon expiration of the subsisting charter or other contract of employment.

23.13 Notification of certain events

The Agent shall promptly be notified in writing 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 or any other Fleet Vessel or any Group Member and Environmental Claim being made in relation to such an incident against any Fleet Vessel or any Group Member;

(e) any claims for breach of an applicable code or applicable law being made against the relevant Group Member or otherwise in connection with the Ship and, to the extent that the relevant Group Member is aware of such claim, any such claim being made against the operator of the Ship;

(f) any other matter, event or incident, actual or threatened, the effect of which would or is reasonably likely to lead to any applicable code not being complied with;

(g) any withdrawal or threat to withdraw any applicable operating certificate;

(h) the issue of any applicable operating certificate;

(i) the receipt of notification that any application for any applicable operating certificate has been refused;

(j) any requirement, condition 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;

(k) any arrest 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 or any part thereof;

(l) any facts or matters that may result or have resulted in a change, suspension, discontinuance, withdrawal or expiry of the Ship’s class under the rules or terms and conditions of any Obligor’s or the Ship’s membership of its Classification Society; and
any intention to change the Ship’s Classification Society, or receipt of notification that the Ship’s Classification Society might be changed;

and the Borrower shall advise the Agent in writing, on a regular basis and in such detail as the Agent may require, of the relevant Obligor’s or any other person’s response to any of the foregoing events.

23.14 Payment of outgoings

(a) All taxes, tolls, dues and other outgoings whatsoever in respect of the Ship and its Earnings and Insurances shall be paid promptly.

(b) Proper accounting records (including books of accounts) shall be kept of the Ship and its Earnings.

23.15 Evidence of payments

The Agent shall be allowed proper and reasonable access to those accounting records when it requests it and, 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 (including the Ship’s master) 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.

23.16 Repairers’ liens

Except with approval, 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 such 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.

23.17 Survey report

At intervals of 12 months or, after the occurrence of a Default as soon as reasonably practicable after the Agent requests it, the Agent shall be given a report (at the cost of the relevant Owner) on the seaworthiness and/or safe operation (including, without limitation, with regard to crew
training and safety procedures and cargo-handling operations) of the Ship, from approved surveyors or inspectors. 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 and evidence of such compliance shall be provided to the Agent upon request.

23.18 Lawful use

TheShipshallnotbeemployed:

(a) in any way or in any manner, business or 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, penalised or made the subject of sanctions; 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.

23.19 War zones

Except with approval of the Ship’s war risks insurers and the Majority Lenders, the Ship shall not enter, trade to or continue to trade in or remain in any zone which has been declared a war zone by any government entity or the Ship’s war risk insurers. If approval is granted for it to do so, 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) shall be complied with (at the expense of the Owner).

23.20 Scrapping

(a) The Borrower shall undertake periodic market checks and scrap value assessments in respect of all relevant Fleet Vessels securing (on a first lien basis) any relevant Restructured Facility, where such vessels are older than 20 years in age, not subject to a charter commitment with at least 12 months remaining term and have not been drydocked within the past 30 months. Such assessment shall be delivered to the Lenders together with an explanation of the commercial decision (certified by a relevant officer of an Obligor) not to scrap such vessels.
Subject at all times to clause 22.3 (Sale or other disposal of Ship), if a Ship is sold (directly or indirectly) for scrapping, the Obligors shall procure (or, in the case of a Ship sold indirectly for scrapping, use their reasonable endeavours to procure) that such Ship is dismantled in accordance with The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (whether or not such Convention is in force) or, if applicable, Regulation (EU) No. 1257/2013 of the European Parliament and of the Council of 20 November 2013.

24 Insurance

24.1 Undertaking to comply

Each Obligor who is a Party 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.

24.2 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 paragraph (a) of clause 24.3 (Coverage required).

minimum hull cover means, in relation to a Mortgaged Ship (other than a Collateral Ship), an amount equal at the relevant time to 120 per cent of such proportion of the Loan as is equal to the proportion which the market value of such Ship bears to the aggregate of the (charter free) market values of all of the Mortgaged Ships (other than the Collateral Ships) at the relevant time (and such (charter free) market values shall be those available to the Group Members at inception and at each renewal of each policy, as applicable) but in relation to a Mortgaged Ship which is subject to First Priority Security, for an amount as is approved or required by the lenders of the Owner of such Mortgaged Ship benefiting from the First Priority Security.

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).

24.3 Coverage required

Each Ship shall at all times be insured:

(a) against fire and usual marine risks (including excess risks) and war risks (including war protection and indemnity risks, crew liability risks and terrorism risks) on an agreed value basis, 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);

(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.

24.4 Placing of cover

The insurance coverage required by clause 24.3 (Coverage required) shall be:

(a) in the name of the relevant Owner and the Manager and (in the case of the Ship’s hull cover) no other person (other than the Security Agent (and any other Finance Party required by the Agent) 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 (and any other Finance Party required by the Agent) 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 relevant Owner, the Manager and the Security Agent (and any other Finance Party required by the Agent) (and, to the extent reasonably practicable in the insurance market, without liability on the part of the Security Agent or such Finance Party for premiums or calls);

(c) in dollars or another approved currency;
(d) arranged free of cost and expense to the Security Agent and any other Finance Party;

(e) arranged through approved brokers or direct with approved insurers or protection and indemnity or war risks associations which are members of the International Group of Protection and Indemnity Associations, and have a Standard & Poor’s rating of at least BBB- or a comparable rating by any other rating agency acceptable to the Agent;

(f) in full force and effect; and

(g) on terms approved by the Security Agent from time to time and with approved insurers or associations.

24.5 Deductibles

The aggregate amount of any excess or deductible under the Ship’s hull cover shall not exceed an amount approved by the Majority Lenders.

24.6 Mortgagee’s insurance

The Borrower 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 approved terms, or in considering or making claims under:

(a) a mortgagee’s interest insurance and a mortgagee’s additional perils (pollution risks) for the benefit of the Finance Parties for an aggregate amount of equal to 120 per cent of the Loan at the time of placement; 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).

24.7 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 any premiums due for other insurances; or
cancel that cover because of non-payment of premiums in respect of such other vessels or any premiums due for other insurances,

or the relevant Owner shall ensure that hull cover for the Ship and any other Mortgaged Ships is provided under a separate policy from any other vessels and the brokers or (if relevant) the insurers will issue a separate policy in respect of the relevant Ship if and when requested by the Security Agent.

24.8 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.

24.9 Details of proposed renewal of Insurances

At least 21 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.

24.10 Instructions for renewal

At least 14 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.

24.11 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.

24.12 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.

24.13 Insurance documents

The Agent shall be provided with pro forma copies of all insurance policies and other documentation (including, without limitation, all slips, cover notes, policies, certificates of entry or other instruments) 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 (including, without limitation, all slips, cover notes, policies, certificates of entry or other instruments) 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.

24.14 Letters of undertaking

Unless otherwise approved where the Agent 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.

24.15 Insurance Notices and Loss Payable Clauses

The interest of the Security Agent as assignee 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 the relevant Owner and, unless otherwise approved, each other person assured under the relevant cover (other than the Security Agent if it is itself an assured).

24.16 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.

24.17 Qualifications and exclusions

All requirements (including, without limitation, the making of all requisite declarations within any prescribed time limits and the payment of any additional premiums or calls) applicable to the Ship’s Insurances shall be complied with and the Ship’s Insurances shall only be subject to approved exclusions or qualifications.

24.18 Independent report

If the Agent asks the Borrower for a detailed report from an approved independent firm of marine insurance brokers giving their opinion on the adequacy of the Ship’s Insurances and compliance with clause 24.1 (Undertaking to comply) then the Agent shall be provided promptly with such a
report at no cost to the Agent or (if the Agent obtains such a report itself) the Borrower shall reimburse the Agent for the cost of obtaining that report, once per year unless a Default has occurred in which event the costs are for Borrowers’ account.

24.19 Collection of claims

All documents, evidence 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 monies and/or claims under the Ship’s Insurances shall be provided promptly.

24.20 Employment of Ship

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 relevant insurers have consented and any additional requirements (including, without limitation, as to extra premia) of the insurers have been satisfied).

24.21 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.

24.22 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.

24.23 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 the prior approval of the Majority Lenders.
Compliance with terms of insurances

No Owner 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 thereunder repayable in whole or in part; and in particular:

(a) each Owner shall take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Security Agent has not given its prior approval;

(b) no Owner shall make any changes relating to the classification or classification society or manager or operator of the Ship owner by it unless approved (where applicable) by the underwriters of the obligatory insurances;

(c) each Owner shall make all quarterly or other voyage declarations which may be required by the protection and indemnity risks association 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) no Owner 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.

Alteration to terms of insurances

An Owner shall neither make nor agree to any alteration to the terms of any obligatory insurance nor waive any right relating to any obligatory insurance.

Change in insurance requirements

If the Agent gives notice to the Borrower 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 Closing Date), 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.

Insurance opinion

If the Agent gives notice to the Borrower that it (acting on the instructions of the Majority Lenders) reasonably requires the Borrower or any relevant Owner to implement any of the action points set out in the insurance opinion of Bankserve delivered pursuant to the Amendment and Restatement Agreement, the Borrower or any relevant Owner shall use commercially reasonable efforts to do so as soon as reasonably practicable.

Valuations

Undertaking to comply

Each Obligor who is a Party undertakes that this clause 25 will be complied with throughout any Mortgage Period.

Valuation of assets

For the purpose of the Finance Documents, the value at any time of the Fleet Vessels will be its value as most recently determined in accordance with this clause 25.

(a) For the purposes of this clause 25, references to Fleet Vessels shall include Relevant Vessels (as defined in clause 20 (Financial covenants)) insofar as a valuation is required for the purposes of clause 25 (Financial covenants).

Valuation frequency

Valuation of each Fleet Vessel in accordance with this clause 25 shall, subject to paragraph (b) below, be conducted at least semi-annually and dated as at, and for the Financial Quarter ending on, 30 June and 31 December in each year (provided that no such valuation shall be prepared more than seven days before a relevant Quarter Date for the purposes of determining compliance with the Minimum Corporate Cover (Charter Free) or Minimum Corporate Cover (Charter Attached) financial covenants under (and as defined in) clause 20 (Financial covenants)).

(b) The Agent (acting on the instructions of the Majority Lenders, acting reasonably with regard to the financial condition of the Group at the time) may request additional valuations dated as at, and for the Financial Quarter ending on, 31 March and/or 30 September in each year. Where a Default is continuing, the Agent (acting on the instructions of the Majority Lenders) may request such additional valuations of the Mortgaged Ships as it may require.
25.4 Expenses of valuation

The Borrower shall bear, and reimburse to the Agent where incurred by the Agent, all costs and expenses of providing such a valuation.

25.5 Valuations procedure

The value of any Fleet Vessel shall be determined in accordance with, and by valuers approved and appointed in accordance with, this clause 25.

25.6 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.

25.7 Basis of valuation

Each valuation will be addressed to the Global Intercreditor Agent (for and on behalf of, amongst others, the lenders of the Amended RA Facilities) or, if requested by the Agent, to the Agent (subject to the entry into of engagement letters with the relevant valuers by the Agent, but (for the avoidance of doubt) at the cost of the Borrower), in each case in its capacity as such and made:

(a) without physical inspection (unless required by the Agent);

(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 after deducting the estimated amount of the usual and reasonable expenses which would be incurred in connection with the sale); and

(c) without taking into account the benefit (but taking into account the burden) of any charter commitment (save where required for the purposes of calculating the Charter Attached Vessel Value for the purposes of, and as defined in, clause 20 (Financial covenants)).

25.8 Information required for valuation

The Borrower shall promptly provide to the Agent and any such valuer any information which they reasonably require for the purposes of providing such a valuation.
25.9 Approval of valuers

(a) All valuers must have been approved. As at the Closing Date, Howe Robinson & Co. Ltd., H. Clarkson & Company Limited, Maersk Broker K/S and Arrow Shipbroking Group are approved for the purposes of this clause 25.

(b) The Agent may from time to time notify the Borrower of approval of one or more additional independent ship brokers as valuers for the purposes of this clause 25. The Agent shall respond promptly to any request by the Borrower for approval of a broker nominated by the Borrower. No person may be approved as a valuer for the purposes of this clause 25 if: (i) it has received or is entitled to receive any remuneration that is calculated with reference to the quantum of the valuation given; (ii) it is not engaged in the business of providing shipping valuations; or (iii) it is not independent from, or constitutes an Affiliate of, any Group Member.

(c) The Agent may at any time by notice to the Borrower withdraw any previous approval of a valuer for the purposes of future valuations. That valuer may not then be appointed to provide valuations unless it is once more approved.

(d) If the Agent has not approved at least three brokers as valuers (including, for the avoidance of doubt, any brokers approved under this clause 25.9) at a time when a valuation is required under this clause 25, the Agent shall (following consultation with the Borrower) promptly notify the Borrower of the names of at least three valuers which are approved.

25.10 Appointment of valuers

When a valuation is required for the purposes of this clause 25, the Borrower or, if so required at that time, the Agent shall promptly appoint approved valuers to provide such a valuation. If the Borrower fails to appoint approved valuers promptly when a valuation is required for the purpose of this clause 25, the Agent may appoint approved valuers to provide that valuation.

25.11 Number of valuers

Each valuation of a Fleet Vessel shall be carried out by two approved valuers, if, however, the two valuations of a Fleet Vessel vary by more than 10 per cent, then a third valuation of the same Fleet Vessel shall also be carried out by a third approved valuer as further set out in clause 25.12 (a) (Market Value) below.
25.12 Market Value

(a) The market value of the relevant Fleet Vessel for the purposes of the Finance Documents will be the mean average of the two, or in the circumstances referred to in clause 25.11 (Number of valuers) three, valuations obtained pursuant to this clause 25 (Valuations) for the relevant Fleet Vessel.

(b) If an individual valuer provides a range of values for a Fleet Vessel, then the value of that Fleet Vessel for the purposes of the Finance Documents will be the mean average of the values comprising such range.

26 Charting undertakings

26.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 26 will be complied with in relation to each Mortgaged Ship and its Charter Documents throughout the relevant Ship’s Mortgage Period (other than during a period that any of the following events: (i) hijacking, (ii) theft or (iii) capture (whether by piracy or otherwise) as set out in lit. (d) of the definition of Total Loss Date has occurred, when compliance with clause 26.5 (Charter performance) shall not be required).

26.2 Variations

(a) Subject to paragraph (b) below, except as approved by the Majority Club Lenders, the Charter Documents shall not be varied, amended or supplemented.

(b) Paragraph (a) shall not restrict any variation, amendment or supplement that is either of a formal, minor or administrative nature or is otherwise a variation that is, in the opinion of the Agent (acting on the instructions of the Majority Lenders), not materially prejudicial to the interests of the Lenders). The Agent shall be provided with a copy of any such variation, amendment or supplement not less than five Business Days prior to its execution. For the purposes of this paragraph (b), any variation, amendment or supplement relating to non-payment of charterhire, reduction of charterhire, frequency of charterhire payment, the termination rights of a Charterer, cancellation of the Charter, assignment and/or transfer of any rights and/or obligations under the Charter or a change in the identity of the Charterer shall always require approval of the Majority Club Lenders.

26.3 Releases and waivers

Except as approved by the Majority Club 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)
or assignment), no waiver of any breach of any such obligation and no consent to anything which would otherwise be such a breach.

26.4 Termination by the relevant Owner

Except as approved by the Majority Club 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.

26.5 Charter performance

The relevant Owner shall perform its obligations under the Charter Documents and use reasonable endeavours to ensure that each other party to them performs their obligations under the Charter Documents.

26.6 Notice of assignment

The relevant Owner shall give notice of assignment of the Charter Documents to the other parties to them in the form specified by the Charter Assignment and/or the relevant Deed of Covenant or General Assignment for that Ship and shall use its best endeavours to ensure that the Agent receives a copy of that notice acknowledged by each addressee in the form specified therein as soon as possible and in any event within 30 days of the date of the Ship’s Mortgage.

26.7 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.

26.8 Charter opportunities

The Borrower shall allocate, and it shall ensure that the Manager allocates, charter opportunities across Fleet Vessels fairly and with a view to generating the highest aggregate revenue for each Ship, having regard to the age, specification, location and availability of Fleet Vessels.

27 Bank accounts

27.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 27 will be complied with throughout the Facility Period.
27.2 Earnings Account

(a) The Borrower shall be the holder of one or more Accounts for all Mortgaged Ships (other than the Collateral Ships) with an Account Bank which is designated as an “Earnings Account” for the purposes of the Finance Documents. Further, each Owner or the Borrower shall at the request of the Agent (acting on the instructions of the Majority Lenders) from time to time promptly open a separate Account or Accounts in respect of the Earnings of the relevant Mortgaged Ship (other than the Collateral Ships) with the Security Agent or located as directed by the Agent which will also be designated as an “Earnings Account” for the purposes of the Finance Documents. The Borrower and, the Owners respectively undertake to instruct the relevant person or persons to pay Earnings or make any other payments due to the relevant Owner in respect of the relevant Mortgaged Vessel (other than the Collateral Ships) to such new Earnings Accounts.

(b) The Earnings of the Mortgaged Ships and all moneys payable to the relevant Owners under the Ships’ Insurances shall be paid by the persons from whom they are due to an Earnings Account unless required to be paid to the Security Agent under the relevant Finance Documents.

(c) The relevant Account Holder(s) shall not withdraw amounts standing to the credit of an Earnings Account except as permitted by paragraph (d) below.

(d) If there is no continuing Event of Default, the relevant Account Holder(s) may, subject to the terms of the Intercreditor Agreements, withdraw the following amounts from an Earnings Account:

(i) payments then due to Finance Parties under the Finance Documents (other than payments due in respect of a prepayment);

(ii) payments then due under Hedging Transactions entered into pursuant to clause 29.2 (Hedging);

(iii) payments to another Earnings Account;

(iv) payments of the proper costs and expenses of insuring, repairing, operating and maintaining any Mortgaged Ship (until the relevant Collateral Ship is no longer subject to any First Priority Security, other than that Collateral Ship);

(v) 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

(vi) payments constituting Permitted Payments.
At any time after the occurrence of an Event of Default which is continuing, but subject to the provisions of the Intercreditor Agreements, the Agent is hereby irrevocably authorised by the Obligors, without notice to any of them, to instruct the Account Bank to apply on each interest payment date and each Repayment Date all moneys then standing to the credit of any Earnings Account (together with interest from time to time accruing or accrued thereon) in or towards satisfaction of any sums (including repayment of principal and payment of interest on the Loan or any part thereof) due to the Finance Parties on each such date, together with all moneys expended or liabilities incurred by the Finance Parties under the Finance Documents.

At any time after the occurrence of an Event of Default which is continuing, the relevant Account Holder(s) shall no longer be entitled to withdraw any moneys from their Earnings Account without the consent of the Agent (acting on the instructions of the Majority Lenders).

Paragraphs (b), (c), (d), (e) and (f) above shall not apply to the Earnings Account(s) of a Collateral Ship until the relevant Collateral Ship is no longer subject to any First Priority Security.

27.3 Other provisions

(a) An Account may only be designated for the purposes described in this clause 27 if:

(i) such designation is made in writing by the Agent and acknowledged by the Borrower and specifies the name and address of the Account Bank and the number and any designation or other reference attributed to the Account;

(ii) an Account Security has been duly executed and delivered by the relevant Account Holder(s) in favour of the Security Agent (and any other Finance Party required by the Agent);

(iii) 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

(iv) 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 the Amendment and Restatement Agreement in relation to the Account and the relevant Account Security.
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 an 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.

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.

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.

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 Group business restrictions

28.1 Undertaking to comply

Except as otherwise approved by the Majority Lenders (save in respect of clause 28.2 (General negative pledge) all Lenders), each Obligor who is a Party undertakes that this clause 28 will be complied with by (or will procure compliance by) and in respect of each person to which each relevant provision of this clause is expressed to apply throughout the Facility Period.

28.2 General negative pledge

(a) In this clause 28.2, Quasi-Security means an arrangement or transaction described in paragraph (c) below.

(b) No Obligor nor any other Group Member (other than the Manager) shall create or permit to subsist any Security Interest over any of its assets.

(c) Without prejudice to clauses 28.3 (Financial Indebtedness) and 28.8 (Disposals), no
Obligor nor any other Group Member (other than the Manager) shall:

(i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to, or re-acquired by, an Obligor or any other Group Member unless (in the case of a Group Member other than an Obligor) the same constitutes part of a Permitted SLB Transaction;

(ii) sell, transfer, factor or otherwise dispose of any of its receivables on recourse terms;

(iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

(d) Paragraphs (b) and (c) above do not apply to any Security Interest or (as the case may be) Quasi-Security, listed below:

(i) (in respect of the Obligors) those granted or expressed to be granted by any of the Security Documents or the First Priority Security;

(ii) in relation to a Mortgaged Ship, Permitted Maritime Liens;

(iii) in relation to Existing Fleet Group Members who are not Obligors, those granted or expressed to be granted pursuant to the Amended RA Facilities or the Amended and Restated Sinosure Facility to which they are a party or in respect of which they provide security required by their terms (in each case in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed) and subject or pursuant to the Intercreditor Deeds, or pursuant to any Permitted Refinancing in respect of any such facility or pursuant to a Permitted Reflagging of a Fleet Vessel under any such facility;

(iv) in relation to Group Members who are neither Existing Fleet Group Members nor Obligors, Security Interests granted over the assets of such Group Members or their shares to secure financing incurred to finance Permitted Ship Purchases or otherwise in connection with a Permitted SLB Transaction;

(v) in relation to Existing Fleet Group Members, Security Interests granted over the
assets of such Existing Fleet Group Members or their shares in connection with a Permitted SLB Transaction; and

(vi) in relation to the Borrower only, Permitted Group Level Security Interests.

28.3 Financial Indebtedness

Save for Financial Indebtedness permitted under clause 28.5 (Guarantees) or clause 28.6 (Loans and credit):

(a) no Obligor (other than the Borrower and the Manager) shall incur or permit to exist any Financial Indebtedness other than:

(i) Financial Indebtedness incurred under the Finance Documents, any Permitted Subordinated Loan or any Excess Cash Loan;

(ii) Financial Indebtedness incurred under transactions with its trade creditors in the ordinary course of its business;

(iii) debit balances in respect of Earnings Accounts or, to the extent any such transfers are or may be considered to be intercompany loans, Financial Indebtedness arising from transfers of funds from one Earnings Account to another Earnings Account; or

(iv) Financial Indebtedness constituting or secured by the First Priority Security;

(b) no Existing Fleet Group Member who is not an Obligor shall incur or permit to exist any Financial Indebtedness owed by it to anyone else other than:

(i) Financial Indebtedness incurred under the Amended RA Facilities or the Amended and Restated Sinosure Facility to which it is a party or in respect of which they provide security required by their terms (in each case in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed) and subject or pursuant to the Intercreditor Deeds and any Permitted Refinancing in respect of any such facility; or

(ii) Financial Indebtedness incurred under transactions with its trade creditors in the ordinary course of its business; or

(iii) debit balances in respect of any “Earnings Accounts” (however defined or described) under any Amended RA Facility or the Amended and Restated Sinosure Facility, or

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any Permitted Refinancing of any such facility (but excluding any Earnings Account) (each a Group Earnings Account) or, to the extent any such transfers are or may be considered to be intercompany loans, Financial Indebtedness arising from transfers of funds from one Group Earnings Account to another Group Earnings Account; or

(iv) any Financial Indebtedness constituting replacement security under a Permitted Reflagging of a Fleet Vessel under any facility described in sub-paragraph (i) above; or

(v) any Financial Indebtedness incurred under the Excess Cash Loans, the Permitted Subordinated Loans or any Permitted SLB Transaction; or

(vi) any Financial Indebtedness expressly contemplated by, permitted by and regulated by the terms of the Intercreditor Agreements.

(c) the Borrower shall not incur or permit to exist any Financial Indebtedness other than Permitted Group Level Financial Indebtedness; and

(d) save for the Manager, no Group Member who is neither an Existing Fleet Group Member nor an Obligor shall incur or permit to exist any Financial Indebtedness other than Financial Indebtedness incurred to finance a Permitted Ship Purchase.

28.4 Pari passu ranking

Each Obligor shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Transaction Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

28.5 Guarantees

Save for Financial Indebtedness permitted under clause 28.3 (Financial Indebtedness) and subject to the restrictions under the Global Intercreditor Deed:

(a) no Obligor (other than the Manager) 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 other than:

(i) any guarantee in respect of
(A) Financial Indebtedness under the Finance Documents; or

(B) Financial Indebtedness constituting or secured by the First Priority Security; or

(C) In case of the Borrower only, Financial Indebtedness under any Permitted SLB Transaction in respect of the Pooled Facilities Joint Collateral Ships;

(ii) any guarantee in favour of its trade creditors given in the ordinary course of its business (but only for goods and services provided to that Obligor and its Subsidiaries and not to any other person);

(b) no Existing Fleet Group Member (other than the Obligors) 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 other than:

(i) any guarantee in respect of Financial Indebtedness under the Amended RA Facilities or the Amended and Restated Sinosure Facility to which it is a party or in respect of which it provides security required by their terms (in each case in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed) and subject or pursuant to the Intercreditor Deeds and any Permitted Refinancing in respect of any such facility or any Financial Indebtedness constituting replacement security under a Permitted Reflagging of a Fleet Vessel under any such facility; or

(ii) any guarantee in favour of its trade creditors given in the ordinary course of its business (but only for goods and services provided to that Existing Fleet Group Member and its Subsidiaries and not to any other person); and

(c) no Group Member who is not an Obligor and who is not an Existing Fleet Group Member 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 Financial Indebtedness incurred to finance a Permitted Ship Purchase or any guarantee in favour of its trade creditors given in the ordinary course of its business.

28.6 Loans and credit

(a) No Obligor (other than the Borrower and the Manager) and no other Existing Fleet Group Member (other than the Borrower and the Manager) shall be a creditor in respect of Financial Indebtedness other than in respect of Excess Cash Loans and Permitted
Subordinated Loans, any Permitted Payments, any credits arising as a result of payments under the Management Agreement, debit balances in respect of Earnings Accounts or Group Earnings Accounts or, to the extent any such transfers are or may be considered to be intercompany loans, in respect of Financial Indebtedness arising from transfers of funds from one Earnings Account to another Earnings Account, or from one Group Earnings Account to another Group Earnings Account.

(b) The Borrower shall not be a creditor in respect of any Financial Indebtedness other than in respect of Permitted Group Level Loans Out or any credits arising as a result of payments under the Management Agreement.

(c) Group Members who are not Existing Fleet Group Members shall not be creditors in respect of Financial Indebtedness other than in respect of loans or credits between Group Members comprised of the Borrower and other Group Members other than Existing Fleet Group Members.

28.7 Bank accounts, operating leases and other financial transactions

(a) No Obligor (other than the Borrower and the Manager) shall:

(i) maintain any current or deposit account with a bank or financial institution except for the Accounts, or deposit money into, operate as current accounts or conduct electronic banking operations other than through the Accounts;

(ii) hold cash in any account (other than an Account) over or in respect of which any set-off, combination of accounts, netting or Security Interest exists except as permitted by clause 28.2 (General negative pledge);

(iii) enter into any obligations under operating leases relating to assets or any charter-in or leasing contracts in relation to vessels;

(iv) be party to any banking or financial transaction, whether on or off balance sheet, that is not expressly permitted under this clause 28 (Group business restrictions);

(v) enter into any other obligations except obligations arising from transactions with its trade creditors in the ordinary course of trading.

(b) no Existing Fleet Group Member (other than an Obligor) shall:

(i) except for such accounts as they may be permitted or required to maintain by the terms of the Amended RA Facilities and the Amended and Restated Sinosure
Facility in respect of which it provides security required by their terms and subject or pursuant to the Intercreditor Deeds, or deposit money into, operate as current accounts or conduct electronic banking operations other than through such accounts as may be permitted by the terms of the relevant Amended RA Facilities or the Amended and Restated Sinosure Facility, as applicable;

(ii) hold cash in any account over or in respect of which any set-off, combination of accounts, netting or Security Interest exists except as permitted by clause 28.2 (General negative pledge);

(iii) enter into any obligations under operating leases relating to assets or any charter-in or leasing contracts in relation to vessels other than a Permitted SLB Transaction [or a Permitted Collateral Ship SLB Transaction];

(iv) be party to any banking or financial transaction, whether on or off balance sheet, that is not expressly permitted under this clause 28 (Group business restrictions); or

(v) enter into any other obligations except obligations arising from transactions with its trade creditors in the ordinary course of trading

(c) The Borrower shall not enter into any obligations under operating leases relating to assets or any charter-in or leasing contracts in relation to vessels.

(d) No Group Member who is neither an Obligor nor an Existing Fleet Group Member shall enter into any obligations under operating leases relating to assets or any charter-in or leasing contracts in relation to vessels, unless such Group Member is a wholly-owned Subsidiary of the Borrower.

(e) If for two consecutive Financial Quarters the aggregate of

(A) the costs payable pursuant to the charter-in or leaseback contract in respect of a Pooled Facilities Joint Collateral Ship subject to a Permitted SLB Transaction (the Leased Ship); and

(B) the operating expenses, capital expenditure, drydocking and maintenance costs in respect of that Leased Ship,

in each case, during the relevant period are higher than the charter hire payable under the charter or contract of employment relating to that Leased Ship during the same period, the relevant lessee will, at the earliest opportunity permitted by the relevant charter-in or leaseback contract (and subject to having found a buyer to purchase the Leased Ship from
it), exercise its purchase or buy-out option thereunder and upon the completion of the acquisition by delivery of the relevant Leased Ship to the lessee, that lessee will sell the Leased Ship (on a back-to-back basis) to the buyer, and provided that any such cost, expenses or expenditure described in paragraphs (i) and (ii) and the cost relating to the exercise of the purchase or buy-out option or the sale of the Leased Ship shall be at the cost of the lessee.

28.8 Disposals

(a) No Obligor (other than the Borrower and the Manager) shall enter into a single transaction or a series of transactions, whether related or not and whether voluntarily or involuntarily, to sell, lease, transfer or otherwise dispose of any asset except:

(i) disposals permitted by clause 22.3 (Sale or other disposal of Ship ) or clause 28.2 (General negative pledge) or by the Amended RA Facility/ies secured by the First Priority Security;

(ii) dealings with its trade creditors with respect to book debts in the ordinary course of trading; and

(iii) the application of Cash or Cash Equivalents in the acquisition of assets or services in the ordinary course of its business.

(b) No Group Member who is not an Obligor (but, for the avoidance of doubt, excluding the Borrower and the Manager, neither of whom are restricted by this paragraph (b)) may dispose of any asset except:

(i) a disposal of a Fleet Vessel owned by that Group Member or of all (but not part only) of the shares of a ship-owning Subsidiary of that Group Member, provided that, where applicable for Existing Fleet Group Members, such disposal constitutes a Permitted SLB Transaction or is otherwise made in accordance with the terms of the Amended RA Facilities or the Amended and Restated Sinosure Facility to which that Group Member is a party or which it otherwise secures by first priority security over that Fleet Vessel or the shares of that ship owning Subsidiary as required by their terms and subject or pursuant to the Intercreditor Agreements, and in each case is on arm’s length terms and for full market value;

(ii) dealings with its trade creditors with respect to book debts in the ordinary course of trading; and
the application of Cash or Cash Equivalents in the acquisition of assets or services in the ordinary course of its business; and

any disposal contemplated in clause 28.7 (e) (Bank accounts, operating leases and other financial transactions).

(c) No Group Member may, directly or indirectly or ultimately, dispose of any Fleet Vessel or any shares of any Owner or any other Subsidiary that owns a Fleet Vessel or any direct or indirect Holding Company thereof to any Borrower Affiliate.

28.9 Contracts and arrangements with Affiliates and Borrower Affiliates

(a) Subject to paragraph (b) below, no Obligor nor any other Group Member shall be party to any arrangement or contract with, or amend or vary the terms of any arrangement or contract with any of its Affiliates or any Borrower Affiliate unless such arrangement or contract (if applicable, as so amended or varied) is on an arm’s length basis and, in respect of transactions having a value in excess of $5,000,000, have been approved by all of the NEDs, and in respect of transactions in excess of $10,000,000 are supported by a fairness opinion from a reputable investment bank having recognised expertise in delivering fairness opinions.

(b) Except as approved by the Majority Lenders, no Obligor nor any other Group Member shall:

(i) amend, vary, novate, supplement, supersede, waive or terminate clause 5.3 (Fees and Expenses for Crewing & Technical Services), clause 6.5 (Fees and Expenses for Commercial Services), clause 8 (Backstop Obligation Credit), clause 12.1 (Termination of this Agreement) (in respect of the term of the Management Agreement) or clause 12.5 (Termination of this Agreement) (in respect of the Manager’s termination rights) of the Management Agreement or any provision which has the effect of changing the identity of the Manager, for these purposes as defined in the Management Agreement;

(ii) amend, vary, novate, supplement, supersede, waive or terminate clause 3 (Non-competition) or clause 4 (Management Services) of the Restrictive Covenant Agreement, save to the extent those provisions terminate following a Change of Control Release;

(iii) amend, vary, novate, supplement, supersede, waive or terminate any terms of the Backstop Agreement;
(iv) amend, vary, novate, supplement, supersede, waive or terminate any terms of Dividend Reinvestment Escrow Agreement in the form attached to the Shareholders Agreement; or

(v) amend, vary, novate, supplement, supersede, waive or terminate any terms of the Subordinated Loan Agreement, and the Borrower shall exercise all of its rights under the Subordinated Loan Agreement, including (without limitation) fully drawing amounts available to be drawn thereunder.

For the purposes of this clause 28.9, **Change of Control Release** means the occurrence of a Borrower Change of Control under paragraphs (d), (e) or (g) of the definition thereof as a result of matters not within the control of Dr John Coustas or the Plan Sponsor, including where such Borrower Change of Control relates to a hostile takeover of the Borrower by a third party in which Dr John Coustas is ousted as Chief Executive Officer of the Borrower without his consent.

**28.10 Intellectual Property**

Each Obligor and each Group Member (other than the Obligors) shall (and the Borrower shall procure that each Group Member will):

(a) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Obligor or other Group Member;
(b) use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property;
(c) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property;
(d) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any Group Member to use such property; and
(e) not discontinue the use of the Intellectual Property,

where failure to do so, in the case of paragraphs (a) and (b) above, or, in the case of paragraphs (d) and (e) above, such use, permission to use, omission or discontinuation, might have a Material Adverse Effect.
28.11 Subsidiaries

No Obligor (other than the Borrower and the Manager) nor any other Existing Fleet Group Member (other than the Borrower and the Manager) shall establish or acquire a company or other entity. No other Group Member (who is not an Existing Fleet Group Member and excluding the Borrower and the other Obligors) shall establish or acquire a company or other entity other than a vessel-owning company or one or more Holding Companies of a vessel-owning company pursuant to a Permitted Ship Purchase.

28.12 Acquisitions and investments

(a) No Obligor (other than the Borrower and the Manager) nor any other Existing Fleet Group Member (other than the Borrower and the Manager) shall acquire any person, business, assets or liabilities or make any investment in any person or business or undertaking or enter into any Joint Venture arrangement except for the acquisition of assets or services (other than ships) in the ordinary course of its business.

(b) No Obligor (other than the Borrower and the Manager) nor any other Group Member (other than an Existing Fleet Group Member) shall acquire any person, business, assets or liabilities or make any investment in any person or business or undertaking or enter into any Joint Venture arrangement except a Permitted Ship Purchase or the acquisition of assets or services (other than ships) in the ordinary course of its business.

(c) The Borrower shall not acquire any person, business, assets or liabilities or make any investment in any person or business or undertaking or enter into any Joint Venture arrangement except:

(i) the Gemini JV;

(ii) a Permitted Group Level Acquisition; or

(iii) any Joint Venture (other than the Gemini JV) which has been approved by the Majority Corporate Lenders pursuant to the provisions of the Global Intercreditor Deed and provided that:

(A) the terms of any arrangements (including any financing arrangements) in respect of the Joint Venture shall provide that (I) all ownership or economic interest in such Joint Venture, and all Distributions made by the Joint Venture or any of its Subsidiaries to the shareholders in such Joint Venture, shall in each case be pro rata to the investments made by such shareholder in the Joint Venture, (II) do not include non-market restrictions on Distributions or
loans made by the Joint Venture vehicle or any of its Subsidiaries to any Group Member or non-market restrictions on the Borrower’s ability to dispose of its interest in the Joint Venture, (III) Distributions and other payment of profits of the Joint Venture are to be made to the Borrower on a regular basis (and, in any event, at least annually), and (IV) any such Joint Venture shall be limited-recourse with respect to the Borrower or any other Group Member.

(B) the Obligors would be in compliance with the financial covenants under clause 20 (Financial covenants) immediately prior to and following any investment into such Joint Venture by the Borrower (calculated on a pro forma basis to reflect such investment);

(C) the value of the investment made by the Borrower or any other Existing Fleet Group Member to the Joint Venture has an aggregate fair market value, when taken together with the value of all other investments in Joint Ventures (excluding, for the avoidance of doubt, the Gemini JV) at any time, not to exceed $75 million at the time of such investment plus an amount equal to 50% of any net cash proceeds received by the Borrower in connection with any equity offering by the Borrower;

(D) no Borrower Affiliate (directly or indirectly) shall own any share or has any economic or beneficial interest in such Joint Venture (other than indirectly through its ownership of or any interest in the Borrower);

(E) such Joint Venture is solely for purpose of acquiring or chartering-in a new build vessel or a second hand vessel (or the acquisition of 100 percent of one or more special purpose entities owning vessels or Holding Companies of any such vessel-owning entities); and

(F) any management or other arrangement for the operation, crewing or management of the Joint Venture vessels shall be on arm’s length terms and, in respect of any such arrangement between the Manager and the Joint Venture or its Subsidiaries, shall not contain terms that are more favourable to the Manager compared to the terms of the Management Agreement.

(d) The Borrower shall ensure that no material amendment is made to the terms of, or increase in the economics of, the Gemini JV without the consent of all NEDs (as certified in writing to the Agent by the Borrower from time to time).
28.13 Reduction of capital

(a) No Obligor (other than the Borrower and the Manager) nor any other Existing Fleet Group Member (other than the Borrower and the Manager) 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 Borrower 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 a Permitted Group Level Distribution.

28.14 Increase in capital

No Obligor (other than the Borrower and the Manager) nor any other Group Member (other than the Borrower and the Manager) shall issue shares or other equity interests to anyone who is not a wholly-owned Subsidiary of the Borrower.

28.15 Restrictions on Distributions

(a) Subject to clause 28.6 (Loans and credit), no Obligor (other than the Manager) nor any other Group Member (other than the Manager) shall make any Distribution to any other Person other than Permitted Payments and (in respect of the Borrower) Permitted Group Level Distributions.

(b) The Borrower shall not transfer (or give instruction to transfer) any amount standing to the credit of the Dividend Reinvestment Escrow Account to any Borrower Affiliate (other than a Group Member) unless it would be a Permitted Group Level Distribution.

28.16 Amended and Restated Sinosure Facility

No Group Member may agree to any amendment, supplement, modification, variation or arrangement in relation to any term of the Amended and Restated Sinosure Facility which would relate to or have the effect of changing the Amended and Restated Sinosure Facility (relative to its form as at the Closing Date) in any of the ways contemplated by clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed (where references to “Facility” are to be construed as references to the Amended and Restated Sinosure Facility) without the consent of all Lenders, unless the Lenders also receive the benefit of the more favourable provisions contemplated by clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed at the same time.

29 Hedging Contracts

29.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 29 will be complied with throughout the Facility Period.

29.2 Hedging

(a) If, at any time during the Facility Period, (i) the Borrower or (ii) any other Group Member wishes to enter into any Treasury Transaction so as to hedge all or any part of the Group’s exposure under any or all of the Permitted Group Level Financial Indebtedness to interest rate fluctuations, it shall advise the Agent in writing.

(b) Any such Treasury Transaction (i) only be permitted after approval of the Majority Lenders and (ii) shall be concluded with a Hedging Provider on the terms of the Hedging Master Agreement with that Hedging Provider provided that such Treasury Transaction complies with all of the following conditions:

(i) it is an interest rate swap, cap or cash-settled interest rate swaption, provided that in the case of interest rate caps and cash-settled interest rate swaptions such Treasury Transactions are purchased for an up-front premium funded from Excess Cash and without (i) the Borrower or (ii) any other Group Member being required to post margin (whether initial or variation) or otherwise collateralise the Treasury Transaction;

(ii) it is entered into in the ordinary and usual course of business of (i) the Borrower or (ii) any other Group Member, on standard, arm’s length terms in accordance with the Hedging Strategy Letter;

(iii) its purpose is non-speculative and solely to hedge the exposure of the relevant Group Member(s) under Permitted Group Level Financial Indebtedness, for a period expiring no later than the applicable final repayment date of the relevant Permitted Group Level Financial Indebtedness;

(iv) its notional principal amount, when aggregated with the notional principal amount of any other continuing Hedging Contracts in respect of Permitted Group Level Financial Indebtedness, does not and will not exceed the outstanding principal
amount of the loan under such Permitted Group Level Financial Indebtedness as then scheduled to be repaid; and

(v) it is unsecured.

(c) If and when any such Treasury Transaction has been concluded, it shall constitute a Hedging Contract for the purposes of the Finance Documents.

29.3 Unwinding of Hedging Contracts

If, at any time, and whether as a result of any prepayment (in whole or in part) of any loan comprising Permitted Group Level Financial Indebtedness or any cancellation (in whole or in part) of any commitment or otherwise in respect thereof, the aggregate notional principal amount under all Hedging Transactions in respect of any such Permitted Group Level Financial Indebtedness entered into by one or more Group Members exceeds or will exceed the amount of such loan as is outstanding at that time after such prepayment or cancellation, then (unless otherwise approved by the Majority Lenders) the Borrower shall immediately close out and terminate sufficient Hedging Transactions relating to such Permitted Group Level Financial Indebtedness as are necessary to ensure that the aggregate notional principal amount under the remaining continuing Hedging Transactions relating to such Permitted Group Level Financial Indebtedness equals, and will in the future be equal to, the amount of such loan at that time and as scheduled to be repaid from time to time thereafter pursuant to the terms of the relevant Permitted Group Level Financial Indebtedness.

29.4 Information concerning Hedging Contracts

The Borrower 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 this clause 30 (except clause 30.29 (Acceleration) ) is an Event of Default. For the purposes of this clause 30, Dormant Subsidiaries who are not Obligors shall not be treated as Group Members.

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, unless its failure to pay
is caused by:

(a) administrative or technical error; or
(b) a Disruption Event,

and payment is made, in the case of principal and interest, within two Business Days of its due date and, in all other cases, within two Business Days of the earlier of (i) the Agent giving notice to the relevant Obligor and (ii) an Obligor becoming aware of the failure to pay.

30.2 Material obligations

Any Obligor does not comply with clause 19.3(a) (Financial statements), clause 19.9(f) (Information: miscellaneous), clause 20 (Financial covenants), clause 21.2 (Authorisations), clause 21.4 (Anti-corruption law), clause 21.6 (Change of business), clause 21.10 (Negative pledge in respect of Charged Property and Obligor shares), clause 22.3 (Sale or other disposal of Ship), clause 27 (Bank accounts) or clause 28.2 (General negative pledge).

30.3 Insurance

(a) The Insurances of a Mortgaged Ship are not placed and kept in force in the manner required by clause 24 (Insurance).

(b) Any insurer either:

(i) cancels any such Insurances or gives notice of the cancellation of such Insurances and such Insurances are not renewed or replaced before the earlier of the date on which such cancellation is to take place and seven days of the date of such notice; or

(ii) disclaims liability under them or asserts that its liability under such Insurances or should be reduced (unless as a result of any mis-statement or failure or default by any person and the same is being contested in good faith by an Obligor and the insurer accepts liability in full for the relevant claim within a period of 45 days from the date of any disclaimer).

30.4 Other obligations

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in clause 30.1 (Non-payment), clause 30.2 (Material obligations) and clause 188
30.3 (Insurance).

(b) No Event of Default under paragraph (a) above will occur if the Agent considers that the failure to comply is capable of remedy and the failure is remedied within ten Business Days of the earlier of (A) the Agent giving notice to the Borrower and (B) the Borrower or any other Obligor becoming aware of the failure to comply.

30.5 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 incorrect or misleading in any material respect when made or deemed to be made.

30.6 Cross default

(a) Any Financial Indebtedness of any Group Member is not paid when due nor within any originally applicable grace period.

(b) 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).

(c) Any commitment for any Financial Indebtedness of any Group Member is cancelled or suspended by a creditor of any Group Member as a result of an event of default (however described).

(d) The counterparty to a Treasury Transaction (including a Hedging Transaction) entered into by any Group Member becomes entitled to terminate that Treasury Transaction early by reason of an event of default (however described).

(e) 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).

(f) Any creditor of any Group Member takes enforcement action in respect of any Financial Indebtedness of any Group Member that is due and payable as a result of an event of default (however described).

(g) No Event of Default will occur under paragraphs (a) to (e) above if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within
paragraphs (a) to (f) above is less than $5,000,000 (or its equivalent in any other currency or currencies).

30.7 Insolvency

(a) A Group Member:
   (i) is unable or admits inability to pay its debts as they fall due;
   (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law;
   (iii) suspends or threatens to suspend making payments on any of its debts; or
   (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness.

(b) A moratorium is imposed by law or 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.

30.8 Insolvency proceedings

(a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
   (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Group Member other than a solvent liquidation or reorganisation of any Group Member which is not an Obligor;
   (ii) a composition, compromise, assignment or arrangement with any creditor of any Group Member (except as otherwise expressly permitted under the Finance Documents); or
   (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a Group Member which is not an Obligor), receiver, administrative receiver, administrator, 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),

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or any analogous procedure or step is taken in any jurisdiction (including, without limitation, any conciliation or reorganization process is entered into pursuant to the Greek Bankruptcy Code (Law 3588/2007) or any order is made under the United Stated Bankruptcy Code).

(b) Paragraph (a) above shall not apply to any winding-up petition (or analogous procedure or step) which is frivolous or vexatious or being contested in good faith and is discharged, stayed or dismissed within 15 Business Days of commencement.

30.9 Creditors’ process

(a) Any expropriation, attachment, sequestration, distress, execution, enforcement of any Security Interest (subject to clause 31.17 (Security enforceable) and clause 31.18 (Arrest of Ship)) or any other analogous process or enforcement action (including enforcement by a landlord) in any jurisdiction affects any asset or assets of any Group Member for an amount in excess of $5,000,000 (or its equivalent in other currencies) unless such process is frivolous or vexatious or being contested in good faith and, in either case, is discharged within 14 days.

(b) Any judgment or order for an amount in excess of $5,000,000 (or its equivalent in other currencies) is made against any Group Member and is not stayed or complied with within 14 days.

30.10 Unlawfulness and invalidity

(a) It is or becomes unlawful for an Obligor or any other Group Member that is a party to any Intercreditor Agreement to perform any of its obligations under the Finance Documents or any Transaction Security ceases to be effective or any subordination created under any Intercreditor Agreement is or becomes unlawful.

(b) Any obligation or obligations of any Obligor under any Finance Documents or any other Group Member under any Intercreditor Agreement are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable.

Any Finance Document or any Transaction Security or any subordination created under any Intercreditor Agreement ceases to be in full force and effect or ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective for any reason.
30.11 Cessation of business, merger etc.

(a) 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 other than following the sale or Total Loss of a Fleet Vessel owned by it in accordance with the terms of this Agreement.

(b) Except as otherwise expressly permitted under the Finance Documents, any merger, consolidation, spin-off or sale in respect of all or substantially all of the assets of the Borrower or the Group, whether in a single transaction or a series of related transactions, occurs.

(c) Any Group Member substantially changes the nature of its business in a manner that deviates from the ownership, operation and management of maritime shipping assets (other than as a result of the sale or Total Loss of a Fleet Vessel owned by it in accordance with the terms of this Agreement).

30.12 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.

30.13 Transaction Documents

Any party to any Transaction Document (other than a Finance Party):

(a) rescinds or purports to rescind or repudiates or purports to repudiate a Transaction Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Transaction Document or any Transaction Security; or

(b) seeks to amend, vary or supplement any Transaction Document (other than as permitted by paragraph (b) of clause 28.9 (Contracts and arrangements with Affiliates and Borrower Affiliates) or, in the case of an Amended RA Facility, the Amended and Restated Sinosure Facility or the Pooled Facilities Intercreditor Deed, as permitted by clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed), or is in breach of a Transaction Document and such breach is not remedied within ten Business Days of the earlier of (A) the Agent giving notice to the Borrower and (B) any of the Obligors becoming aware of the breach.
30.14 Litigation

Either:

(a) any litigation, alternative dispute resolution, arbitration or administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened; or

(b) any judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental, arbitral or other regulatory body or agency is made,

in relation to any Transaction Document or the transactions contemplated in the Transaction Documents or against any Group Member or any of its assets, rights or revenues which has or might reasonably be expected to have a Material Adverse Effect.

30.15 Material Adverse Effect

Any event or circumstance occurs which the Majority Lenders reasonably believe has, or is reasonably likely to have, a Material Adverse Effect.

30.16 Security enforceable

Any Security Interest (other than a Permitted Maritime Lien) in respect of Charged Property becomes enforceable.

30.17 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 or otherwise taken from the possession of the relevant Owner (any such event, a **relevant event**) and the relevant Owner fails to procure the release/repossession of such Ship within a period of 15 days thereafter (or such longer period as may be approved) (unless such relevant event is in the reasonable opinion of the Agent (acting on the instructions of the Majority Lenders) also an insured event clearly constituting a Total Loss claim under the Ship’s insurances, in which case such 15 day period shall be extended to the Total Loss Repayment Date provided such relevant event constitutes such Total Loss or the date on which the Agent (acting on the instructions of the Majority Lenders) determines that such relevant event is not (or is no longer) an insured event clearly giving grounds for such a Total Loss claim and notifies the relevant Obligors accordingly).
30.18 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 or, if such Ship is only provisionally registered on the date of its Mortgage, such Ship is not permanently registered under such laws within 15 Business Days of such date.

30.19 Political risk

(a) Either:

(i) the Flag State of any Mortgaged Ship becomes involved in war (whether declared or not) or civil war or there is a seizure of power in the Flag State by unconstitutional means; or

(ii) any Relevant Jurisdiction of an Obligor becomes involved in war (whether declared or not) or civil war or there is a seizure of power in such Relevant Jurisdiction by unconstitutional means.

(b) No Event of Default under paragraph (a)(i) above will occur if the Borrower or the relevant Owner, within 15 Business Days of the relevant occurrence of the war (whether declared or not), civil war or seizure of power, changes the Flag State of the relevant Mortgaged Ship(s) to that of any other jurisdiction approved by the Majority Lenders (provided no such approval shall be required if the jurisdiction is another Approved Flag State) and grants in favour of the Security Agent such Security Interests (including a mortgage over the relevant Ship) as the Agent may request (acting on the instructions of the Majority Lenders) in documents in an approved form (including an agreement supplemental to this Agreement) and provided and delivered to the Agent in respect of such Security Interests any documents and evidence of the nature described in the Amendment and Restatement Agreement as required by the Agent, in each case at the cost and expense of the Borrower.

30.20 Breach of Charter

(a) There is a material breach by any Charterer of any Charter for any Ship (including, without limitation, any non-payment in full by the relevant Charterer of any charterhire or other amounts) or any Charter has been rescinded, repudiated or terminated for any reason whatsoever before its scheduled expiry date.

(b) No Event of Default under paragraph (a) above will occur in relation to a Charter or Mortgaged Ship if, as soon as possible after (and in any event within 90 days after) such breach, rescission, repudiation or termination:
the breach is cured (if applicable); and/or

(ii) the relevant Owner has entered into an approved charter commitment (a Replacement Charter) in respect of the relevant Ship on terms (including as to tenor, charter hire and credit standing of the charterer) which are in the opinion of the Agent (acting on the instructions of the Majority Lenders) not less favourable to the relevant Owner, the Group and the Finance Parties than those of such original Charter as at the time of its breach, rescission, repudiation or termination, the relevant Ship has been delivered under such Replacement Charter and, forthwith after the entry into such Replacement Charter, the relevant Owner has granted in favour of the Security Agent (or, in the case of a Collateral Owner, the RL Intercreditor Agent) a Security Interest in respect of such Replacement Charter in a document in an approved form and provided and delivered to the Agent in respect of that charter commitment and Security Interest any documents and evidence of the nature described in the Amendment and Restatement Agreement as required by the Agent.

30.21 Intercreditor Agreements

(a) Any party to an Intercreditor Agreement (other than a Finance Party or an Obligor) fails to comply with the provisions of, or does not perform its obligations under, an Intercreditor Agreement.

(b) A representation or warranty given by any party to an Intercreditor Agreement (other than a Finance Party) is incorrect in any material respect.

30.22 Audit qualification

The Auditors of the Group materially qualify, in the opinion of the Majority Lenders, the audited annual consolidated financial statements of the Borrower (unless previously disclosed and approved in accordance with clause [●] of the Global Intercreditor Deed prior to the relevant audited accounts being signed off by the Auditors). For the purposes of this clause, any qualification that arises from an assessment of going concern that may cast significant doubt on the Group’s ability to continue as a going concern shall be considered automatically material without any further determination, approval or agreement of the Majority Lenders.

30.23 Management Agreement

(a) The Management Agreement is for any reason and by any method cancelled, terminated or rescinded or is not or ceases to be legal, valid, binding and enforceable or otherwise ceases to remain in full force and effect where the Management Agreement is not replaced by a new management agreement with the Manager on substantially the same terms as the Management Agreement within three days of the cancellation, termination, rescission, illegality, invalidity, unenforceability or otherwise ceasing to remain in full and effect of the Management Agreement.

(b) An Obligor or the Manager does not comply with any provision of the Management Agreement, provided that no Event of Default will occur if the Agent considers that the failure to comply is capable of remedy and the failure is remedied within three days of the earlier of (A) the Agent giving notice to the relevant Obligor and (B) any of the Obligors becoming aware of the failure to comply.

(c) The Manager ceases to be the manager of any Ship.

30.24 Sanctions

(a) Any of the Obligors, or any other Group Member or any Affiliate of any of them becomes a Prohibited Person or becomes owned or controlled by, or acts directly or indirectly on behalf of, a Prohibited Person or any of such persons becomes the owner or controller of a Prohibited Person.

(b) Any proceeds of the Loan are made available, directly or indirectly, to or for the benefit of a Prohibited Person or otherwise is, directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.

(c) Any Obligor or other Group Member or any Affiliate of any of them is not in compliance with all Sanctions.

30.25 Owner Change of Control

An Owner Change of Control occurs.

30.26 Manager Change of Control

A Manager Change of Control occurs.

30.27 Suspension from trading etc.

The Danaos Shares cease to be listed on a national securities exchange registered with the US Securities and Exchange Commission or are suspended from trading from such exchange for at least ten consecutive Business Days.
30.28 Backstop Agreement and Subordinated Loan Agreement

(a) The Borrower or the Plan Sponsor does not comply with any provision of the Backstop Agreement or the Subordinated Loan Agreement.

(b) No Event of Default under paragraph (a) above will occur if the Agent considers that the failure to comply is capable of remedy and the failure is remedied within ten Business Days of the earlier of (A) the Agent giving notice to the Borrower and (B) any of the Obligors becoming aware of the failure to comply.

30.29 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing (but subject to the provisions of the Global Intercreditor Deed and any other Intercreditor Agreement) the Agent may, and shall if so directed by the Majority Lenders (provided that for any action following an Event of Default referred to in clause 30.24 (Sanctions) the Agent requires a direction of the Majority Lenders):

(a) by notice to the Borrower:

   (i) declare that no withdrawals be made from any Account;

   (ii) cancel the Total Commitments at which time they shall immediately be cancelled;

   (iii) 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

   (iv) 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

(b) 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.
Changes to the Lenders

Assignments and transfers by the Lenders

Subject to this clause 31, a Lender (the Existing Lender) may:

(a) assign any of its rights; or

(b) transfer by novation any of its rights and obligations,

under any Finance Document 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 or to any other person (the New Lender).

Conditions of assignment or transfer

(a) An assignment will only be effective:

(i) if the relevant Existing Lender has given prior written notice of the proposed assignment to the Borrower and confirmed the identity of the New Lender in such written notice;

(ii) on receipt by the Agent of written confirmation from the New Lender (in form and substance reasonably satisfactory to the Agent) that the New Lender will assume the same obligations to the Borrower and the other Finance Parties as it would have been under the Finance Documents if it had been an Original Lender;

(iii) on the New Lender entering into any documentation required for it to accede as a party to the Intercreditor Agreements (as applicable) any Security Document to which the Existing Lender is a party in its capacity as a Lender and, in relation to such Security Documents, completing any filing, registration or notice requirements;

(iv) on the performance by the Agent of all necessary “know your customer” or similar checks under all applicable laws and regulations relating to any person that it is required to carry out in relation to such transfer or assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender;
A transfer will only be effective:

(i) if the relevant Existing Lender has given prior written notice of the proposed transfer to the Borrower and confirmed the identity of the New Lender in such written notice; and

(ii) on the New Lender entering into any documentation required for it to accede as a party to the Intercreditor Agreements (as applicable) any Security Document to which the Existing Lender is a party in its capacity as a Lender and, in relation to such Security Documents, completing any filing, registration or notice requirements; and

(iii) if the procedure set out in clause 31.6 (Procedure available for transfer) is complied with.

Each New Lender, by executing the relevant Assignment Agreement or 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 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.

If:

(i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under clause 12 (Tax gross-up or indemnities) clause 13 (Increased Costs),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under that clause to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred (unless the assignment, transfer or change is made by the Lender with the Borrower’s agreement to mitigate any circumstances giving rise to a Tax Payment.
or increased cost, or a right to be prepaid and/or cancelled by reason of illegality). Subject to this paragraph (d), the Obligors shall not bear any cost or expense relating to the execution of such an assignment, transfer or change.

31.3 Fee and expenses

(a) Subject to paragraph (b) below, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of $2,500 and shall, promptly on demand, pay the Agent and the Security Agent the amount of:

(i) all costs and expenses (including legal fees) reasonably incurred by the Agent or the Security Agent in connection with any such assignment or transfer or the accession by the New Lender to the Intercreditor Agreements (as applicable) and the execution of any deed of accession supplemental to it; and

(ii) any cost, loss or liability the Agent or the Security Agent incurs in relation to all stamp duty, registration, documentary and other similar Taxes payable in respect of any such assignment or transfer.

(b) No fee or other amount is payable by the New Lender pursuant to paragraph (a) above if:

(i) the Agent agrees that no fee or other amount is payable; or

(ii) the assignment or transfer is made by an Existing Lender:

(A) to an Affiliate of that Existing Lender; or

(B) to a fund which is a Related Fund of that Existing Lender.

31.4 Transfer costs and expenses relating to security

The New Lender 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 to facilitate the accession by the New Lender to, or assignment or transfer to the New Lender of, any Security Document and/or the benefit of any Security Document and any appropriate registration of any such accession or assignment or transfer or the accession by the New Lender to the Intercreditor Agreements (as applicable) and the execution of any deed of accession supplemental to them; and

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(b) any cost, loss or liability the Agent or the Security Agent incurs in relation to all stamp duty, registration, documentary and other similar Taxes payable in respect of any such accession, assignment or transfer.

31.5 Limitation of responsibility of Existing Lenders

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Transaction Security or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor or any other person of its obligations under the Finance Documents or any other documents;

(iv) the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents; or

(v) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document, and any representations or warranties implied by law are excluded.

(b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of:

   (A) the financial condition and affairs of the Obligors and their related entities in connection with its participation in this Agreement; and
   
   (B) the application of any Basel II Regulation or 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 Transaction Document or the Transaction Security;
(ii) 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

(iii) 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.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-assignment or re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this clause 31; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under any Transaction Document or by reason of the application of any Basel II Regulation to the transactions contemplated by the Transaction Documents or otherwise.

31.6 Procedure available for transfer

(a) Subject to the conditions set out in clause 31.2 (Conditions of assignment or transfer) a transfer may be effected in accordance with paragraph (d) below when (a) the Agent executes an otherwise duly completed Transfer Certificate and (b) the Agent executes any document required under paragraph (a) of clause 31.2 (Conditions of assignment or transfer) 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, subject to paragraph (b) below, 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.

(b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

(c) The Obligors who are Parties and the other Finance Parties irrevocably authorise the Agent to execute any Transfer Certificate on their behalf without any consultation with them.
(d) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (the Discharged Rights and Obligations);

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other Group Member and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Security Agent, the Arrangers, the New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Security Agent, the Arrangers and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a “Lender”.

31.7 Procedure available for assignment

(a) Subject to the conditions set out in clause 31.2 (Conditions of assignment or transfer) an assignment may be effected in accordance with paragraph (d) below when (a) the Agent executes an otherwise duly completed Assignment Agreement and (b) the Agent executes any document required under paragraph (a) of clause 31.2 (Conditions of assignment or transfer) 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, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of an Assignment Agreement 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 Assignment Agreement and such other document.
The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

The Obligors who are Parties and the other Finance Parties irrevocably authorise the Agent to execute any Assignment Agreement on their behalf without any consultation with them.

On the Transfer Date:

(i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents and in respect of the Transaction Security (if relevant) expressed to be the subject of the assignment in the Assignment Agreement;

(ii) 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 Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security) (but the obligations owed by the Obligors under the Finance Documents shall not be released); and

(iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.

Lenders may utilise procedures other than those set out in this clause 31.5(c) to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with this clause 31.5(c) to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in clause 31.2 (Conditions of assignment or transfer).

31.8 Copy of Transfer Certificate or Assignment Agreement to Borrower

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or Assignment Agreement and any other document required under paragraph (a) of clause 31.2 (Conditions of assignment or transfer), send a copy of that Transfer Certificate or Assignment Agreement and such other documents to the Borrower.

31.9 Security over Lenders’ rights

In addition to the other rights provided to Lenders under this clause 31, each Lender may without
consulting with or obtaining consent from any 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) 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 other 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 other 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.

3.10 Sub-Participation

Any Lender may sub-participate all or any part of its rights and/or obligations under the Finance Documents without the consent of or notice to, the Borrower or any other Obligor.

32 Changes to the Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

Section 10 - The Finance Parties

33 Roles of Agent, Security Agent and Arranger

33.1 Appointment of the Agent and Security Agent and Facility Representative

(a) Each other Finance Party (other than the Security Agent) appoints:

(i) the Agent to act as its agent under and in connection with the Finance Documents; and

(ii) the Security Agent to act as its agent and as trustee under and for the purposes of the Security Documents (including as trustee of the Security Property).

(b) Each of the Finance Parties authorises and instructs the Agent to act on its behalf as the Facility Representative under each of the Global Intercreditor Deed and the Intra-Restructuring Lenders Intercreditor Deed for the purposes of those Intercreditor Deeds.

(c) The Finance Parties agree that the Agent shall be the Facility Representative and, in the event the Agent ceases to be the Agent, its successor to the office of “Agent” shall become the Facility Representative, unless otherwise agreed between the Finance Parties.

33.2 Security Agent as trustee

The Security Agent declares that it holds the Security Property on trust for itself and the other Finance Parties on the terms contained in this Agreement.

33.3 Authorisation of Agent and Security Agent

Each of the Finance Parties authorises the Agent and the Security Agent:

(a) to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent or (as the case may be) 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 Majority Lenders for execution by it.
33.4 Instructions to Agent and the Security Agent and Facility Representative

(a) The Agent and the Security Agent shall:

(i) subject to paragraphs (d) and (e) below, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent or (as the case may be) the Security Agent in accordance with any instructions given to it by:

(A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and

(B) in all other cases, the Majority Lenders; and

(ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties).

(b) The Agent and the Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent or (as the case may be) the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.

(c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and, unless a contrary indication appears in a Finance Document, any instructions given to the Agent or (as the case may be) the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.

(d) Paragraph (a) above shall not apply:

(i) where a contrary indication appears in a Finance Document;

(ii) where a Finance Document requires the Agent or the Security Agent to act in a specified manner or to take a specified action;

(iii) in respect of any provision which protects the Agent’s or the Security Agent’s own position in its personal capacity as opposed to its role of the Agent or the Security
Agent for the Finance Parties including, without limitation, clauses 33.9 (No duty to account) to clause 33.14 (Exclusion of liability), clause 33.19 (Confidentiality) to clause 34.5 (Custodians and nominees) and clauses 34.8 (Acceptance of title) to 34.11 (Disapplication of Trustee Acts).

(e) If giving effect to instructions given by any other Finance Party or group of Finance Parties would (in the Agent’s or (as the case may be) the Security Agent’s opinion) have an effect equivalent to an amendment or waiver which is subject to clause 46 (Amendments and waivers), the Agent or (as the case may be) the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than itself) whose consent would have been required in respect of that amendment or waiver.

(f) The Agent or the Security Agent may refrain from acting in accordance with any instructions of any other Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.

(g) Without prejudice to the provisions of clause 35 (Enforcement of Transaction Security) and the remainder of this clause 33, in the absence of instructions, the Agent and the Security Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.

(h) For the avoidance of doubt, the Agent, when acting as Facility Representative for the HSH Facility (as defined in the Global Intercreditor Deed) under the Global Intercreditor Deed and the Intra-Restructuring Lenders Intercreditor Deed, shall always execute and strictly comply with the instructions received by the Majority Lenders or, where the instructions of all Lenders are required, all Lenders in accordance with this Agreement.

33.5 Legal or arbitration proceedings

Neither the Agent nor the Security Agent is authorised to act on behalf of another Finance Party (without first obtaining that Finance Party’s consent) in any legal or arbitration proceedings relating to any Finance Document. This clause 33.5 shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Transaction Security.
33.6 Duties of the Agent and the Security Agent

(a) The Agent’s and the Security Agent’s duties under the Finance Documents are solely mechanical and administrative in nature.

(b) Subject to paragraph (c) below, the Agent or (as the case may be) the Security Agent shall promptly

(i) (in the case of the Security Agent) forward to the Agent a copy of any document received by the Security Agent from any Obligor under any Finance Document; and

(ii) forward to a Party the original or a copy of any document which is delivered to the Agent or (as the case may be) the Security Agent for that Party by any other Party.

(c) Without prejudice to clause 31.8 (Copy of Transfer Certificate or Assignment Agreement to Borrower), paragraph (b) above shall not apply to any Assignment Agreement or Transfer Certificate.

(d) Except where a Finance Document specifically provides otherwise, neither the Agent nor the Security Agent is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(e) Without prejudice to clause 36.11 (Notification of prescribed events), if the Agent or the Security Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent or an Arranger or the Security Agent for their own account) under this Agreement, it shall promptly notify the other Finance Parties.

(g) The Agent shall provide to the Borrower within ten Business Days of a request by the Borrower (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Lenders as at the date of that request, their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the sending and receipt of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance
Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Agent to that Lender under the Finance Documents.

(h) The Agent and the Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

33.7 Role of the Arrangers

Except as specifically provided in the Finance Documents, the Arrangers have 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.

33.8 No fiduciary duties

Nothing in any Finance Document constitutes the Agent, the Security Agent or an Arranger as a trustee or fiduciary of any other person except to the extent that the, the Security Agent acts as trustee for the other Finance Parties pursuant to clause 33.2 (Security Agent as trustee).

33.9 No duty to account

None of the Agent, the Security Agent or any Arranger shall be bound to account to any other Finance Party for any sum or the profit element of any sum received by it for its own account.

33.10 Business with the Group

The Agent, the Security Agent and any 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 or their Affiliates.

33.11 Rights and discretions of the Agent and the Security Agent

(a) The Agent and the Security Agent may:

(i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;

(ii) assume that:

(A) any instructions received by it from the Majority Lenders, any Lenders or other Finance Parties or any group of Lenders or other Finance Parties are duly given in accordance with the terms of the Finance Documents;
(B) unless it has received notice of revocation, that those instructions have not been revoked; and
(C) in the case of the Security Agent, if it receives any instructions to act in relation to the Transaction Security, that all applicable conditions under the Finance Documents for so acting have been satisfied; and

(iii) rely on a certificate from any person:

(A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
(B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,
as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.

(b) The Agent and the Security Agent may assume (unless it has received notice to the contrary in its capacity as agent or (as the case may be) security trustee for the other Finance Parties) that:

(i) no Notifiable Debt Purchase Transaction has been entered into, has been terminated or has ceased to be with a Borrower Affiliate;
(ii) no Default has occurred (unless (in the case of the Agent) it has actual knowledge of a Default arising under clause 30.1 (Non-payment) );
(iii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and
(iv) any notice or request made by the Borrower is made on behalf of and with the consent and knowledge of all the Obligors.

(c) Each of the Agent and the Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts.

(d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, each of the Agent and the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to it (and so separate from any lawyers instructed
by the Lenders or any other Finance Party) if it, in its reasonable opinion, deems this to be desirable.

(e) Each of the Agent and the Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts (whether obtained by it 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 (provided that such person has been selected using reasonable care).

(f) The Agent, the Security Agent, any Receiver and any Delegate may act in relation to the Finance Documents, the Transaction Security and the Security Property through its officers, employees and agents and shall not:

(i) be liable for any error of judgment made by any such person; or
(ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part, of any such person,

unless such error or such loss was directly caused by the Agent’s, the Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct.

(g) Unless any Finance Document expressly specifies otherwise, the Agent or the Security Agent may disclose to any other Party any information it reasonably believes it has received as agent or security trustee under this Agreement.

(h) Without prejudice to the generality of paragraph (g) above, the Agent:

(i) may disclose; and
(ii) on the written request of the Borrower or the Majority Lenders shall, as soon as reasonably practicable, disclose,

the identity of a Defaulting Lender to the other Finance Parties and the Borrower.

(i) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent, the Security Agent nor any 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.
(j) Notwithstanding any provision of any Finance Document to the contrary, neither the Agent nor the Security Agent is obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

(k) Neither the Agent nor any 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, in which case the Agent shall promptly make the appropriate request of the Borrower if such request would be in accordance with the terms of this Agreement.

33.12 Responsibility for documentation and other matters

None of the Agent, the Security Agent, any Arranger, any Receiver or any Delegate is responsible or liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Security Agent, any Arranger, an Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document, the Transaction Security or the Security Property;

(c) the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents;

(d) (in the case of the Security Agent) any loss to the Security 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) the failure of any Obligor or any other party to perform its obligations under any Transaction Document or the financial condition of any such person;

(f) (save as otherwise provided in this clause 33, including, without limitation, where instructed pursuant to clause 33.4 (Instructions to Agent and the Security Agent)) taking or omitting to take any other action under or in relation to the Security Documents;
(g) any other beneficiary of a Security Document failing to perform or discharge any of its duties or obligations under any Finance Document; or
(h) 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.

33.13 **No duty to monitor**

Neither the Agent nor the Security Agent shall be bound to enquire:

(a) whether or not any Default has occurred;
(b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
(c) whether any other event specified in any Finance Document has occurred.

33.14 **Exclusion of liability**

(a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent, the Security Agent, any Receiver or Delegate), none of the Agent, the Security Agent, any Receiver nor any Delegate will be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:

(i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Security Property, unless directly caused by its gross negligence or wilful misconduct;

(ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Security Property;

(iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
(iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:

(A) any act, event or circumstance not reasonably within its control; or

(B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event), breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(b) No Party (other than the Agent, the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Agent, the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Agent, the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or any Security Property and any officer, employee or agent of the Agent, the Security Agent, a Receiver or a Delegate may rely on this clause subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

(c) Neither of the Agent or the Security Agent will be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by it if it 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 it for that purpose.

(d) Nothing in any Finance Document shall oblige the Agent, the Security Agent or any Arranger to carry out

(i) any “know your customer” or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by any of the Finance Documents might be unlawful for any Finance Party or for any Affiliate of any Finance Party or for any Affiliate of any Finance Party,

on behalf of any other Finance Party and each other Finance Party confirms to the Agent, the Security Agent and the Arrangers 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, the Security Agent or any Arranger.

(e) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Agent, the Security Agent, any Receiver or any Delegate, any liability of the Agent, the Security Agent, any Receiver or any Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Agent, the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent, the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Agent, the Security Agent, any Receiver or any Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent, the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

33.15 Lenders’ indemnity to the Agent and others

(a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their being reduced to zero) indemnify the Agent, the Security Agent, every Receiver and every Delegate, within three Business Days of demand, against any Losses (including, without limitation, for negligence or any other category of liability whatsoever) incurred by any of them (otherwise than by reason of the relevant Agent’s, Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct) (or, in the circumstances contemplated pursuant to clause 40.11 (Disruption to payment systems etc; notwithstanding the Agent’s negligence, gross negligence, or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent, Security Agent, Receiver or Delegate under, or exercising any authority conferred under, the Finance Documents (unless the relevant Agent, Security Agent, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).

(b) Subject to paragraph (c) below, the Borrower shall immediately on demand reimburse any Lender for any payment that Lender makes to the Agent or the Security Agent or any Receiver or Delegate pursuant to paragraph (a) above.
Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent or the Security Agent to an Obligor.

33.16 Resignation of the Agent or the Security Agent

(a) The Agent or the Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrower.

(b) Alternatively the Agent or the Security Agent may resign by giving 30 days’ notice to the other Finance Parties and the Borrower, in which case the Majority Lenders may appoint a successor Agent or Security Agent.

(c) If the Majority Lenders have not appointed a successor Agent or Security Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Agent or Security Agent (after consultation with (in the case of the Agent) the Borrower or (in the case of the Security Agent) the Agent) may appoint a successor Agent or Security Agent.

(d) If the Agent or Security Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent or trustee and the Agent or (as the case may be) Security Agent is entitled to appoint a successor Agent or (as the case may be) Security Agent under paragraph (c) above, the Agent or (as the case may be) Security Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent or (as the case may be) Security Agent to become a party to this Agreement as Agent or (as the case may be) Security Agent) agree with the proposed successor Agent or (as the case may be) Security Agent amendments to this clause 33 and any other term of this Agreement dealing with the rights or obligations of the Agent or (as the case may be) Security Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the fee payable to it in its capacity as Agent or (as the case may be) Security Agent under this Agreement which are consistent with the successor Agent’s or (as the case may be) Security Agent’s normal fee rates and those amendments will bind the Parties.

(e) The retiring Agent or Security Agent shall make available to the successor Agent or Security Agent such documents and records and provide such assistance as the successor Agent or Security Agent may reasonably request for the purposes of performing its functions as Agent or (as the case may be) Security Agent under the Finance Documents. The Borrower shall, within three Business Days of demand, reimburse the retiring Agent or
(as the case may be) Security Agent for the amount of all costs and expenses (including legal fees) (together with any applicable VAT) properly incurred by it in making available such documents and records and providing such assistance.

(f) The Agent’s or Security Agent’s resignation notice shall only take effect upon:

(i) the appointment of a successor; and

(ii) (in the case of the Security Agent) the transfer or assignment of all the Transaction Security and the other Security Property to that successor and any appropriate filings or registrations, any notices of transfer or assignment and the payment of any fees or duties related to such transfer or assignment which the Security Agent considers necessary or advisable have been duly completed.

(g) Upon the appointment of a successor, the retiring Agent or Security Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of clause 34.9 (Winding up of trust) and paragraph (e) above) but shall remain entitled to the benefit of clauses 14.4 ((Indemnity to the Agent and the Security Agent) and 14.5 (Indemnity concerning security) and this clause 33 (and any agency or other fees for the account of the retiring Agent or Security Agent in its capacity as such 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 that successor had been an original Party.

(h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:

(i) the Agent fails to respond to a request under clause 12.8 (FATCA Information) and the Borrower or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

(ii) the information supplied by the Agent pursuant to clause 12.8 (FATCA Information) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or

(iii) the Agent notifies the Borrower and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,
and (in each case) the Borrower or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Borrower or that Lender, by notice to the Agent, requires it to resign.

33.17 Replacement of the Agent

(a) After consultation with the Borrower, the Majority Lenders and the Lenders representing the majority of the Lenders by number acting together may, by giving 30 days’ notice to the Agent or (at any time the Agent (i) is an Impaired Agent or (ii) has not complied with any of its obligations other than payment obligations under any Finance Document or failed to act in accordance with the terms of any Finance Document, by giving any shorter notice (including the reason) determined by the Majority Lenders only, and without consultation with the Borrower) replace the Agent by appointing a successor Agent.

(b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor 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.

(c) 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 paragraph (b) above) but shall remain entitled to the benefit of clauses 14.4 (Indemnity to the Agent and the Security Agent) and 14.5 (Indemnity concerning security) and this clause 33 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).

(d) 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.

33.18 Replacement of the Security Agent

After consultation with the Borrower, the Majority Lenders and the Lenders representing the majority of the Lenders by number acting together may, by giving 30 days’ notice to the Security Agent, require it to resign in accordance with paragraph (b) of clause 33.16 (Resignation of the Agent or the Security Agent) or (at any time the Security Agent has not complied with any of its obligations under any Finance Document or failed to act in accordance with the terms of any Finance Document, by giving any shorter notice (including the reason) determined by the Majority Lenders only, and without consultation with the Borrower) replace the Security Agent by
appointing a successor Security Agent. In this event, the Security Agent shall resign in accordance with that paragraph.

33.19 Confidentiality

(a) In acting as agent or trustee for the Finance Parties, the Agent or (as the case may be) the Security Agent shall be regarded as acting through its agency, trustee or other division or department directly responsible for the management of the Finance Documents which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Agent or (as the case may be) Security Agent, it may be treated as confidential to that division or department and the Agent or (as the case may be) Security Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent, the Security Agent nor any 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.

33.20 Agent’s relationship with the Lenders

(a) The Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent’s principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:

(i) entitled to or liable for any payment due under any Finance Document on that day; and

(ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under clause 42.6 (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 (or such other information) by that Lender for the purposes of clause 42.2 (Addresses) and clause 42.6 (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.

33.21 Information from the Finance Parties

Each Finance Party shall, subject to any applicable duties of confidentiality or restriction imposed by applicable law or regulation or contract (including, without limitation German Banking Secrecy Laws, supply the Agent or the Security Agent with any information that the Agent or (as the case may be) the Security Agent may reasonably specify as being necessary to enable the Agent or (as the case may be) the Security Agent to perform its functions as Agent or (as the case may be) Security Agent.

33.22 Credit appraisal by the Finance Parties

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each other Finance Party confirms to the Agent, the Security Agent and the Arrangers 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 Transaction Document, the Transaction Security, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document, the Transaction Security or the Security Property;

(c) the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents;

(d) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered
into, made or executed in anticipation of, under or in connection with any Finance Document, the Transaction Security or the Security Property;

(e) the adequacy, accuracy or completeness of any information provided by the Agent, the Security Agent, the Arrangers or any other Party or by any other person under or in connection with any Transaction Document, the transactions contemplated by any Transaction Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; and

(f) the right or title of any person in or to, or the value or sufficiency of, any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security Interest affecting the Charged Property.

33.23 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.

33.24 Reliance and engagement letters

Each of the Agent, the Security Agent and the Arrangers may enter into any reliance letter or engagement letter relating to any valuations, reports, opinions or letters or advice or assistance provided by lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts in connection with the Transaction Documents or the transactions contemplated in the Finance Documents on such terms as it may consider appropriate (including, without limitation, restrictions on the lawyer’s, accountant’s, tax adviser’s, insurance consultant’s, ship manager’s, valuer’s, surveyor’s or other professional adviser’s or expert’s liability and the extent to which their valuations, reports, opinions or letters may be relied on or disclosed).
34 Trust and security matters

34.1 Undertaking to pay

(a) Each Obligor who is a Party undertakes with the Security Agent as trustee for the Finance Parties that it will, on demand by the Security Agent, pay to the Security Agent as trustee for the Finance Parties all money from time to time owing to the other Finance Parties (in addition to paying any money owing under the Finance Documents to the Security Agent for its own account), and discharge all other obligations from time to time incurred, by it under or in connection with the Finance Documents.

(b) Each payment which such an Obligor makes to another Finance Party in accordance with any Finance Document shall, to the extent of the amount of that payment, satisfy that Obligor’s corresponding obligation under paragraph (a) above to make that payment to the Security Agent.

34.2 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

(a) ascertain whether all deeds and documents which should have been deposited with it under or pursuant to any of the Security Documents have been so deposited;

(b) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;

(c) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Finance Document or the Transaction Security;

(d) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;

(e) take, or to require any Obligor to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security Interest under any law or regulation; or

(f) require any further assurance in relation to any Security Document.

34.3 Insurance by Security Agent

(a) The Security Agent shall not be obliged:

(i) to insure any of the Charged Property;
(ii) to require any other person to maintain any insurance; or

(iii) to verify any obligation to arrange or maintain insurance contained in any Finance Document,

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

(b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Agent requests it to do so in writing and the Security Agent fails to do so within fourteen days after receipt of that request.

34.4 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 other Finance Parties and (as appropriate) security agent and trustee for all of the other Finance Parties. Where any Finance Document provides for an 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.

34.5 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

34.6 Delegation by the Security Agent

(a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.

(b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that
Delegate (as the case may be) may, in its discretion, think fit in the interests of the Finance Parties.

(c) No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

34.7 Additional trustees

(a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:

(i) if it considers that appointment to be in the interests of the Finance Parties;

(ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or

(iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Agent shall give prior notice to the Borrower and the Finance Parties of that appointment.

(b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.

(c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

(d) At the request of the Security Agent, the other Parties 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.

(e) 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.

(f) 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.

(g) The appointment by the Security Agent of any additional trustees in accordance with this clause 34.7 shall terminate on the appointment of a replacement security trustee in accordance with clause 33.18 (Replacement of the Security Agent).

(h) Whenever there shall be more than two trustees having equal authority under this Agreement the majority of such trustees shall be competent to exercise and execute all the duties, powers, trusts, authorities and discretions vested in the Security Agent by this Agreement.

34.8 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Obligor may have to any of the Charged Property and shall not be liable for, or bound to require any Obligor to remedy, any defect in its right or title.

34.9 Winding up of trust

If the Security Agent, with the approval of the Agent, determines that:

(a) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged; and

(b) no Finance Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents,

then:

(i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and

(ii) any Security Agent which has resigned pursuant to clause 33.16 (Resignation of the Agent or the Security Agent) shall release, without recourse or warranty, all of its rights under each Security Document.
34.10 Powers supplemental to Trustee Acts

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

34.11 Disapplication of Trustee Acts

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

35 Enforcement of Transaction Security

35.1 Enforcement Instructions

(a) The Security Agent shall refrain from enforcing the Transaction Security unless instructed otherwise by Majority Lenders.

(b) Subject to the Transaction Security having become enforceable in accordance with its terms, the Majority Lenders may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit.

(c) The Security Agent is entitled to rely on and comply with instructions given in accordance with this clause 35.1.

35.2 Manner of enforcement

If the Transaction Security is being enforced pursuant to clause 35.1 (Enforcement Instructions), the Security Agent shall enforce the Transaction Security in such manner as the Majority Lenders shall instruct or, in the absence of any such instructions, as the Security Agent considers in its discretion to be appropriate.

35.3 Waiver of rights

To the extent permitted under applicable law and subject to clause 35.1 (Enforcement Instructions), clause 35.2 (Manner of enforcement) and clause 36 (Application of Proceeds), each
of the Finance Parties and the Obligors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

35.4 Enforcement through Security Agent only

(a) The other Finance Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising or to grant any consents or releases under the Security Documents except through the Security Agent.

(b) Each Finance Party (other than the Security Agent) 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 enforce or have recourse to the relevant Transaction Security or to exercise any such right, power, authority or discretion or to grant any such consent or release.

36 Application of proceeds

36.1 Order of application

Subject to the provisions of the Intercreditor Agreements, all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Document or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this clause 36, the Recoveries) shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this clause 36), in the following order of priority:

(a) in discharging any sums owing to the Security Agent (other than pursuant to clause 34.1 (Undertaking to pay), any Receiver or any Delegate;

(b) in discharging all costs and expenses incurred by any Finance Party in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement;

(c) in payment or distribution to the Agent on its own behalf and on behalf of the other Finance Parties for application in accordance with clause 40.6 (Partial payments) ;

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(d) if none of the Obligors is under any further actual or contingent liability under any Finance Document, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to any Obligor; and

(e) the balance, if any, in payment or distribution to the relevant Obligor.

36.2 Prompt application

Subject to clause 36.3 (Investment of cash proceeds), the Security Agent shall make each application and/or distribution falling to be made in accordance with clause 36.1 (Order of application) as soon as is practicable after the relevant moneys are received by, or otherwise become available to, the Security Agent.

36.3 Investment of cash proceeds

Prior to the application of any Recoveries in accordance with clause 36.1 (Order of Application) the Security Agent may, in its discretion, hold:

(a) all or part of any Recoveries which are in the form of cash; and

(b) any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any proceeds of the Security Property which are not in the form of cash

in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall reasonably think fit (the interest being credited to the relevant account), with a view to preserving the rights of the Finance Parties or any one of them to prove for the whole of their respective claims pending the application from time to time of those moneys in the Security Agent’s discretion in accordance with the provisions of this clause 36, provided always that any Lender may instruct the Agent, Security Agent, Receiver or Delegate to release its share of any such amounts.

36.4 Currency conversion

(a) For the purpose of, or pending the discharge of, any of the Secured Obligations the Security Agent may:

(i) convert any moneys received or recovered by the Security Agent from one currency to another; and

(ii) notionally convert the valuation provided in any opinion or valuation from one currency to another,
in each case at the Security Agent’s Spot Rate of Exchange for the purchase of that other currency with the currency in which the relevant moneys are received or recovered or the valuation is provided in the London foreign exchange market at or about 11:00 am (London time) on a particular day.

(b) The obligations of any Obligor to pay in the due currency shall only be satisfied:

(i) in the case of paragraph (a)(i) above, to the extent of the amount of the due currency purchased after deducting the costs of conversion; and

(ii) in the case of paragraph (a)(ii) above, to the extent of the amount of the due currency which results from the notional conversion referred to in that paragraph.

### 36.5 Permitted Deductions

The Security Agent shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any law or regulation to make from any distribution or payment made by it under this Agreement, and to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

### 36.6 Good discharge

(a) Any distribution or payment to be made in respect of the Secured Obligations by the Security Agent may be made to the Agent on behalf of the Finance Parties.

(b) Any distribution or payment made as described in paragraph (a) above shall be a good discharge, to the extent of that payment or distribution, by the Security Agent to the extent of that payment.

(c) The Security Agent is under no obligation to make the payments to the Agent under paragraph (a) above in the same currency as that in which the Secured Obligations owing to the relevant Finance Party are denominated pursuant to the relevant Finance Document.

### 36.7 Calculation of amounts

For the purpose of calculating any person’s share of any amount payable to or by it, the Security Agent shall be entitled to:

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(a) notionally convert the Secured Obligations owed to any person into a common base currency (decided in its discretion by the Security Agent), that notional conversion to be made at the spot rate at which the Security Agent is able to purchase the notional base currency with the actual currency of the Secured Obligations owed to that person at the time at which that calculation is to be made; and

(b) assume that all amounts received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Secured Obligations in accordance with the terms of the Finance Documents under which those Secured Obligations have arisen.

36.8 Release to facilitate enforcement and realisation

(a) Each Finance Party acknowledges that, for the purpose of any enforcement action by the Security Agent or a Receiver and/or maximising or facilitating the realisation of the Charged Property, it may be desirable that certain rights or claims against an Obligor and/or under certain of the Transaction Security, be released.

(b) Each other Finance Party hereby irrevocably authorises the Security Agent (acting on the instructions of the Agent) to grant any such releases to the extent necessary to effect such enforcement action and/or realisation including, to the extent necessary for such purpose, to execute release documents in the name of and on behalf of the other Finance Parties.

(c) Where the relevant enforcement is by way of disposal of shares in an Owner, the requisite release may include releases of all claims (including under guarantees) of the Finance Parties and/or the Security Agent against such Owner and of all Security Interests over the assets of such Owner.

36.9 Dealings with Security Agent

Subject to clause 42.5 (Communication when Agent is Impaired Agent), each Finance Party shall deal with the Security Agent exclusively through the Agent.

36.10 Disclosure between Finance Parties and Security Agent

Notwithstanding any agreement to the contrary, each of the Obligors consents, until the end of the Facility Period, to the disclosure by any Finance Party to each other (whether or not through the Agent or the Security Agent) of such information concerning the Obligors as any Finance Party shall see fit.
36.11 Notification of prescribed events

(a) If an Event of Default or Default either occurs or ceases to be continuing, the Agent shall, upon becoming aware of that occurrence or cessation, notify the Security Agent.

(b) If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each other Finance Party of that action.

(c) If any Finance Party exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Finance Party of that action.

37 [Intentionally left blank]

38 Conduct of business by the Finance Parties

38.1 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.

38.2 Conflicts

(a) Each Obligor who is a Party acknowledges that each Finance Party and its parent undertaking, subsidiary undertakings and fellow subsidiary undertakings (each a Finance Party Group) may be providing debt finance, equity capital or other services (including financial advisory services) to other persons with which the Obligors may have conflicting interests in respect of the Facility or otherwise.

(b) No member of a Finance Party 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 that Finance Party Group has as a Finance Party in respect of the
Finance Documents. The Obligors who are a Party also acknowledge that no member of a Finance Party Group has any obligation to use or furnish to any Obligor information obtained from other persons for their benefit.

(c) 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.

39 Sharing among the Finance Parties

39.1 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 40 (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 40 (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 40.6 (Partial payments).

39.2 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 40.6 (Partial payments) towards the obligations of that Obligor to the Sharing Finance Parties.

39.3 Recovering Finance Party’s rights

On a distribution by the Agent under clause 39.2 (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.

39.4 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.

39.5 Exceptions

(a) This clause 39 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this clause, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings;

(ii) the taking legal or arbitration proceedings was in accordance with the terms of this Agreement; and

(iii) 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

40 Payment mechanics

40.1 Payments to the Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Agent) and with such bank as the Agent, in each case, specifies.

40.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to clause 40.3 (Distributions to an Obligor) and clause 40.4 (Clawback and pre-funding) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five 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).

40.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with clause 41 (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.

40.4 Clawback and pre-funding

(a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

(c) If the Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:

(i) the Borrower shall on demand refund it to the Agent; and

(ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower, shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

40.5 Impaired Agent

(a) If, at any time, the Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with clause 40.1 (Payments to the Agent) may instead either:

(i) pay that amount direct to the required recipient(s); or

(ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of “Acceptable Bank” and in relation to which no Insolvency Event has occurred and is continuing, in the name of an Obligor or the Lender making the payment (the Paying Party ) and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the Recipient Party or Recipient Parties ).
In each case such payments must be made on the due date for payment under the Finance Documents.

(b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties pro rata to their respective entitlements.

c) A Party which has made a payment in accordance with this clause 40.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.

d) Promptly upon the appointment of a successor Agent in accordance with this Agreement, each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with clause 40.2 (Distributions by the Agent).

e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:

(i) that it has not given an instruction pursuant to paragraph (d) above; and

(ii) that it has been provided with the necessary information by that Recipient Party,
give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

40.6 Partial payments

(a) If the Agent receives a payment for application against amounts due in respect of any 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 the Finance Documents in the following order (but subject to the provisions of the Intercreditor Agreements):

(i) first, in or towards payment pro rata of any unpaid amount owing to the Agent, the Security Agent or the Arrangers for their own account under those Finance Documents;

(ii) secondly, in or towards payment to the Lenders pro rata of any amount owing to the Lenders under clause 33.15 (Lenders’ indemnity to the Agent and others);
(iii) thirdly, in or towards payment to the Lenders pro rata of any accrued interest in respect of Tranche A, any fee or commission due but unpaid under the Finance Documents;

(iv) fourthly, in or towards payment to the Lenders pro rata of any principal due but unpaid under the Finance Documents in respect of Tranche A;

(v) fifthly, in or towards payment to the Lenders pro rata of any accrued interest in respect of Tranche B;

(vi) sixthly, in or towards payment to the Lenders pro rata of any principal due but unpaid under the Finance Documents in respect of Tranche B;

(vii) seventhly, in or towards payment to the Lenders pro rata for any loss suffered by reason of any such payment in respect of principal not being effected on the last day of each Interest Period relating to the part of the Loan repaid; and

(viii) eighthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

(b) The Agent shall, if so directed by all the Lenders, vary the order set out in paragraphs (ii) to (vi) of paragraph (a) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

40.7 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.

40.8 Business Days

(a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.
40.9 Currency of account

(a) Subject to paragraphs (b) and (c) below, dollars is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) 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.

(c) 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.

(d) 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.

40.10 Change of currency

(a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Interbank Market and otherwise to reflect the change in currency.
40.11 Disruption to payment systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:

(a) the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facility as the Agent may deem necessary in the circumstances;

(b) the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) 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 Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of clause 46 (Amendments and waivers);

(e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this clause 40.11; and

(f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

41 Set-off

(a) A Finance Party may set off any matured obligation due from an Obligor (other than the Manager) 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 (other than the Manager), 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.
(b) Without prejudice to paragraph (a) above, each Finance Party may for that purpose:

(i) break, or alter the maturity of, all or any part of a deposit by any Obligor (other than the Manager);

(ii) convert or translate all or any part of a deposit or other credit balance into dollars;

(iii) enter into any other transaction, execute such document or make any entry in the name of the relevant Obligor (other than the Manager) and/or the Finance Party with regard to the credit balance which the Finance Party considers appropriate; and

(iv) combine and/or consolidate and/or liquidate all or any accounts (whether current, deposit, loan or of any other nature whatsoever, whether subject to notice or not and in whatever currency) of any one or more of the Obligors (other than the Manager) with any office or branch of the Finance Party.

(c) No Finance Party shall be obliged to exercise any of its rights under this clause 41 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 Finance Party is entitled (whether under law or any document, including, without limitation, under any Hedging Master Agreement).

42 Notices

42.1 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.

42.2 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 who 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 Finance Parties and the Obligors who are Parties, if a change is made by the Agent) by not less than five Business Days’ notice.

42.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under clause 42.2 (Addresses), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified in Schedule 1 (The original parties) (or any substitute department or officer as the Agent or the Security Agent shall specify for this purpose).

(c) All notices from or to an Obligor shall be sent through the Agent.

(d) Any communication or document made or delivered to the Borrower in accordance with this clause 42.3 will be deemed to have been made or delivered to each of the Obligors.

(e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.
42.4 Notification of address and fax number

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to clause 42.2 (Addresses) or changing its address or fax number, the Agent shall notify the other Parties.

42.5 Communication when Agent is Impaired Agent

If the Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.

42.6 Electronic communication

(a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:

(i) notify each other in writing (whether pursuant to clause 42.2 (Addresses) or otherwise) of their electronic mail address and/or any other information required to enable the transmission of information by that means; and

(ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days’ notice.

(b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.

(c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and, in the case of any electronic communication made by a Party to the Agent or the Security Agent, only if it is addressed in such a manner as the Agent or the Security Agent shall specify for this purpose.

(d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication
is sent or made available has its address for the purpose of this Agreement or any other Finance Document shall be deemed only to become effective on the following day.

(e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this clause 42.6.

(f) The Obligors who are Parties and the Finance Parties hereby agree that they may send information via email to another such Obligor or Finance Party or one or more third parties involved in the provision of services (each a Recipient). Each Recipient hereby acknowledges that:

(i) any unencrypted information may be transported over an open, publicly accessible network and may, in principle, be viewed by others, which may enable conclusions to be drawn about a banking relationship;

(ii) such information can be changed and/or manipulated by a third party;

(iii) the identity of the sender of any such email may be assumed or otherwise manipulated;

(iv) no Finance Party assumes any liability for any loss incurred as a result of manipulation of the email address or content of such an email or the information therein nor for any loss incurred by any Recipient due to interruptions and/or delays in transmission caused by technical problems; and

(v) each Finance Party is entitled to assume that all the orders and instructions received from any Obligor or a third party designated by any Obligor are from an authorised individual, irrespective of the existing signatory rights in accordance with the commercial register or the specimen signature. Each Obligor who is a Party shall further procure that all third parties referred to herein agree with the use of emails and are aware of the above terms and conditions related to the use of email.

42.7 English language

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents provided under or in connection with any Finance Document must be:

(i) in English; or
(ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

43 Calculations and certificates

43.1 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.

43.2 Certificates and determinations

Any certification or determination by a Finance Party or a copy of a certificate signed by an officer of a Finance Party of a rate or amount under any Finance Document (including, without limitation, the amount of any indebtedness comprised in the Guaranteed Obligations) or standing to the credit of any account for the time being or at any time is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

43.3 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.

44 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.

45 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 Finance Document. No election to affirm any Finance Document 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 each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

46 Amendments and waivers

46.1 Global Intercreditor Deed

This clause 46 is subject to the terms of the Global Intercreditor Deed.

46.2 Required consents

(a) Subject to clause 46.3 (All Lender matters) and clause 46.4 (Other exceptions), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrower and any such amendment or waiver will be binding on all the Finance Parties and other Obligors.

(b) The Agent may effect (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 46.

(c) Without prejudice to the generality of paragraphs (c), (d) and (e) of clause 33.11 (Rights and discretions of the 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.

(d) Each Obligor agrees to any such amendment or waiver permitted by this clause 46 which is agreed to by the Borrower.

46.3 All Lender matters

An amendment, waiver or discharge or release or a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

(a) the definition of “Closing Date”, “Effective Date”, and/or “Majority Lenders” in clause 1.1 (Definitions);

(b) an extension to the date of payment of any amount under the Finance Documents;
(c) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable or the rate at which they are calculated;
(d) an increase in any Commitment or the Total Commitments, an extension of any period within which the Facility is available for Utilisation or any requirement that a cancellation of Commitments reduces the Commitments rateably;

(e) a change to the Borrower or any other Obligor;

(f) clause 30.25 (Owner Change of Control), clause 30.26 (Manager Change of Control) and the definitions of “Manager Change of Control” and “Owner Change of Control” in clause 1.1 (Definitions);

(g) any provision which expressly requires the consent or approval of all the Lenders;

(h) clause 39 (Sharing among the Finance Parties);

(i) clause 2.2 (Finance Parties’ rights and obligations), clause 6.1 (Illegality), clause 31 (Changes to the Lenders), clause 7.10 (Application of prepayments), clause 6.6 (Sale or Total Loss), clause 28.16 (Amended and Restated Sinosure Facility), clause 31 (Changes to the Lenders), clause 32 (Changes to the Obligors), this clause 46, clause 51 (Governing law) or clause 52.1 (Jurisdiction of English courts);

(j) the order of distribution under clause 36.1 (Order of application);

(k) the order of distribution under clause 40.6 (Partial payments);

(l) the currency in which any amount is payable under any Finance Document;

(m) (other than (i) as expressly permitted by the provisions of any Finance Document or (ii) where a different majority requirement is expressly set out in any provision of this Agreement) the nature or scope of:

(i) any guarantee and indemnity granted under any Finance Document (including under clause 17 (Guarantee and indemnity));

(ii) the Charged Property; or

(iii) the manner in which the proceeds of enforcement of the Transaction Security are distributed; or

(n) consent to withdrawal by the relevant Account Holder(s) from an Earnings Account (other than any withdrawal which is in accordance with the Account Security and this Agreement);
the circumstances in which any of the Transaction Security is permitted or required to be released under any of the Finance Documents, shall not be made, or given, without the prior consent of all the Lenders.

46.4 Other exceptions

(a) An amendment or waiver which relates to the rights or obligations of the Agent, the Security Agent, or an Arranger in their respective capacities as such (and not just as a Lender) may not be effected without the consent of the Agent, the Security Agent or that Arranger (as the case may be).

(b) Notwithstanding clauses 46.1 and 46.3 and paragraph (a) above, 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.

46.5 Replacement of Screen Rate

(a) Subject to Clause 46.4 (Other exceptions),

(b) any amendment or waiver which relates to:

(i) providing for the use of a Replacement Benchmark; and

(ii)

(A) aligning any provision of any Finance Document to the use of that Replacement Benchmark;

(B) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);

(C) implementing market conventions applicable to that Replacement Benchmark;

(D) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
(E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Borrower.

(c) For the purposes of this clause 46.5:

**Relevant Nominating Body** means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

**Replacement Benchmark** means a benchmark rate which is:

(a) formally designated, nominated or recommended as the replacement for a Screen Rate by:

(i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or

(ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the “Replacement Benchmark” will be the replacement under paragraph (a) above;

(b) in the opinion of the Majority Lenders and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to that Screen Rate; or

(c) in the opinion of the Majority Lenders and the Borrower, an appropriate successor to a Screen Rate.
46.6 Releases

Except with the approval of all of the Lenders or for a release which 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 Transaction Security; or

(b) any Obligor from any of its guarantee or other obligations under any Finance Document.

46.7 Excluded Commitments

If:

(a) any Defaulting Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within three Business Days of that request being made; or

(b) any Lender which is not a Defaulting Lender fails to respond to such a request (other than an amendment, waiver or consent referred to in paragraphs (b), (c), (d) and (m) of clause 46.3 (All Lender matters) ) or such a vote within 30 Business Days of that request being made,

(unless (in either such case) the Borrower and the Agent agree to a longer time period in relation to any request):

(i) its Commitment or its participation in the Loan shall not be included for the purpose of calculating the Total Commitments or the amount of the Loan when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments or the amount of the Loan has been obtained to approve that request; and

(ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

46.8 Replacement of a Defaulting Lender

(a) The Borrower may, at any time a Lender has become and continues to be a Defaulting Lender, by giving 20 Business Days’ prior notice to the Agent and such Lender replace such Lender by requiring such Lender to (and to the extent permitted by law such Lender
shall) transfer pursuant to clause 31 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement (and any Security Document to which that Lender is a party in its capacity as a Lender) to an Eligible Institution (a Replacement Lender) which confirms its willingness to undertake and does undertake all the obligations or all the relevant obligations of the transferring Lender in accordance with clause 31 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer which is either:

(i) in an amount equal to:

   (A) the outstanding principal amount of such Lender’s participation in the Loan;

   (B) all accrued interest owing to such Lender;

   (C) the Break Costs which would have been payable to such Lender pursuant to clause 10.5 (Break Costs) had the Borrower 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; or

(ii) in an amount agreed between that Defaulting Lender, the Replacement Lender and the Borrower and which does not exceed the amount described in paragraph (i) above.

(b) Any transfer of rights and obligations by a Defaulting Lender pursuant to this clause 46.8 shall be subject to the following conditions:

(i) the Borrower shall have no right to replace the Agent or the Security Agent;

(ii) neither the Agent nor the Defaulting Lender shall have any obligation to the Borrower to find a Replacement Lender;

(iii) the transfer must take place no later than 30 Business Days after the notice referred to in paragraph (a) above;

(iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and
the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.

(c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

46.9 Disenfranchisement of Borrower Affiliates

(a) For so long as a Borrower Affiliate:

(i) beneficially owns a Commitment; or

(ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,

in ascertaining:

(A) the Majority Lenders; or

(B) whether:

(1) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or

(2) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents,

such Commitment shall be deemed to be zero and such Borrower Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender for the purposes of paragraphs (A) and (B) above (unless in the case of a person not being a Borrower Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).

(b) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Agent in writing if it knowingly enters into a Debt Purchase Transaction.
with a Borrower Affiliate (a **Notifiable Debt Purchase Transaction**), such notification to be substantially in the form set out in Part I of Schedule 5 (**Forms of Notifiable Debt Purchase Transaction Notice**).

(c) A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party:

(i) is terminated; or

(ii) ceases to be with a Borrower Affiliate,

such notification to be substantially in the form set out in Part II of Schedule 5 (**Forms of Notifiable Debt Purchase Transaction Notice**).

(d) Each Borrower Affiliate that is a Lender agrees that:

(i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same if so requested by the Agent or, unless the Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and

(ii) 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.

### 47 Confidential Information

#### 47.1 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 47.2 (**Disclosure of Confidential Information**) and clause 47.3 (**Disclosure to numbering service providers**), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

#### 47.2 Disclosure of Confidential Information

(a) Any Finance Party may disclose to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to

(b) Any Finance Party and any of that Finance Party’s Affiliates may disclose to any person:

(i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;

(ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;

(iii) appointed by any Finance Party or any of that Finance Party’s Affiliates or by a person to whom paragraphs (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of clause 33.20 (**Relationship with the Lenders**));

(iv) appointed by any Finance Party or any of that Finance Party’s Affiliates or by a person to whom paragraph (b)(ii) above applies to act as a verification agent in respect of any transaction referred to in paragraph (b)(ii) above;

(v) appointed by any Finance Party or any of that Finance Party’s Affiliates or by a person to whom paragraphs (b)(i) or (b)(ii) above applies in connection with the exercise, protection or enforcement of such person’s rights under the Finance Documents;

(vi) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraphs (b)(i) or (b)(ii) above;
(vii) 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;

(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 or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to clause 31.9 (Security over Lenders' rights);

(x) who is a Party; or

(xi) with the consent of the Borrower,

in each case, such Confidential Information as that Finance Party shall consider appropriate, if:

(A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii), (b)(iv) and (b)(v) above, the person to whom the Confidential Information is to be given has entered into a confidentiality undertaking substantially in the appropriate recommended form of the Loan Market Association from time to time or in any other form agreed between the Borrower and the relevant Finance Party (a Confidentiality Undertaking) save that no Obligor countersignature or consent to execution of such confidentiality undertaking shall be required and that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

(B) in relation to paragraph (b)(vi) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; and

(C) in relation to paragraphs (b)(vii), (b)(viii) and (b)(ix) above, the person to whom the Confidential Information is to be given is informed of its confidential nature.
and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances.

(c) Any Finance Party may disclose to any person appointed by that Finance Party or by a person to whom paragraphs (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party.

(d) Any Finance Party may disclose to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

47.3 Disclosure to numbering service providers

(a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facility and/or one or more Obligors the following information:

(i) names of Obligors;
(ii) country of domicile of Obligors;
(iii) place of incorporation of Obligors;
(iv) date of this Agreement and the Effective Date;
(v) clause 51 (Governing law);
(vi) the names of the Agent and the Arrangers;

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(vii) date of each amendment and restatement of this Agreement;

(viii) amount of Total Commitments;

(ix) currency of the Facility;

(x) type of Facility;

(xi) ranking of Facility;

(xii) the term of the Facility;

(xiii) changes to any of the information previously supplied pursuant to paragraphs 47.2(a)(i) to 44.3(a)(xii) above; and

(xiv) such other information agreed between such Finance Party and the Borrower,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

(b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

(c) The Borrower represents that none of the information set out in clauses 47.2(a)(i) to 44.3(a)(xiii) above is, nor will at any time be, unpublished price-sensitive information.

(d) The Agent shall notify the Borrower and the other Finance Parties of:

(i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facility and/or one or more Obligors; and

(ii) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or one or more Obligors by such numbering service provider.

47.4 Entire agreement

This clause 47 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.
47.5 **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.

47.6 **Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

(a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (vi) of clause 47.2(b) (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(b) upon becoming aware that Confidential Information has been disclosed in breach of this clause 47.

47.7 **Banking secrecy laws**

Each Obligor hereby releases each Finance Party and each of its Affiliates and each of its or their officers, directors, employees, head office, professional advisers, auditors and representatives (together, the Disclosing Party) from any confidentiality obligations or confidentiality restrictions arising from German law or other applicable banking secrecy and data protection legislation which would prevent a Disclosing Party from disclosing any Confidential Information in accordance with this clause 47 (Confidential Information).

47.8 **Continuing obligations**

The obligations in this clause 47 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 the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and

(b) the date on which such Finance Party otherwise ceases to be a Finance Party.
48  Confidentiality of Funding Rates

48.1  Confidentiality and disclosure

(a)  The Agent and each Obligor agree to keep each Funding Rate confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.

(b)  The Agent may disclose:

(i)  any Funding Rate to the Borrower pursuant to clause 8.4 (Notification of rates of interest); and

(ii) any Funding Rate to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender.

(c)  The Agent may disclose any Funding Rate, and each Obligor may disclose any Funding Rate, to:

(i)  any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or is otherwise bound by requirements of confidentiality in relation to it;

(ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;
any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and

any person with the consent of the relevant Lender.

48.2 Related obligations

(a) The Agent and each Obligor acknowledge that each Funding Rate is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and each Obligor undertake not to use any Funding Rate for any unlawful purpose.

(b) The Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender:

(i) of the circumstances of any disclosure made pursuant to clause 48.1(c)(ii) (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ii) upon becoming aware that any information has been disclosed in breach of this clause 48.

48.3 No Event of Default

No Event of Default will occur under clause 30.4 (Other obligations) by reason only of an Obligor’s failure to comply with this clause 48.

49 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.
Contractual recognition of bail in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

(a) any Bail-In Action in relation to any such liability, including (without limitation):
   (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
   (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
   (iii) a cancellation of any such liability; and

(b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

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51  Governing law

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

52  Enforcement

52.1  Jurisdiction of English courts

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement or any non-contractual obligations arising out of or in connection with it (including a dispute relating to and/or regarding the existence, validity or termination of this Agreement) (a Dispute).

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) Notwithstanding paragraph (a) above to the extent allowed by law, 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.

52.2  Service of process

Without prejudice to any other mode of service allowed under any relevant law, any Obligor who 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 an agent for service of process 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

#### Borrower

<table>
<thead>
<tr>
<th>Name of Borrower:</th>
<th>Danaos Corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Jurisdiction:</td>
<td>Marshall Islands</td>
</tr>
<tr>
<td>Registration number (or equivalent, if any):</td>
<td>16381</td>
</tr>
<tr>
<td>English process agent (if not incorporated in England):</td>
<td>Law Debenture Corporate Service Limited</td>
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<tr>
<td></td>
<td>Fifth Floor</td>
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<td>100 Wood Street</td>
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<td>London EC2V 7EX</td>
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<td>Registered office:</td>
<td>Danaos Corporation</td>
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<tr>
<td>Address and email address for service of notices:</td>
<td>Danaos Corporation</td>
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<td></td>
<td>Attn.: Evangelos Chatzis</td>
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<tr>
<td></td>
<td>Tel: +30 210 419 6400</td>
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<tr>
<td></td>
<td>Fax: +30 210 422 0855</td>
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<td></td>
<td>email: <a href="mailto:cfo@danaos.com">cfo@danaos.com</a></td>
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#### Guarantors

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<tr>
<th>Name:</th>
<th>Actaea Company Limited</th>
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<td>email: <a href="mailto:cfo@danaos.com">cfo@danaos.com</a></td>
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<tr>
<td>Shareholder:</td>
<td>Erato Navigation Inc. (Liberia)</td>
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<td>Name:</td>
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<tr>
<td>Shareholder:</td>
<td>Tully Enterprises S.A. (Liberia)</td>
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<td>c/o Danaos Shipping Co. Ltd</td>
</tr>
<tr>
<td></td>
<td>14 Akti Kondyli Street</td>
</tr>
<tr>
<td></td>
<td>185 45 Piraeu Greece</td>
</tr>
<tr>
<td></td>
<td>Tel: +30 210 419 6400</td>
</tr>
<tr>
<td></td>
<td>Fax: +30 210 422 0855</td>
</tr>
<tr>
<td></td>
<td>email: <a href="mailto:cfo@danaos.com">cfo@danaos.com</a></td>
</tr>
<tr>
<td>Shareholder:</td>
<td>Tully Enterprises S.A. (Liberia)</td>
</tr>
</tbody>
</table>

| Name:                  | Speedcarrier (No.1) Corp.                                                    |
| Original Jurisdiction: | Liberia                                                                      |
| Registration number (or equivalent, if any): | C-110258                                                                    |
| English process agent (if not incorporated in England): | Law Debenture Corporate Service Limited                                      |
|                       | Fifth Floor                                                                  |
|                       | 100 Wood Street                                                              |
|                       | London EC2V 7EX                                                              |
| Registered office:    | Danaos Corporation                                                           |
| Address and email address for service of notices: | Danaos Corporation                                                           |
|                       | c/o Danaos Shipping Co. Ltd                                                  |
|                       | 14 Akti Kondyli Street                                                       |
|                       | 185 45 Piraeu Greece                                                        |
|                       | Attn.: Evangelos Chatzis                                                     |
|                       | Tel: +30 210 419 6400                                                        |
|                       | Fax: +30 210 422 0855                                                        |
|                       | email: cfo@danaos.com                                                        |
| Shareholder:          | Sapfo Navigation Inc. (Liberia)                                              |
Name: Speedcarrier (No.3) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110260
English process agent (if not incorporated in England): Law Debenture Corporate Service Limited Fifth Floor 100 Wood Street London EC2V 7EX
Registered office: 80 Broad Street Monrovia Liberia
Address and email address for service of notices: Danaos Corporation c/o Danaos Shipping Co. Ltd 14 Akti Kondyli Street 185 45 Piraeu Greece Attn.: Evangelos Chatzis Tel: +30 210 419 6400 Fax: +30 210 422 0855 email: cfo@danaos.com
Shareholder: Westwood Marine S.A. (Liberia)

Name: Speedcarrier (No.4) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110261
English process agent (if not incorporated in England): Law Debenture Corporate Service Limited Fifth Floor 100 Wood Street London EC2V 7EX
Registered office: 80 Broad Street Monrovia Liberia
Address and email address for service of notices: Danaos Corporation c/o Danaos Shipping Co. Ltd 14 Akti Kondyli Street 185 45 Piraeu Greece Attn.: Evangelos Chatzis Tel: +30 210 419 6400 Fax: +30 210 422 0855 email: cfo@danaos.com
Shareholder: Baker International S.A. (Liberia)

Name: Speedcarrier (No.5) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110262
English process agent (if not incorporated in England): Law Debenture Corporate Service Limited Fifth Floor 100 Wood Street London EC2V 7EX
Registered office: 80 Broad Street Monrovia Liberia
Address and email address for service of notices: Danaos Corporation c/o Danaos Shipping Co. Ltd 14 Akti Kondyli Street 185 45 Piraeu Greece Attn.: Evangelos Chatzis Tel: +30 210 419 6400 Fax: +30 210 422 0855 email: cfo@danaos.com
Shareholder: Bayard Maritime Limited (Liberia)

Name: Speedcarrier (No.2) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110259
English process agent (if not incorporated in England): Law Debenture Corporate Service Limited Fifth Floor 100 Wood Street London EC2V 7EX
Registered office: 80 Broad Street Monrovia Liberia
Address and email address for service of notices: Danaos Corporation
c/o Danaos Shipping Co. Ltd
14 Akti Kondyli Street
185 45 Piraeu
Greece
Attn.: Evangelos Chatzis
Tel: +30 210 419 6400
Fax: +30 210 422 0855
email: cfo@danaos.com
Shareholder: Lito Navigation Inc. (Liberia)
Name: Containers Services Inc.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-103775
English process agent (if not incorporated in England): Law Debenture Corporate Service Limited
Registered office: 80 Broad Street Monrovia Liberia
Address and email address for service of notices: Danaos Corporation
c/o Danaos Shipping Co. Ltd
14 Akti Kondyli Street
185 45 Piraeu
Greece
Attn.: Evangelos Chatzis
Tel: +30 210 419 6400
Fax: +30 210 422 0855
email: cfo@danaos.com
Shareholder: Westwood Marine S.A. (Liberia)

Name: Megacarrier (No.4) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110529
English process agent (if not incorporated in England): Law Debenture Corporate Service Limited
Registered office: 80 Broad Street Monrovia Liberia
Address and email address for service of notices: Danaos Corporation
c/o Danaos Shipping Co. Ltd
14 Akti Kondyli Street
185 45 Piraeu
Greece
Attn.: Evangelos Chatzis
Tel: +30 210 419 6400
Fax: +30 210 422 0855
email: cfo@danaos.com
Shareholder: Tully Enterprises S.A. (Liberia)
Name: Cellcontainer (No.7) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110808
English process agent (if not incorporated in England): Law Debenture Corporate Service Limited
Fifth Floor
100 Wood Street
London EC2V 7EX
Registered office: 80 Broad Street Monrovia Liberia
Address and email address for service of notices: Danaos Corporation
c/o Danaos Shipping Co. Ltd
14 Akti Kondyli Street
185 45 Piraeu
Greece
Attn.: Evangelos Chatzis
Tel: +30 210 419 6400
Fax: +30 210 422 0855
email: cfo@danaos.com
Shareholder: Bayard Maritime Limited (Liberia)

Name: Boxcarrier (No.4) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-108729
English process agent (if not incorporated in England): Law Debenture Corporate Service Limited
Fifth Floor 100 Wood Street
London EC2V 7EX
Registered office: 80 Broad Street Monrovia Liberia
Address and email address for service of notices: Danaos Corporation
c/o Danaos Shipping Co. Ltd
14 Akti Kondyli Street
185 45 Piraeu
Greece
Attn.: Evangelos Chatzis
Tel: +30 210 419 6400
Fax: +30 210 422 0855
email: cfo@danaos.com
Shareholder: Lito Navigation Inc. (Liberia)
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<th>Name:</th>
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<tr>
<td>Registered office:</td>
<td>Kyriakou Matsi 11, Nikis Center, 8th Floor, P.C. 1082, Nicosia, Cyprus</td>
</tr>
<tr>
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<tr>
<td>Attn.: Evangelos Chatzis</td>
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<td>Shareholder:</td>
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<thead>
<tr>
<th>Name:</th>
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<td>Address and email address for service of notices:</td>
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<td>185 45 Piraeu</td>
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<td>Greece</td>
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<tr>
<td>Attn.: Evangelos Chatzis</td>
<td></td>
</tr>
<tr>
<td>Tel: +30 210 419 6400</td>
<td></td>
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<tr>
<td>Fax: +30 210 422 0855</td>
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<tr>
<td>email: <a href="mailto:cfo@danaos.com">cfo@danaos.com</a></td>
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<td>Shareholder:</td>
<td>Tully Enterprises S.A. (Liberia)</td>
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### The Original Lenders

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<thead>
<tr>
<th>Name:</th>
<th>HSH NORDBANK AG</th>
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<tr>
<td>Commitment ($) in respect of Tranche A</td>
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<tr>
<td>Commitment ($) in respect of Tranche B</td>
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</tr>
<tr>
<td>Facility Office, address, fax number and attention details for notices:</td>
<td>Gerhart-Hauptmann-Platz 50</td>
</tr>
<tr>
<td>20095 Hamburg, Germany</td>
<td></td>
</tr>
<tr>
<td>Attn.: Gesa Voigt</td>
<td></td>
</tr>
<tr>
<td>Fax: +49 40 33 33-613767</td>
<td></td>
</tr>
<tr>
<td>Attn.: Stefanie Berger</td>
<td></td>
</tr>
<tr>
<td>Fax: +49 40 33 33-610895</td>
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<table>
<thead>
<tr>
<th>Name:</th>
<th>AEGEAN BALTIC BANK S.A.</th>
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<tr>
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<td>Commitment ($) in respect of Tranche B</td>
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<tr>
<td>Facility Office, address, fax number and attention details for notices:</td>
<td>91, Megalou Alexandrou &amp; 25th Martiou Str.</td>
</tr>
<tr>
<td>151 24 Maroussi, Greece</td>
<td></td>
</tr>
<tr>
<td>Attention: Special Credits</td>
<td></td>
</tr>
<tr>
<td>Fax: +30 210 6234 192 / 193</td>
<td></td>
</tr>
<tr>
<td>Email: <a href="mailto:special.credits@ab-bank.com">special.credits@ab-bank.com</a></td>
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</tbody>
</table>
Name: PIRAEUS BANK S.A.
Commitment ($) in respect of Tranche A
Commitment ($) in respect of Tranche B
Facility Office, address, fax number and attention details for notices:
109-111 Mesogeion Avenue
Gr-115 26 Athens, Greece
Attn.: The Relationship Manager
Fax: +302164001955 / +302104294666
email: shippingrecovery@piraeusbank.gr
shippingloansadministrator@piraeusbank.gr

The Arrangers

Name: AEGEAN BALTIC BANK S.A.
Facility Office, address, fax number and attention details for notices:
91, Megalou Alexandrou & 25th Martiou Str.
151 24 Maroussi, Greece [ • ]
Name: HSH Nordbank AG
Facility Office, address, fax number and attention details for notices:
Gerhart Hauptmann Platz 50
20095 Hamburg, Germany
Attn.: Gesa Voigt
Fax: +49 40 33 33-613767
Tel: +49 40 33 33-13767
Fax: +49 40 33 33-610895
Tel: +49 40 33 33-10895

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## Schedule 2

### Ship information

#### Part 1: Ships

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>Owner</th>
<th>Flag State</th>
<th>Port of Registry</th>
<th>IMO Number</th>
<th>Charter description</th>
<th>Charterer</th>
<th>Classification Society</th>
<th>Major Casualty Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>“PERFORMANCE”</td>
<td>Actaea Company Limited</td>
<td>Malta</td>
<td>Valletta</td>
<td>9250971</td>
<td>time charter dated 28 April 2017 (as amended from time to time)</td>
<td>CMA CGM</td>
<td>NS Container Carrier PSCM IWS MNS</td>
<td>$1,000,000.00</td>
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<td>“PRIORITY”</td>
<td>Asteria Shipping Company Limited</td>
<td>Malta</td>
<td>Valletta</td>
<td>9250995</td>
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<td>n/a</td>
<td>NS Container Carrier PSCM IWS MNS</td>
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<td>Yang Ming (UK) Ltd.</td>
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<td>Vilos Navigation Company LTD</td>
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<td>Flag State:</td>
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<td>IMO Number:</td>
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<td>Classification:</td>
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<td>Major Casualty Amount:</td>
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<td>Name of Ship:</td>
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<tr>
<td>Owner:</td>
<td>Sarond Shipping Inc.</td>
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<td>IMO Number:</td>
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<td>Charter description:</td>
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<td>Charterer:</td>
<td>Hapag-Lloyd Aktiengesellschaft</td>
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<td>100 A5 Container Ship BMW SOLAS-II-2 REG. 19 IW LC RSCS MC AUT CM-PS</td>
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<tr>
<th>Name of Ship:</th>
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<td>IMO Number:</td>
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<td>Charter description:</td>
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<td>Charterer:</td>
<td>CMA CGM</td>
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<td>Classification Society:</td>
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<td>Major Casualty Amount:</td>
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Name of Ship: “VLADIVOSTOK” (ex. “HYUNDAI VLADIVOSTOK”)
Owner: Speedcarrier (NO.1) CORP.
Flag State: Panama
Port of Registry: Panama
IMO Number: 9149823
Official Number: 33304-07-D
Charter description: n/a
Charterer: n/a
Classification: +KRS1 —Container Ship Clean1 IWS CDG LG LI +KRM —UMA1 PMS BWE STCM
Classification Society: Korean Register of Shipping
Major Casualty Amount: $500,000.00

Name of Ship: “STRIDE” (ex. “HYUNDAI STRIDE”)
Owner: Speedcarrier (NO.3) CORP.
Flag State: Panama
Port of Registry: Panama
IMO Number: 9149835
Official Number: 25131-98-G
Charter description: time charter dated 14 February 2018 (as amended from time to time)
Charterer: MCC Transport Singapore Pte. Ltd.
Classification: +KRS1 —Container Ship Clean1 IWS CDG LG LI +KRM1 —UMA1 PMS BWE STCM
Classification Society: Korean Register of Shipping
Major Casualty Amount: $500,000.00

Name of Ship: “SPRINTER” (ex. “HYUNDAI SPRINTER”)
Owner: Speedcarrier (NO.4) CORP.
Flag State: Panama
Port of Registry: Panama
IMO Number: 9149861
Official Number: 25364-98-H
Charter description: n/a
Charterer: n/a
Classification: +KRS1 —Container Ship Clean1 IWS LG LI +KRM1 —UMA1 PMS BWE STCM
Classification Society: Korean Register of Shipping
Major Casualty Amount: $500,000.00

Name of Ship: “FUTURE” (ex. “HYUNDAI FUTURE”)
Owner: Speedcarrier (NO.5) CORP.
Flag State: Panama
Port of Registry: Panama
IMO Number: 9149847
Official Number: 25128-97-E
Charter description: n/a
Charterer: n/a
Classification: +KRS1 —Container Ship Clean1 IWS CDG LG LI +KRM1 —UMA1 PMS BWE STCM
Classification Society: Korean Register of Shipping
Major Casualty Amount: $500,000.00

Name of Ship: “ADVANCE” (ex. “HYUNDAI ADVANCE”)
Owner: Speedcarrier (NO.2) CORP.
Flag State: Panama
Port of Registry: Panama
IMO Number: 9149859
Official Number: 25174-98-H
Charter description: n/a
Charterer: n/a
Classification: +KRS1 —Container Ship Clean1 IWS CDG LG LI +KRM —UMA1 PMS BWE
Classification Society: Korean Register of Shipping
Major Casualty Amount: $500,000.00
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<thead>
<tr>
<th>Name of Ship:</th>
<th>“ANL TONGALA” (ex. DEVA)</th>
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<tbody>
<tr>
<td>Owner:</td>
<td>Containers Services Inc.</td>
</tr>
<tr>
<td>Flag State:</td>
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<td>Port of Registry:</td>
<td>Monrovia</td>
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<td>IMO Number:</td>
<td>9278105</td>
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<td>Official Number:</td>
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<tr>
<td>Classification:</td>
<td>1A1 Container Carrier DG(P) E0 LC Nauticus (Newbuilding) RSCS Timon</td>
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<tr>
<td>Classification Society:</td>
<td>DNV GL</td>
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<tr>
<td>Major Casualty Amount:</td>
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<tr>
<th>Name of Ship:</th>
<th>“MAERSK EXETER” (ex. “HYUNDAI SPEED”)</th>
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<tbody>
<tr>
<td>Owner:</td>
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</tr>
<tr>
<td>Charter description:</td>
<td>Charter party agreement dated 18 October 2007, as amended from time to time</td>
</tr>
<tr>
<td>Charterer:</td>
<td>Hyundai Merchant Marine Co. Ltd</td>
</tr>
<tr>
<td>Classification:</td>
<td>1A1 Container Carrier BIS BWM(E(s)) DG(P) E0 L Nauticus (Newbuilding) RSCS Timon</td>
</tr>
<tr>
<td>Classification Society:</td>
<td>DNV GL</td>
</tr>
<tr>
<td>Major Casualty Amount:</td>
<td>$1,250,000</td>
</tr>
</tbody>
</table>
Name of Ship: “EXPRESS ROME”
Owner: Cellcontainer (NO.7) CORP.
Flag State: Liberia
Port of Registry: Monrovia
IMO Number: 9484936
Official Number: 15019
Charter description: n/a
Charterer: n/a
Classification: +KRS1 — Container Ship LS (CL,RS) Sea Trust (DSA2, FSA3, HCM) Clean1 IWS CDG IHM EDD OHIMP LG LI
Classification Society: Korean Register of Shipping
Major Casualty Amount: $1,000,000.00

Name of Ship: “CMA CGM RABELAIS”
Owner: Boxcarrier (NO.4) CORP.
Flag State: Malta
Port of Registry: Valletta
IMO Number: 9406635
Charter description: Charter party agreement dated 10 August 2006, as amended from time to time
Charterer: CMA CGM
Classification: 100 A5 Container Ship BWM SOLAS-II-2 REG. 19 IWRSCS MC AUT CM-PS
Classification Society: DNV GL
Major Casualty Amount: $1,000,000.00
Name of Ship: “EUROPE”
Owner: Oceanew Shipping Limited
Flag State: Cyprus
Port of Registry: Limassol
IMO Number: 9285988
Charter description: n/a
Charterer: n/a
Classification: 100A1 Container Ship, Shipright (SDS, FDA, CM), IWS LI EP BOXMAX LMC, UMS NAV1, CAC(2)
Classification Society: Lloyds Register of Shipping
Major Casualty Amount: $1,000,000.00

Name of Ship: “PUSAN C”
Owner: Karlita Shipping Company Limited
Flag State: Cyprus
Port of Registry: Limassol
IMO Number: 9307229
Charter description: n/a
Charterer: n/a
Classification: 100 A1 Container Ship, Shipright, SDA, FDA, CM) IWS LI EP, Boxmax, LMC UMS NAV, CAC (2)
Classification Society: Lloyds Register of Shipping
Major Casualty Amount: $1,000,000.00

### Part 2: Collateral Ships

Name of Collateral Ship: “CMA CGM TANCREDI”
Collateral Owner: TEUCARRIER (NO.2) CORP.
Original Jurisdiction: Liberia
IMO Number: 9436355
Flag State: Malta
Port of Registry: Valetta
Official Number: C-109523
Charter description: n/a
Charterer: n/a
Classification: 100 A5 Container Ship BWM SOLAS-II-2, REG.19 IW LC NAV-OC RSCS RSD Star MC AUT CM-PS EP-D
Classification Society: DNV GL
Major Casualty Amount: $1,000,000.00

Name of Collateral Ship: “CMA CGM BIANCA”
Collateral Owner: TEUCARRIER (NO.3) CORP.
Original Jurisdiction: Liberia
IMO Number: 9436367
Flag State: Malta
Port of Registry: Valetta
Official Number: C-109524
Charter description: n/a
Charterer: n/a
Classification: 100 A5 Container Ship BWM SOLAS-II-2, REG.19 IW LC NAV-OC RSCS RSD Star MC AUT CM-PS EP-D
Classification Society: DNV GL
Major Casualty Amount: $1,000,000.00
Name of Collateral Ship: “CMA CGM SAMSON”
Collateral Owner: TEUCARRIER (NO.4) CORP.
Original Jurisdiction: Liberia
IMO Number: 9436379
Flag State: Malta
Port of Registry: Valetta
Official Number: C-109525
Charter description: n/a
Charterer: n/a
Classification: 100 A5 Container Ship BWM SOLAS-II-2, REG.19 IW LC NAV-OC RSCS RSD Star MC AUT CM-PS EP-D
Classification Society: DNV GL
Major Casualty Amount: $1,000,000.00

Name of Collateral Ship: “MSC AMBITION” (ex. “HYUNDAI AMBITION”)
Collateral Owner: MEGACARRIER (NO.5) CORP.
Original Jurisdiction: Liberia
IMO Number: 9475703
Flag State: Liberia
Port of Registry: Monrovia
Official Number: C-110530
Charter description: n/a
Charterer: n/a
Classification: 1A1 Container Carrier Bis BWM(E(S)) DG(P) E0 LC Nauticus (Newbuilding) RSCS Timon
Classification Society: DNV GL
Major Casualty Amount: $1,250,000.00

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Schedule 3

Form of Assignment Agreement and Transfer Certificate

Part 1 — Form of Assignment Agreement

To: [Agent] as Agent

From: [The Existing Lender] (the Existing Lender) and [The New Lender] (the New Lender)

Dated:

S[●] Facility Agreement dated [●]
(the Facility Agreement)

1 We refer to the Facility Agreement and to the Global Intercreditor Deed (as defined in the Facility Agreement). This agreement (the Agreement) shall take effect as an Assignment Agreement for the purposes of the Facility Agreement and a Creditor Accession Undertaking for the purposes of the Global Intercreditor Deed (and as defined in the Global Intercreditor Deed). Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2 We refer to clause 31.7 (Procedure available for assignment) of the Facility Agreement:

(a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facility Agreement and the other Finance Documents which correspond to that portion of the Existing Lender’s Commitment and participation in the Loan under the Facility Agreement as specified in the Schedule.

(b) The Existing Lender is released from the obligations owed by it which correspond to that portion of the Existing Lender’s Commitment and participation in the Loan under the Facility Agreement specified in the Schedule (but the obligations owed by the Obligors under the Finance Documents shall not be released).

(c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.

(d) On the Transfer Date the New Lender becomes:

(i) a Party to the relevant Finance Documents (other than the Global Intercreditor Deed) as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above; and

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(ii) a Party to the Global Intercreditor Deed as a [*] (as defined in the Global Intercreditor Deed).

(e) The proposed Transfer Date is [*].

(f) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 42.2 (Addresses) of the Facility Agreement are set out in the Schedule.

3 The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in clause 31.5 (Limitation of responsibility of Existing Lenders) of the Facility Agreement.

4 The New Lender confirms that it [is]/[is not] a Borrower Affiliate.

5 We refer to clause [*] ([*]) of the Global Intercreditor Deed. In consideration of the New Lender being accepted as a [*] for the purposes of the Global Intercreditor Deed (and as defined in the Global Intercreditor Deed), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Global Intercreditor Deed as a [*], and undertakes to perform all the obligations expressed in the Global Intercreditor Deed to be assumed by a [*] and agrees that it shall be bound by all the provisions of the Global Intercreditor Deed, as if it had been an original party to the Global Intercreditor Deed. [Note: also to include reference to other applicable Intercreditor Agreements.]

6 This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with clause 31.8 (Copy of Transfer Certificate or Assignment Agreement to Borrower), to the Borrower (on behalf of each Obligor) of the assignment referred to in this Agreement.

7 This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

8 This Agreement and any non-contractual obligations connected with it are governed by English law.

9 This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Assignment Agreement may not assign a proportionate share of the Existing Lender’s interest in 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 Security Documents in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.
The Schedule

Rights to be assigned and obligations to be released and undertaken

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments.]

[Existing Lender] [New Lender]

By: 

By:

This Agreement is accepted by the Agent as an Assignment Agreement for the purposes of the Facility Agreement and the Transfer Date is confirmed as [●].

This Agreement is also accepted by the Security Agent as a Creditor Accession Undertaking for the purposes of the Global Intercreditor Deed.

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:

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Part 2 — Form of Transfer Certificate

To: [Agent] as Agent

From: [The Existing Lender] (the Existing Lender) and [The New Lender] (the New Lender)

Dated: $[*] Facility Agreement dated [*] (the Facility Agreement)

1. We refer to the Facility Agreement and to the Global Intercreditor Deed (as defined in the Facility Agreement). This agreement (the Agreement) shall take effect as a Transfer Certificate for the purposes of the Facility Agreement and a Creditor Accession Undertaking for the purposes of the Global Intercreditor Deed (and as defined in the Global Intercreditor Deed). Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2. We refer to clause 31.6 (Procedure available for transfer) of the Facility Agreement:

   (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with 31.6 (Procedure available for transfer) of the Facility Agreement all of the Existing Lender’s rights and obligations under the Facility Agreement, the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Lender’s Commitment(s) and participations in Utilisations under the Facilities Agreement as specified in the Schedule.

   (b) On the Transfer Date the New Lender becomes:

      (i) a Party to the relevant Finance Documents (other than the Global Intercreditor Deed) as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above; and

      (ii) a Party to the Global Intercreditor Deed as a [*] (as defined in the Global Intercreditor Deed).

   (c) The proposed Transfer Date is [*].

   (d) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 42.2 (Addresses) of the Facility Agreement are set out in the Schedule.
The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in clause 31.5 (Limitation of responsibility of Existing Lenders) of the Facility Agreement.

The New Lender confirms that it [is]/[is not] a Borrower Affiliate.

We refer to clause [•] (aspers) of the Global Intercreditor Deed. In consideration of the New Lender being accepted as a [•] for the purposes of the Global Intercreditor Deed (and as defined in the Global Intercreditor Deed), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Global Intercreditor Deed as a [•], and undertakes to perform all the obligations expressed in the Global Intercreditor Deed to be assumed by a [•] and agrees that it shall be bound by all the provisions of the Global Intercreditor Deed, as if it had been an original party to the Global Intercreditor Deed. [Note: also to include reference to other applicable Intercreditor Agreements.]

This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with clause 31.8 (Copy of Transfer Certificate or Assignment Agreement to Borrower), to the Borrower (on behalf of each Obligor) of the assignment referred to in this Agreement.

This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

This Agreement and any non-contractual obligations connected with it are governed by English law.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Transfer Certificate may not assign a proportionate share of the Existing Lender’s interest in 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 Security Documents in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.
The Schedule

Rights to be assigned and obligations to be released and undertaken

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments.]

[Existing Lender] [New Lender]

By: By:

This Agreement is accepted by the Agent as a Transfer Certificate for the purposes of the Facility Agreement and the Transfer Date is confirmed as [●].

This Agreement is also accepted by the Security Agent as a Creditor Accession Undertaking for the purposes of the Global Intercreditor Deed.

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:
Schedule 4

Form of Compliance Certificate and Ring Fencing Compliance Certificate

Part 1 — Form of Compliance Certificate

To: [Agent] as Agent
From: Danaos Corporation as Borrower
Dated: [•]

Dear Sirs

$[•] Facility Agreement dated [•] (the “Facility Agreement”)

1 [I/We] refer to the Facility Agreement. This is a Compliance Certificate for the Financial Quarter ended on [•] and the Relevant Period ending on the Quarter Date of [•]. Terms defined in the Facility Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2 [I/We] attach(1) computations as to compliance with clause 20 (Financial covenants) of the Facility Agreement and confirm that:

(a) Actual Free Cash Flow for the Financial Quarter ended on [•] was $[•], comprising Free Cash Flow of $[•] and a pro rata allocation of Unencumbered Free Cash Flow of $[•];

(b) Minimum Corporate Cover (Charter Free) for the Relevant Period ending on the Quarter Date of [•] was [•]%;

(c) Minimum Corporate Cover (Charter Attached) for the Relevant Period ending on the Quarter Date of [•] was [•]%;

(d) Minimum Liquidity for the Relevant Period ending on the Quarter Date of [•] was $[•];

(e) Consolidated Net Leverage for the Relevant Period ending on the Quarter Date of [•] was [•]:[•];

(f) Interest Cover for the Relevant Period ending on the Quarter Date of [•] was [•]:[•];

(1) Note: calculations to be attached to Compliance Certificate.

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Consolidated Market Value Adjusted Net Worth for the Relevant Period ending on the Quarter Date of [•] was $[•]; and

Total Available Cash of [•].

I/We confirm that no Default is continuing.

Signed by:

[Finance Director] [Chief Financial Officer]

Danaos Corporation

(2) Note: 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.

Part 2 — Form of Ring Fencing Compliance Certificate

To: [Agent] as Agent

From: Danaos Corporation as Borrower

Dated: [•]

Dear Sirs

I/We refer to the Facility Agreement. This is a Ring Fencing Compliance Certificate. Terms defined in the Facility Agreement have the same meaning when used in this Ring Fencing Compliance Certificate unless given a different meaning in this Ring Fencing Compliance Certificate.

I/We confirm that:

1. [Insert details of Excess Cash generated, Excess Cash Loan balances (positive and negative) in respect of each Amended RA Facility, aggregate of Excess Cash Loans with negative balances across all Amended RA Facilities, Support Payments, and Total Available Cash]

2. [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:

[Finance Director] [Chief Financial Officer]

Danaos Corporation
Schedule 5

Forms of Notifiable Debt Purchase Transaction

Part 1 — Form of Notice on Entering into Notifiable Debt Purchase Transaction

To: [Agent] as Agent

From: [Lender]

Dated: [●]

Dear Sirs

$[●] Facility Agreement dated [●]
(the Facility Agreement)

1 We refer to clause 46.10 (Disenfranchisement of Borrower 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 $[●] of our Commitment.

Signed by:

__________________________________________
[Lender]

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To: [Agent] as Agent

From: [Lender]

Dated: [●]

Dear Sirs

$[●] Facility Agreement dated [●]
(the Facility Agreement)

1 We refer to clause 46.10 (Disenfranchisement of Borrower 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 Borrower Affiliate].

3 The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to $[●] of our Commitment.

Signed by:

-------------------------------------------------
[Lender]

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### Schedule 6

#### HMM Notes

<table>
<thead>
<tr>
<th>Issuer</th>
<th>Description of HMM Note</th>
<th>Noteholder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>debt certificate of the amount USD 6,624,280.00 or KRW 7,503,321,610.00 based on Subscription Spot Rate of KRW 1,132.70 per USD 1.00 (issued: 18 July 2016)</td>
<td>MEGACARRIER (NO.4) CORP. [Guarantor]</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>debt certificate of the amount USD 590,150.00 or KRW 668,462,790.00 based on Subscription Spot Rate of KRW 1,132.70 per USD 1.00 (issued: 18 July 2016)</td>
<td>SPEEDCARRIER (NO.1) CORP. [Guarantor]</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>debt certificate of the amount USD 634,809.00 KRW 719,048,030.00 based on Subscription Spot Rate of KRW 1,132.70 per USD 1.00 (issued: 18 July 2016)</td>
<td>SPEEDCARRIER (NO.2) CORP. [Guarantor]</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>debt certificate of the amount USD 660,327.00 or KRW 747,952,520.00 based on Subscription Spot Rate of KRW 1,132.70 per USD 1.00 (issued: 18 July 2016)</td>
<td>SPEEDCARRIER (NO.3) CORP. [Guarantor]</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>debt certificate of the amount USD 724,127.00 or KRW 820,218,510.00 based on Subscription Spot Rate of KRW 1,132.70 per USD 1.00 (issued: 18 July 2016)</td>
<td>SPEEDCARRIER (NO.4) CORP. [Guarantor]</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>debt certificate of the amount USD 703,388.00 or KRW 796,727,060.00 based on Subscription Spot Rate of KRW 1,132.70 per USD 1.00 (issued: 18 July 2016)</td>
<td>SPEEDCARRIER (NO.5) CORP. [Guarantor]</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>debt certificate of the amount USD 6,652,179.00 or KRW 7,534,923,090.00 based on Subscription Spot Rate of KRW 1,132.70 per USD 1.00 (issued: 18 July 2016)</td>
<td>MEGACARRIER (NO.5) CORP. [Collateral Owner]</td>
</tr>
</tbody>
</table>

### Schedule 7

#### Restructured Facility Waterfall of Excess Cash

<table>
<thead>
<tr>
<th>Step</th>
<th>Waterfall for each Restructured Facility</th>
<th>Restructured Facility Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step 0</td>
<td>Cash flow pool for each Restructured Facility made up of:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ 100% of first lien vessel cash flows</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ pro rata share of second lien Pool D Vessel cash flows following repayment in full of Citi-Eurobank Facility</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ pro rata share of second lien Pool E Vessel cash flows, after agreed operating expenses and debt service on Amended and Restated Sinosure Facility</td>
<td></td>
</tr>
<tr>
<td></td>
<td>+ pro rata share of all Unencumbered Cash Flows from vessels within the Existing Fleet, after agreed operating expenses</td>
<td></td>
</tr>
</tbody>
</table>

**Step 1** Reduced by:

- agreed operating expenses and maintenance capex for first lien vessels
- cash interest expense for applicable Restructured Facility
- Restructuring Base Fee (i.e. Amendment Fee) instalments (in no more than two (2) Instalment Dates)

**Step 0 less step 1 = Actual Free Cash Flow**

**Step 2** Less: fixed amortization:

- 65% forecast Actual Free Cash Flow on Tranche 1 in respect of the HSH Facility (i.e. Tranche A) and the New RBS Facility, subject to maximum 11 year repayment profile (to be defined as a fixed quarterly amount by reference to the Fixed Amortization Schedule attached hereto), and 65% forecast

In respect of the New HSH Facility (i.e. the Facility) and the New RBS Facility, 100% to Tranche 1 (i.e. Tranche A), until fully repaid, then to Tranche 2 (i.e. Tranche A).

In respect of the Citibank Pool C Cash Out Facility, 100% to the total outstanding principal.
Actual Free Cash Flow in respect of the Citibank Pool C Refinancing Facility

– including [ZIM and] HMM expected bonds principal proceeds
Step 3

Less: Balancing Payments:

+ 85% of Actual Free Cash Flow, \textit{less}
– fixed amortization

In respect of the HSH Facility (\textit{i.e. the Facility}) and the New RBS Facility, 100% to Tranche 2 (\textit{i.e. Tranche B}), until fully repaid, then to Tranche 1 (\textit{i.e. Tranche A}).

In respect of the Citibank Pool C Cash Out Facility, 100% to the total outstanding principal.

Step 4

Excess Cash to Borrower (Danaos Corporation)

N/A

Definitions

“\textit{Citi-Eurobank Facility}” means the $80,000,000 loan facility advanced to Danaos under a facility agreement dated 24 January 2011 entered into among, amongst others, Danaos as borrower, and the banks and financial institutions listed therein as lenders, as amended and restated on or about the Effective Date.

“\textit{Citibank Pool C Refinancing Facility}” means the loan facility advanced to Danaos under a facility agreement dated on or about the HSH Facility among, amongst others, Danaos as borrower and Citibank as lender.

“\textit{HSH Facility}” means the Facility (as defined in this Agreement).

“\textit{New RBS Facility}” means the facilities made available under the RBS Tranche 1 Facility Agreement and the RBS Tranche 2 Facility Agreement.

“\textit{RBS Tranche 1 Facility Agreement}” means the facility agreement entitled “Tranche 1 Facility Agreement” as amended and restated on or about the Effective Date between, amongst others, Danaos, The Royal Bank of Scotland plc as facility agent and NatWest Markets Plc as security agent.

“\textit{RBS Tranche 2 Facility Agreement}” means the facility agreement entitled “Tranche 2 Facility Agreement” as amended and restated on or about the Effective Date between, amongst others, Danaos, The Royal Bank of Scotland plc as facility agent, NatWest Markets Plc as security agent.

“\textit{Restructured Facility}” means each of the HSH Facility, the RBS Tranche 1 Facility, the RBS Tranche 2 Facility and the Citibank Pool C Refinancing Facility.

Note

Terms in brackets and in \textit{italics} are defined terms in the HSH Facility

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Schedule 8

\textbf{Tranche B Target Amount}

<table>
<thead>
<tr>
<th>Quarter Date</th>
<th>Amount ($) in million</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>132,300</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>128,900</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>130,200</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>128,300</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>129,500</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>130,800</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>132,100</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>133,500</td>
</tr>
<tr>
<td>Date</td>
<td>Value</td>
</tr>
<tr>
<td>-------------------</td>
<td>------------</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>134,800</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>136,100</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>137,200</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>138,500</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>137,400</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>138,700</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>133,300</td>
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<tr>
<td>30 September 2022</td>
<td>128,400</td>
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<td>121,600</td>
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<td>31 March 2023</td>
<td>120,300</td>
</tr>
<tr>
<td>30 June 2023</td>
<td>116,200</td>
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<tr>
<td>30 September 2023</td>
<td>117,300</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>117,300</td>
</tr>
</tbody>
</table>

**SIGNATURES**

The Borrower

DANAOS CORPORATION

By:

The Guarantors

ACTEA COMPANY LIMITED

By:

ASTERIA SHIPPING COMPANY LIMITED

By:

TRINDADE MARITIME COMPANY

By:

VILOS NAVIGATION COMPANY LTD

By:
CONTAINER SERVICES INC.

By:

MEGACARRIER (NO.4) CORP.

By:

CELLCONTAINER (NO.7) CORP.

By:

BOXCARRIER (NO.4) CORP.

By:

OCEANEW SHIPPING LIMITED

By:

KARLITA SHIPPING COMPANY LIMITED

By:

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The Original Lenders

HSH NORDBANK AG

By:

AEGEAN BALTIC BANK S.A.

By:

PIRAEUS BANK S.A.

By:

The Arrangers

HSH NORDBANK AG

By:

AEGEAN BALTIC BANK S.A.

By:
The Agent

AEGEAN BALTIC BANK S.A.

By:

The Security Agent

AEGEAN BALTIC BANK S.A.

By:

Schedule 3

Existing Security Documents

Part A — Owners’ Guarantees

1. A guarantee, subject to English law, by guarantor ACTAEA COMPANY LIMITED in respect of vessel MV PERFORMANCE with IMO No 9250971 dated 5 November 2014 in favour of Aegean Baltic Bank S.A.

2. A guarantee, subject to English law, by guarantor ASTERIA SHIPPING COMPANY LIMITED in respect of vessel MV PRIORITY with IMO No 9250995 dated 5 November 2014 in favour of Aegean Baltic Bank S.A.

3. A guarantee, subject to English law, by guarantor TRINDADE MARITIME COMPANY in respect of vessel MV AMALIA C with IMO No 9166649 dated 14 May 2013 in favour of Aegean Baltic Bank S.A.

4. A guarantee, subject to English law, by guarantor VILOS NAVIGATION COMPANY LTD in respect of vessel MV MSC ZEBRA with IMO No 9231157 dated 25 June 2013 in favour of Aegean Baltic Bank S.A.

5. A guarantee, subject to English law, by guarantor SAROND SHIPPING INC. in respect of vessel MV DANAE C with IMO No 9226425 dated 13 November 2013 in favour of Aegean Baltic Bank S.A.

6. A guarantee, subject to English law, by guarantor BOULEVARD SHIPTRADE S.A. in respect of vessel MV DIMITRIS C with IMO No 9210074 dated 21 November 2013 in favour of Aegean Baltic Bank S.A.

7. A guarantee, subject to English law, by guarantor SPEEDCARRIER (NO.1) CORP. in respect of vessel MV VLADIVOSTOK with IMO No 9149823 dated 12 September 2007 in favour of Aegean Baltic Bank S.A.

8. A guarantee, subject to English law, by guarantor SPEEDCARRIER (NO.3) CORP. in respect of vessel MV STRIDE with IMO No 9149835 dated 12 September 2007 in favour of Aegean Baltic Bank S.A.

9. A guarantee, subject to English law, by guarantor SPEEDCARRIER (NO.4) CORP. in respect of vessel MV SPRINTER with IMO No 9149861 dated 1 October 2007 in favour of Aegean Baltic Bank S.A.

10. A guarantee, subject to English law, by guarantor SPEEDCARRIER (NO.5) CORP. in respect of vessel MV FUTURE with IMO No 9149847 dated 1 October 2007 in favour of Aegean Baltic Bank S.A.

11. A guarantee, subject to English law, by guarantor SPEEDCARRIER (NO.2) CORP. in respect of vessel MV ADVANCE with IMO No 9149859 dated 12 September 2007 in favour of Aegean Baltic Bank S.A.

12. A guarantee, subject to English law, by guarantor CONTAINERS SERVICES INC. in respect of vessel MV DEVA with IMO No 9278105 dated 20 July 2015 in favour of Aegean Baltic Bank S.A.

13. A guarantee, subject to English law, by guarantors MEGACARRIER (NO.4) CORP., CELLCONTAINER (NO.7) CORP. and BOXCARRIER (NO.4) CORP. in respect of vessels MV MAERSK EXETER with IMO No 9475698, MV EXPRESS ROME with IMO No 9484936 and MV
CMA CGM RABELAIS with IMO No 9406635 dated 18 February 2011 in favour of Aegean Baltic Bank S.A.

14. A guarantee, subject to English law, by guarantor OCEANEW SHIPPING LIMITED in respect of vessel MV EUROPE (formerly CSCL EUROPE) with IMO No 9285988 dated 20 July 2015 in favour of Aegean Baltic Bank S.A.

15. A guarantee, subject to English law, by guarantor KARLITA SHIPPING COMPANY LIMITED in respect of vessel MV PUSAN C (formerly CSCL PUSAN) with IMO No 9307229 dated 20 July 2015 in favour of Aegean Baltic Bank S.A.

(the guarantees referred under Nos. 1 to 15 above each a “Guarantee” and together the “Guarantees”)

Part B — General Assignments

16. A general assignment for vessel MV PERFORMANCE with IMO No 9250971 dated 5 November 2014 between ACTAEA COMPANY LIMITED and Aegean Baltic Bank S.A.

17. A general assignment for vessel MV PRIORITY with IMO No 9250995 dated 5 November 2014 between ASTERIA SHIPPING COMPANY LIMITED and Aegean Baltic Bank S.A.

18. A general assignment for vessel MV AMALIA C with IMO No 9166649 dated 14 May 2013 between TRINDADE MARITIME COMPANY and Aegean Baltic Bank S.A.

19. A general assignment for vessel MV MSC ZEBRA with IMO No 9231157 dated 25 June 2013 between VILOS NAVIGATION COMPANY LTD and Aegean Baltic Bank S.A.

20. A general assignment for vessel MV DANAE C with IMO No 9226425 dated 13 November 2013 between SAROND SHIPPING INC. and Aegean Baltic Bank S.A.

21. A general assignment for vessel MV DIMITRIS C with IMO No 9210074 dated 21 November 2013 between BOULEVARD SHIPTRADE S.A. and Aegean Baltic Bank S.A.

22. A general assignment for vessel MV VLADIVOSTOK with IMO No 9149823 dated 12 September 2007 between SPEEDCARRIER (NO.1) CORP. and Aegean Baltic Bank S.A.

23. A general assignment for vessel MV STRIDE with IMO No 9149835 dated 12 September 2007 between SPEEDCARRIER (NO.3) CORP. and Aegean Baltic Bank S.A.

24. A general assignment for vessel MV SPRINTER with IMO No 9149861 dated 16 October 2007 between SPEEDCARRIER (NO.4) CORP and Aegean Baltic Bank S.A.

25. A general assignment for vessel MV FUTURE with IMO No 9149847 dated 3 October 2007 between SPEEDCARRIER (NO.5) CORP. and Aegean Baltic Bank S.A.

26. A general assignment for vessel MV ADVANCE with IMO No 9149859 dated 12 September 2007 between SPEEDCARRIER (NO.2) CORP. and Aegean Baltic Bank S.A.

27. A general assignment for vessel MV DEVA with IMO No 9278105 dated 20 July 2015 between CONTAINERS SERVICES INC. and Aegean Baltic Bank S.A.

28. A general assignment for vessel MV MAERSK EXETER with IMO No 9475698 dated 7 June 2012 between MEGACARRIER (NO.4) CORP and Aegean Baltic Bank S.A.

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29. A general assignment for vessel MV EXPRESS ROME with IMO No 9484936 dated 6 April 2011 between CELLCONTAINER (NO.7) CORP. and Aegean Baltic Bank S.A.

30. A general assignment for vessel MV EUROPE (formerly CSCL EUROPE) with IMO No 9285988 dated 20 July 2015 between OCEANEW SHIPPING LIMITED and Aegean Baltic Bank S.A.

31. A general assignment for vessel MV PUSAN C (formerly CSCL PUSAN) with IMO No 9307229 dated 20 July 2015 between KARLITA SHIPPING COMPANY LIMITED and Aegean Baltic Bank S.A.

(the general assignments referred under Nos. 16 to 31 above each a “General Assignment” and together the “General Assignments”)

Part C — Charter Party Assignments

32. A charter party assignment for vessel MAERSK EXETER with IMO No 9475698 dated 18 February 2011 between MEGACARRIER (NO.4) CORP. and Aegean Baltic Bank S.A.

33. A charter party assignment for vessel for CMA CGM RABELAIS with IMO No 9406635 dated 22 March 2011 between BOXCARRIER (NO.4) CORP. and Aegean Baltic Bank S.A.

(the charter parties referred to under Nos. 32 and 33 each an “Existing Charter Party Assignment” and together the “Existing Charter Party Assignments”)

Part D— Deeds of Covenants

34. A Deed of Covenants, subject to English law, for vessel MV PERFORMANCE with IMO No 9250971 dated 5 November 2011 between ACTAEA COMPANY LIMITED and Aegean Baltic Bank S.A.

35. A Deed of Covenants, subject to English law, for vessel MV PRIORITY with IMO No 9250995 dated 5 November 2011 between ASTERIA SHIPPING COMPANY LIMITED and Aegean Baltic Bank S.A.

36. A Deed of Covenants, subject to English law, for vessel MV AMALIA C with IMO No 9166649 dated 14 May 2013 between TRINDADE MARITIME COMPANY and Aegean Baltic Bank S.A.

37. A Deed of Covenants, subject to English law, for vessel MV MSC ZEBRA with IMO No 9231157 dated 25 June 2013 between VILOS NAVIGATION COMPANY and Aegean Baltic Bank S.A.

38. A Deed of Covenants, subject to English law, for vessel MV DANAE C with IMO No 9226425 dated 21 November 2013 between SAROND SHIPPING INC. and Aegean Baltic Bank S.A.

39. A Deed of Covenants, subject to English law, for vessel MV DIMITRIS C with IMO No 9210074 dated 21 November 2013 between BOULEVARD SHIPTRADE S.A. and Aegean Baltic Bank S.A.

40. A Deed of Covenants, subject to English law, for vessel MV CGA CGM RABELAIS with IMO No 9406635 dated 20 March 2011 between BOXCARRIER (NO.4) CORP. and Aegean Baltic Bank S.A. including an assignment of earnings and insurances
(the Deeds of Covenants referred under Nos. 34 to 40 above each a “Existing Deed of Covenants” and together the “Existing Deeds of Covenants”)
Schedule 4

Amended Security Documents

Part A — Ship Mortgages

1. A first priority Maltese ship mortgage over vessel MV PERFORMANCE with IMO No 9250971 dated 5 November 2011
2. A first priority Maltese ship mortgage over vessel MV PRIORITY with IMO No 9250995 dated 5 November 2011
3. A first priority Maltese ship mortgage over vessel MV AMALIA C with IMO No 9166649 dated 14 May 2013
4. A first priority Maltese ship mortgage over vessel MV MSC ZEBRA with IMO No 9231157 dated 25 June 2013
5. A first priority Maltese ship mortgage over vessel MV DANAEC with IMO No 9226425 dated 13 November 2013
6. A first priority Maltese ship mortgage over vessel MV DIMITRIS C with IMO No 9210074 dated 21 November 2013
7. A first priority Panamanian ship mortgage over vessel MV VLADIVOSTOK with IMO No 9149823 dated 12 September 2007 amended 18 February 2011
8. A first priority Panamanian ship mortgage over vessel MV STRIDE with IMO No 9149835 dated 12 September 2007 amended 18 February 2011
10. A first priority Panamanian ship mortgage over vessel MV FUTURE with IMO No 9149847 dated 3 October 2007 amended 18 February 2011
11. A first priority Panamanian ship mortgage over vessel MV ADVANCE with IMO No 9149859 dated 12 September 2007 amended 18 February 2011
12. An initially second preferred Liberian ship mortgage (having first priority as at the date of this agreement) over vessel MV DEVA with IMO No 9278105 dated 20 July 2015
13. A first preferred Liberian mortgage over vessel MV EXPRESS ROME with IMO No 9484936 dated 6 April 2011
14. A first priority Maltese ship mortgage over vessel MV CGA CGM RABALAISS with IMO No 9406635 dated 22 March 2011

(the mortgages referred under Nos.1 to 14 above each a “Mortgage” and together the “Mortgages”)
15. A Shares Security Deed of ERATO NAVIGATION INC. concerning the shares in ACTAEA COMPANY LIMITED’s shares in favour of Aegean Baltic Bank S.A. dated 4 November 2014, subject to English law (and with effect from the Effective Date, subject to Maltese law);

16. A Shares Security Deed of TULLY ENTERPRISES S.A. concerning the shares in ASTERIA SHIPPING COMPANY LIMITED’s shares in favour of Aegean Baltic Bank S.A. dated 4 November 2014, subject to English law (and with effect from the Effective Date, subject to Maltese law); and

17. A Shares Security Deed of ERATO NAVIGATION INC. concerning the shares in VILOS NAVIGATION COMPANY LTD’s shares in favour of Aegean Baltic Bank S.A. dated 25 June 2013, subject to English law (and with effect from the Effective Date, subject to Maltese law)

(the Share Security Deeds referred to under Nos. 15 to 17 each an “Malta Share Pledge” and together the “Malta Share Pledges”)

18. A share pledge of TRINADE MARITIME COMPANY’s shares in favour of Aegean Baltic Bank S.A., subject to English law

19. A share pledge of SAROND SHIPPING INC.’s shares in favour of Aegean Baltic Bank S.A., subject to English law

20. A share pledge of BOULEVARD SHIPTRADE S.A.’s shares in favour of Aegean Baltic Bank S.A., subject to English law

21. A share pledge of CONTAINERS SERVICES INC.’s shares in favour of Aegean Baltic Bank S.A., subject to English law

22. A share pledge of SPEEDCARRIER (NO.1) CORP.’s shares in favour of Aegean Baltic Bank S.A., subject to the laws of New York, United States of America

23. A share pledge of SPEEDCARRIER (NO.3) CORP.’s shares in favour of Aegean Baltic Bank S.A, subject to the laws of New York, United States of America

24. A share pledge of SPEEDCARRIER (NO.4) CORP.’s shares in favour of Aegean Baltic Bank S.A., subject to the laws of New York, United States of America

25. A share pledge of SPEEDCARRIER (NO.5) CORP.’s shares in favour of Aegean Baltic Bank S.A., subject to the laws of New York, United States of America

26. A share pledge of SPEEDCARRIER (NO.2) CORP.’s shares in favour of Aegean Baltic Bank S.A., subject to the laws of New York, United States of America

27. A share pledge of MEGACARRIER (NO.4) CORP.’s shares in favour of Aegean Baltic Bank S.A., subject to the laws of New York, United States of America

28. A share pledge of CELLCONTAINER (NO.7) CORP.’s shares in favour of Aegean Baltic Bank S.A., subject to the laws of New York, United States of America

29. A share pledge of BOXCARRIER (NO.4) CORP’s shares in favour of Aegean Baltic Bank S.A., subject to the laws of New York, United States of America
Schedule 5

New Security Documents

Part A — Mortgages

1. A first priority Cypriote ship mortgage over vessel MV EUROPE with IMO No 9285988
2. A first priority Cypriote ship mortgage over vessel MV PUSAN C with IMO No 9307229
3. A first priority Greek ship mortgage over vessel MV MAERSK EXETER with IMO No 9475698
   (the mortgages referred under Nos. 1 to 3 above each a “New Mortgage” and together the “New Mortgages”)

Part B — Deed of Covenants

4. A Deed of Covenants, subject to Cypriote law, for vessel MV EUROPE with IMO No 9285988 between OCEANEW SHIPPING LIMITED and Aegean Baltic Bank S.A.
5. A Deed of Covenants, subject to Cypriote law, for vessel MV PUSAN C with IMO No 9307229 between KARLITA SHIPPING COMPANY LIMITED and Aegean Baltic Bank S.A.
   (the Deeds of Covenants referred under Nos. 4 and 5 above each a “Cypriot Deed of Covenants” and together the “Cypriot Deeds of Covenants”)

Part C — Account Pledges

6. An Earnings Account Pledge Agreement, subject to Greek law, between Danaos Corporation and Aegean Baltic Bank S.A. regarding bank account no. 10013552032
   (the “DAC Earnings Account Pledge”)

Part D - Charter Party Assignments

7. A charter party assignment for vessel MV PERFORMANCE with IMO No 9250971 between ACTAEA COMPANY LIMITED and Aegean Baltic Bank S.A.
8. A charter party assignment for vessel MV AMALIA C with IMO No 9166649 between TRINDADE MARITIME COMPANY and Aegean Baltic Bank S.A.
9. A charter party assignment for vessel MV DANAE C with IMO No 9226425 between SAROND SHIPPING INC. and Aegean Baltic Bank S.A.
10. A charter party assignment for vessel MV DIMITRIS C with IMO No 9210074 between BOULEVARD SHIPTRADE S.A. and Aegean Baltic Bank S.A.
11. A charter party assignment for vessel MV STRIDE with IMO No 9149835 between SPEEDCARRIER (NO.3) CORP. and Aegean Baltic Bank S.A.
   (the charter parties referred to under Nos. 7 to 11 each a “New Charter Party Assignment” and together the “New Charter Party Assignments”)

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Part E — Share Pledges

12. A share pledge of OCEANEW SHIPPING LIMITED’s shares in favour of Aegean Baltic Bank S.A., subject to Cypriote law

13. A share pledge of KARLITA SHIPPING COMPANY LIMITED’s shares in favour of Aegean Baltic Bank S.A., subject to Cypriote law

(the share pledges referred to in Nos. 12 and 13 each an “New Share Pledge” and together the “New Share Pledges”)

Part F — Excess Loan Cash Assignments

A) Upstream

14. A Deed of first priority assignment of the claims of the ACTAEA COMPANY LIMITED under the Excess Cash Loan between ACTAEA COMPANY LIMITED and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

15. A Deed of first priority assignment of the claims of the ASTERIA SHIPPING COMPANY LIMITED under the Excess Cash Loan between ASTERIA SHIPPING COMPANY LIMITED and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

16. A Deed of first priority assignment of the claims of the TRINDADE MARITIME COMPANY under the Excess Cash Loan between TRINDADE MARITIME COMPANY and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

17. A Deed of first priority assignment of the claims of the VILOS NAVIGATION COMPANY LTD under the Excess Cash Loan between VILOS NAVIGATION COMPANY LTD and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

18. A Deed of first priority assignment of the claims of the SAROND SHIPPING INC. under the Excess Cash Loan between SAROND SHIPPING INC. and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

19. A Deed of first priority assignment of the claims of the BOULEVARD SHIPTRADE S.A. under the Excess Cash Loan between BOULEVARD SHIPTRADE S.A. and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

20. A Deed of first priority assignment of the claims of the SPEEDCARRIER (NO.1) CORP. under the Excess Cash Loan between SPEEDCARRIER (NO.1) CORP. and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

21. A Deed of first priority assignment of the claims of the SPEEDCARRIER (NO.3) CORP. under the Excess Cash Loan between SPEEDCARRIER (NO.3) CORP. and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

22. A Deed of first priority assignment of the claims of the SPEEDCARRIER (NO.4) CORP. under the Excess Cash Loan between SPEEDCARRIER (NO.4) CORP. and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.

23. A Deed of first priority assignment of the claims of the SPEEDCARRIER (NO.5) CORP. under the Excess Cash Loan between SPEEDCARRIER (NO.5) CORP. and DANAOS CORPORATION in favour of AEGERAN BALTIC BANK S.A.
24. A Deed of first priority assignment of the claims of the SPEEDCARRIER (NO.2) CORP. under the Excess Cash Loan between SPEEDCARRIER (NO.2) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

25. A Deed of first priority assignment of the claims of the CONTAINERS SERVICES INC. under the Excess Cash Loan between CONTAINERS SERVICES INC. as lender and DANAOS CORPORATION as borrower in favour of AEGEAN BALTIC BANK S.A.

26. A Deed of first priority assignment of the claims of the MEGACARRIER (NO.4) CORP. under the Excess Cash Loan between MEGACARRIER (NO.4) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

27. A Deed of first priority assignment of the claims of the CELLCONTAINER (NO.7) CORP. under the Excess Cash Loan between CELLCONTAINER (NO.7) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

28. A Deed of first priority assignment of the claims of the BOXCARRIER (NO.4) CORP. under the Excess Cash Loan between BOXCARRIER (NO.4) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

29. A Deed of first priority assignment of the claims of the OCEANEW SHIPPING LIMITED under the Excess Cash Loan between OCEANEW SHIPPING LIMITED and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

30. A Deed of first priority assignment of the claims of the KARLITA SHIPPING COMPANY LIMITED under the Excess Cash Loan between KARLITA SHIPPING COMPANY LIMITED and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

(the Deeds of first priority assignment referred to in Nos. 14 to 30 each an “Upstream Assignment” and together the “Upstream Assignments”)

B) Downstream

31. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between ACTAEA COMPANY LIMITED and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

32. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between ASTERIA SHIPPING COMPANY LIMITED and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

33. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between TRINDADE MARITIME COMPANY and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

34. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between VILOS NAVIGATION COMPANY LTD and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

35. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between SAROND SHIPPING INC. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

36. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between BOULEVARD SHIPTRADE S.A. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.
37. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between SPEEDCARRIER (NO.1) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

38. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between SPEEDCARRIER (NO.3) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

39. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between SPEEDCARRIER (NO.4) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

40. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between SPEEDCARRIER (NO.5) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

41. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between SPEEDCARRIER (NO.2) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

42. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between CONTAINERS SERVICES INC. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

43. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between MEGACARRIER (NO.4) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

44. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between CELLCONTAINER (NO.7) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

45. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between BOXCARRIER (NO.4) CORP. and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

46. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between OCEANEW SHIPPING LIMITED and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

47. A Deed of first priority assignment of the claims of DANAOS CORPORATION under the Excess Cash Loan between KARLITA SHIPPING COMPANY LIMITED and DANAOS CORPORATION in favour of AEGEAN BALTIC BANK S.A.

(All the Deeds of first priority assignment referred to in Nos. 31 to 47 each an “Downstream Assignment” and together the “Downstream Assignments”)

Part G — Manager’s Undertakings

48. A manager’s undertaking for vessel MV EXPRESS ROME with IMO No 9484936 from Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

49. A manager’s undertaking for vessel MV CMA CGM RABELAIS with IMO No 9406635 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

50. A manager’s undertaking for vessel MV DEVA with IMO No 9278105 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

51. A manager’s undertaking for vessel MV PUSAN C (formerly CSCL PUSAN) with IMO No 9307229 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

52. A manager’s undertaking for vessel MV EUROPE (formerly CSCL EUROPE) with IMO No 9285988 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

53. A manager’s undertaking for vessel MV PERFORMANCE with IMO No 9250971 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

54. A manager’s undertaking for vessel MV PRIORITY with IMO No 9250995 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

55. A manager’s undertaking for vessel MV AMALIA C with IMO No 9166649 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

56. A manager’s undertaking for vessel MV MSC ZEBRA with IMO No 9231157 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

57. A manager’s undertaking for vessel MV DANAEC with IMO No 9226425 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.
58. A manager’s undertaking for vessel MV DIMITRIS C with IMO No 9210074 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

59. A manager’s undertaking for vessel MV VLADIVOSTOK with IMO No 9149823 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

60. A manager’s undertaking for vessel MV STRIDE with IMO No 9149835 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

61. A manager’s undertaking for MV SPRINTER with IMO No 9149861 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

62. A manager’s undertaking for vessel MV FUTURE with IMO No 9149847 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

63. A manager’s undertaking for vessel MV ADVANCE with IMO No 9149859 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

64. A manager’s undertaking for vessel MV MAERSK EXETER with IMO No 9475698 from managers Danaos Shipping Company Limited in favour of Aegean Baltic Bank S.A.

(the manager’s undertakings referred to in Nos. 48 to 64 each an “Manager’s Undertaking” and together the “Manager’s Undertakings”)
Schedule 6

Notice of Assignment of HMM Notes

To: Hyundai Merchant Marine Co., Ltd.
194, Yulgok-ro, Jongno-Gu
Seoul 110-754
Republic of Korea

Date: [●]

Dear Sirs,

1 Under a first priority assignment dated [insert date of respective General Assignment listed in Schedule 3 Nos. 22, 26, 23, 24, 25, and the Deed of Covenant at Schedule 3 No. 40] by us to Aegean Baltic Bank S.A., 91, Megalou Alexandrou & 25th Martiou Str., 151 24 Maroussi, Greece (the Mortgagee) we have assigned to the Mortgagee all of our rights to receive monies payable to us under the debt certificate [insert details of relevant HMM Note] (the HMM Note), interest payments and payments for its variation or termination (HMM Moneys) and all our other rights under the HMM Note and in and to any other assets derived from any of those rights under any applicable law and we instruct you as follows (the HMM Assignment).

2 You may continue to pay any payable HMM Moneys to us until the Mortgagee instructs you to pay them to it or its order. If the Mortgagee does that then you shall pay the HMM Moneys in accordance with its instruction.

3 Despite the HMM Assignment in favor of the Mortgagee, we remain liable to perform our obligations under the HMM Notes and the Mortgagee will not be liable to perform those obligations.

4 The instructions in this letter cannot be revoked or varied without the Mortgagee’s prior written consent.

5 Please sign the acknowledgement to this letter set out below on the enclosed duplicate of this letter and then return that duplicate to the Mortgagee at Aegean Baltic Bank S.A., 91, Megalou Alexandrou & 25th Martiou Str., 151 24 Maroussi, Greece.

Yours faithfully

For and on behalf of
[insert name of Owner]

SIGNATURES — AMENDMENT AND RESTATEMENT AGREEMENT

The Borrower
EXECUTED AS A DEED for and on behalf of
DANAOS CORPORATION

/s/ Natalia Golovataya
By: Natalia Golovataya
Attorney-in-fact

Witness: /s/ Melissa Farmelo
Melissa Farmelo

The Guarantors
EXECUTED AS A DEED for and on behalf of
ACTAEA COMPANY LIMITED

/s/ Natalia Golovataya
By: Natalia Golovataya
Attorney-in-fact

Witness: /s/ Melissa Farmelo
Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
ASTERIA SHIPPING COMPANY LIMITED

/s/ Natalia Golovataya
By: Natalia Golovataya
Attorney-in-fact

Witness: /s/ Melissa Farmelo
Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
TRINDADE MARITIME COMPANY
EXECUTED AS A DEED for and on behalf of
VILOS NAVIGATION COMPANY LTD

/s/ Natalia Golovataya
By: Natalia Golovataya
    Attorney-in-fact
Witness: /s/ Melissa Farmelo
         Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
SAROND SHIPPING INC.

/s/ Natalia Golovataya
By: Natalia Golovataya
    Attorney-in-fact
Witness: /s/ Melissa Farmelo
         Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
BOULEVARD SHIPTRADE S.A.

/s/ Natalia Golovataya
By: Natalia Golovataya
    Attorney-in-fact
Witness: /s/ Melissa Farmelo
         Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
SPEEDCARRIER (NO.1) CORP.

/s/ Natalia Golovataya
By: Natalia Golovataya
    Attorney-in-fact
Witness: /s/ Melissa Farmelo
         Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
SPEEDCARRIER (NO.3) CORP.

/s/ Natalia Golovataya
By: Natalia Golovataya
    Attorney-in-fact
Witness: /s/ Melissa Farmelo
         Melissa Farmelo

319
EXECUTED AS A DEED for and on behalf of 
SPEEDCARRIER (NO.4) CORP.

/s/ Natalia Golovataya  
Witness: /s/ Melissa Farmelo
By: Natalia Golovataya  
Attorney-in-fact
Melissa Farmelo

EXECUTED AS A DEED for and on behalf of 
SPEEDCARRIER (NO.5) CORP.

/s/ Natalia Golovataya  
Witness: /s/ Melissa Farmelo
By: Natalia Golovataya  
Attorney-in-fact
Melissa Farmelo

EXECUTED AS A DEED for and on behalf of 
SPEEDCARRIER (NO.2) CORP.

/s/ Natalia Golovataya  
Witness: /s/ Melissa Farmelo
By: Natalia Golovataya  
Attorney-in-fact
Melissa Farmelo

EXECUTED AS A DEED for and on behalf of 
CONTAINER SERVICES INC.

/s/ Natalia Golovataya  
Witness: /s/ Melissa Farmelo
By: Natalia Golovataya  
Attorney-in-fact
Melissa Farmelo

EXECUTED AS A DEED for and on behalf of 
MEGACARRIER (NO.4) CORP.

/s/ Natalia Golovataya  
Witness: /s/ Melissa Farmelo
By: Natalia Golovataya  
Attorney-in-fact
Melissa Farmelo

320
EXECUTED AS A DEED for and on behalf of
CELLCONTAINER (NO.7) CORP.

/s/ Natalia Golovataya
By: Natalia Golovataya
   Attorney-in-fact

Witness: /s/ Melissa Farmelo
         Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
BOXCARRIER (NO.4) CORP.

/s/ Natalia Golovataya
By: Natalia Golovataya
   Attorney-in-fact

Witness: /s/ Melissa Farmelo
         Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
OCEANEW SHIPPING LIMITED

/s/ Natalia Golovataya
By: Natalia Golovataya
   Attorney-in-fact

Witness: /s/ Melissa Farmelo
         Melissa Farmelo

EXECUTED AS A DEED for and on behalf of
KARLITA SHIPPING COMPANY LIMITED

/s/ Natalia Golovataya
By: Natalia Golovataya
   Attorney-in-fact

Witness: /s/ Melissa Farmelo
         Melissa Farmelo
The Arrangers

EXECUTED AS A DEED for and on behalf of
HSH NORDBANK AG

/s/ Beatrice Russ
By: Beatrice Russ  
Attorney-in-fact

Witness: /s/ Elizabeth Lord  
Elizabeth Lord

EXECUTED AS A DEED for and on behalf of
AEGEAN BALTIC BANK S.A.

/s/ Beatrice Russ
By: Beatrice Russ  
Attorney-in-fact

Witness: /s/ Elizabeth Lord  
Elizabeth Lord

The Original Lenders

EXECUTED AS A DEED for and on behalf of
HSH NORDBANK AG

/s/ Beatrice Russ
By: Beatrice Russ  
Attorney-in-fact

Witness: /s/ Elizabeth Lord  
Elizabeth Lord

EXECUTED AS A DEED for and on behalf of
AEGEAN BALTIC BANK S.A.

/s/ Beatrice Russ
By: Beatrice Russ  
Attorney-in-fact

Witness: /s/ Elizabeth Lord  
Elizabeth Lord

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<tr>
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<tr>
<td>PIRAEUS BANK S.A.</td>
<td>/s/ Kouvara Eugenia</td>
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<tr>
<td>/s/ Ioannis Kouroglou</td>
<td>Kouvara Eugenia</td>
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<td>By: Ioannis Kouroglou</td>
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**The Agent**

EXECUTED AS A DEED for and on behalf of

**AEGEAN BALTIC BANK S.A.**

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<th>/s/ Beatrice Russ</th>
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<td>/s/ Elizabeth Lord</td>
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<td>Elizabeth Lord</td>
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**The Security Agent**

EXECUTED AS A DEED for and on behalf of

**AEGEAN BALTIC BANK S.A.**

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<td>/s/ Elizabeth Lord</td>
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<tr>
<td>Attorney-in-fact</td>
<td>Elizabeth Lord</td>
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</tbody>
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Dated 1 August 2018

DANAOS CORPORATION
as Borrower

and

SUBSIDIARIES

and

THE ROYAL BANK OF SCOTLAND PLC

and

NATWEST MARKETS PLC

AMENDMENT AND RESTATEMENT AGREEMENT
IN RESPECT OF A $700 MILLION FACILITY AGREEMENT DATED 20 FEBRUARY 2007
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THIS Deed is dated 2018 and made between:

(1) **DANAOS CORPORATION**, a company domesticated 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, The Marshall Islands MH 96960 (“Danaos”);

(2) **DANAOS SHIPPING COMPANY LIMITED**, a company incorporated in the Republic of Cyprus and whose registered office is at Peter’s House, Christaki Kompou 3, TK. 53120-3300, Limassol, Cyprus (“Manager”);

(3) **THE SUBSIDIARIES** of Danaos listed in Schedule 3 (together with Danaos, the “Obligors”);

(4) **NATWEST MARKETS PLC** (company number SC090312 and formerly named The Royal Bank of Scotland PLC), a public liability company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB and acting through its office at 250 Bishopsgate, London, EC2M 4AA, United Kingdom in its capacity as security trustee under the Facility Agreement and the Group A Agency and Trust Agreement (the “Group A Security Trustee”);

(5) **NATWEST MARKETS PLC** (company number SC090312 and formerly named The Royal Bank of Scotland PLC), a public liability company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB and acting through its office at 250 Bishopsgate, London, EC2M 4AA, United Kingdom in its capacity as security trustee under the Group B Agency and Trust Deed (the “Group B Security Trustee” and, together with the Group A Security Trustee, the “Security Agents”);

(6) **THE ROYAL BANK OF SCOTLAND PLC** (company number SC083026) a public liability company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB and acting through its office at 250 Bishopsgate, London, EC2M 4AA, United Kingdom in its capacity as lender under the Facility Agreement (the “Lender”); and

(7) **THE ROYAL BANK OF SCOTLAND PLC** (company number SC083026) a public liability company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB in its capacity as agent under the Facility Agreement (the “Agent”); and

(8) **NATWEST MARKETS PLC** (company number SC090312 and formerly named The Royal Bank of Scotland PLC), a public liability company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB and acting through its office at 250 Bishopsgate, London, EC2M 4AA, United Kingdom in its capacity as swap bank under the Facility Agreement (the “Swap Bank”); and

(9) **THE ROYAL BANK OF SCOTLAND PLC** (company number SC083026) a public liability company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB in its capacity as issuing bank under the Facility Agreement (the “Issuing Bank”);

(10) **THE ROYAL BANK OF SCOTLAND PLC** (company number SC083026) a public liability company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB in its capacity as agent under the 2011 Facility Agreement (the “2011 Agent”).
BACKGROUND:

(A) On 20 February 2007, Danaos, The Royal Bank of Scotland plc (SC090312, and now known as NatWest Markets Plc) as Lender and as agent and others, entered into the Facility Agreement, pursuant to which certain loan facilities in an aggregate amount of up to $700,000,000 were originally made available to Danaos.

(B) The Group A Obligors gave guarantees and granted security under and pursuant to the Group A Security Documents in favour of the Group A Security Trustee pursuant to the Group A Agency and Trust Agreement to guarantee and secure the obligations and liabilities of Danaos under the Facility Agreement.

(C) The Group B Obligors gave guarantees and granted security under and pursuant to the Group B Security Documents in favour of the Group B Security Trustee (or, in respect of the Greek ship mortgages in respect of m.v. “MAERSK ENPING” and “EXPRESS BERLIN” in favour of the Lender under the 2011 Facility Agreement) pursuant to the Group B Agency and Trust Agreement to guarantee and secure the obligations and liabilities of Danaos under the Facility Agreement and the 2011 Facility Agreement.

(D) On 30 April 2018, The Royal Bank of Scotland Plc (company number SC090312) changed its name to NatWest Markets plc. On the same day, through a Scottish court-approved ring-fencing scheme pursuant to the Financial Services and Markets Act 2000, NatWest Markets plc had its rights and obligations as Lender and Agent under the Facility Agreement transferred to its affiliate Adam & Company plc (company number SC083026). Adam & Company plc was then renamed The Royal Bank of Scotland plc.

(E) On 19 June 2018, Danaos and certain of its creditors (including the Lender) agreed the terms of a financial restructuring of the Group. As part of this financial restructuring, and subject to the terms of this Deed, the Parties have agreed to amend the Facility Agreement and to write down part of the outstanding principal amount of the Loan in connection with a corresponding issuance by Danaos of new shares of its common stock to the Lender or its nominee, and to make certain other consequential amendments to the Facility Agreement.

(F) The remaining debt outstanding under the Facility Agreement will continue to be subject to the terms of the Facility Agreement (as amended and restated pursuant to this Deed), the Agency and Trust Deeds, and the Security Documents.

(G) In connection with (and in consideration of) the partial write-down of the outstanding principal amount of the Loan as aforesaid, the Group A Obligors have agreed to accede to the Facility Agreement (as amended and restated pursuant to this Deed) in order to be bound by the operational covenants of the Amended Facility Agreement and agree that the Group A Security Documents (as the same may be amended and restated) shall continue to guarantee or secure the obligations of Danaos under the Amended Facility Agreement. Further, various members of the Group have agreed to provide additional security over certain assets (to New Security Assets), as described in the New Security Documents to secure outstandings under the Amended Facility Agreement. The New Security Assets will secure all outstandings under the Amended Facility Agreement.

(H) At the same time as the Facility Agreement is amended pursuant to this Deed, the outstanding debt under the 2011 Facility Agreement will be written off and deemed to be discharged in full. In connection with (and in consideration of) the discharge of the outstanding debt under the 2011 Facility Agreement, the Group B Obligors have agreed to accede to the Facility Agreement (as amended pursuant to this Deed) in order to be bound by the operational covenants of the Amended Facility Agreement and agree that the Group B Security Documents
(as the same may be amended and restated) shall continue to guarantee or secure the obligations of Danaos under the Amended Facility Agreement.

(I) In connection with the amendments to the Facility Agreement and the discharge of the 2011 Facility Agreement, certain consequential amendments will be made to the Security Documents.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed (including the background above), unless a contrary indication appears, any term used in the Facility Agreement or the Amended Facility Agreement (as applicable) has the same meaning when used in this Deed, and the following terms shall have the following meanings:

“2011 Facility Agreement” means the facility agreement dated 24 January 2011 between, amongst others, Danaos, the Lender in its capacity as lender under the 2011 Facility Agreement, and the 2011 Agent.

“Amended Facility Agreement” means the Facility Agreement, as amended and restated pursuant to this Deed.

“Amended Finance Documents” means the Finance Documents, after taking into account any amendments thereto made on or about the Effective Date, together with the Amended Security Documents and the New Security Documents.

“Amended Security Documents” means the Group A Security Documents and the Group B Security Documents, as the same may be amended and restated on the Effective Date.

“Authorisation” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in London and Athens.

“Collateral Obligor” means each of Danaos, the Manager, Megacarrier (No.5) Corp., Teucarrier (No.2) Corp., Teucarrier (No.3) Corp., Teucarrier (No.4) Corp., Bayard Maritime Limited, Bounty Investment Inc. and Lito Navigation Inc.

“Effective Date” has the meaning given to that term in clause 2 (Conditions precedent to the Effective Date).

“Effective Date Security Documents” means each of the documents listed in Schedule 4 (Effective Date Security Documents) and which comprise the Amended Security Documents and the New Security Documents.

“Facility Agreement” means the facility agreement dated 20 February 2007 between, amongst others, Danaos and the Lender and the Agent, as amended from time to time, prior to its amendment pursuant to this Deed.

“Finance Document” means each document defined as a “Finance Document” in the Facility Agreement and includes, for the avoidance of doubt, each Security Document.
“Financial Restructuring” means the financial restructuring of the Group as contemplated by the Restructuring Support Agreement and the Restructuring Documents.

“Global Restructuring Implementation Deed” means the global restructuring implementation deed entered into or to be entered into by among others, Danaos, certain of its subsidiaries, the Lender and other stakeholders and creditors of Danaos on or about the date of this Deed.

“Group” means Danaos and its Subsidiaries.

“Group A Agency and Trust Deed” means the agency and trust agreement dated 20 February 2007 between, among others, Danaos, the Group A Security Trustee, the Agent and the Lender.

“Group A Asset” means an asset subject to a Group A Security Document.

“Group A Obligor” means an Obligor listed under the heading “Group A Obligor” in Part A of Schedule 3.

“Group A Security Document” means:

(a) the Owner Guarantees;
(b) the Mortgages;
(c) the Deeds of Covenant;
(d) the General Assignments;
(e) any Charterparty Assignment;
(f) the Danaos Account Charge;
(g) the Manager’s Undertakings; and
(h) the Shares Security Deeds,

each as defined in the Facility Agreement.

“Group B Agency and Trust Deed” means the trust and agency deed 24 January 2011 between, among others, Danaos, the Group B Security Trustee, the Agent and the Lender.

“Group B Asset” means an asset subject to a Group B Security Document.

“Group B Obligor” means an Obligor listed under the heading “Group B Obligor” in Part B of Schedule 3.

“Group B Security Document” means:

(a) the Additional Second Lien Owner’s Guarantees;
(b) the Earnings Account Pledge;
(c) the Charter Assignments;
(d) the Deeds of Covenant;
the General Assignments;

the Manager’s Undertakings;

the Mortgages;

the Owners’ Guarantee; and

the Owner Share Pledges,

each as described in the 2011 Facility Agreement.

“Loan” has the meaning given to it in the Facility Agreement.

“New Money Lenders” has the meaning given to it in the Group B Agency and Trust Deed.

“New Money Loan Discharge Date” has the meaning given to it in the Group B Agency and Trust Deed.

“New Money Secured Obligations” has the meaning given to it in the Group B Agency and Trust Deed.

“New Security Assets” means the assets subject to the New Security Documents.

“New Security Document” means each security document entered into on or about the date of this Deed in respect of the New Security Assets (or any of them) and granted by the relevant Obligor that is a party thereto in favour of the Group A Security Trustee or Group B Security Trustee (as relevant), or any security granted by a Collateral Obligor and which are set out in Schedule 4 under the heading “New Security Documents”.

“Obligor” means Danaos, the Manager, a Group A Obligor, a Group B Obligor and each Collateral Obligor.

“Opinion Condition” means that all legal opinions referred to in sub-paragraphs (a) to (j) of paragraph 9 of Schedule 1 (Conditions precedent) are issued by the relevant legal advisers to the Agent or RL Security Agent (as applicable).

“Parties” means the parties to this Deed, and “Party” means any one of them.

“Registration Condition” means that all mortgages listed in Part 2 (Second Priority Effective Date Security Documents) of Schedule 4 (Effective Date Security Documents) and all addenda to, amendments to, or amendments and restatements of mortgages listed in Part 1 (First Priority Effective Date Security Documents) of Schedule 4 (Effective Date Security Documents) are registered against the relevant Ship through the relevant Registry under the laws and flag of the relevant Flag State.

“Restructuring Document” means this Deed and all documents, agreements and instruments necessary or appropriate to implement or consummate the Financial Restructuring in accordance with this Deed and the Restructuring Support Agreement (including, without limitation, the Global Restructuring Implementation Deed).

“Restructuring Completion Letter” has the meaning given to it in the Global Restructuring Implementation Deed.
“Restructuring Effective Time” has the meaning given to it in the Global Restructuring Implementation Deed.

“Restructuring Support Agreement” means the amended and restated restructuring support agreement dated 19 June 2018 entered into by, amongst others Danaos, certain of its Subsidiaries, the Lender, and other stakeholders and creditors of Danaos.

“RL Security Agent” means Aegean Baltic Bank S.A. as security agent for the Secured Parties under (and as defined in) the Intra-Restructuring Lenders Intercreditor Deed (as referenced in Schedule 7 (Transaction Documents), Part A (Debt and Security Documentation) of the Global Restructuring Implementation Deed.


“Security Agents” means the Group A Security Trustee and the Group B Security Trustee, and “Security Agent” means any one of them.

“Security Interest” means a mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, encumbrance, assignment, trust arrangement, title retention or other arrangement of any kind having the effect of conferring security.

1.2 Construction

(a) Unless a contrary indication appears, any reference in this Deed to:

(i) any “Party” shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) “assets” includes present and future properties, revenues and rights of every description;

(iii) a “Restructuring Document” or any other agreement or instrument (other than a Finance Document) is a reference to that Restructuring Document or other agreement or instrument (other than a Finance Document) as amended, novated, supplemented, extended, restated or replaced;

(iv) a “Finance Document” or a “Security Document” is a reference to that Finance Document or Security Document as amended, novated, supplemented, extended, restated or replaced before the Effective Date;

(v) “guarantee” means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

(vi) “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;

(vii) a “person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
(viii) a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

(ix) “shares” or “share capital” includes equivalent ownership interests (and “shareholder” and similar expressions shall be construed accordingly);

(x) a provision of law is a reference to that provision as amended or re-enacted;

(xi) unless the context otherwise requires, words denoting the singular number shall include the plural and vice versa;

(xii) references to Clauses and paragraphs and Schedules are to clauses, paragraphs and schedules in this Deed (unless otherwise specified); and

(xiii) a time of day is a reference to London time.

(b) Section, Clause and Schedule headings are for ease of reference only.

1.3 Third party rights

A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

2. CONDITIONS PRECEDENT TO THE EFFECTIVE DATE

The provisions of clause 5 (Amendment) and the rights and obligations of the Parties thereunder shall only be effective on the date (“Effective Date”) when:

(a) the Agent has received all the documents and other evidence listed in Schedule 1 (Conditions precedent) in a form and substance satisfactory to it, acting reasonably (as to which, the Agent shall notify Danaos in writing promptly on being so satisfied); and

(b) the Restructuring Effective Time has occurred.

3. RELATIONSHIP WITH EXISTING DOCUMENTS

3.1 Relationship between this Deed, the Finance Documents and the Amended Finance Documents

(a) Unless a contrary indication appears in this Deed, until the Effective Date, the terms of the Finance Documents and all of the rights, benefits, obligations and liabilities of the parties under the Finance Documents shall continue in full force and effect and shall continue to arise out of and to be regulated by the terms of the applicable Finance Documents.

(b) On and after the Effective Date, the terms of the Amended Finance Documents and all of the rights, benefits, obligations and liabilities of the parties under the Amended Finance Documents shall continue in full force and effect and shall continue to arise out of and be regulated by the terms of the applicable Amended Finance Documents.

(c) For the avoidance of doubt, if the Effective Date does not occur, the terms of the Finance Documents and all of the rights, benefits, obligations and liabilities of the parties under the Finance Documents shall continue in full force and effect and shall
continue to arise out of and be regulated by the terms of the applicable Finance Documents.

(d) This Deed shall not otherwise constitute a discharge, cancellation or novation of any Finance Documents.

3.2 Consents

By its execution of this Deed, the Lender, the Agent and the Security Agents shall be deemed to have given any consent required under any Finance Document to which it is a party to the entry into and performance of this Deed by the Obligors and (as at the Restructuring Effective Time) to the entry into and performance of the Restructuring Documents.

3.3 Continuation of existing security and guarantees

Each Obligor confirms that:

(a) any Security Interest or guarantee which it has provided in respect of any Finance Document is in full force and effect and will continue to be in full force and effect and extend to all obligations of the Obligors under the Amended Finance Documents, and will not be affected by the execution of this Deed, any Restructuring Document any amendment to the Facility Agreement effected by this Deed or any amendment to any other Finance Document contemplated by this Deed or any other deed or document executed under or in connection with this Deed, in each case notwithstanding the imposition of any amended, additional, or more onerous obligations thereunder; and

(b) such Security Interest or guarantee is held by the Lender or a Security Agent (as the case may be) as continuing security or as a continuing guarantee (as appropriate) for the payment of all outstanding liabilities under the Finance Documents, including those amounts referred to in clause 4.1 (Current outstandings), but, subject to clause 2 (Conditions precedent to the Effective Date), after giving effect to the release of the Discharged Debt in clause 5.1 (Amendment of the Facility Agreement and consequential changes), and the Amended Finance Documents.

4. OUTSTANDINGS

4.1 Current outstandings

The Parties acknowledge and agree that the amount outstanding by way of principal under the Facility Agreement, other than amounts in respect of fees, interest and expenses, as at the date of this Deed, is $630,405,000.

4.2 Outstandings on the Effective Date

The Parties acknowledge and agree that the total amount outstanding by way of principal under the Facility Agreement (after taking into account the amendments to be effective upon the Effective Date) will be $475,541,000.

4.3 Interest accruing up to the Effective Date

Accrued interest during the period beginning on (and including) the last day on which cash interest was paid under the Facility Agreement and ending on (but excluding) the Effective Date and any broken funding cost (if any) in each case arising under the Facility Agreement shall be due and payable on the Effective Date.
5. AMENDMENT

5.1 Amendment of the Facility Agreement and consequential changes

On the Effective Date:

(a) the Lender irrevocably, fully and finally waives, releases and discharges Danaos and the Obligors from any obligation under the Facility Agreement in relation to an amount of principal equal to $154,864,000 (the “Discharged Debt”);

(b) the remaining amount of principal under the Facility Agreement (after effecting the discharge of the Discharged Debt) will be an amount equal to $475,541,000 (the “Remaining Debt”);

(c) the terms of the Remaining Debt will be amended such that the loan is divided into two loans, comprising:

(i) the Tranche 1 Loan in an aggregate outstanding principal amount as at the Effective Date of $324,541,000; and

(ii) the Tranche 2 Loan in an aggregate outstanding principal amount as at the Effective Date of $151,000,000; and

(certain other consequential amendments will be made to the Facility Agreement, such that the Facility Agreement will be amended and restated in the form set out in Schedule 2 (Amended Facility Agreement);

(d) each of the Group A Obligors (other than the Manager) accedes to the Amended Facility Agreement for the purpose of being subject to the operational covenants therein contained and agrees to be bound as an Obligor thereunder, in each case in consideration of the outstandings under the Facility Agreement being discharged pursuant to clause 5.1(a) above;

(e) each of the Group B Obligors (other than the Manager) accedes to the Amended Facility Agreement for the purpose of being subject to the operational covenants therein contained, and agrees to be bound as an Obligor thereunder, in each case in consideration of the outstandings under the 2011 Facility Agreement being discharged in full pursuant to clause 10 (Confirmation of 2011 Facility Discharge) below;

(f) certain of the Security Documents will be amended to reflect the amendments to the Facility Agreement contemplated by this Deed, and certain of the Group B Obligors and Group A Obligors and the Collateral Obligors will enter into the New Security Agreements to which they are a party, all as contemplated by the Effective Date Security Documents, which will be entered into on or about the Effective Date as described more fully in Schedule 4 (Effective Date Security Documents),

and the Lender’s total participation in the loans will be $475,541,000, as set out in Schedule 1 (Original parties) of the Amended Facility Agreement.

5.2 Cashless Basis

The discharge of the Discharged Debt shall take place on a cashless basis and the Agent is instructed to make all relevant book entries accordingly.
5.3 Timing

Each of the amendments in clause 5.1 (Amendment of the Facility Agreement and consequential changes), shall occur simultaneously at the Effective Date.

5.4 Continuing obligations

The Finance Documents (including any guarantee and indemnity granted by an Obligor and any Security Document to which an Obligor is a party) shall, save as amended, or released by this Deed or pursuant to the Effective Date Security Documents, continue in full force and effect to guarantee and/or secure all the obligations of Danaos under the Amended Facility Agreement.

5.5 Security

Each Obligor confirms that the Security Interests constituted by the Security Documents (both before and after any amendments effected on or about the Effective Date, including pursuant to the Amended Security Documents) and the New Security Documents to which, in each case, it is a party, continue to guarantee and/or secure all liabilities under the Amended Facility Agreement.

6. RESIGNATIONS

On the Effective Date:

(a) the Swap Bank and the Issuing Bank each resign from their positions under the Facility Agreement;
(b) each other party to the Facility Agreement confirms and accepts the resignations of the Swap Bank and Issuing Bank; and
(c) the Master Agreement (as defined in the Facility Agreement) is terminated and shall be of no force and effect.

7. PAYMENTS

For the purpose of clause 30.1 (Non-Payment) of the Amended Facility Agreement, the due date for the payment of all amounts contemplated to be paid by Danaos in the Restructuring Completion Letter shall be the date on which Danaos delivers the Restructuring Completion Letter.

8. CONDITIONS SUBSEQUENT

8.1 Registration Condition

If the Registration Condition is not satisfied by 23:59 (London time) on Friday 3 August 2018, an Event of Default will be deemed to have occurred under clause 30.4 (Other obligations) of the Amended Facility Agreement.

8.2 Opinion Condition

If the Opinion Condition is not satisfied by 23:59 (London time) on Friday 24 August 2018, an Event of Default will be deemed to have occurred under clause 30.4 (Other obligations) of the Amended Facility Agreement.

9. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in clause 18 (Representations) of the Amended Facility Agreement to each party on the Effective Date, in each case by reference to the facts and circumstances then existing on that date.

10. CONFIRMATION OF 2011 FACILITY DISCHARGE

10.1 Confirmation and release

The 2011 Agent confirms that amount outstanding by way of principal under the 2011 Facility Agreement, other than amounts in respect of fees, interest and expenses, as at the date hereof is $24,316,000. The 2011 Agent further confirms that it has received instructions from all the New Money Lenders to confirm that on the Effective Date all the New Money Secured Obligations owed to the New Money Lenders have been fully and finally discharged.

10.2 Notice to Group B Security Trustee

The 2011 Agent confirms to the Group B Security Trustee that on the Effective Date:

(a) the New Money Loan Discharge Date will occur; and
(b) the Group B Obligors, the Group B Assets and the Group B Security Documents will secure solely the outstandings under the Facility Agreement.
11. **TERMINATION**

11.1 **Termination**

(a) Subject to paragraph (b) below, this Deed shall lapse and no Party shall have any claim against another under this Deed if the Effective Date does not occur on or before the Long-Stop Time (as defined in the Global Restructuring Implementation Deed) or such later date as may be agreed by Danaos and the Lender.

(b) In the event of termination of this Deed in accordance with this clause 11, this Deed shall cease to have any further force or effect on and from the date on which it is terminated, save for the provisions of clause 1 ( **Definitions and Interpretation** ), clause 3 ( **Relationship with Existing Documents** ), clause 13 ( **Notices** ), clause 14 ( **Partial Invalidity** ), clause 15 ( **Remedies and Waivers** ), clause 19 ( **Governing Law** ) and clause 20 ( **Enforcement** ) which shall remain in full force and effect and save in respect of rights and obligations which have accrued under this Deed prior to such termination.

12. **FURTHER ASSURANCE**

The Obligors shall (at the cost of Danaos) promptly execute and deliver such other documents or agreements and take such other action as may be reasonably necessary for the implementation of this Deed and the consummation of the transactions contemplated by this Deed.

13. **NOTICES**

13.1 **Communications in writing**

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax, electronic mail or letter.
13.2 **Addresses**

The address, electronic mail address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

(a) in the case of Danaos, or any other Obligor:

Akti Kondyli 14  
185 45 Piraeus  
Greece  

Attention: Legal Department  
Email: legal@danaos.com

(b) in the case of the Lender, the Agent or the Security Agents:

The Royal Bank of Scotland plc  
250 Bishopsgate  
London, EC2M 4AA, GB  

Attention: Christopher Patrick  
E-mail: christopher.patrick@rbs.com

or any substitute address, electronic mail address, fax number or department or officer as the Party may notify to the other Parties by not less than five Business Days’ notice.

13.3 **Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

(i) if by way of fax, when received in legible form; or  
(ii) if by electronic mail, when actually received in readable form; or  
(iii) 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 13.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Lender, the Agent or any Security Agent will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified above (or any substitute department or officer as the Agent shall specify for this purpose).

13.4 **Electronic communication**

(a) Any communication to be made between the Obligors and the Agent, under or in connection with this Deed, may be made by electronic mail or other electronic means, if the Parties:
(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) 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

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the Obligors and the Agent will be effective only when actually received in readable form and, in the case of any electronic communication made by an Obligor, only if it is addressed in such a manner as the Agent shall specify for this purpose.

13.5 English language

(a) Any notice given under or in connection with this Deed must be in English.

(b) All other documents provided under or in connection with this Deed must be:

(i) in English; or

(ii) if not in English, and if so reasonably 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.

14. PARTIAL INVALIDITY

If, at any time, any provision of this Deed 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.

15. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of the Lender, the Agent or any Security Agent, any right or remedy under this Deed, or any other Finance Document, 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 this Deed are cumulative and not exclusive of any rights or remedies provided by law.

16. AMENDMENTS AND WAIVERS

An amendment or waiver to this Deed shall not be made without the prior consent of Danaos and the Agent.

17. RESERVATION OF RIGHTS

(a) Unless expressly provided to the contrary, this Deed does not amend or waive any Party’s rights under any Finance Document or any other documents or agreements, or any rights of the Lender, the Agent or any Security Agent as creditor of the Obligors, unless and until the Effective Date (and then only to the extent provided under the terms
of the Amended Facility Agreement, the Effective Date Security Documents and this Deed).

(b) Each of the Lender, the Agent and the Security Agents fully reserves any and all of its rights, until the Effective Date has occurred.

18. COUNTERPARTS

This Deed 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 Deed. Delivery of a counterpart of this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

19. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

20. ENFORCEMENT

20.1 Jurisdiction

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to non-contractual obligations arising out of or in connection with this Deed or a dispute regarding the existence, validity or termination of this Deed) (a “Dispute”).

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This clause 20.1 is for the benefit of the Lender, the Agent and the Security Agents. As a result, none of the Lender, the Agent or the Security Agents shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, each of the Lender, the Agent and the Security Agents may take concurrent proceedings in any number of jurisdictions.

20.2 Service of process

(a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor irrevocably appoints Law Debenture Corporate Services Limited with its registered office for the time being, presently at 100 Wood Street, London, United Kingdom EC2V 7EX as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed.

(b) Each Obligor agrees that failure by a process agent to notify it of the process will not invalidate the proceedings concerned.

This Deed has been entered into and delivered on the date stated at the beginning of this Deed.
SCHEDULE 1

CONDITIONS PRECEDENT TO THE EFFECTIVE DATE OF THIS DEED

The following are the documents referred to in clause 2 (Conditions Precedent to the Restructuring Effective Time) required for this Deed to become effective.

1. OBLIGORS’ CORPORATE DOCUMENTS

(a) In respect of each Obligor, a copy (certified by the relevant Obligor pursuant to a formalities certificate) of each of the following:

(i) certificate of incorporation;

(ii) memorandums and articles of association; and

(iii) by-laws.

(b) A copy of a resolution of the board of directors of each Obligor (or, in the case of the Borrower and otherwise if applicable, any independent committee of such board empowered to approve and authorise the following matters):

(i) approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party (its “Relevant Documents”) and resolving that it execute, deliver and perform the Relevant Documents to which it is a party;

(ii) authorising a specified person or persons to execute its Relevant Documents on its behalf; and

(iii) authorising a specified person or persons, on its behalf, to sign and/or dispatch all documents and notices to be signed and/or dispatched by it under or in connection with its Relevant Documents.

(c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to its Relevant Documents and related documents.

(d) If required by the Lenders, a copy of a resolution signed by all the holders of the issued shares in each Obligor (other than the Borrower), approving the terms of, and the transactions contemplated by, its Relevant Documents.

(e) A certificate or other written statement of the Borrower (signed by a director or duly authorised senior officer) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on any Obligor to be exceeded.

(f) A copy of any power of attorney under which any person is appointed by any Obligor to execute any of its Relevant Documents on its behalf.

(g) A certificate of an authorised signatory of each relevant Obligor certifying that each copy document relating to it specified in this Schedule is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the Effective Date and that any such resolutions or powers of attorney have not been revoked.
2. **FINANCE DOCUMENTS**

Duly executed copies of each of the following documents by each party, being:

(a) this Deed;
(b) the Global Intercreditor Deed;
(c) the Restructuring Lenders/Citi-Eurobank Lenders Intercreditor Deed;
(d) the Restructuring Lenders/Sinosure Lenders Intercreditor Deed;
(e) the Intra-Restructuring Lenders Intercreditor Deed;
(f) the Observer Side Letters;
(g) the Amendment Fee Letter;
(h) the Exit Fee Letter; and
(i) the Agency Fee Letter.

3. **SECURITY DOCUMENTS**

(a) Unless otherwise stated, duly executed copies of the Security Documents listed in Schedule 4 (Effective Date Security Documents) to this Deed (other than the Mortgages (or amendments to Mortgages)) in respect of the Ships executed by the Obligors as specified opposite the relevant Security Document.

(b) A copy of all notices required to be sent under the Security Documents executed by relevant Obligors.

(c) All share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Obligor in blank in relation to the assets subject to or expressed to be subject to the Security Interest and other documents of title to be provided under the Security Documents.

(d) Evidence that each Security Document that is a Mortgage or amendment to Mortgage has been or will be registered within 1 Business Day of the Effective Date against the relevant Ship through the relevant Registry under the laws and flag of the relevant Flag State.

4. **TRANSACTION DOCUMENTS**

Copies of the following documents that have been duly executed by the parties thereto:

**Cash Out Agreements and Commitment Letter**

(a) The Cash Out Agreement entered into on 19 June 2018 between the Borrower and the lenders under both (i) the USD 37,100,000 term loan credit agreement originally dated 24 January 2011 (as amended and/or restated from time to time) entered into by, among others, the Borrower as borrower and ABN AMRO Bank N.V. as agent and security trustee and (ii) the USD 253,200,000 term loan credit agreement originally dated 29
July 2008 (as amended and/or restated from time to time) entered into by, among others, the Borrower as borrower and ABN AMRO Bank N.V. as successor-in-interest to Fortis Bank (Nederland) N.V. as agent and security trustee;

(b) The Cash Out Agreement entered into on 19 June 2018 between the Borrower and the lenders under the USD 180,000,000 term loan credit agreement originally dated 30 May 2008 (as amended and/or restated from time to time) entered into by, among others, the Borrower as borrower and Deutsche Bank AG as agent and security trustee;

(c) The Cash Out Agreement entered into on 19 June 2018 between the Borrower and EnTrustPermal Maritime Fund LP, as a lender under the USD 299,000,000 term loan credit agreement originally dated 2 February 2009 (as amended and/or restated from time to time) entered into by, among others, the Borrower as borrower and Commerzbank AG (formerly known as Deutsche Schiffsbank Aktiengesellschaft) as agent and security trustee;

(d) The confidential, updated commitment letter dated 1 June 2018 and all fee letters and other ancillary documents related thereto between, among others, Citibank N.A. and the Borrower;

**Equity Documents**

(e) The Amended Articles of Association;

(f) The Subordinated Loan Agreement;

(g) The Registration Rights Agreement;

(h) The Shareholders’ Agreement;

(i) The Capital Contribution Agreement;

(j) The Backstop Agreement;

**Manager Documents**

(k) The CEO Employment Agreement;

(l) The Management Agreement;

(m) The Amended Restrictive Covenant Agreement;

(n) The Management Agreement Deed of Undertaking;

**Amended RA Facilities and Amended and Restated Sinosure Facility**

(o) Each of the Amended RA Facilities (as defined in the Amended Facility Agreement and each term below as defined in the Global Intercreditor Deed) signed by all the parties thereto:

(i) the Citibank Facility;

(ii) the Citibank DB Refinancing Facility;

(iii) the Citi-Eurobank Facility;
(iv) the Citibank Pool C Refinancing Facility;
(v) the Club Facility;
(vi) the Credit Suisse Facility; and
(vii) the amendment and restatement deed relating to the HSH Facility;

(p) The deed of amendment and restatement in respect of the Amended and Restated Sinosure Facility Agreement;
(q) The Pooled Facilities Intercreditor Deed;
(r) The Implementation Deed; and
(s) The Deed of Release in respect of the Restructuring Agreement dated 24 January 2011 entered into by, amongst others, the Borrower, the subsidiaries of the Borrower party thereto and the Participating Lenders (as defined therein), as amended, supplemented or otherwise modified from time to time and the Fee Letter dated 24 January 2011 from the Participating Lenders (as defined therein) to the Borrower.

5. OTHER DOCUMENTS AND EVIDENCE

(a) Valuations in respect of all Fleet Vessels obtained as of 30 June 2018.
(b) Receipt of (i) the letter from the Borrower to American Stock Transfer & Trust Company, LLC attached as Part A (Irrevocable Instruction Letter) of Schedule 2 to the Restructuring Completion Letter and (ii) the letter from American Stock Transfer & Trust Company, LLC to the Borrower attached as Part B (AST Confirmation Letter) of Schedule 2 to the Restructuring Completion Letter, evidencing confirmation that all the Danaos Shares to be issued to the Original Lender as contemplated by the Global Restructuring Implementation Deed will be so issued.
(c) Receipt of process agent appointment letters indicating that the process agents referred to in the Amended Facility Agreement or any equivalent provision of any other Finance Document entered into on or before the Effective Date, if not an Obligor, has accepted its appointment.
(d) A certification by an authorised signatory of the Borrower that the Original Financial Statements are as set forth in the Borrower’s annual report for the financial year ended on 31 December 2017 on Form 20-F, as filed with the U.S. Securities and Exchange Commission on 7 March 2018.
(e) The Financial Model circulated to the Lenders on 13 June 2018.
(f) The Group Structure Chart showing, both immediately prior to and as of the Effective Date (assuming completion of the transactions contemplated thereby):

(i) the shareholders of the Borrower;
(ii) that each Owner is a direct wholly owned Subsidiary of the applicable Danaos intermediate Holding Company and that each Danaos intermediate Holding Company is a direct wholly owned subsidiary of the Borrower;
(iii) all outstanding facilities owing by any Group Member and the principal amounts outstanding, the Obligors and the security provided in respect thereof; and

(iv) the Dormant Subsidiaries.

(g) Evidence that (i) all fees, accrued and unpaid interest and agreed break costs under the Facility Agreement and the 2011 Facility Agreement, and (ii) the fees, commissions, costs and expenses then due from the Borrower(s) under any Finance Document and all legal and adviser fees payable in connection with the Restructuring have been paid or will be paid by the Effective Date.

(h) A confirmation from an officer of the Borrower that:

(i) no consents, authorisations, licences and approvals are necessary in any Relevant Jurisdiction to enable it to borrow the Loan and it or any other Obligor to perform its obligations under this Deed and each of the other Transaction Documents to which it is a party;

(ii) the fees, interest or other compensation referred to in paragraph (h) above are in each case consistent in all respects with the amounts set out in the Out-of-Court Term Sheet and the schedule of fees circulated on 6 June 2018;

(iii) other than as disclosed to the Original Lender prior to the date of the Facilities Agreement, there is no agreement, arrangement or understanding for the allocation of any Danaos Shares issued to the Lenders in accordance with the Out-of-Court Term Sheet to be reallocated or transferred to or for the benefit of any of the existing shareholders of the Borrower or any of their affiliates or related persons;

(iv) the Restructuring Support Agreement has not been terminated and is in full force and effect (save for termination thereof as a result of the Effective Date);

(v) as of the Effective Date, there are no agreements, arrangements, or understandings between any Group Member and (i) any lender under an Amended RA Facility, (ii) any other lender of financial indebtedness, or (iii) any affiliate of (i) or (ii), in respect of the Existing Fleet that is not set out in the Restructuring Support Agreement, the Out-of-Court Term Sheet, the Amended RA Facilities or that has not otherwise been disclosed to the lenders in the Out-of-Court Term Sheet or fee schedule circulated on 6 June 2018;

(vi) the list of Dormant Subsidiaries appended to this director’s certificate is true, accurate and complete; and

(vii) no information has been disclosed which has not also been provided on reasonable notice to all other Participating Lenders.

(i) Evidence that the KEXIM-ABN Amro Facility has been repaid in full and all security relating thereto has been released.

(j) The Borrower (or a duly authorised corporate officer thereof) has duly executed and delivered the Restructuring Completion Letter referred to in, and substantially in the form attached as a schedule of, the Implementation Deed.

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6. SHIP AND CHARTER CONDITIONS

(a) Evidence that each of the Ships has been delivered, and accepted for service, under its Charter to be evidenced by the relevant delivery surveys executed by both parties under the Charter.

(b) In relation to each Ship subject to a Charter with a term of 12 months or more, the Charter for each Ship, duly executed, on such terms (including as to the identity of the relevant Charterer, the charter rates and their tenors) as otherwise approved by the Original Lender.

(c) A duly executed copy, certified to be a true and complete copy, of each Shipmanagement Agreement for each Ship.

(d) A certificate of class maintained in respect of each Ship issued no more than 3 Business Days before the Effective Date confirming that each Ship is classed with the relevant Classification free of all requirements and recommendations of the relevant Classification Society as may be required by the Agent.

(e) A market check and scrap value assessment prepared by the Borrower on all Ships (other than the Collateral Ships) that are older than 20 years, not on contract with at least 12 months’ remaining term and not recently drydocked, together with the explanation from the Borrower of the commercial decision of the board of directors, as certified by an officer of the Borrower, not to scrap such Ship.

7. INSURANCE

In relation to each of the Ships’ Insurances:

(a) an opinion from insurance consultants appointed by the Original Lender / Agent on such Insurances;

(b) evidence (in the form of insurance enquiries by the insurance consultants) that such Insurances have been placed in accordance with the Amended Facility Agreement and all requirements in respect of such Insurances under the Finance Documents have been complied with; and

(c) evidence (in the form of letters of undertaking (that approved brokers, insurers and/or associations have issued or will issue letters of undertaking in favour of the Original Lender / Agent in an approved form in relation to the Insurances).

8. 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 each of the Ships for the purposes of that code;

(b) the safety management certificate in respect of each of the Ships issued in accordance with the ISM Code;

(c) the international ship security certificate in respect of each of the Ships issued under the ISPS Code; and

(d) if so requested by the Agent, any other certificates issued under any applicable code required to be observed by each of the Ships or in relation to its operation under any applicable law.

9. LEGAL OPINIONS

(a) A legal opinion of Holman Fenwick Willan, legal advisers to the Agent on matters of English law, substantially in the form distributed to the Agent.

(b) A legal opinion of Poles, Tublin, legal advisers to the Agent on matters of New York law, substantially in the form distributed to the Agent.

(c) A legal opinion of Sioufas, legal advisers to the Agent on matters of Greek law, substantially in the form distributed to the Agent.

(d) Legal opinions of Montanios & Montanios, legal advisers to the Agent on matters of Cypriot law, substantially in the form distributed to the Agent.

(e) A legal opinion of Ganados, legal advisers to the Agent on matters of Maltese law, substantially in the form distributed to the Agent.

(f) A legal opinion of Poles, Tublin, legal advisers to the Agent on matters of Liberian law, substantially in the form distributed to the Agent.

(g) A legal opinion of Patton Moreno, legal advisers to the Agent on matters of Panamanian law, substantially in the form distributed to the Agent.

(h) A legal opinion of Poles, Tublin, legal advisers to the Agent on matters of the law of the Marshall Islands, substantially in the form distributed to the Agent.
(i) Legal opinions of the legal advisers to the RL Security Agent on matters of Cypriot, English and Maltese law, substantially in the form distributed to the Agent.

(j) A legal opinion of Reeder & Simpson, P.C., legal advisers to the Borrower substantially in the form distributed to the Agent, attesting to the good standing and due incorporation of the Borrower, validity and issuance of the Danaos Shares, as to matters of Marshall Islands law.

10. **KYC INFORMATION**

   Such documentation and information as the Finance Parties may reasonably request to comply with “know your customer” or similar identification procedures under all laws and regulations applicable to the Finance Parties.

11. **REGULATORY APPROVALS AND CONDITIONS**

   Such information and assistance as may be reasonably requested by the Finance Parties to satisfy, and the satisfaction of, any regulatory, competition or other approvals required by any competent governmental authority in connection with the restructuring, including receipt of the Danaos Shares.
SCHEDULE 2
AMENDED FACILITY AGREEMENT

USD 700,000,000

FACILITY AGREEMENT

Originally dated 20 February 2007 as amended or amended and restated from time to time and as amended and restated most recently on the Effective Date

for

DANAOS CORPORATION
as Borrower and Parent

CERTAIN SUBSIDIARIES OF THE PARENT

with

THE ROYAL BANK OF SCOTLAND PLC
acting as Agent

with

NATWEST MARKETS PLC
acting as Security Agent

with

THE INSTITUTION LISTED IN SCHEDULE 1
acting as Original Lender
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THIS AGREEMENT is originally dated 20 February 2007 and is amended or amended and restated from time to time and most recently on the Effective Date and made between:

(1) DANAOS CORPORATION as borrower (the “Borrower” or the “Parent”);

(2) CERTAIN SUBSIDIARIES of the Parent listed as Owners and Shareholders (other than Collateral Owners and their Shareholders) in Schedule 1 (The
original parties);  

(3) THE ROYAL BANK OF SCOTLAND PLC (company number SC083026) a company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB and acting through its office at 250 Bishopsgate, London, EC2M 4AA, United Kingdom as agent of the other Finance Parties (the “Agent”);  

(4) NATWEST MARKETS PLC (company number SC090312) company incorporated in Scotland having its registered office at 36 St Andrew Square, Edinburgh, Scotland EH2 2YB and acting through its office at 250 Bishopsgate, London, EC2M 4AA, United Kingdom in its capacity as the security trustee for the Finance Parties under each Agency and Trust Deed (the “Security Agent”); and  

(5) THE FINANCIAL INSTITUTION listed in Schedule 1 (The original parties) as lender (the “Original Lender”);  

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:  

“Acceptable Bank” means:  

(a) a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of A- or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or A- equivalent or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency;  

(b) any RA Lender; or  

(c) any other bank or financial institution approved by the Agent (acting on the instructions of the Majority Lenders).  

“Accession Letter” means a document substantially in the form set out in Schedule 8 (Form of Accession Letter).  

“Account” means any bank account, deposit or certificate of deposit opened, made or established with an Account Bank in accordance with clause 27 (Bank accounts).
“Account Bank” means, in relation to any Account, either the bank or financial institution specified as such in Schedule 1 (The original parties), any Finance Party or another bank or financial institution approved by the Majority Lenders at the request of the Parent.

“Account Holder(s)” means, in relation to any Account, each Obligor in whose name that Account is held.

“Account Security” means, in relation to an Account, a first ranking (or, in the case of an Account of a Collateral Owner or which relates to a Collateral Ship second ranking) deed in favour of the Security Agent dated 18 February 2011 as amended and restated from time to time, and most recently on the Effective Date, or other instrument by the relevant Account Holder(s) in favour of the Security Agent (or, in the case of an Account of a Collateral Owner or an Owner of an Additional Ship, or which relates to a Collateral Ship or an Additional Ship, in favour of the RL Security Agent) in an agreed form conferring a Security Interest over that Account.

“Accounting Principles” has the meaning given to that term in clause 20.2 (Financial definitions).

“Accounting Reference Date” means 31 December or such other date as may be approved by the Lenders.

“Actual Free Cash Flow” has the meaning given to that term in clause 5.4 (Variable amortisation).

“Additional Agency and Trust Deed” means the agency and trust deed dated 24 January 2011 between, among others, the Parent, the Agent, the Original Lender and the Security Agent in its capacity as the security trustee thereunder, as amended and/or restated from time to time.

“Additional Guarantor” means a person who becomes an Additional Guarantor in accordance with Clause 32 (Changes to the Obligors).

“Additional Ship” means any Ship other than those set out in Schedule 2 (Ship Information).

“Affiliate” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

“Agency and Trust Deed” means each of the Original Agency and Trust Agreement and the Additional Agency and Trust Deed.

“Agency Fee Letter” has the meaning given to that term in clause 11 (Fees).

“Agent” includes any person who may be appointed as such under the Finance Documents.

“All Lender Intercreditor Matter” means consent, waiver or other matter for determination to be made under an Intercreditor Deed requiring the consent of all Lenders (under and as defined in the applicable Intercreditor Deed) or the approval of each Facility Representative (as defined in each Intercreditor Deed).

“Amended Articles of Association” means the amended and restated articles of association of the Borrower, as in effect on the Effective Date and reflecting the governance rights agreed in the Out-of-Court Term Sheet.
“Amended and Restated Sinosure Facility” has the meaning given to that term in the Global Intercreditor Deed.

“Amended RA Facilities” means the Facilities, the Citibank Facility, the Citibank DB Refinancing Facility, the Citi-Eurobank Facility, the Citibank Pool C Refinancing Facility, the Club Facility, the Credit Suisse Facility and the HSH Facility, as such terms are defined in the Global Intercreditor Deed (and in any event excluding the Amended and Restated Sinosure Facility); and wherever any such facility is referenced in this Agreement by such designation, it shall have the meaning given to that term in the Global Intercreditor Deed.

“Amended Restrictive Covenant Agreement” means the amended and restated restrictive covenant agreement that will apply in respect of the Management Agreement between Dr. John Coustas and the Plan Sponsor dated on or about the Effective Date and which is substantially in the form attached to the Restructuring Support Agreement.

“Amendment and Restatement Agreement” means the amendment and restatement agreement in respect of this Agreement dated 2018 between the Parties.

“Amendment Fee Letter” has the meaning given to that term in clause 11 (Fees).

“Annual Financial Statements” has the meaning given to that term in clause 19.2 (Defined terms).

“Approved Flag State” means each of the Republic of the Marshall Islands, the Republic of Liberia, the Republic of Panama, the Republic of Malta, the Republic of Cyprus and the Hellenic Republic of Greece or such other flag state as approved by the Lenders from time to time in their sole discretion.

“Assignment Agreement” means an agreement substantially in the form set out in Part 1 of Schedule 4 (Form of Assignment Agreement and Transfer Certificate) or any other form agreed between the relevant assignor and assignee provided that if that other form does not contain the undertaking set out in the form set out in Part 1 of Schedule 4 (Form of Assignment Agreement and Transfer Certificate) it shall not be a Creditor Accession Undertaking as defined in, and for the purposes of, the Global Intercreditor Deed.

“Associate” has the meaning given to that term in section 435 of the Insolvency Act 1986 of England and Wales, provided that only sub-sections (2) and (5) of such section (and any reference to the term “associate” in such sub-section (5) shall be a reference to such term as defined in sub-section (2)) shall apply insofar as it relates to the definition of Coustas Family.

“Auditors” means an audit firm of international standing with expertise in acting as auditors to NYSE-listed companies.

“Authorisation” means any authorisation, consent, concession, approval, resolution, licence, exemption, filing, notarisation or registration.

“Backstop Agreement” means the backstop agreement between the Plan Sponsor, the Manager and the Borrower dated on or about the Effective Date.

“Bail-In Action” means the exercise of any Write-down and Conversion Powers.
"Bail-In Legislation" means:

(a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and

(b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

"Balancing Payment" has the meaning given to that term in clause 5.4 (Variable amortisation).

"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 Regulations applicable to such Finance Party) 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 in force as at the date hereof 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 to the extent that such law or regulation re-enacts a Basel II Regulation.

“Break Costs” means the amount (if any) by which:

(a) the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in the Loan or relevant part of it or Unpaid Sum to the last day of the current Interest Period in respect of the Loan or relevant part of it 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 relevant principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of that Interest Period.

“Budget” means:

(a) in relation to the Financial Year ending 31 December 2018, the budget incorporated within the Financial Model; and

(b) in relation to any other period, any budget delivered by the Parent to the Agent pursuant to clause 19.6 (Budget).

“Business Day” means a day (other than a Saturday or Sunday):

(a) which is not a public holiday in Athens or Piraeus; and

(b) on which banks are open for general business in London and, in respect of a day on which a payment or purchase in dollars is to be made under a Finance Document, New York.

“Capital Contribution Agreement” means the contribution agreement governing the capital contribution of $10 million in cash to be made on or prior to the Effective Date by the Plan Sponsor to the Borrower in accordance with the Out-of-Court Term Sheet dated on or about the Effective Date.

“Cash” has the meaning given to that term in clause 20.2 (Financial definitions).

“Cash Equivalents” has the meaning given to that term in clause 20.2 (Financial definitions).

“Cash Interest” means interest on the Loan that is paid in cash.
“Cash Proceeds” means:

(a) proceeds of Security Property which are in the form of cash; and

(b) any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any proceeds of Security Property which are in the form of Non-Cash Consideration.

“CEO Employment Agreement” means the executive employment agreement of Dr John Coustas as President and Chief Executive Officer of the Parent dated 10 May 2018.

“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 Transaction Security.

“Charter” means, in relation to a Ship, the charter commitment for that Ship details of which are provided in Schedule 2 (Ship information) or in the relevant Accession Letter, any Long Term Charter or (where the conditions specified in paragraph (b) of clause 30.20 (Breach of Charter) have been satisfied in accordance with that paragraph in relation to that Ship) the relevant Replacement Charter in relation to that Ship.

“Charter Assignment” means, in relation to a Ship and its Charter Documents, a first ranking (or, in the case of a Collateral Ship, second ranking) assignment by the relevant Owner of its interest in such Charter Documents in favour of the Security Agent (or, in the case of a Collateral Ship or an Additional Ship, the RL Security Agent) in the agreed form.

“Charter Documents” means, in relation to a Ship, the Charter of that Ship, any documents supplementing it and any guarantee or security given by any person for the relevant Charterer’s obligations under it.

“Charterer” means, in relation to a Ship, the charterer named in Schedule 2 (Ship information) as charterer of that Ship or (where the conditions specified in paragraph (b) of clause 30.20 (Breach of Charter) have been satisfied in accordance with that paragraph) the person chartering the Ship under the relevant Replacement Charter for that Ship.

“Classification” means, in relation to a Ship, the classification specified in respect of such Ship in Schedule 2 (Ship information) or in the relevant Accession Letter with the relevant Classification Society, the equivalent classification with another 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 in the relevant Accession Letter (if approved by the Majority Lenders) 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.


“Collateral Owner” means, in relation to a Collateral Ship, the person specified against the name of that Collateral Ship in Schedule 2 (Ship information).
“Collateral Owner Shareholder” means, in relation to a Collateral Ship, the person specified as Collateral Owner Shareholder against the name of that Collateral Ship in Schedule 2 (Ship information).

“Collateral Ship Security Documents” means, in relation to a Collateral Ship, together, the Mortgage, any General Assignment, any Deed of Covenant and any Charter Assignment for that Collateral Ship, the Account Security for the Earnings Account in respect of such Collateral Ship, and any Manager’s Undertaking in respect of that Collateral Ship.

“Collateral Ships” means each of the ships described as “Collateral Ships” in Schedule 2 (Ship information) and “Collateral Ship” means any of them.

“Commitment” means a Tranche 1 Commitment or Tranche 2 Commitment.

“Compliance Certificate” means a certificate substantially in the form set out in Part 1 of Schedule 5 (Form of Compliance Certificate and Ring Fencing Compliance Certificate) or otherwise approved by the Majority Lenders.

“Confidential Information” means all information relating to an Obligor, the Group, the Transaction Documents or the Facilities 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 Facilities from either:

(a) any Group Member or any of its advisers; or

(b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any Group Member or any of its advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

(i) information that:

(A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of clause 47 (Confidential Information); or

(B) is identified in writing at the time of delivery as non-confidential by any Group Member or any of its advisers; or

(C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and

(ii) any Funding Rate.
“Confidentiality Undertaking” means a confidentiality undertaking substantially in the appropriate recommended form of the Loan Market Association or in any other form agreed between the Borrower and the Agent.

“Constitutional Documents” means, in respect of an Obligor, such Obligor’s memorandum and articles of association, by-laws or other constitutional documents including as referred to in any certificate relating to an Obligor delivered pursuant to the Amendment and Restatement Agreement.

“Corporate Waiver Event of Default” has the meaning given to that term in the Global Intercreditor Deed.

“Coustas Family” means Dr John Coustas and any Associate of Dr John Coustas.

“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.

“Creditor Party” means the Agent, the Security Agent and each Lender.

“CRR” means the regulation 575/2013 of the European Union on prudential requirements for credit institutions and investment firms.

“Danaos Shares” means the common shares of the Parent.

“Debt Disposal” has the meaning given to it in Schedule 11 (Enforcement Principles).

“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 ranking (or, in the case of a Collateral Ship, second ranking) deed of covenant in respect of such Ship dated on or about the date of such Mortgage and as amended and/or restated from time to time, including on the Effective Date, by the relevant Owner in favour of the Security Agent (or, in the case of a Collateral Ship or an Additional Ship, the RL Security Agent).

“Default” means an Event of Default or any event or circumstance specified in clause 30 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

“Defaulting Lender” means any Lender:

(a) which has rescinded or repudiated a Finance Document; or
with respect to which an Insolvency Event has occurred and is continuing.

“Delegate” means any delegate, agent, attorney, additional trustee or co-trustee appointed by the Security Agent.

“Disposal Proceeds” means the consideration received by any Group Member for any disposal of an asset after deducting:

(a) any reasonable expenses which are incurred by any Obligor with respect to that disposal to persons who are not Group Members or any Parent Affiliate; and

(b) any Tax incurred and required to be paid by the seller under that disposal in connection with that disposal (as reasonably determined by the seller, on the basis of existing rates and taking account of any available credit, deduction or allowance).

“Disposal Repayment Date” means in relation to:

(a) a Total Loss of a Mortgaged Ship, the applicable Total Loss Repayment Date; and

(b) a sale (including, without limitation, a sale for scrapping) of a Mortgaged Ship by the relevant Owner or a sale of the shares in the 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.

“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 Facilities (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.

“Distressed Disposal” has the meaning given to it in Schedule 11 (Enforcement Principles).

“Distress Event” means any of:

(a) the Agent exercising any of its rights under clause 30.29 (Acceleration — Tranche 1 Loan);

(b) the Agent exercising any of its rights under clause 30.30 (Acceleration — Tranche 2 Loan); or
the enforcement of any Transaction Security or any Charged Property.

“Distribution” means, in respect of a person, that person:

(a) declares or pays (including by way of set-off, combination of accounts or otherwise) any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital) or any warrants for the time being in issue;

(b) repays or distributes any dividend or share premium reserve;

(c) pays any management, advisory or other fee to or to the order of any of the shareholders of the relevant person;

(d) redeems, repurchases, defeases, retires or repays any of its share capital or resolves to do so; or

(e) makes 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.

“Dividend Reinvestment Escrow Agreement” means the escrow agreement in respect of dividends distributed by the Borrower as contemplated by and substantially in the form attached to the Shareholders Agreement.

“Dividend Reinvestment Escrow Account” means the escrow account to be operated in accordance with the terms of the Dividend Reinvestment Escrow Agreement.

“Dormant Subsidiary” means a Group Member which does not trade (for itself or as agent for any person) and does not own, legally or beneficially, assets (including, without limitation, indebtedness owed to it) which in aggregate have a value of $50,000 or more or its equivalent in other currencies.

“Earnings” means, in relation to a Ship and a person, all money at any time due or payable to that person for or in relation to the use or operation of such Ship including 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, income arising out of pooling or sharing arrangements, 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 or other contract for the employment of such Ship and, if applicable, any sums recoverable under any loss of earnings insurance.

“Earnings Account” means any Account designated as an “Earnings Account” under clause 27 (Bank accounts).

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

“Effective Date” has the meaning given to that term in the Amendment and Restatement Agreement.

“Eligible Institution” means any Lender or other bank, financial institution, trust, fund or other entity selected by the Parent and which, in each case, is not a Parent Affiliate or a Group Member.

“Enforcement Action” means:

(a) in relation to any Liabilities:

(i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Lender to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Finance Documents);

(ii) the making of any declaration that any Liabilities are payable on demand;

(iii) the making of a demand in relation to a Liability that is payable on demand;

(iv) the making of any demand against any Obligor in relation to any guarantee;

(v) the exercise of any right to require any Obligor to acquire any Liability (including exercising any put or call option against any Obligor for the redemption or purchase of any Liability);

(vi) the exercise of any right of set-off, account combination or payment netting against any Obligor in respect of any Liabilities other than the exercise of any such right which is otherwise expressly permitted under the Finance Documents; and

(vii) the suing for, commencing or joining of any legal or arbitration proceedings against any Obligor to recover any Liabilities;

(b) the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security);
(c) the entering into of any composition, compromise, assignment or arrangement with any Obligor that owes any Liabilities, or has given any Security Interest, guarantee or indemnity or other assurance against loss in respect of the Liabilities; or

(d) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding up, dissolution, administration or reorganisation of any Obligor which owes any Liabilities, or has given any Security Interest, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such Debtor’s assets or any suspension of payments or moratorium of any indebtedness of any such Debtor, or any analogous procedure or step in any jurisdiction, except that the following shall not constitute Enforcement Action: the taking of any action falling within paragraphs (a)(vii) or (d) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods.
“Enforcement Principles” means the principles set out in Schedule 11 (Enforcement Principles).

“Environmental Claims” means:
(a) enforcement, clean-up, removal or other governmental or regulatory action or orders or proceedings or formal notices or investigations 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 Fleet Vessel 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 Fleet Vessel 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.

“Equity Document” means each of:
(a) The Amended Articles of Association;
(b) The Subordinated Loan Agreement;
(c) The Registration Rights Agreement;
(d) The Capital Contribution Agreement;
(e) The Shareholders Agreement; and
(f) The Backstop Agreement.

“EU Bail-In Legislation Schedule” means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

“Event of Default” means any event or circumstance specified as such in clause 30 (Events of Default).

“Excess Cash” has the meaning given to that term in the Global Intercreditor Deed.

“Excess Cash Loan” means a documented unsecured loan documenting amounts advanced by an Owner or an Existing Fleet Group Member (as applicable) to the Parent or amounts advanced by the Parent to an Owner or an Existing Fleet Group Member (as applicable), in each case, which complies with the terms of clause 4.2 (Terms of Excess Cash Loans) of the Global Intercreditor Deed.
“Excess Cash Loan Security” means, in relation to Excess Cash Loans advanced by a Guarantor, a deed or other instrument by the relevant Guarantor in favour of the Security Agent in an agreed form conferring a Security Interest over those Excess Cash Loans.

“Existing Fleet Group Member” means at any time any Group Member who is a party to or an obligor in respect of an Amended RA Facility or to the Amended and Restated Sinosure Facility, or any Permitted Refinancing in respect of any such facility.

“Existing Security Documents” means:

(a) the “Finance Documents” as described in and as defined in this Agreement prior to the Effective Date, but excluding the “Master Agreement”, any “Bareboat Charter Assignment”, the “Master Assignment Agreement”, the “Pre-Delivery Security Assignments”, the “Earnings Account Charges” (each as defined therein) and this Agreement; and

(b) the “Security Documents” as defined in the Additional Agency and Trust Deed.

“Exit Fee Letter” has the meaning given to that term in clause 11 (Fees).

“Facility” means the Tranche 1 Facility or the Tranche 2 Facility made available under this Agreement as described in clause 2 (The Facility) provided that for the purposes of the Global Intercreditor Deed, the term “Facility” in that deed as it relates to the RBS Facility (as defined therein) shall comprise both the Tranche 1 Facility and the Tranche 2 Facility.

“Facility Office” means:

(a) in respect of a Lender, the office or offices notified by that 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 or offices through which it will perform its obligations under this Agreement; or

(b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

“Facility Period” means the period from and including the date of this Agreement to and including the date on which the Total Commitments have reduced to zero and all indebtedness of the Obligors under the Finance Documents has been fully paid and discharged.

“Facility Representative” means the Facility Representative under (and as defined in) the Global Intercreditor Deed for the RBS Facility (as defined in the Global Intercreditor Deed) or the Facility Representative under (and as defined in) the Intra-Restructuring Lenders Intercreditor Deed for the RBS Facility Agreement (as defined in the Intra-Restructuring Lenders Intercreditor Deed), as applicable.

“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
any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

“FATCA Application Date” means:

(a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;

(b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or

(c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019, or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

“FATCA Deduction” means a deduction or withholding from a payment under a Finance Document required by FATCA.

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

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

“Fee Letter” means any letter or letters dated on or about or before the Effective Date between the Agent and the Parent setting out any of the fees referred to in clause 11 (Fees) and includes any agreement setting out any fees payable to a Finance Party under any other Finance Document, and includes the Agency Fee Letter, the Amendment Fee Letter and the Exit Fee Letter.

“Final Discharge Date” means the date on which each of the Tranche 1 Discharge Date and Tranche 2 Discharge Date has occurred.

“Final Repayment Date” means subject to clause 40.8 (Business Days), 31 December 2023.

“Finance Documents” means this Agreement, the Amendment and Restatement Agreement, the Agency and Trust Deeds, any Fee Letter, any Hedging Strategy Letter, any Compliance Certificate, any Ring Fencing Compliance Certificate, the Security Documents, the Intercreditor Deeds and any deed of accession supplemental to it, the Observer Side Letters and any other document designated as such by the Agent and the Borrower.

“Finance Lease” has the meaning given to that term in clause 20.2 (Financial definitions).

“Finance Party” means the Agent, the Security Agent or a Lender and “Finance Parties” means all of them.
“Financial Indebtedness” means any indebtedness for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions (including, without limitation, any debit balance in respect of the Earnings Account);
(b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
(c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
(d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a Finance Lease;
(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for derecognition under the Accounting Principles);
(f) 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);
(g) 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;
(h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before all amounts outstanding under the Finance Documents have been discharged in full or are otherwise classified as borrowings under the Accounting Principles;
(i) any amount of any liability under an advance or deferred purchase agreement if:
   (i) 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
   (ii) 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;
(j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
(k) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above.

“Financial Model” means the financial model delivered to the Original Lender on 13 June 2018.
“Financial Quarter” means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

“Financial Year” means the annual accounting period of the Parent ending on or about the Accounting Reference Date in each year.

“First Priority Security” means, in relation to a Collateral Ship and/or its Collateral Owner, all first priority security ranking ahead of the Collateral Ship Security Documents, as such first priority security is described and/or contemplated in the Restructuring Lenders/Citi-Eurobank Lenders Intercreditor Deed and/or the Restructuring Lenders/Sinosure Lenders Intercreditor Deed.

“First Repayment Date” means, subject to clause 40.8 (Business Days), 15 November 2018.

“Fixed Amortisation Amount” has the meaning given to that term in the Global Intercreditor Deed.

“Flag State” means, in relation to a Ship, the country specified in respect of such Ship in Schedule 2 (Ship information) or in the relevant Accession Letter or such other state or territory as may be approved by the Lenders pursuant to clause 22.2 (Ship’s name and registration), 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, operated, managed or crewed by any Group Member.

“Follow-on Equity Raise” means investment commitments for Danaos Shares, the net cash proceeds of which received by the Parent are in an aggregate amount of not less than $50,000,000.

“Funding Rate” means any individual rate notified by a Lender to the Agent pursuant to paragraph (a) of clause 10.3 (Cost of funds).

“Gemini JV” means Gemini Shipholdings Corporation, a Marshall Islands company beneficially owned 49 per cent. by the Parent.

“General Assignment” means, in relation to a Ship, a first ranking (or, in the case of a Collateral Ship, second ranking) assignment of its interest in the Ship’s Insurances, Earnings and Requisition Compensation, in its Charter Documents by the relevant Owner in favour of the Security Agent (or, in the case of a Collateral Ship or an Additional Ship, the RL Security Agent) as the same may be amended and restated from time to time, including on the Effective Date.

“Global Intercreditor Agent” has the meaning given to that term in the Global Intercreditor Deed.

“Global Intercreditor Deed” means the global intercreditor deed dated on or about the date of this Agreement between, amongst others, the Parent, the financial institutions referred to therein as Lenders, the financial institutions referred to therein as Facility Agents, the financial institutions referred to therein as Security Agents and Aegean Baltic Bank S.A. as the Global Intercreditor Agent.

“Group” means the Parent and its Subsidiaries for the time being and, for the purposes of clause 19.3 (Financial statements) and clause 20 (Financial covenants), any other entity required to be
treated as a subsidiary in its consolidated accounts in accordance with the Accounting Principles and/or any applicable law.

“Group Earnings Account” has the meaning given to it in clause 28.3 (Financial Indebtedness).

“Group Member” means any Obligor and any other entity which is a member of the Group (but, for the purposes of clause 20 (Financial covenants), excluding the Manager).

“Group Structure Chart” means the group structure chart in the agreed form.

“Guarantor” means an Additional Guarantor.

“Hedging Contract” means any Hedging Transaction between the Parent and any Hedging Provider pursuant to any Hedging Master Agreement and includes any 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 Master Agreement” means any agreement made or (as the context may require) to be made between the Parent and a Hedging Provider comprising an ISDA Master Agreement in the form of the 2002 version as amended and supplemented from time to time by the Schedules and annexes thereto.

“Hedging Provider” means any Lender or any other person that enters into a Hedging Contract with the Parent from time to time.

“Hedging Strategy Letter” means the letter (if any) between (amongst others) the Parent and the Agent setting out the hedging strategy of the Group.

“Hedging Transaction” has, in relation to any Hedging Master Agreement, the meaning given to the term “Transaction” in that Hedging Master Agreement.

“Holding Company” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“Impaired Agent” means the Agent at any time when:

(a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;

(b) the Agent otherwise rescinds or repudiates a Finance Document;

(c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) of the definition of “Defaulting Lender”; or

(d) an Insolvency Event has occurred and is continuing with respect to the Agent;

unless, in the case of paragraph (a) above:

(i) its failure to pay is caused by:

(A) administrative or technical error; or
(B) a Disruption Event; and

payment is made within three Business Days of its due date; or

(ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

“Implementation Deed” means the global restructuring implementation deed dated on or about the Effective Date between, among others, the Parent, the Manager, the Plan Sponsor and the RA Lenders.

“Increased Costs” has the meaning given to that term in paragraph (b) of clause 13.1 (Increased costs).

“Indemnified Person” means:

(a) each Finance Party, each Receiver, any Delegate and any other person appointed by them under the Finance Documents;

(b) each Affiliate of those persons; and

(c) any officers, directors, employees, advisers (including attorneys), representatives or agents of any of the above persons.

“Information Package” has the meaning given to that term in clause 18.7 (No misleading information).

“Insolvency Event” in relation to an entity means that the entity:

(a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);

(b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

(c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;

(d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;

(e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in 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 (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);

(i) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other enforcement action or legal process levied, enforced, taken 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.

“Instalment Date” means 15 February, 15 May, 15 August and 15 November in each year.

“Insurance Notice” means, in relation to a Ship, a notice of assignment in the form scheduled to the 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 re-insurance; and

(b) all entries in a protection and indemnity or war risks or other mutual insurance association,

which are from time to time, in place taken out or entered in respect of a Ship or its Earnings or otherwise and all benefits of such policies and contracts and all claims of whatsoever nature (including, without limitation, any and all rights or claims which the Owner owning that Ship may have under or in connection with any cut-through clause relative to any reinsurance contract relating to the aforesaid policies or contracts of insurance) 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.

“Intellectual Property” means:

(a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each Obligor (which may now or in the future subsist).

“Interbank Market” means the London interbank market.

“Intercreditor Deed” means any of the Global Intercreditor Deed, the Intra-Restructuring Lenders Intercreditor Deed, the Restructuring Lenders/Citi- Eurobank Lenders Intercreditor Deed and the Restructuring Lenders/Sinosure Lenders Intercreditor Deed; and wherever any such agreement or deed (excluding the Global Intercreditor Deed) is referenced in this Agreement by such designation, it shall have the meaning given to that term in the Global Intercreditor Deed.

“Interest Period” means, in relation to the Loans (or any part of the Loans), each period determined in accordance with clause 9 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with clause 8.5 (Default interest).

“Interpolated Screen Rate” means, in relation to LIBOR for an Interest Period with respect to the Loans or any part of them or any Unpaid Sum, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

(a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the relevant Interest Period; and

(b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the relevant Interest Period, each as of 11:00 a.m. on the relevant Quotation Day.

“ISM Code” means The International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the International Maritime Organisation as Resolutions A.741(18) and A.913(22) (as amended, supplemented or replaced from time to time).

“ISPS Code” means The International Ship and Port Facility Security Code as adopted by the International Maritime Organisation (as amended, supplemented or replaced from time to time).

“Joint Venture” means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

“KEXIM-ABN Amro Facility” means the USD 144,000,000 loan facility advanced to Karlita Shipping Company Limited and Ramona Marine Company Limited under a facility agreement dated 29 January 2004 entered into among, amongst others, Karlita Shipping Company Limited and Ramona Marine Company Limited as borrowers and the financial institutions listed in Part 2 of Schedule 1 thereto as original lenders.

“Legal Opinion” means any legal opinion delivered to the Agent under the Amendment and Restatement Agreement.

“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 Act 1980 and the Foreign Limitation Periods Act 1984, 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;

(c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and

(d) any other matters which are set out as qualifications or reservations as to matters of law of general application in any Legal Opinion.

“Lender” means:

(a) any Original Lender; and

(b) any bank, financial institution, trust, fund or other entity which has become a Party as a “Lender” in accordance with clause 31 (Changes to the Lenders),

which in each case has not ceased to be a Party as such in accordance with the terms of this Agreement.
“Liabilities” means all present and future liabilities and obligations at any time of any Obligor to a Finance Party under the Finance Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

(a) any amendment, refinancing, novation, deferral or extension;

(b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;

(c) any claim for damages or restitution; and

(d) any claim as a result of any recovery by any Obligor of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.
“LIBOR” means, in relation to a Loan or any part of it or any Unpaid Sum:

(a) the applicable Screen Rate as of 11:00 a.m. on the relevant Quotation Day for the currency of that Loan for a period equal in length to the Interest Period of that Loan or relevant part of it or Unpaid Sum; or

(b) as otherwise determined pursuant to clause 10.1 (Unavailability of Screen Rate),

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

“Loan” means a Tranche 1 Loan or a Tranche 2 Loan.

“Long Term Charter” means any charter commitment in respect of a Ship which is capable of lasting more than 12 calendar months (including options), but excluding the charter commitment for that Ship details of which are provided in Schedule 2 (Ship information) or any Accession Letter.

“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 the Ship’s General Assignment or Deed of Covenant or in another form approved or required by the Majority Lenders.

“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 in Schedule 2 (Ship information) against the name of such Ship or the equivalent in any other currency.

“Majority Corporate Lenders” has the meaning given to that term in the Global Intercreditor Deed.

“Majority Lenders” means both the Majority Tranche 1 Lenders and the Majority Tranche 2 Lenders.

“Majority Tranche 1 Lenders” means a Lender or Lenders whose Tranche 1 Commitments aggregate more than 66 2/3 per cent. of the Total Tranche 1 Commitments.

“Majority Tranche 2 Lenders” means a Lender or Lenders whose Tranche 2 Commitments aggregate more than 66 2/3 per cent. of the Total Tranche 2 Commitments.

“Manager” means Danaos Shipping Company Limited.

“Manager Change of Control” means Dr John Coustas and the Plan Sponsor cease at any time collectively:

(a) to be the ultimate beneficial owner of at least 80 per cent of the outstanding capital stock of the Manager; or
to hold or be the ultimately beneficial owner of at least 80 per cent of the voting rights attaching to the outstanding capital stock of the Manager; or

to control (as contemplated under paragraph (A)(3) of the definition of control in clause 1.2 (Construction)) the Manager.

“Management Agreement” means the amended and restated Management Agreement dated as of the Effective Date between the Manager and the Parent, and which shall include each Shipmanagement Agreement.

“Management Agreement Deed of Undertaking” means the deed of undertaking in respect of the Management Agreement and the Amended Restrictive Covenant Agreement dated on or about the Effective Date.

“Manager’s Undertaking” means, in relation to a Ship, a first ranking (or, in the case of a Collateral Ship, second ranking) undertaking by any manager of the Ship to the Security Agent (or, in the case of a Collateral Ship or an Additional Ship, to the RL Security Agent) as amended and restated from time to time, including on the Effective Date, pursuant to clause 22.4 (Manager) pursuant to which the Manager will, amongst other things, (i) subordinate its rights under the Management Agreement to the rights of the Finance Parties under the Transaction Documents and (ii) assign its rights, title and interest in and to the benefit of the Insurances, if applicable.

“Margin” means 2.50 per cent per annum.

“Material Adverse Effect” means a material adverse effect on:

(a) the business, operations or condition (financial or otherwise) of the Group taken as a whole;

(b) the ability of the Obligors (taken as a whole) to perform their obligations under 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.

“Month” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in the calendar month in which that period is to end (if there is one) or on the immediately preceding Business Day (if there is not);

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

(c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.
“Mortgage” means, in relation to a Ship, a first ranking (or, in the case of a Collateral Ship, second ranking) mortgage of the Ship by the relevant Owner in favour of the Security Agent (or, in the case of a Collateral Ship or an Additional Ship, the RL Security Agent) as the same may be amended and/or supplemented and/or restated from time to time, including on the Effective Date.

“Mortgage Period” means, in relation to a Mortgaged Ship, the period from the date the Mortgage over that Ship is executed and registered or an amendment of such Mortgage is registered under the Amendment and Restatement Agreement until the date such Mortgage is released and discharged or, if earlier, its Total Loss Date.

“Mortgaged Ship” means, at any relevant time, any Ship which is subject to a Mortgage and/or whose Earnings, Insurances and Requisition Compensation are subject to a Security Interest under the Finance Documents.

“NED” means an independent (within the meaning of the NYSE listing rules applicable to US domestic issuers) disinterested non-executive director of the Parent.

“New Lender” has the meaning given to that term in clause 31 (Changes to the Lenders).

“New Owner” has the meaning given to that term in the definition of Permitted Ship Purchase.

“New Security Documents” means each of:

(a) the Note Security;
(b) the Excess Cash Loan Security;
(c) the Support Payment Security;
(d) any Charter Assignments executed on or about the Effective Date; and
(e) the Quiet Enjoyment Letter.

“New Vessel” has the meaning given to that term in the definition of Permitted Ship Purchase.

“Non-Cash Consideration” means consideration in a form other than cash.

“Non-Cash Recoveries” has the meaning given to it in Schedule 11 (Enforcement Principles).

“Note Security” means, in respect of any Zim/HMM Note, a first ranking assignment by the relevant Owner (or, in the case of a Collateral Owner, a second ranking assignment by that Collateral Owner) in favour of the Security Agent (or, in the case of a Collateral Owner, a second ranking assignment by the Collateral Owner in favour of the RL Security Agent) of its rights, title and interests in and to any Zim/HMM Note held by that Owner (as applicable) in the agreed form.

“Notifiable Debt Purchase Transaction” has the meaning given to that term in clause 46.10 (Disenfranchisement of Parent Affiliates).

“Obligors’ Agent” means the Parent, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to clause 2.3 (Obligors’ agent).
“Obligors” means:

(a) the Parent and the Borrower;

(b) any Guarantors;

(c) the Owners;

(d) the Shareholders; and

(e) the Manager.

“Observer Side Letter” means each side letter dated on or around the Effective Date under which the Parent grants The Royal Bank of Scotland plc the right to appoint an observer to the Parent’s board of directors.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of Treasury.

“Original Agency and Trust Agreement” means the agency and trust agreement dated 20 February 2007 between, among others, the Parent, the Agent, the Original Lender and the Security Agent in its capacity as the security trustee thereunder, as amended and/or restated from time to time.

“Original Financial Statements” means the audited consolidated financial statements of the Group for its Financial Year ended 31 December 2017.

“Original Jurisdiction” means, in relation to an Original Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the Effective Date or, in the case of any other Obligor, as at the date on which that Obligor becomes an Obligor.

“Original Obligor” means:

(a) the Parent and the Borrower;

(b) the Owners;

(c) the Shareholders; and

(d) the Manager.

“Out-of-Court Term Sheet” means the restructuring term sheet attached as Exhibit D to the Restructuring Support Agreement.

“Owner” means, in relation to a Ship, the person specified against the name of that Ship in Schedule 2 (Ship information) or in the relevant Accession Letter and, in the case of a Collateral Ship, includes its Collateral Owner.

“Owner Change of Control” means:

(a) any Owner ceases at any time to be a wholly-owned direct Subsidiary of the Shareholder in respect of which it is a Subsidiary as at the Effective Date; or

(b) any Shareholder ceases at any time to be a wholly-owned direct subsidiary of the Parent.
“Parent Affiliate” means the Parent, each of its Affiliates, any member of the Coustas Family or any funds controlled by the Coustas Family, any trust of which the Parent or any of its Affiliates or any member of the Coustas Family or any funds controlled by the Coustas Family is a trustee, any partnership of which the Parent or any of its Affiliates or any member of the Coustas Family or any funds controlled by the Coustas Family is a partner and any trust, fund or other entity which is managed by, or is under the control of, or is accustomed to follow the directions of or guidance from the Parent or any of its Affiliates or any member of the Coustas Family or any funds controlled by the Coustas Family.

“Parent Change of Control” occurs if at any time:

(a) the Coustas Family (and/or any funds controlled by the Coustas Family) do not ultimately beneficially own at least 15 per cent and one share of the issued voting share capital of the Parent; or

(b) the Coustas Family ceases to have the power to cast at a general meeting of the Parent at least 15 per cent and one share of the maximum number of votes of the issued voting share capital that might be cast at a general meeting of the Parent; or

(c) the Plan Sponsor ceases to beneficially hold all of the economic interest in the unsecured, subordinated loan made to the Parent under the Subordinated Loan Agreement; or

(d) Dr John Coustas ceases to be both the Chief Executive Officer of the Parent and a director of the Parent, unless this is due to his death or disability and, in such case, a replacement person is appointed by the Parent’s board of directors, following consultation with the Lenders, in accordance with the applicable corporate policy of the Parent within 60 days of such cessation and such replacement has given a legally binding acceptance of an offer of employment (and, if appropriate, has resigned from his or her existing employment within that time period); or

(e) any group of the existing members of the board of directors of the Parent as of the Effective Date and any directors appointed following nomination by the existing board of directors as of the Effective Date (or any directors nominated by the existing board of directors as of the Effective Date) does not comprise a majority of the board of directors of the Parent; or

(f) any one or more persons who are not members of the Coustas Family (without taking into account any Participating Lender) acting in concert legally or beneficially own or control a greater number of shares of the Parent than the Coustas Family provided that no Parent Change of Control shall be deemed to occur under this paragraph (f) if it occurs as a direct result of the sale of Danaos Shares by any of the Participating Lenders; or

(g) any one or more persons (who are not members of the Coustas Family) acting in concert controls the Parent.

For the purposes of this definition, “acting in concert” means, a group of persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Parent by any of them, either directly or indirectly, to obtain or consolidate control of the Parent.
“Participating Lender” means each of the banks or financial institutions party to the Restructuring Support Agreement (excluding, for the avoidance of doubt, Group Members, the Manager and the Plan Sponsor) together with any of its or their Affiliates and Related Funds.

“Participating Member State” means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Party” means a party to this Agreement.

“Payment” means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).

“Permitted Group Level Acquisition” means:

(a) an acquisition by the Parent in the ordinary course of trading (not being new businesses or vessels unless a Permitted Ship Purchase);

(b) a Permitted Ship Purchase;

(c) in connection with a Permitted Ship Purchase:

(i) the acquisition of 100 per cent of a newly incorporated special purpose Subsidiary to act as either a vessel-owning company or a Holding Company of such a vessel-owning Subsidiary; or

(ii) the acquisition of 100 per cent of one or more special purpose entities owning vessels or Holding Companies of such a vessel-owning entity; or

(d) the acquisition of Cash and Cash Equivalents.

“Permitted Group Level Distribution” means:

(a) any Distribution in cash by the Parent (but no other Group Member), provided that:

(i) the Parent has received net cash proceeds from issuances of common stock in the Parent (after all underwriting and other discounts, commissions or deductions and all other costs and expenses of such transaction, including professional and other fees and expenses and any other transaction costs of any kind related thereto in connection with such issuance of common stock) since the Effective Date in an aggregate amount in excess of $50,000,000 (excluding, for the avoidance of doubt, any proceeds received in connection with the Capital Contribution Agreement or the Subordinated Loan Agreement);

(ii) the Distribution is not made before the First Repayment Date;

(iii) no Default is continuing (including, in the case of a Corporate Waiver Event of Default, where such Corporate Waiver Event of Default would be continuing but for it having been waived by the Majority Corporate Lenders) or would occur immediately after the making of the Distribution;
the board of directors of the Parent has concluded, in compliance with its fiduciary duties and subject to all applicable laws, that it is appropriate for the Parent to declare and make such a Distribution; and

in the case of a repurchase of any of the Parent’s share capital, such repurchase is effected by tender offer open to all shareholders and all NEDs have consented to such repurchase on the basis of reasonable valuation evidence received from a major, reputable, international accounting or financial advisory firm or international investment bank; and

the payment of management fees under and in accordance with the Management Agreement.

“Permitted Group Level Financial Indebtedness” means:

(a) Financial Indebtedness incurred under the Amended RA Facilities or the Amended and Restated Sinosure Facility (in each case, in the form of those documents as at the Effective Date) and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed, the Finance Documents and the Hedging Contracts for Hedging Transactions entered into pursuant to clause 29.2 (Hedging);

(b) Financial Indebtedness owed by the Parent to a Group Member and vice versa under Excess Cash Loans or Permitted Subordinated Loans which are governed by the terms of the Global Intercreditor Deed;

(c) Financial Indebtedness which is unsecured and has been approved by the Majority Lenders; and

(d) Financial Indebtedness constituting a Permitted Refinancing or incurred in connection with a Permitted Ship Purchase or a Permitted SLB Transaction.

“Permitted Group Level Loans Out” means:

(a) loans or credits to an Obligor or any other Existing Fleet Group Member in respect of Support Payments or Permitted Subordinated Loans that are Permitted Payments; and

(b) loans or credits to any Obligor or any other Group Member (other than an Existing Fleet Group Member or the Manager), provided that such loans or credit would not otherwise be prohibited under the terms of the Global Intercreditor Deed.

“Permitted Group Level Security Interest” means any Security Interest which is:

(a) granted pursuant to the Finance Documents or pursuant to any Amended RA Facilities or the Amended and Restated Sinosure Facility (in each case, in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed) or any Permitted Refinancing in respect of any such facility and (in each case) permitted by the terms of the Intercreditor Deeds;

(b) is approved by the Majority Lenders and not restricted by the terms of the Global Intercreditor Deed; or
a Security Interest securing Financial Indebtedness incurred in connection with a Permitted Ship Purchase and is only granted over the relevant New Vessel (and/or its New Owner, other assets of the New Owner and/or over the shares of the New Owner or any Holding Company of the New Owner (other than the Parent)) acquired as part of such Permitted Ship Purchase and any earnings account in connection with such vessel, but excluding, for the avoidance of doubt, any Security Interest over any assets of, shares of or claims relating to, an Existing Fleet Group Member (other than the Parent), any Excess Cash Loans or any Earnings Account.

“Permitted Maritime Liens” means, in relation to any Mortgaged Ship:

(a) any ship repairer’s or outfitter’s possessory lien in respect of the Ship for an amount not exceeding the Major Casualty Amount;

(b) any lien on the Ship for master’s, officer’s or crew’s wages outstanding or master’s disbursements in the ordinary course of its trading provided that the amounts giving rise to such liens are not more than 30 days overdue;

(c) any lien on the Ship for salvage or general average; and

(d) any other lien on the Ship arising by operation of law for claims incurred in the ordinary course of the operation, repair or maintenance of the Ship and which are outstanding for not longer than 30 days.

“Permitted Payment” means any payment under an Excess Cash Loan or a Permitted Subordinated Loan or any Support Payment, or any other payment which is expressly permitted by the Global Intercreditor Deed to be made.

“Permitted Refinancing” means any Financial Indebtedness (“New Debt”) incurred after the Effective Date by an Obligor or any other Existing Fleet Group Member secured by a Security Interest over a Fleet Vessel, provided that:

(a) If such New Debt refinances an Amended RA Facility or the Amended and Restated Sinusure Facility as applicable secured by the first priority security over such Fleet Vessel (the “Existing Debt”), the proceeds of such New Debt are applied in such manner so that, and upon the advance of such New Debt the Parent ensures that, all amounts outstanding under the Existing Debt are prepaid in full in accordance with the terms of such Existing Debt, unless:

(i) the lenders in respect of the Existing Debt agree otherwise pursuant to the provisions of the same;

(ii) the Obligors would be in compliance with the Consolidated Net Leverage financial covenant under (and as defined in) clause 20 (Financial covenants) immediately prior to such incurrence of Financial Indebtedness (calculated on a pro forma basis to reflect the incurrence of the Financial Indebtedness); and

(iii) no change is made to the Security Interests of such lenders under such Existing Debt, or to the priority of payments under it, without the consent of all of the lenders thereunder;

(b) if such New Debt is of the type described in paragraph (a) above:
(i) any surplus proceeds of such New Debt following the prepayment provided for in paragraph (a) above (after all costs and expenses of such Permitted Refinancing, including professional and other fees and expenses and any other transaction costs of any kind related thereto) are applied to prepay the Restructured Facilities (on a pro rata basis) in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed;

(ii) the New Debt does not provide for an interest rate that exceeds the interest payable on the Existing Debt which it refinances (for these purposes, treating upfront fees as interest by calculating the percentage of principal refinanced that such fees represent and dividing that percentage by the number of years’ duration of the refinancing loan); and

(iii) the New Debt does not have a shorter weighted average life to maturity than, and the stated maturity of such New Debt does not fall earlier than the stated maturity of, the Existing Debt which it refinances;

(c) if such New Debt constitutes additional or increased Financial Indebtedness advanced under the same facility constituting, and consolidated into, the Existing Debt, it is advanced by the same lenders as the Existing Debt and:

(i) any proceeds of such New Debt are applied to prepay the Restructured Facilities (on a pro rata basis) in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed;

(ii) the Obligors would be in compliance with the Consolidated Net Leverage financial covenant under (and as defined in) clause 20 (Financial covenants) immediately prior to such incurrence of Financial Indebtedness (calculated on a pro forma basis to reflect the incurrence of the Financial Indebtedness);

(iii) the New Debt does not provide for an interest rate that exceeds the interest payable on the Existing Debt to which it is added or which it increases (for these purposes, treating upfront fees as interest by calculating the percentage of the additional or increased principal such fees represent and dividing that percentage by the number of years’ duration of the new or additional financing);

(iv) the New Debt does not have a shorter weighted average life to maturity than, and the stated maturity of such New Debt does not fall earlier than the stated maturity of, the Existing Debt to which it is added or which it increases; and

(d) in any event, the nature and scope of any property of Group Members that is subject to any Security Interest securing the New Debt does not exceed the same in respect of the Existing Debt which it refinances or to which it is added or which it increases.

“Permitted Refinancing Danaos SPV Loan” has the meaning given to such term in the Global Intercreditor Deed.

“Permitted Reflagging” means, in relation to a Fleet Vessel owned directly by an Existing Fleet Group Member (other than an Obligor), the change of flag of such Fleet Vessel:

(a) with the prior written approval or at the request of the requisite number of lenders of the Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable), where such approval is required under any such facility; and

(b) which is secured by a first ranking mortgage over such Fleet Vessel, in each case pursuant to the provisions of that Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable), which is accompanied by a discharge of certain of the first ranking Security Interests in favour of the lender or lenders of that facility (and/or their security trustee), including the first ranking ship mortgage over such Fleet Vessel, and their replacement by other first ranking Security Interests in favour of the same lender or lenders of that facility (and/or their security trustee), including a replacement first ranking ship mortgage over such Fleet Vessel, provided that, in the case of such replacement security, the new security provides the said lender or lenders (and/or the security trustee), in their opinion, with substantially the same rights as the discharged security; and

(c) which does not result in any Finance Party having any liability in respect of Tax in any Flag State or having or being deemed to have a place of business in any Flag State or any Relevant Jurisdiction of any Obligor.

“Permitted Ship Purchase” means the purchase, chartering-in or other acquisition of a new build vessel or a second hand vessel (a “New Vessel”) (excluding any Fleet Vessel owned by an Existing Fleet Group Member) by a wholly-owned Subsidiary of the Parent (a “New Owner”) (and excluding any Existing Fleet Group Member), provided that:

(a) the Obligors would be in compliance with the financial covenants under clause 20 (Financial covenants) immediately prior to such purchase, chartering-in or other acquisition (calculated on a pro forma basis to reflect (i) the incurrence of any Financial Indebtedness in connection with such purchase, charter or other acquisition and (ii) the net book value (in the case where the New Vessel is a vessel under construction) or (charter free) market value (in the case where the New Vessel is a vessel that is operational and trading or capable of trading) based on valuations obtained in respect of the New Vessels in accordance with clause 25 (Valuations) and prepared no earlier than seven (7) days prior to the completion of such transaction, but in any event without any pro forma adjustment to Consolidated EBITDA);

(b) the terms of any Financial Indebtedness incurred in connection with such purchase, charter-in or other acquisition do not include non-market restrictions on Distributions or loans made by the New Owner or its Subsidiaries to the Parent;

(c) any Financial Indebtedness incurred in connection with such purchase, charter-in or acquisition does not decrease the applicable Minimum
Corporate Cover (Charter Free) or Minimum Corporate Cover (Charter Attached) ratio calculated in accordance with clause 20.3 (Minimum Corporate Cover (Charter Free)) and clause 20.4 (Minimum Corporate Cover (Charter Attached));

(d) such New Vessel continues to be owned or chartered-in by the New Owner after such purchase, charter-in or acquisition; and

(e) no Event of Default is continuing or would result from the purchase.
“Permitted SLB Transaction” means a sale or other disposal of a Fleet Vessel by an Existing Fleet Group Member (other than an Obligor) to a person who is not a Parent Affiliate, and the concurrent chartering-in or lease-back of the same Fleet Vessel by the same or another Group Member (who is not the Parent and is a wholly-owned Subsidiary of the Parent), provided that:

(a) in respect of a Fleet Vessel owned by an Existing Fleet Group Member other than Pooled Facilities Joint Collateral Ships, the following conditions are met:

(i) the Disposal Proceeds are applied in prepayment in such manner so that, and upon payment of such Disposal Proceeds the Parent ensures that, all amounts outstanding under the Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) secured by the first priority mortgage over such Fleet Vessel are prepaid in full in accordance with the terms of such Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable), unless:

(A) the lenders of the said Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) agree otherwise pursuant to the provisions of the same; and

(B) the Obligors would be in compliance with the financial covenants under clause 20 (Financial covenants) immediately prior to such transaction (calculated on a pro forma basis to reflect the said transaction but without any pro forma adjustment to Consolidated EBITDA); and

(ii) any surplus Disposal Proceeds of such transaction following the prepayment provided for in paragraph (i) above are applied to prepay the Restructured Facilities (on a pro rata basis) in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed;

(iii) no default or event of default (howsoever described, and including any Default or Event of Default) is continuing at the relevant time under any of the Amended RA Facilities nor will result from the entry into the sale and leaseback transaction;

(iv) such cost to the relevant Group Member of the said transaction (when comparing the interest portion of any lease or other charter payments thereunder, to the interest cost of the Financial Indebtedness that is being prepaid by the relevant Disposal Proceeds and which was previously secured by the first ranking mortgage over the relevant Fleet Vessel) is not higher than the interest payable under the said Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) which is being prepaid (for these purposes, treating upfront fees and related disposal and leaseback upfront costs as interest by calculating the percentage of principal prepaid such fees represent and dividing that percentage by the number of years’ duration of the new charter-in);

(v) the firm tenor of such charter-in or leaseback contract does not have a shorter weighted average life to re-delivery of the relevant Fleet Vessel thereunder than the said Amended RA Facility or the Amended and Restated Sinosure Facility (as applicable) which is being prepaid by the relevant Disposal Proceeds; and
(vi) each of:

(A) first ranking Security Interest over any charter, Earnings, Insurances and Requisition Compensation in respect of the relevant Fleet Vessel by way of security;

(B) first ranking Security Interest over both the chartering-in, leaseback or similar contract conferring on the Group Member the right to use the Fleet Vessel (including Security Interest over any buy-out option); and

(C) first ranking Security Interest over the shares of the Group Member chartering-in or leasing-back the Fleet Vessel,

(in each case) is, at the cost of the Parent, provided to the Restructuring Lenders in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed on a first-ranking basis, provided that if first-ranking Security Interest over any charter, Earnings, Insurances or Requisition Compensation in respect of the relevant Fleet Vessel or the shares of that Group Member chartering-in or leasing-back the Fleet Vessel is required to be granted to the lessor counterparty under such chartering-in or sale and leaseback arrangement, then the relevant Security Interest provided to Restructuring Lenders may be on a second-ranking basis; or

(b) in respect of a Pooled Facilities Joint Collateral Ship, the following conditions are met:

(i) the Parent has provided, and the chief financial officer of the Parent has presented, to all the RA Lenders such materials describing in reasonable detail:

(A) the key terms of the proposed sale and leaseback transaction,

(B) the economic benefit of such a transaction as compared to other alternatives including the sale of the relevant Pooled Facilities Joint Collateral Ship; and

(C) a confirmation that the aggregate of

(1) the costs payable pursuant to the relevant charter-in or leaseback contract; and

(2) the operating expenses, capital expenditure, drydocking and maintenance costs in respect of that Pooled Facilities Joint Collateral Ship,

are less than the charter hire payable under the charter or contract of employment relating to that Pooled Facilities Joint Collateral Ship;

(ii) a confirmation, in the form of a certificate from an officer of the Parent, that the sale and leaseback transaction will be conducted on standard arm’s length terms has been provided to all RA Lenders;
(iii) no Default or Event of Default is continuing at the relevant time under any of the Amended RA Facilities or the Amended and Restated Sinosure Facility will result from the entry into the proposed sale and leaseback transaction;

(iv) the Disposal Proceeds from such transaction are applied to prepay the Pooled Facilities in accordance with the Pooled Facilities Intercreditor Deed;

(v) any surplus Disposal Proceeds of such transaction following the prepayment provided for in paragraph (iv) above are applied to prepay the Restructured Facilities (on a pro rata basis) in compliance with the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed; and

(vi) the firm tenor of the charter-in or leaseback contract does not have a shorter weighted average life to re-delivery of the relevant Pooled Facilities Joint Collateral Ship than any of the Pooled Facilities.

“Permitted Subordinated Loan” means any loan made by any Group Member to another Group Member that complies with the terms of clause 4.9 (Subordination) of the Global Intercreditor Deed.

“Plan Sponsor” means Danaos Investment Limited as trustee of the 883 Trust.

“Plan Sponsor Capital Contribution” means the capital contribution by the Plan Sponsor to the Parent in accordance with the terms of the Capital Contribution Agreement.

“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.

“Pooled Facilities Intercreditor Deed” has the meaning given to such term in the Global Intercreditor Deed.

“Pooled Facilities Joint Collateral Ship” means m.v. Hyundai Respect and m.v. Hyundai Honour.

“Prior Claims” means in relation to any Recoveries, any claims, liabilities or debts owed or incurred to any persons which take priority in respect of such Recoveries over the Security Interests created by the Security Documents by operation of law.

“Prohibited Person” means:

(a) any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed;

(b) any person, entity or any other party located, domiciled, resident or incorporated in, or the government of, any Restricted Country; and/or

(c) any person, entity or any other party controlling, owned, or controlled by, or under the common control of or affiliated with, any person, entity or any other party as defined in paragraphs (a) or (b) above.

“Quarter Date” means each of 31 March, 30 June, 30 September and 31 December.
“Quasi-Security” has the meaning given to that term in clause 28.2 (General negative pledge).

“Quiet Enjoyment Letter” means, in relation to the M.V.s “BRIDGE”, “EXPRESS ARGENTINA”, “EXPRESS SPAIN” and “EXPRESS BERLIN” or any other Ship with a Replacement Charter requiring the relevant Owner procure the issuance of a mortgagee’s letter of quiet enjoyment to the relevant charterer, the letter by the Security Agent as first mortgagee (or, in the case of a Collateral Ship, by the RL Security Agent as second mortgagee) addressed to and acknowledged by the Charterer of that Ship, in the agreed form.

“Quotation Day” means, in relation to any period for which an interest rate is to be determined, two Business Days (only in London) before the first day of that period unless market practice in the Interbank Market differs, in which case the Quotation Day shall be determined by the Agent in accordance with market practice in the Interbank Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days).

“RA Lender” has the meaning given to that term in clause 20.2 (Financial definitions).

“RBS Facility” means the Tranche 1 Facility and the Tranche 2 Facility together.

“Receiver” means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property appointed under any Security Document.

“Recoveries” has the meaning given to it in clause 36.1 (Order of Application).

“Registration Rights Agreement” means the New York law governed registration rights agreement to be entered into between the Borrower, the Equitizing Lenders and the Pool B Equity Allocation Lenders (as defined in the Out-of-Court Term Sheet) and Danaos Investment Limited as plan sponsor dated the Effective Date.

“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.

“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 Jurisdiction” means, in relation to an Obligor:

(a) its Original Jurisdiction;
(b) any jurisdiction where any Charged Property owned by it is situated;
(c) any jurisdiction where it conducts its business; and
(d) any jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

“Relevant Period” has the meaning given to that term in clause 20.2 (Financial definitions).
“Relevant Proceeds” has the meaning given to the term “Existing Fleet Sale/Total Loss Proceeds” in the Global Intercreditor Deed.

“Repayment Date” means:

(a) the First Repayment Date;

(b) each Instalment Date thereafter up to but excluding the Tranche 2 Final Repayment Date; and

(c) the Tranche 2 Final Repayment Date.

“Repayment Instalment” has the meaning given to that term in 5.2 (Scheduled repayment of Tranche 1 Facility).

“Repeating Representations” means each of the representations set out in clauses 18.1 (Status) to clause 18.11 (Ownership of Charged Property), clause 18.12 (No insolvency), clause 18.17 (No Default), clause 18.21 (Anti-corruption law and Sanctions), clause 18.22 (No money laundering), clause 18.25 (Good title to assets) and clause 18.35 (No immunity).

“Replacement Charter” means, in relation to a Ship, a replacement charter commitment in relation to that Ship referred to as such in paragraph (b) of clause 30.20 (Breach of Charter).

“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.

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

“Restricted Country” means Cuba, Iran, North Korea, Syria, the region of Crimea and any other country or jurisdiction notified to the Borrower in writing by the Agent from time to time.

“Restructured Facilities” means the HSH Facility, the Facilities and the Citibank Pool C Refinancing Facility.

“Restructuring” means the consensual restructuring of the Group in accordance with the terms of the Restructuring Support Agreement.

“Restructuring Support Agreement” means the amended and restated restructuring support agreement dated 19 June 2018 entered into between, amongst others, the Parent, the Guarantors and the Manager.

“Ring Fencing Compliance Certificate” means a certificate substantially in the form set out in Part 2 of Schedule 5 (Form of Compliance Certificate and Ring Fencing Compliance Certificate) or otherwise approved.

“RL Security Agent” has the meaning given to that term in the Intra-Restructuring Lenders Intercreditor Deed.
“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, or administered by, the United Kingdom (including HM Treasury and the Foreign and Commonwealth Office of the United Kingdom), the Council of the European Union, the United Nations or its Security Council, the United States of America (including OFAC), the Swiss State Secretariat for Economic Affairs, the Swiss Directorate of International Law, the Hong Kong Monetary Authority or the Monetary Authority of Singapore whether or not any Obligor, any other Group Member or any Affiliate is legally bound to comply with the foregoing; or

(b) otherwise imposed by any law or regulation by which any Obligor, any other Group Member or any Affiliate of any of them is bound or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of any Obligor, any other Group Member or any Affiliate of any of them.

“Scrapping Proceeds” means, in respect of any Ship that has been disposed for scrapping, the Disposal Proceeds received by any Group Member for such disposal.

“Screen Rate” means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for dollars and the relevant period displayed (before any correction, recalculation or republication by the administrator) 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 and the Lenders.

“Secured Obligations” means all indebtedness and obligations (whether present or future) at any time due, owing or incurred by any Obligor to any Finance Party (whether for its own account or as agent or trustee for itself and/or other Finance Parties or in any other capacity whatsoever and whether owed jointly or severally) under, or related to, the Finance Documents (as the same may be assigned, transferred or novated from time to time).

“Security Agent” includes any person as may be appointed as such under the Finance Documents and includes any separate trustee or co-trustee appointed under clause 34.6 (Additional trustees).

“Security Agent’s Spot Rate of Exchange” means the rate of exchange to purchase one currency with another currency, calculated from such sources as the Security Agent may reasonably select.

“Security Documents” means:

(a) the Existing Security Documents; and

(b) the New Security Documents; and

(c) 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 Period” means the period commencing on the date this Agreement was first entered into (being 20 February 2007) and ending on the Final Discharge Date.

“Security Property” means:

(a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Finance Parties pursuant to any Agency and Trust Deed and all proceeds of that Transaction Security;

(b) all obligations expressed to be undertaken by any Obligor to pay amounts in respect of the Secured Obligations to the Security Agent as trustee for the Finance Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor in favour of the Security Agent as trustee for the Finance Parties; and

(c) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as trustee on trust for the Finance Parties.

“Shareholder” means, in relation to each Owner, the person listed as a shareholder in Schedule 1 (The original parties) or in the relevant Accession Letter and, in the case of a Collateral Owner, includes its Collateral Owner Shareholder.

“Shareholders Agreement” means the shareholders agreement dated as of the Effective Date between the Borrower, Danaos Investment Limited as plan sponsor, the Equitizing Lenders (as defined in the Out-of-Court Term Sheet) and the Pool B Equity Allocation Lenders (as defined in the Out-of-Court Term Sheet) that wish to be a party thereto.

“Share Security” means, in relation to each Owner, the document constituting a first ranking (or, in the case of a Collateral Owner, second ranking) Security Interest by the relevant Shareholder in favour of the Security Agent (or, in the case of a Collateral Owner or an Owner of an Additional Ship, the RL Security Agent) in respect of all of the shares in such Owner as the same may be amended and restated from time to time, including on the Effective Date.

“Ship Representations” means each of the representations and warranties set out in clauses 18.36 (Ship status) and 18.37 (Ship’s employment).

“Shipmanagement Agreement” means each Shipmanagement Agreement (as defined in the Management Agreement) in respect of a Ship to which an Owner is a party.

“Ships” means each of the ships described in Schedule 2 (Ship information) (including the Collateral Ships) or in an Accession Letter and “Ship” means any of them.

“Simple Majority Lenders” means the Lenders whose Commitments aggregate at least 50 per cent of the Total Commitments.

“Simple Majority Tranche 1 Lenders” means the Lenders whose Tranche 1 Commitments aggregate at least 50 per cent of the total Tranche 1 Commitments.
“Spill” means any actual or threatened spill, release or discharge of a Pollutant into the environment.

“Spot Rate of Exchange” of the Agent or the Security Agent (as applicable) means the Agent’s or Security Agent’s spot rate of exchange or, if the Agent or Security Agent (as applicable) does not have an available spot rate of exchange, any other publicly available spot rate of exchange selected by the Agent or Security Agent (as applicable and acting reasonably), for the purchase of the relevant currency with dollars in the London foreign exchange market at or about 11:00 a.m. on a particular day.

“Subordinated Loan Agreement” means the loan agreement governing the Post-Closing Minimum Cash Condition Backstop (as defined in the Out-of-Court Term Sheet) dated as of the Effective Date.

“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 beneficially entitled to receive more than 50 per cent,

and a person is a “wholly-owned Subsidiary” of another person if it has no members except that other person and that other person’s wholly-owned Subsidiaries or persons acting on behalf of that other person or its wholly-owned Subsidiaries.

“Support Payment” has the meaning given to that term in the Global Intercreditor Deed.

“Support Payment Security” means, in relation to amounts advanced by the Parent to any Owner (other than a Collateral Owner) under an Excess Cash Loan, a deed or other instrument by the Parent in favour of the Security Agent (or, in the case of a Collateral Owner or an Owner of an Additional Ship, the RL Security Agent) in an agreed form conferring a Security Interest over amounts owing to the Parent under any Excess Cash Loan.

“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 Available Cash” has the meaning given to that term in the Global Intercreditor Deed.

“Total Commitments” means the aggregate of the Total Tranche 1 Commitments and the Total Tranche 2 Commitments, being $475,541,000 at the Effective Date.

“Total Loss” means, in relation to a Ship:

(a) its actual, constructive, compromised or arranged total loss; or

(b) its requisition for title, confiscation or other compulsory acquisition by a government entity; or

(c) the hijacking, theft, condemnation, capture (whether by piracy or otherwise), seizure, arrest, detention or confiscation of such Ship (other than where the same amounts to the compulsory acquisition of such Ship covered by limb (b) above) unless such Ship be released and restored to the relevant Owner from such hijacking, theft, condemnation,
capture (whether by piracy or otherwise), seizure, arrest, detention or confiscation within 60 days thereof in the case of hijacking, theft or capture (whether by piracy or otherwise) or within 30 days thereof in all other cases.

"Total Loss Date" means, in relation to the Total Loss of a Ship:

(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 (provided a claim for total loss is admitted by the insurers); or

(ii) if the insurers do not admit such a claim, the date upon which either a total loss is subsequently admitted by the insurers or a total loss is later determined by a competent court of law or arbitration tribunal 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, theft, condemnation, capture, seizure, arrest or detention, the date 60 days after the date upon which it happened in the case of hijacking, theft or capture (whether by piracy or otherwise) or 30 days after the date upon which it happened in all other cases.

"Total Loss Repayment Date" means, where a Mortgaged Ship has become a Total Loss, 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.

"Total Tranche 1 Commitments" means the aggregate of the Tranche 1 Commitments.

"Total Tranche 2 Commitments" means the aggregate of the Tranche 2 Commitments.

"Tranche 1 Acceleration Event" means the taking of Enforcement Action by the Majority Tranche 1 Lenders.

"Tranche 1 Commitment" means:

(a) in relation to an Original Lender, the amount set out opposite its name under the heading “Tranche 1 Commitments” in Schedule 1 (The original parties) and the amount of any other Tranche 1 Commitment it acquires under this Agreement; and

(b) in relation to any other Lender, the amount of any Tranche 1 Commitment it acquires under this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.

"Tranche 1 Discharge Date" means the date on which all outstandings under the Tranche 1 Facility have been repaid in full, all of the Tranche 1 Commitments have been reduced to zero, and all other amounts outstanding under the Finance Documents in respect of the Tranche 1 Facility have been discharged in full, each to the satisfaction of the Agent.

"Tranche 1 Facility" means the term loan facility made available under this Agreement as described in paragraph (a) of clause 2.1 (The Facilities).

"Tranche 1 Final Repayment Date" means, subject to clause 40.8 (Business Days), 31 December 2023.

"Tranche 1 Loan" means a loan made under the Tranche 1 Facility or the principal amount outstanding for the time being of that Loan.

"Tranche 2 Cash-Pay Interest" has the meaning given to that term in clause 8.2 (Calculation of interest for the Tranche 2 Loan).

"Tranche 2 Discharge Date" means the date on which all outstandings under the Tranche 2 Facility have been repaid in full, all of the Tranche 2 Commitments have been reduced to zero, and all other amounts outstanding under the Finance Documents in respect of the Tranche 2 Facility have been discharged in full each to the satisfaction of the Agent.

"Tranche 2 Commitment" means:

(a) in relation to an Original Lender, the amount set out opposite its name under the heading “Tranche 2 Commitments” in Schedule 1 (The original parties) and the amount of any other Tranche 2 Commitment it acquires under this Agreement; and

(b) in relation to any other Lender, the amount of any Tranche 2 Commitment it acquires under this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.
“Tranche 2 Discharge Date” means the date on which all outstandings under the Tranche 2 Facility have been repaid in full and all of the Tranche 2 Commitments have been reduced to zero, each to the satisfaction of the Agent.

“Tranche 2 Facility” means the term loan facility made available under this Agreement as described in paragraph (b) of clause 2.1 (The Facilities).

“Tranche 2 Final Repayment Date” means, subject to clause 40.8 (Business Days), 30 June 2024.

“Tranche 2 PIK Interest” has the meaning given to that term in clause 8.2 (Calculation of interest for the Tranche 2 Loan).

“Tranche 2 Loan” means a loan made under the Tranche 2 Facility or the principal amount outstanding for the time being of that Loan.

“Tranche 2 Target Amount” means, in respect of each Quarter Date, the amount set out in Schedule 9 (Tranche 2 Target Amount).
“Transaction Document” means:
(a) each of the Finance Documents;
(b) each Charter Document;
(c) each Amended RA Facility;
(d) the Pooled Facilities Intercreditor Deed;
(e) the Amended and Restated Sinosure Facility;
(f) each Equity Document;
(g) the Management Agreement;
(h) the Restrictive Covenant Agreement;
(i) the CEO Employment Agreement;
(j) the Subordinated Loan Agreement;
(k) the Implementation Deed; and
(l) Management Agreement Deed of Undertaking.

“Transaction Security” means the Security Interests created or evidenced or expressed to be created or evidenced under or pursuant to the Security Documents.

“Transfer Certificate” means a certificate substantially in the form set out in Part 2 of Schedule 4 (Form of Assignment Agreement and Transfer Certificate) or any other form agreed between the Agent and the Borrower provided that if that other form does not contain the undertaking set out in the form set out in Part 2 of Schedule 4 (Form of Assignment Agreement and Transfer Certificate) it shall not be a Creditor Accession Undertaking as defined in, and for the purposes of, the Global Intercreditor Deed.

“Transfer Date” means, in relation to an assignment pursuant to an Assignment Agreement or a transfer pursuant to a Transfer Certificate, the later of:
(a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
(b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

“Treasury Transaction” means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

“Unpaid Sum” means any sum due and payable but unpaid by an Obligor under the Finance Documents.

“US” means the United States of America.
“US GAAP” means current generally accepted accounting principles in the United States of America from time to time.

“US Tax Obligor” means:

(a) a Borrower which is resident for tax purposes in the US; or

(b) an Obligor some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

“Utilisation” means the making of a Loan.

“VAT” means:

(a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

(b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“Write-down and Conversion Powers” means:

(a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and

(b) in relation to any other applicable Bail-In Legislation:

(i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under that Bail-In Legislation.

“Zim/HMM Note” means any note issued by either of Zim Integrated Shipping Services Limited or any of its Subsidiaries, or Hyundai Merchant Marine or any of its Subsidiaries (together “Zim/HMM”) and held by an Obligor, details of which notes are set out in Schedule 6 (Zim/HMM Notes) or in an Accession Letter.

1.2 Construction

(a) Unless a contrary indication appears, a reference in any of the Finance Documents to:

(i) “Sections”, “clauses”, “Schedules” and “paragraphs” are to be construed as references to the Sections and clauses of, the Schedules to, or the paragraph of
the relevant clause of or Schedule to, the relevant Finance Document and references to a Finance Document include its Schedules;

(ii) a “Finance Document” or a “Transaction Document” or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as it may from time to time be amended, supplemented, restated, novated or replaced, however fundamentally;

(iii) words importing the plural shall include the singular and vice versa;

(iv) a time of day are to London time;

(v) any person (including, without limitation, the “Agent”, any “Finance Party”, any “Lender”, any “Obligor”, any “Party” and the “Security Agent”) includes its successors in title, permitted assignees or transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;

(vi) the “knowledge”, “awareness” and/or “belief” (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;

(vii) a document in “agreed form” means:

(A) where a Finance Document has already been executed by all of the relevant parties, such Finance Document in its executed form;

(B) prior to the execution of a Finance Document, the form of such Finance Document separately agreed in writing between the Agent and the Borrower as the form in which that Finance Document is to be executed or another form approved at the request of the Borrower;

(viii) “approved by the Majority Lenders” or “approved by the Lenders” means approved in writing by the Agent acting on the instructions of both the Majority Tranche 1 Lenders and the Majority Tranche 2 Lenders or, as the case may be, all of the Lenders (on (and subject to satisfaction of) such conditions as they may respectively impose in their absolute discretion) and otherwise “approved” means approved in writing by the Agent (acting on the instructions of both the Majority Tranche 1 Lenders and the Majority Tranche 2 Lenders, on (and subject to satisfaction of) such conditions as they may impose in their absolute discretion) and “approval” and “approve” shall be construed accordingly;

(ix) “approved by the Majority Tranche 1 Lenders” or “approved by the Majority Tranche 2 Lenders” means approved in writing by the Agent acting on the instructions of the Majority Tranche 1 Lenders or (as relevant) the Majority Tranche 2 Lenders (on (and subject to satisfaction of) such conditions as such Lenders may respectively impose in their absolute discretion) and otherwise “approved” means approved in writing by the Agent (acting on the instructions of the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders (as relevant), on (and subject to satisfaction of) such conditions as such
Lenders may impose in their absolute discretion and “approval” and “approve” shall be construed accordingly;

(x) "assets" includes present and future properties, revenues and rights of every description;

(xi) "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;

(xii) "control" of an entity means:

(A) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

(1) cast, or control the casting of, more than 50 per cent of the maximum number of votes that might be cast at a general meeting of that entity; or

(2) appoint or remove all, or the majority, of the directors or other equivalent officers of that entity; or

(3) 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

(B) the holding beneficially of more than 50 per cent 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;

(xiii) 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;

(xiv) 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 at the Spot Rate of Exchange on the date the calculation falls to be made;

(xv) a “government entity” means any government, state or agency of a state;

(xvi) a “group of Lenders” or a “group of Finance Parties” includes all the Lenders or (as the case may be) all the Finance Parties;
a “guarantee” means (other than in clause 17 (Guarantee and indemnity)) 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;

“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;

an “obligation” means any duty, obligation or liability of any kind;

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);

“pay” or “repay” in clause 28 (Group business restrictions) includes by way of set-off, combination of accounts or otherwise;

a “person” includes any individual, firm, company, corporation, government entity or any association, trust, Joint Venture, consortium, partnership or other entity (whether or not having separate legal personality);

a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation and, in relation to any Lender, includes (without limitation) any Basel II Regulation or Basel III Regulation applicable to that Lender;

“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;

“trustee”, “fiduciary” and “fiduciary duty” has in each case the meaning given to such term under applicable law;

(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; and

a provision of law is a reference to that provision as amended or re-enacted.
(b) The determination of the extent to which a rate is “for a period equal in length” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.

(c) 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.

(d) Section, clause and Schedule headings are for ease of reference only.

(e) 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.

(f) 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 remedied or waived.

(g) A reference in this Agreement to the “date of this Agreement” shall be interpreted as a reference to the Effective Date.

1.3 Currency symbols and definitions

“$”, “USD” and “dollars” denote the lawful currency of the United States of America.

1.4 Third party rights

(a) 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 enjoy the benefit of any term of the relevant Finance Document.

(b) 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).

(c) 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.

1.5 Finance Documents

Where any other Finance Document provides that this clause 1.5 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.

1.6 Conflict of documents

(a) The terms of the Finance Documents (other than this Agreement, the Agency and Trust Deeds and the Intercreditor Deeds 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 Agency and Trust Deed or any Intercreditor Deed and other than as relates to the creation and/or perfection of security), the provisions of this Agreement shall prevail.

(b) The terms of the Finance Documents (other than the Agency and Trust Deeds and the Intercreditor Deeds) are subject to the terms of the Agency and Trust Deeds and the Intercreditor Deeds and, in the event of any conflict between any provision of any such Finance Documents and any provision of an Agency and Trust Deed or an Intercreditor Deed, the relevant provision of the Agency and Trust Deed or the Intercreditor Deed shall prevail over the provisions of such Finance Document.

c) The terms of the Agency and Trust Deeds are subject to the terms of the Intercreditor Deeds and, in the event of any conflict between any provision of an Agency and Trust Deed and any provision of an Intercreditor Deed, the relevant provision of the Intercreditor Deed shall prevail over the provisions of such Agency and Trust Deed.
Section 2 — The Facility

2 The Facilities

2.1 The Facilities

Subject to the terms of this Agreement, the Lenders make available to the Borrower:

(a) a dollar-denominated term loan facility in an aggregate amount equal to the Tranche 1 Commitments; and

(b) a dollar-denominated term loan facility in an aggregate amount equal to the Tranche 2 Commitments.

2.2 Finance Parties’ rights and obligations

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by an Obligor which relates to a Finance Party’s participation in a Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by that Obligor.

(c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

2.3 Obligors’ agent

(a) Each Obligor (other than the Parent) by its execution of this Agreement irrevocably appoints the Parent (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:

(i) the Parent on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and

(ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Parent, and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions or executed or made the agreements or effected the
amendments, supplements or variations, or received the relevant notice, demand or other communication.

(b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors’ Agent or given to the Obligors’ Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors’ Agent and any other Obligor, those of the Obligors’ Agent shall prevail.

3 Purpose

3.1 Purpose

Before the Effective Date, the proceeds of each Facility were used to refinance certain indebtedness and to finance part of the cost of construction and purchase of various containerships for delivery to the relevant Owners.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

Section 3 — Utilisation

4 Utilisation

(a) As at the Effective Date, the Utilisation of the Total Commitments has already taken place and the Loans have been advanced by the Lenders to the Borrower, in each case pursuant to the terms of this Agreement in effect prior to the Effective Date and there are no undrawn Commitments under this Agreement.

(b) As at the Effective Date, the outstanding principal amount of the Loans under this Agreement is $475,541,000 and all outstanding principal amounts under this Agreement under or in respect of any advances, loans or tranches (howsoever described) prior to the Effective Date have been consolidated into the Loans and form part of such amount. No other principal amount is outstanding under this Agreement.
5 Repayment

5.1 Repayment — Tranche 1 Loan

The Parties acknowledge that the outstanding principal amount of the Tranche 1 Loan is, as at the Effective Date, $324,541,000. The Borrower shall on each Repayment Date listed in clause 5.2 (Scheduled repayment of Tranche 1 Facility) below repay such part of the outstanding principal amount of the Tranche 1 Loan as is required to be repaid on that Repayment Date by clause 5.2 (Scheduled repayment of Tranche 1 Facility) and clause 5.4 (Variable amortisation).

5.2 Scheduled repayment of Tranche 1 Facility

(a) To the extent not previously reduced, the Tranche 1 Loan shall be repaid by instalments on each Repayment Date listed below by the amount specified below (each a “Repayment Instalment”) (as revised by clause 5.4 (Adjustment of scheduled repayments) and each such Repayment Instalment shall be a Fixed Amortisation Amount (as defined and referred to in the Global Intercreditor Deed) for the purposes of the Tranche 1 Facility.

<table>
<thead>
<tr>
<th>Repayment Date</th>
<th>Repayment Instalment ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 November 2018</td>
<td>3,207,000</td>
</tr>
<tr>
<td>15 February 2019</td>
<td>5,293,000</td>
</tr>
<tr>
<td>15 May 2019</td>
<td>5,761,000</td>
</tr>
<tr>
<td>15 August 2019</td>
<td>5,893,000</td>
</tr>
<tr>
<td>15 November 2019</td>
<td>5,099,000</td>
</tr>
<tr>
<td>15 February 2020</td>
<td>5,735,000</td>
</tr>
<tr>
<td>15 May 2020</td>
<td>6,415,000</td>
</tr>
<tr>
<td>15 August 2020</td>
<td>5,334,000</td>
</tr>
<tr>
<td>15 November 2020</td>
<td>6,949,000</td>
</tr>
<tr>
<td>15 February 2021</td>
<td>5,836,000</td>
</tr>
<tr>
<td>15 May 2021</td>
<td>6,528,000</td>
</tr>
<tr>
<td>15 August 2021</td>
<td>6,349,000</td>
</tr>
<tr>
<td>15 November 2021</td>
<td>8,449,000</td>
</tr>
<tr>
<td>15 February 2022</td>
<td>7,216,000</td>
</tr>
<tr>
<td>15 May 2022</td>
<td>9,949,000</td>
</tr>
<tr>
<td>15 August 2022</td>
<td>9,384,000</td>
</tr>
<tr>
<td>15 November 2022</td>
<td>8,644,000</td>
</tr>
<tr>
<td>15 February 2023</td>
<td>9,351,000</td>
</tr>
<tr>
<td>15 May 2023</td>
<td>7,509,000</td>
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<tr>
<td>15 August 2023</td>
<td>7,910,000</td>
</tr>
<tr>
<td>15 November 2023</td>
<td>7,719,000</td>
</tr>
</tbody>
</table>

(b) On the Tranche 1 Final Repayment Date (without prejudice to any other provision of this Agreement), the Tranche 1 Loan shall be repaid in full.

5.3 Scheduled repayment of Tranche 2 Facility

To the extent not previously reduced, the Tranche 2 Loan shall be repaid in full on the Tranche 2 Final Repayment Date.
5.4 **Variable amortisation**

In addition to the payments described above, on each Repayment Date the Borrower will procure that the Relevant Loan is repaid by an amount equal to the “Balancing Payment” for the RBS Facility for that Repayment Date, as described in and calculated pursuant to the Global Intercreditor Deed. For the purpose of this clause 5.4 (Variable amortisation), “Relevant Loan” means:

(a) before the Tranche 2 Discharge Date, the Tranche 2 Loan; and

(b) thereafter, the Tranche 1 Loan.

5.5 **Adjustment of scheduled repayments of the Tranche 1 Loan**

If the Tranche 1 Commitments have been partially reduced under this Agreement and/or any part of the Tranche 1 Loan is prepaid (other than under clause 5.2 (Scheduled repayment of Tranche 1 Facility), clause 5.4 (Variable amortisation), clause 6.3 (Voluntary prepayment), clause 6.7 (Disposals of Zim/HMM Notes) or clause 6.8 (Relevant Proceeds)) before any Repayment Date then the amount of the Repayment Instalment by which the Tranche 1 Loan shall be repaid under clause 5.2 on any such Repayment Date (as reduced by any earlier operation of this clause 5.5 or any other provision in this Agreement) shall, unless otherwise expressly provided, be reduced pro rata to such reduction in the Tranche 1 Commitments and/or prepayment of the Tranche 1 Loan.

6 **Illegality, prepayment and cancellation**

6.1 **Illegality**

If, in the reasonable determination of a Lender or in the determination of any regulator of a Lender, it is or becomes unlawful under any law or regulation or in any applicable jurisdiction for that Lender to perform any of its obligations as contemplated by this Agreement, to fund or maintain its participation in a Loan or otherwise to continue to provide a Loan, or it is or becomes unlawful under any law or regulation or in any applicable jurisdiction 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; and

(b) upon the Agent notifying the Borrower, the Commitments of that Lender will be immediately cancelled; and

(c) to the extent that the Lender’s participation has not been transferred pursuant to clause 6.5 (Replacement of Lender), the Borrower shall repay that Lender’s participation in the Loans on the last day of the Interest Period occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender’s corresponding Commitments shall be cancelled in the amount of the participation repaid.

6.2 **Parent Change of control**

(a) The Obligors shall promptly notify the Agent upon any Obligor becoming aware of a Parent Change of Control.
If a Parent Change of Control occurs, then all amounts outstanding under the Finance Documents shall become immediately due and payable, together with all associated Break Costs and fees and expenses and related amounts expressed to be payable or repayable in connection with such repayment.

6.3 Voluntary prepayment

(a) The Borrower may, if it gives the Agent not less than 15 Business Days’ (or such shorter period as the Majority Tranche 1 Lenders or (after the Tranche 1 Discharge Date) the Majority Tranche 2 Lenders may agree) prior notice, prepay the whole or any part of a Loan, on the last day of an Interest Period in respect of the amount to be prepaid.

(b) The Borrower shall not make any voluntary prepayments under this clause 6.3 except if they are in compliance with the provisions of the Global Intercreditor Deed requiring (amongst other things) that certain voluntary prepayments be made across all the Amended RA Facilities, as more specifically set out in the Global Intercreditor Deed.

(c) Until the Tranche 1 Discharge Date has occurred, all voluntary prepayments must be applied in prepayment of the Tranche 1 Loan. After the Tranche 1 Discharge Date has occurred, all voluntary prepayments must be applied in prepayment of the Tranche 2 Loan.

(d) All voluntary prepayments applied towards the reduction of the Tranche 1 Facility must be applied towards the scheduled repayments set out in clause 5.2 (Scheduled repayment of Tranche 1 Facility) (including the amount required to be repaid on the Tranche 1 Final Repayment Date) in inverse chronological order.

6.4 Right of cancellation and prepayment in relation to a single Lender

(a) If:

(i) any sum payable to any Lender by an Obligor is required to be increased under clause 12.2 (Tax gross-up) ; or

(ii) any Lender claims indemnification from the Borrower or any Obligor under clause 12.3 (Tax indemnity) or clause 13.1 (Increased costs),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitments of that Lender and their intention to procure the repayment of that Lender’s participation in the Loans.

(b) On receipt of a notice referred to in paragraph (a) above, the Commitments of that Lender shall immediately be reduced to zero.

(c) On the last day of each Interest Period which ends after the Borrower has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender’s participation in the Loans together with all interest and other amounts accrued under the Finance Documents which is then owing to it.
6.5 Replacement of Lender

(a) If:

(i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (d) below); or

(ii) the Borrower becomes obliged to repay any amount in accordance with clause 6.1 (Illegality) to any Lender; or

(iii) any of the circumstances set out in paragraph (a) of clause 6.4 (Right of cancellation and prepayment in relation to a single Lender) apply to a Lender,

the Borrower may, on five Business Days’ prior written notice to the Agent and such Lender, replace such Lender by requiring such Lender to transfer (and, to the extent permitted by law, such Lender shall transfer) pursuant to clause 31 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement (and any Security Document to which that Lender is a party in its capacity as a Lender) to an Eligible Institution (a “Replacement Lender”) which confirms its willingness to undertake and does undertake all the obligations of the transferring Lender in accordance with clause 31 (Changes to the Lenders) for a purchase price in cash payable at the time of the transfer in an amount equal to the aggregate of:

(A) the outstanding principal amount of such Lender’s participation in the Loans;

(B) all accrued interest owing to such Lender;

(C) the Break Costs which would have been payable to such Lender pursuant to clause 10.5 (Break Costs) had the Borrower prepaid in full that Lender’s participation in the Loans on the date of the assignment; and

(D) all other amounts payable to that Lender under the Finance Documents on the date of the transfer.

(b) The replacement of a Lender pursuant to this clause 6.5 shall be subject to the following conditions:

(i) the Borrower shall have no right to replace the Agent or the Security Agent;

(ii) neither the Agent nor any Lender shall have any obligation to find a Replacement Lender;

(iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than ten Business Days after the date on which that Lender is deemed a Non-Consenting Lender;

(iv) in no event shall the Lender replaced under this clause 6.5 be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and
the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer.

(c) A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

(d) In the event that:

(i) the Borrower or the Agent (at the request of the Borrower) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;

(ii) the consent, waiver or amendment in question requires the approval of all the Lenders; and

(iii) Lenders whose Commitments aggregate more than 75 per cent of the Total Commitments have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a “Non-Consenting Lender”.

6.6 Sale or Total Loss

(a) On the Disposal Repayment Date of a Mortgaged Ship (other than a Collateral Ship or an Additional Ship):

(i) the Total Commitments will be reduced:

(A) in the case of a sale or other disposal of a Mortgaged Ship, by the actual Disposal Proceeds for that Mortgaged Ship; or

(B) in the case of a Total Loss of a Mortgaged Ship, by the higher of (x) the Applicable Fraction of the Total Commitments and (y) the amount payable under the Insurances of such Mortgaged Ship in respect of such Total Loss (which amount under (y) shall in any event be not less than the amount for which such Mortgaged Ship is required to be insured under clause 24 (Insurance)); and

(ii) the Borrower shall prepay such amount of the Loans as may be necessary to ensure that the outstanding Loans after such date will not exceed the Total Commitments (as so reduced).

(b) On the Disposal Repayment Date of a Mortgaged Ship which is a Collateral Ship:

(i) the Total Commitments will be reduced:

(A) in the case of a sale or other disposal of a Mortgaged Ship, by the actual Disposal Proceeds for that Mortgaged Ship received by the Agent in respect of that sale or other disposal (it being acknowledged that such
receipts (if any) shall be net of the amount of such proceeds applied in reduction of the Citi-Eurobank Facility or the Amended and Restated Sinosure Facility, or any Permitted Refinancing in respect of any such facility (as applicable) which is secured by First Priority Security over that Mortgaged Ship, in accordance with its terms) and that the Agent’s share of such net proceeds (if any) shall be the amount allocated to the Facilities and other Restructured Facilities pursuant to the provisions of the Intra-Restructuring Lenders Intercreditor Deed; or

(B) in the case of a Total Loss of a Mortgaged Ship, by the actual amount payable under the Insurances of such Mortgaged Ship in respect of such Total Loss for that Mortgaged Ship received by the Agent (it being acknowledged that such amount (if any) shall be net of the amount of such proceeds applied in reduction of the Citi-Eurobank Facility or the Amended and Restated Sinosure Facility or any Permitted Refinancing in respect of any such facility (as applicable) which is secured by First Priority Security over that Mortgaged Ship, in accordance with its terms, and that the Agent’s share of any such net proceeds (if any) shall be the amount allocated to the Facilities and other Restructured Facilities pursuant to the provisions of the Intra-Restructuring Lenders Intercreditor Deed; and

(ii) the Borrower shall prepay such amount of the Loans as may be necessary to ensure that the outstanding Loans after such date will not exceed the Total Commitments (as so reduced), subject always to paragraph (c) below.

(c) the Borrower shall make all prepayments required pursuant to this clause as follows:

(i) before the Tranche 1 Discharge Date:

(A) all amounts received pursuant to paragraphs (a) and (b) above other than in respect of Scrapping Proceeds must be applied to pay down the Tranche 1 Loan, with such prepayment to be applied pro rata towards the discharge of remaining Repayment Instalments;

(B) all amounts received pursuant to paragraphs (a) and (b) above in respect of Scrapping Proceeds must be applied to pay down the Tranche 2 Loan; and

(ii) after the Tranche 1 Discharge Date, all amounts received pursuant to paragraphs (a) and (b) above must be applied to pay down the Tranche 2 Loan.

(d) For the purposes of this clause, “Applicable Fraction” means, in relation to a Mortgaged Ship which has become a Total Loss, a fraction having a numerator equal to the market value of the Mortgaged Ship being sold or which has become a Total Loss and a denominator equal to the market value of all the Mortgaged Ships (excluding the Collateral Ships and any Additional Ships), in each case as determined by the Agent on or before the relevant Mortgaged Ship’s Disposal Repayment Date pursuant to this clause.

(e) For the purposes of the definition of Applicable Fraction above, the market value of a Mortgaged Ship shall be determined in accordance with the most recent (charter free)
valuations obtained in accordance with clause 25 (Valuations) for that Mortgaged Ship, provided that if the Mortgaged Ship’s Disposal Repayment Date is more than 30 days after the date of the most recent (charter free) valuations obtained in accordance with clause 25 (Valuations), the Majority Tranche 1 Lenders and the Majority Tranche 2 Lenders shall each have the right to request and/or obtain new (charter free) valuations for that Mortgaged Ship pursuant to such clause 25 (Valuations). If such new valuations are so requested and obtained, the market value of that Mortgaged Ship for the purposes of calculation of Applicable Fraction above, shall be determined by reference to such new valuations and in accordance with clause 25 (Valuations) which shall apply to this clause mutatis mutandis.

(f) In any event, if the relevant Mortgaged Ship that is sold or subject to a Total Loss is the final Mortgaged Ship under the Facilities and such Ship is not a Collateral Ship or an Additional Ship, then on the Disposal Repayment Date for that Mortgaged Ship, the Borrower must prepay the Loans in full, together with interest thereon and all other amounts payable under this Agreement and the other Finance Documents.

6.7 Disposals of Zim/HMM Notes

Upon receipt of any amount in respect of any of the Zim/HMM Notes (whether by way of payment in respect of the notes or disposal proceeds in respect of sale of such notes but excluding any amount in respect of the interest of such Zim/HMM Notes), such proceeds shall be applied in prepayment of the Tranche 1 Facility towards the scheduled repayments set out in clause 5.2 (Scheduled repayment of Tranche 1 Facility) (including for these purposes the amounts due on the Tranche 1 Final Repayment Date) in inverse chronological order, and after the Tranche 1 Discharge Date, towards prepayment of the Tranche 2 Facility.

6.8 Relevant Proceeds

(a) Upon receipt of any Relevant Proceeds by any Group Member (other than proceeds of a Mortgaged Ship which is a Collateral Ship, as to which clause 6.6(b) (Sale or Total Loss) will apply), the Obligors shall procure that such Relevant Proceeds are applied in prepayment of the Loans in accordance with the terms of the Global Intercreditor Deed. It is acknowledged that the Global Intercreditor Deed allocates the Relevant Proceeds to the Restructured Facilities.

(b) Upon payment of any Intra-Restructuring Lenders Intercreditor Deed Proceeds (as defined below) to or for the account of the Facility Representative in respect of that Intercreditor Deed, all Lenders instruct the Facility Representative to pay those amounts to the Agent for application in prepayment of the Loans as follows:

(i) before the Tranche 1 Discharge Date:

(A) all such proceeds in paragraph (1) below of the definition thereof must be applied to prepay the Tranche 2 Loan until the Tranche 2 Discharge Date, and thereafter applied to prepay the Tranche 1 Loan with such amounts being applied towards remaining instalments (including for these purposes the amounts due on the Tranche 1 Final Repayment Date) in inverse chronological order; and

(B) all such proceeds in paragraph (2) below of the definition thereof must be applied to prepay the Tranche 1 Loan, with such amounts being
applied towards remaining instalments (including for these purposes the amounts due on the Tranche 1 Final Repayment Date) in inverse chronological order; and

(ii) after the Tranche 1 Discharge Date, all amounts received pursuant to paragraph (b) above must be applied to pay down the Tranche 2 Loan.

For the purposes of this paragraph (b), “Intra-Restructuring Lenders Intercreditor Deed Proceeds” means any proceeds of a Non-Distressed Disposal under (and as defined in the Intra-Restructuring Lenders Intercreditor Deed) required to be paid to the Facility Representative for the purposes of the Intra-Restructuring Lenders Intercreditor Deed in respect of:

(1) any Unencumbered Vessel Charged Assets; or

(2) any Permitted SLB Transaction Charged Assets,

in each case as those terms are defined in the Intra-Restructuring Lenders Intercreditor Deed.

(c) Before the Tranche 1 Discharge Date:

(i) all Relevant Proceeds required to be applied to prepay the Loans pursuant to paragraph (a) above, other than “Excess Facility Vessel Disposal Proceeds”, “Excess Unencumbered Vessel Disposal Proceeds” or “Total Loss Proceeds” in each case under (and as defined in) the Global Intercreditor Deed, must be applied to pay down the Tranche 1 Loan, with such prepayment to be applied pro rata towards the discharge of remaining Repayment Instalments; and

(ii) all Relevant Proceeds required to be applied to prepay the Loans pursuant to paragraph (a) above that comprise “Excess Facility Vessel Disposal Proceeds”, “Excess Unencumbered Vessel Disposal Proceeds” or “Total Loss Proceeds” in each case under (and as defined in) the Global Intercreditor Deed must be applied to pay down the Tranche 2 Loan until the Tranche 2 Discharge Date and thereafter the Tranche 1 Loan.

(d) After the Tranche 1 Discharge Date, all amounts received pursuant to paragraph (a) above must be applied to pay down the Tranche 2 Loan.

(e) All Relevant Proceeds applied towards the reduction of the Tranche 1 Facility must be applied towards the scheduled repayments set out in clause 5.2 (Scheduled repayment of Tranche 1 Facility) (including the amount required to be repaid on the Tranche 1 Final Repayment Date) in inverse chronological order.

6.9 Automatic cancellation

Any part of the Total Commitments which has not been utilised on the Effective Date shall be automatically cancelled at close of business in London on the Effective Date.
Restrictions

7.1 Notices of cancellation and prepayment

Any notice of cancellation or prepayment given by any Party under clause 6 (Illegality, prepayment and cancellation) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

7.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid, any additional amounts payable under clause 12 (Tax gross-up and indemnities), all other sums payable by the Borrower to the Agent, the Security Agent and/or the other Finance Parties under this Agreement or any of the other Finance Documents including, without limitation, any amounts payable under clause 11 (Fees) or clause 14 (Other indemnities) and any Break Costs, but otherwise without premium or penalty.

7.3 No reborrowing

The Borrower may not re-borrow any part of the Facilities which is prepaid or repaid.

7.4 Prepayment in accordance with Agreement

The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement and the Global Intercreditor Deed.

7.5 No reinstatement of Commitments

No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

7.6 Agent’s receipt of notices

If the Agent receives a notice under clause 6 (Illegality, prepayment and cancellation) it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.

7.7 Prepayment elections

The Agent shall notify the Lenders as soon as possible of any proposed prepayment of any part of the Facilities under clause 6.3 (Voluntary Prepayments) or clause 6.6 (Sale or Total Loss).

7.8 Effect of repayment and prepayment on Commitments

If all or part of any Lender’s participation in a Loan is repaid or prepaid, an amount of that Lender’s Commitment equal to the amount of the participation which is repaid or prepaid will be deemed to be cancelled on the date of repayment or prepayment.

7.9 Application of cancellations

If the Total Commitments are partially reduced and/or the Loans partially prepaid under this Agreement (other than under clause 6.1 (Illegality) and clause 6.4 (Right of cancellation and prepayment in relation to a single Lender)), the Commitments of the Lenders shall be reduced ratably.

7.10 Application of prepayments

(a) Any prepayment required as a result of a cancellation in full of an individual Lender’s Commitment under clause 6.1 (Illegality) or clause 6.4 (Right of cancellation and prepayment in relation to a single Lender) shall be applied in prepaying the relevant Lender’s participation in the Loan.

(b) Any other prepayment shall be applied pro rata to each Lender’s participation in the Loans.
Section 5 — Costs of Utilisation

8 Interest

8.1 Calculation of interest for the Tranche 1 Loan

(a) Subject to paragraph (b) below, the rate of interest on the Tranche 1 Loan (or any relevant part of it for which there is a separate Interest Period) for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(i) Margin; and

(ii) LIBOR for the relevant Interest Period.

(b) Accrued interest on the Tranche 1 Loan shall first be payable on 16 August 2018 (the “First Interest Payment Date”). Interest payable on the First Interest Payment Date shall be interest accrued on the outstanding amount of the Tranche 1 Loan calculated as follows:

(i) LIBOR as determined in accordance with this Agreement in effect immediately prior to the Effective Date and as calculated for the period beginning on (and including) the Effective Date and ending on (and excluding) 16 August 2018; plus

(ii) 2.50 per cent. per annum calculated for the period beginning on (and including) the Effective Date and ending on (and excluding) 16 August 2018.

8.2 Payment of interest

The Borrower shall pay accrued interest on the Tranche 1 Loan (or any relevant part of it) on the last day of each Interest Period.

8.3 Calculation of interest for the Tranche 2 Loan

(a) Interest on the Tranche 2 Loan shall comprise both interest to be paid in cash (“Tranche 2 Cash-Pay Interest”) and Tranche 2 PIK Interest (as defined below).

(b) Subject to paragraph (c) below, the rate of Tranche 2 Cash-Pay Interest on the Tranche 2 Loan (or any relevant part of it for which there is a separate Interest Period) for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(i) Margin; and

(ii) LIBOR for the relevant Interest Period.

(c) Accrued Tranche 2 Cash-Pay Interest on the Tranche 2 Loan shall first be payable on the First Interest Payment Date (as defined in clause 8.1(b) above). Interest payable on the First Interest Payment Date shall be interest accrued on the outstanding amount of the Tranche 2 Loan calculated as follows:

(i) LIBOR as determined in accordance with this Agreement in effect immediately prior to the Effective Date and as calculated for the period beginning on (and}
including) the Effective Date and ending on (and excluding) 16 August 2018; plus

(ii) 2.50 per cent. per annum calculated for the period beginning on (and including) the Effective Date and ending on (and excluding) 16 August 2018.

(d) In addition to the Tranche 2 Cash-Pay Interest referred to in paragraph (b) and (c) above, on and from the Effective Date, the Tranche 2 Loan shall bear interest ("Tranche 2 PIK Interest") at the rate of 4.00 per cent. per annum, and an amount equal to the accrued Tranche 2 PIK Interest shall be capitalised and added to the outstanding principal amount of the Tranche 2 Loan on 16 August 2018 and thereafter on each Repayment Date and each Instalment Date falling after the Tranche 1 Final Repayment Date. Upon the accrued Tranche 2 PIK Interest being added to the outstanding principal balance of the Tranche 2 Loan as aforesaid, such amount shall be treated for all purposes as part of the outstanding principal amount of the Tranche 2 Loan, and such amount shall itself bear both Tranche 2 Cash-Pay Interest and Tranche 2 PIK Interest.

8.4 Payment of interest on the Tranche 2 Loan

(a) The Borrower shall pay accrued Tranche 2 Cash-Pay Interest on the Tranche 2 Loan (or any relevant part of it) on the last day of each Interest Period.

(b) Tranche 2 PIK Interest will not be paid in cash and will capitalise and be added to the outstanding balance of the Tranche 2 Loan on each Repayment Date as described in clause 8.3(ii) above.

8.5 Default interest

(a) If an Obligor fails to pay any amount payable by it under a Finance Document to a Finance Party 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 paragraph (c) below, is two per cent per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Tranche 1 Loan (or if the non-payment relates to a Tranche 2 Loan, a Tranche 2 Loan) (in the currency of that Loan) for successive Interest Periods, each of a duration selected by the Agent (acting reasonably).

(b) Any interest accruing under this clause 8.5 shall be immediately payable by the Obligor on demand by the Agent.

(c) If any overdue amount consists of all or part of any Loan (or any relevant part of it) which became due on a day which was not the last day of an Interest Period relating to that Loan or the relevant part of it:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan or the relevant part of it; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent per annum higher than the rate which would have applied if the overdue amount had not become due.
(d) Default interest payable under this clause 8.5 (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.

8.6 Notification of rates of interest

(a) The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

(b) The Agent shall promptly notify the Borrower of each Funding Rate relating to each Loan (or any relevant part of it).

9 Interest Periods

9.1 Selection of Interest Periods

(a) Interest will first be payable on the Loans on 16 August 2018, as provided in clauses 8.1(b) (Calculation of interest for the Tranche 1 Loan) and 8.3(c) (Calculation of interest for the Tranche 2 Loan).

(b) The first full Interest Period for each Loan following the Effective Date will start on 16 August 2018 and end on the First Repayment Date.

(c) Each subsequent Interest Period will, save as otherwise provided in this Agreement, start on each Instalment Date and end on the next Instalment Date provided that, if an Interest Period would otherwise extend beyond the Tranche 2 Final Repayment Date, that Interest Period will be shortened to end on the Tranche 2 Final Repayment Date.

9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

10 Changes to the calculation of interest

10.1 Unavailability of Screen Rate

(a) If no Screen Rate is available for LIBOR for an Interest Period, LIBOR shall be the Interpolated Screen Rate for a period equal in length to that Interest Period.

(b) If no Screen Rate is available for LIBOR for:

(i) dollars; or

(ii) the relevant Interest Period and it is not possible to calculate the Interpolated Screen Rate,

clause 10.3 (Cost of funds) shall apply for that Interest Period.

66
10.2 Market disruption

If before close of business in London on the Quotation Day for an Interest Period the Agent receives notifications from a Lender or Lenders (whose aggregate participations in the Loans exceed 30 per cent of the aggregate amount of the Loans) that the cost to it of funding its participation in the Loan or relevant part of it from whatever source it may reasonably select would be in excess of LIBOR then clause 10.3 (Cost of funds) shall apply to each Loan or relevant part of it for the relevant Interest Period.

10.3 Cost of funds

(a) If this clause 10.3 applies, the rate of interest on each Lender’s share of each Loan or relevant part of it for the Interest Period shall continue to be the amount set out in clause 8 (Interest), except that “LIBOR” for the purpose of that clause 8 shall be the percentage rate per annum which is the rate notified to the Agent by that Lender as soon as practicable and in any event by close of business on the date falling ten Business Days after the Quotation Day (or, if earlier, on the date falling ten Business Days before the date on which interest is due to be paid in respect of that Interest Period), to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in the Loan or relevant part of it from whatever source it may reasonably select.

(b) If this clause 10.3 applies and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining LIBOR. If a substitute basis for determining LIBOR is not agreed, paragraph (a) shall apply.

(c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.

(d) If this clause 10.3 applies pursuant to clause 10.2 (Market disruption) and:

(i) a Lender’s Funding Rate is less than LIBOR; or

(ii) a Lender does not supply a quotation by the time specified in paragraph (a) above,

the cost to that Lender of funding its participation in the Loan or relevant part of it for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR.

10.4 Notification to Borrower

If clause 10.3 (Cost of funds) applies, the Agent shall, as soon as is practicable, notify the Borrower.

10.5 Break Costs

(a) The Borrower 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 any relevant part of it or Unpaid Sum being paid by the Borrower (or, if relevant, any Group Member) on a day other than the last day of an Interest Period for the Loan or that relevant part of it or Unpaid Sum.
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 Amendment fee

The Borrower shall pay an amendment fee to the Original Lender in the amount and at the times set out in a Fee Letter (“Amendment Fee Letter”).

11.2 Agency fee

The Borrower shall pay to the Agent (for its own account) an agency fee in the amount and at the times set out in a Fee Letter (“Agency Fee Letter”).

11.3 Exit fees

The Borrower shall pay to the Agent for the account of the relevant Lenders, exit fees in the amounts and at the times set out in a Fee Letter (“Exit Fee Letter”).
12 Tax gross-up and indemnities

12.1 Definitions

(a) 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 Credit” means a credit against, relief or remission for, or repayment of any Tax.

“Tax Deduction” means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

“Tax Payment” means either the increase in a payment made by an Obligor to a Finance Party under clause 12.2 (Tax gross-up) or a payment under clause 12.3 (Tax indemnity).

(b) Unless a contrary indication appears, in this clause 12 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

12.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it under, and in connection with, any Finance Document without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Borrower shall, promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction), notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower and that Obligor.

(c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor 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.

(d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(e) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the 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.

12.3 Tax indemnity

(a) Each Obligor that is a Party shall (within three Business Days of demand by a Finance Party) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

(b) Paragraph (a) above shall not apply:

(i) with respect to any Tax assessed on a Finance Party:

(A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(B) under the law of the jurisdiction in which that Finance Party’s Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the overall net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

(ii) to the extent a loss, liability or cost:

(A) is compensated for by an increased payment under clause 12.2 (Tax gross-up); or

(B) relates to a FATCA Deduction required to be made by a Party or an Obligor who is not a Party.

(c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.

(d) A Protected Party shall, on receiving a payment from an Obligor under this clause 12.3, notify the Agent.

12.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

(a) a Tax Credit is attributable (i) to an increased payment of which that Tax Payment forms part, (ii) to that Tax Payment or (iii) to a Tax Deduction in consequence of which that Tax Payment was required; and

(b) that Finance Party has obtained and utilised that Tax Credit,
the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

12.5 Indemnities on after Tax basis

(a) If and to the extent that any sum payable to any Protected Party by the Borrower 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 Borrower 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.

(b) 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 Borrower to any person other than that Protected Party, shall be treated as taxable in the hands of the Protected Party, the Borrower 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.

(c) For the purposes of paragraphs (a) and (b) above, 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.

12.6 Stamp taxes

The Borrower 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, documentary and other similar Taxes payable in respect of any Finance Document.

12.7 Value added tax

(a) All amounts 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 any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any party under a Finance Document, and such Finance Party is required to account to the relevant tax authority for the VAT, that party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that party).

(b) If VAT is or becomes chargeable on any supply made by any Finance Party (the “Supplier”) to any other Finance Party (the “Recipient”) under a Finance Document, and any party 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 that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

(i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the 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 (i) 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

(ii) (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.

c) 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 in respect of such VAT from the relevant tax authority.

d) Any reference in this clause 12.7 to any party shall, at any time when such party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term “representative member” to have the same meaning as in the Value Added Tax Act 1994).

e) In relation to any supply made by a Finance Party to any party under a Finance Document, if reasonably requested by such Finance Party, that party must promptly provide such Finance Party with details of that party’s VAT registration and such other information as is reasonably requested in connection with such Finance Party’s VAT reporting requirements in relation to such supply.

12.8 FATCA information

(a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:

(i) confirm to that other Party whether it is:

(A) a FATCA Exempt Party; or

(B) not a FATCA Exempt Party;

(ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party’s compliance with FATCA; and

(iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party’s compliance with any other law, regulation, or exchange of information regime.

(b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.

(c) Paragraph (a) above shall not oblige any Finance Party to do anything, 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 paragraphs (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

(e) If the Borrower is a US Tax Obligor or the Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of the date of a request from the Agent supply to the Agent:

(A) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or

(B) any withholding statement or other document, authorisation or waiver as the Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
(f) The Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrower.

(g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Agent). The Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.
The Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraphs (e) or (g) above without further verification. The Agent shall not be liable for any action taken by it under or in connection with paragraphs (e), (f) or (g) above.

12.9 FATCA Deduction

(a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

(b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Finance Parties.

13 Increased Costs

13.1 Increased costs

(a) Subject to clause 13.3 (Exceptions), the Borrower shall, within three 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:

(i) arises as a result of (A) the introduction of or any change in (or in the interpretation, administration, policy in respect of or application of) any law or regulation or (B) compliance with any law or regulation made after the date of this Agreement; and/or

(ii) is a Basel III Increased Cost; and/or

(iii) results from compliance with the Dodd Frank Wall Street Reform and Consumer Protection Act or any law or regulation made under or in connection with that Act.

(b) In this Agreement “Increased Costs” means:

(i) a reduction in the rate of return from a Facility or on a Finance Party’s (or its Affiliate’s) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.
13.2 Increased cost claims

(a) A Finance Party intending to make a claim pursuant to clause 13.1 (Increased costs) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.

(b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

13.3 Exceptions

(a) Clause 13.1 (Increased costs) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law to be made by an Obligor;

(ii) attributable to a FATCA Deduction required to be made by a Party;

(iii) compensated for by clause 12.3 (Tax indemnity) (or would have been compensated for under clause 12.3 (Tax indemnity) but was not so compensated solely because any of the exclusions in paragraph (b) of clause 12.3 (Tax indemnity) applied); or

(iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

(b) In paragraph (a) above, a reference to a Tax Deduction has the same meaning given to the term in clause 12.1 (Definitions).

14 Other indemnities

14.1 Currency indemnity

(a) If any sum due from an Obligor under the Finance Documents (a “Sum”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “First Currency”) in which that Sum is payable into another currency (the “Second Currency”) for the purpose of:

(i) making or filing a claim or proof against that Obligor; and/or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall, as an independent obligation, within three 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.

(b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.
For the purpose of this clause 14.1, “rate of exchange” means the rate at which the Agent or the relevant Finance Party is able on the relevant date to purchase the Second Currency with the First Currency and shall take into account any commission, premium and other costs of exchange and Taxes payable in connection with such purchase.

14.2 Other indemnities

(a) The Borrower 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:

(i) the occurrence of any Event of Default;

(ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any and all Losses arising as a result of clause 39 (Sharing among the Finance Parties);

(iii) funding, or making arrangements to fund, its participation in a Utilisation requested by the Borrower 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);

(iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower; or

(v) any payment made to the Global Intercreditor Agent under clause 12.11 (Lenders’ indemnity to the Global Intercreditor Agent) of the Global Intercreditor Deed or any payment made to the RL Security Agent under clause 15.13 (Lenders’ indemnity to the RL Security Agent) of the Intra-Restructuring Lenders Intercreditor Deed.

(b) The Borrower shall (or shall procure that another Obligor will) promptly indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate, against any Loss incurred by that Finance Party or its Affiliate (or officer or employee of that Finance Party or Affiliate) in connection with or arising out of the transactions contemplated by or entered into in connection with the Transaction Documents (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the transactions contemplated by or entered into in connection with the Transaction Documents), unless such Loss is caused by the gross negligence or wilful misconduct of that Finance Party or its Affiliate (or officer or employee of that Finance Party or Affiliate). Any Affiliate or any officer or employee of a Finance Party or its Affiliate may rely on this clause 14.2 subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

14.3 Environmental indemnity

The Borrower shall (or shall procure that another Obligor will) indemnify the Agent and each of the other Finance Parties on demand and hold each such Finance Party harmless from and against all Losses or other outgoings of whatever nature (including those arising under Environmental Laws) which may be suffered, incurred or paid by or made or asserted against the Agent or any other Finance Party at any time, whether before or after the prepayment in full.

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of principal and interest under this Agreement, relating to, or arising directly in any manner or for any cause or reason whatsoever out of an Environmental Claim made or asserted against the Agent or any other Finance Party which would or could not have been brought if the Agent or such other Finance Party had not entered into any of the Finance Documents and/or exercised any of its rights, powers and discretions thereby conferred and/or performed any of its obligations thereunder and/or been involved in any of the transactions contemplated by the Finance Documents.

14.4 Indemnity to the Agent and the Security Agent etc.

The Borrower shall promptly indemnify each Indemnified Person against:

(a) any and all Losses (together with any applicable VAT) incurred by that Indemnified Person (acting reasonably) as a result of:

(i) investigating any event which it reasonably believes is a Default;
(ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
(iii) instructing lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts as permitted under the Finance Documents; or
(iv) any action taken by an Indemnified Person or any of its or their representatives, agents or contractors in connection with any powers conferred by any Security Document to remedy any breach of any Obligor’s obligations under the Finance Documents; and

(b) any and all Losses (including, without limitation, in respect of liability for negligence or any other category of liability whatsoever) (together with any applicable VAT) incurred by an Indemnified Person (other than by reason of that Indemnified Person’s gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 40.11 (Disruption to payment systems etc.) notwithstanding the Indemnified Person’s negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Indemnified Person) under the Finance Documents.

14.5 Indemnity concerning security

(a) The Borrower shall (or shall procure that another Obligor will) promptly indemnify each Indemnified Person against any and all Losses (together with any applicable VAT) incurred by it (other than by reason of that Indemnified Person’s gross negligence or wilful misconduct) as a result of:

(i) any failure by the Borrower to comply with its obligations under clause 16 (Costs and expenses) or any similar provision in any other Finance Document;
(ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
(iii) the taking, holding, protection or enforcement of the Transaction Security;
the exercise or purported exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent, each Receiver, each Delegate and each Indemnified Person by the Finance Documents or by law (otherwise, in each case, than by reason of the relevant Security Agent’s, Receiver’s, Delegate’s or Indemnified Person’s gross negligence or wilful misconduct);

(v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;

(vi) any claim (whether relating to the environment or otherwise, but without double counting where an Indemnified Person has recovered for the same Losses under any other provision of this Agreement) 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 misconduct of that Indemnified Person);

(vii) instructing lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts as permitted under the Finance Documents; or

(viii) (in the case of the Security Agent, any Receiver and any Delegate) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct).

(b) The Security Agent may (and each Affiliate of the Security Agent and each officer or employee of the Security Agent or its Affiliate), and every Receiver and Delegate may, in priority to any payment to the other Finance Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 14.5 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it. The rights conferred by this paragraph (b) 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.

14.6 Continuation of indemnities

The indemnities by the Borrower or any other Obligor in favour of any Indemnified Persons contained in this Agreement shall continue in full force and effect notwithstanding any breach by any Finance Party or any Obligor of the terms of this Agreement, the repayment or prepayment of a Loan, the cancellation of the Total Commitments or the repudiation by any Finance Party or any Obligor of this Agreement.
14.7 Third Parties Act

(a) 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, or the calculation of, any amount demanded by that Indemnified Person under clause 14.5 (Indemnity concerning security), subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.

(b) Where an Indemnified Person (other than a Finance Party) (the “Relevant Beneficiary”) who is:

(i) appointed by a Finance Party under the Finance Documents;
(ii) an Affiliate of any such person or that Finance Party; or
(iii) an officer, director, employee, adviser, representative or agent of any of the above persons or that Finance Party,

is entitled to receive any amount (a “Third Party Claim”) under any of the provisions referred to in paragraph (a) above:

(A) the Borrower shall (or shall procure that another Obligor will) at the same time as the relevant Third Party Claim is due to the Relevant Beneficiary pay to that Finance Party a sum in the amount of that Third Party Claim;

(B) payment of such sum to that Finance Party shall, to the extent of that payment, satisfy the corresponding obligations of the Borrower to pay the Third Party Claim to the Relevant Beneficiary; and

(C) if the Borrower pays the Third Party Claim direct to the Relevant Beneficiary, such payment shall, to the extent of that payment, satisfy the corresponding obligations of the Borrower to that Finance Party under sub-paragraph (A) above.

14.8 Interest

Moneys becoming due by the Borrower (or any other Obligor) to any Indemnified Person under the indemnities contained in this clause 14 (Other indemnities) 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 Borrower (or any other Obligor) to such Indemnified Person (both before and after judgment) at the rate referred to in clause 8.5 (Default interest).

14.9 Exclusion of liability

Without prejudice to any other provision of the Finance Documents excluding or limiting the liability of any Indemnified Person, 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 misconduct. Any Indemnified Person may rely on
14.10 E-mail indemnity

The Borrower shall indemnify the Finance Parties against any and all Losses together with any VAT thereon which a Finance Party may sustain or incur as a consequence of any email communication purporting to originate from the Obligors to the Finance Parties 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 Finance Party claiming indemnification hereunder).

14.11 Waiver

In no event shall any Finance Party be liable on any theory of liability for any special, indirect, consequential or punitive damages and the Obligors who are a Party 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

(a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in the Facilities ceasing to be available or any amount becoming payable under or pursuant to, or cancelled pursuant to, any of clause 6.1 (Illegality), clause 12 (Tax gross-up and indemnities) or clause 13 (Increased costs) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

15.2 Limitation of liability

(a) The Borrower 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).

(b) A Finance Party is not obliged to take any steps under clause 15.1 (Mitigation) if, in the opinion of that Finance Party, to do so might be prejudicial to it.

16 Costs and expenses

16.1 Transaction expenses

The Borrower shall, promptly on demand, pay the Agent and the Security Agent the amount of all costs and expenses (including fees, costs and expenses of lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts) (together with any applicable VAT) incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation,
printing, execution, syndication, registration and perfection and any release, discharge or reassignment of:

(a) this Agreement and any other documents referred to in this Agreement and the Security Documents;

(b) any other Finance Documents executed or proposed to be executed after the Effective Date; or

(c) any Security Interest expressed or intended to be granted by a Finance Document.

16.2 Amendment costs

If:

(a) an Obligor requests an amendment, waiver or consent; or

(b) an amendment is required pursuant to clause 40.10 (Change of currency); or

(c) an amendment is required as contemplated in clause 46.6 (Replacement of Screen Rate);

the Borrower shall, within three Business Days of demand, reimburse Finance Party for the amount of all costs and expenses (including fees, costs and expenses of lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts) (together with any applicable VAT) incurred by that Finance Party (including in the case of the Security Agent by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

16.3 Agent’s and Security Agent’s management time and additional remuneration

(a) Any amount payable to the Agent or the Security Agent under clause 14.4 (Indemnity to the Agent and the Security Agent), clause 14.5 (Indemnity concerning security), clause 16 (Costs and expenses) or clause 33.14 (Lenders’ indemnity to the Agent and others) shall include the cost of utilising the Agent’s or (as the case may be) the Security Agent’s management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent or (as the case may be) the Security Agent may notify to the Borrower and the other Finance Parties, and is in addition to any other fee paid or payable to the Agent or the Security Agent.

(b) Any cost of utilising the Agent’s management time or other resources shall include, without limitation, any such costs in connection with clause 46.9(a) (Disenfranchisement of Parent Affiliates).

(c) Without prejudice to paragraph (a) above, in the event of:

(i) a Default;

(ii) the Agent or the Security Agent being requested by an Obligor or the other Finance Parties to undertake duties which the Agent or (as the case may be) the Security Agent and the Borrower agree to be of an exceptional nature or outside the scope of the normal duties of the Agent or (as the case may be) the Security Agent under the Finance Documents; or
the Agent or (as the case may be) the Security Agent and the Borrower agreeing that it is otherwise appropriate in the circumstances,

the Borrower shall pay to the Agent or (as the case may be) the Security Agent any additional remuneration that may be agreed between them or
determined pursuant to paragraph (d) below including (without limitation) in respect of ongoing costs and/or management time.

(d) If the Agent or (as the case may be) the Security Agent and the Borrower fail to agree upon the nature of the duties, or upon the additional
remuneration referred to in paragraph (b) above or whether additional remuneration is appropriate in the circumstances, any dispute shall be
determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Agent or (as the case may be) the Security Agent
and approved by the Borrower or, failing approval, nominated (on the application of the Agent or (as the case may be) the Security Agent) by the
President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by
the Borrower) and the determination of any investment bank shall be final and binding upon the Parties.

16.4 Enforcement, preservation and other costs

The Borrower 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
lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts) (together with any
applicable VAT) incurred by that Finance Party in connection with:

(a) the enforcement of, or the preservation of any rights under, any Finance Document and the Transaction Security 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 (Valuations) ; or

(c) any inspection carried out under clause 23.9 (Inspection and notice of dry-docking) or any survey carried out under clause 23.17 (Survey report).

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Section 7 — Guarantee

17 Guarantee and indemnity

17.1 Existing guarantees by Obligors

Each Obligor who is a Party (other than the Borrower or the Manager) confirms that:

(a) as of the Effective Date, it has given a guarantee in favour of the Finance Parties in respect of the obligations of the Borrower under the Finance
Documents and that each such guarantee is listed in Schedule 4 (Effective Date Security Documents) in the Amendment and Restatement
Agreement (the “Existing Guarantees”); and

(b) the Existing Guarantee which it has provided is in full force and effect and will continue to be in full force and effect and extend to all obligations
of the Borrower under the Finance Documents.

17.2 Guarantee by Additioanal Guarantors

Each Additional Guarantor agrees that it will be bound by the obligations set out in Schedule 10 (Additional Guarantor’s Guarantee and Indemnity).
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 18.40 (Times when representations are made).

18.1 Status

(a) Each Obligor and each other Group Member is a corporation with limited liability, duly incorporated and validly existing under the law of its Original Jurisdiction.

(b) Each Obligor and each other Group Member has power and authority to own its assets and to carry on its business as it is now being conducted and to perform its obligations under the Transaction Documents to which it is a party.

(c) The Borrower is not a FATCA FFI or a US Tax Obligor.

18.2 Binding obligations

Subject to the Legal Reservations:

(a) the obligations expressed to be assumed by each Obligor in each Transaction Document 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

(b) (without limiting the generality of paragraph (a) above) 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 Non-conflict

The entry into and performance by each Obligor of, and the transactions contemplated by the Transaction Documents and the granting of the Transaction Security do not and will not conflict with:

(a) any law or regulation applicable to any Obligor;

(b) the Constitutional Documents of any Obligor or any other Group Member; or

(c) any agreement or other instrument binding upon any Obligor or any other Group Member or its or any other Group Member’s assets,
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 or any other Group Member’s assets, rights or revenues.
18.4 Power and authority

(a) Each Obligor has the power to enter into, perform and deliver and comply with its obligations under, and has taken all necessary action to authorise its entry into, performance and delivery of, and compliance with, each Transaction Document to which it is, or is to be, a party and each of the transactions contemplated by those documents.

(b) No limitation on any Obligor’s powers (including powers to borrow, create security or give guarantees) will be exceeded as a result of any transaction under, or the entry into of, any Transaction Document to which such Obligor is, or is to be, a party.

18.5 Validity and admissibility in evidence

(a) All Authorisations required:

(i) to enable each Obligor lawfully to enter into, exercise its rights and comply with its obligations under each Transaction Document to which it is a party;

(ii) to make each Transaction Document to which it is a party admissible in evidence in its Relevant Jurisdictions; and

(iii) to ensure that the Transaction Security has the priority and ranking contemplated by the Security Documents,

have been obtained or effected and are in full force and effect except any Authorisation or filing referred to in clause 18.13 (No filing or stamp taxes), which Authorisation or filing will be promptly obtained or effected within any applicable period.

(b) All Authorisations (other than the Authorisations falling within paragraph (a) above) necessary for the conduct of the business, trade and ordinary activities of each Obligor and each other Group Member 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

Subject to the Legal Reservations:

(a) the choice of governing law of any Transaction Document will be recognised and enforced in each Obligor’s Relevant Jurisdictions; and

(b) any judgment obtained in relation to any Transaction Document in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions.

18.7 No misleading information

(a) Any factual information contained in the Information Package is true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given.
Any financial projection or forecast contained in the Information Package (including, without limitation, the Financial Model) has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration.

The expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the Information Package were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds.

To the best of the Parent’s knowledge and belief (having made due and careful enquiry), no event or circumstance has occurred or arisen and no information has been omitted from the Information Package and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections contained in the Information Package being untrue or misleading in any material respect.

To the best of the Parent’s knowledge and belief (having made due and careful enquiry), all other written information provided by any Group Member (including its advisers) to a Finance Party was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

For the purposes of this clause 18.7, “Information Package” means any written information provided by any Obligor or any other Group Member or any of their respective advisors to any of the Finance Parties in connection with the Transaction Documents or the transactions referred to in them.

18.8 Original Financial Statements

(a) The Original Financial Statements were prepared in accordance with US GAAP consistently applied.

(b) The Original Financial Statements truly and fairly present the financial condition of the Group as at the end of the relevant Financial Year and its results of operations during the relevant Financial Year (on a consolidated basis).

(c) The Original Financial Statements do not consolidate the results, assets or liabilities of any person or business which does not form part of the Group.

(d) There has been no material adverse change in the assets, business or financial condition of any Obligor (or the assets, business or consolidated financial condition of the Group, in the case of the Parent) since the date of the Original Financial Statements.

(e) The Parent’s most recent financial statements delivered pursuant to clause 19.3 (Financial statements):

(i) have been prepared in accordance with the Accounting Principles consistently applied; and

(ii) truly and fairly present the Parent’s consolidated financial position as at the end of, and its consolidated results of operations for, the period to which they relate.
The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.

Since the date of the most recent financial statements delivered pursuant to clause 19.3 (Financial statements) there has been no material adverse change in the assets, business or financial condition of the Group.

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 the Amendment and Restatement Agreement:

(a) the Transaction Security has (or will have when the relevant Security Documents have been executed) the priority which it is expressed to have in the Security Documents;

(b) the Charged Property is not subject to any Security Interest other than those permitted by clause 28.2 (General negative pledge); and

(c) the Transaction Security will constitute perfected security on the assets described in the Security Documents.

18.11 Ownership of Charged Property

Each Obligor is the sole legal and beneficial owner of the Charged Property over which it purports to grant a Security Interest under the Security Documents.

18.12 No insolvency

No corporate action, legal proceeding or other procedure or step described in clause 30.8 (Insolvency proceedings) or creditors’ process described in clause 30.9 (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 30.7 (Insolvency) applies to any Group Member.

18.13 No filing or stamp taxes

Under the laws of each Obligor’s Relevant Jurisdictions it is not necessary that any Transaction Document 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, documentary or similar Taxes or fees be paid on or in relation to any such Transaction Document or the transactions contemplated by the Transaction Documents 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 and which will be made or paid promptly after the date of the relevant Transaction Document.
18.14 Deduction of Tax

No Obligor is required to make any Tax Deduction (as defined in clause 12.1 (Definitions) ) 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 other Transaction Document.

18.15 Tax compliance

(a) No Obligor or other Group Member is overdue in the filing of any Tax returns or overdue in the payment of any amount in respect of Tax.

(b) No claims or investigations are being, or are reasonably 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 for an amount for which adequate reserves have not been provided in the Original Financial Statements and which might reasonably be expected to have a Material Adverse Effect or which would involve a liability, or a potential or alleged liability, exceeding:

(i) $5,000,000 (or its equivalent in other currencies) in relation to the Parent or the Group taken as a whole; or

(ii) $500,000 (or its equivalent in other currencies) in relation to any Group Member (other than the Parent).

18.16 Pension exposure

No Group Member is, or may be, liable to contribute funds to any form of pension scheme or similar arrangement (other than a scheme or arrangement where the benefits conferred by it on its members are calculated solely by reference to a payment or payments made by the relevant member or by any other person in respect of that member).

18.17 No Default

(a) No Event of Default and, on the Effective Date, no Default is continuing or might reasonably be expected to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.

(b) No other event or circumstance is outstanding which constitutes (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 reasonably be expected to have a Material Adverse Effect.

18.18 No proceedings

(a) No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of any Obligor’s
knowledge and belief (having made due and careful enquiry)) been started or threatened against any Obligor or any other Group Member.

(b) No judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental, arbitral or other regulatory body or agency which is reasonably likely to have a Material Adverse Effect has (to the best of any Obligor’s knowledge and belief (having made due and careful enquiry)) been made against any Obligor or any other Group Member.

18.19 No breach of laws

(a) To the best of any Obligor’s knowledge and belief (having made due and careful enquiry), no Obligor or other Group Member has breached any law or regulation which breach might reasonably be expected to have a Material Adverse Effect.

(b) 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 might reasonably be expected to have a Material Adverse Effect.

18.20 Environmental matters

(a) To the best of each Obligor’s knowledge and belief (having made due and careful enquiry), no Environmental Law applicable to any Fleet Vessel and/or any Obligor or other Group Member has been violated in a manner or to an extent which might reasonably be expected to have a Material Adverse Effect.

(b) All consents, licences, Authorisations and approvals required or recommended under such Environmental Laws have been obtained and are currently in force.

(c) 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 pending against any Group Member or any Fleet Vessel where that claim might have reasonably be expected to have a Material Adverse Effect and there has been no Environmental Incident which has given, or might give, rise to such a claim.

18.21 Anti-corruption law and Sanctions

(a) Each Group Member has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(b) None of the Obligors nor any other Group Member nor any Affiliate (nor any of its directors or officers) of any of them is a Prohibited Person or is owned or controlled by, or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person and none of such persons owns or controls a Prohibited Person.

(c) Each Obligor, each other Group Member and each Affiliate of any of them is in compliance with all Sanctions.

18.22 No money laundering

Each Obligor who is a Party represents and warrants to each Finance Party that, in relation to the borrowing by it of the Loans, the performance and discharge of its and each Obligor’s
obligations and liabilities under the Finance Documents to which it is or is to be a party and the transactions and other arrangements effected or contemplated respectively thereby (a) it is acting for its own account and (b) that the foregoing will not involve or lead to any contravention of any law, official requirement or other regulatory measure or procedure implemented to combat money laundering (as defined in Article 1 of Directive 2015/849/EC of the European Parliament and the Council).

18.23 Security and Financial Indebtedness

(a) No Security Interest or Quasi-Security exists over all or any of the present or future assets of any Obligor (other than the Manager) in breach of this Agreement.

(b) No Obligor (other than the Manager) has any Financial Indebtedness outstanding in breach of or other than as permitted by this Agreement.

18.24 Shares

(a) The shares of each Owner are fully paid and not subject to any option to purchase or similar rights and are not bearer shares.

(b) The Constitutional Documents of each Owner do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Security Documents.

(c) 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 Owner (including any option or right of pre-emption or conversion).

18.25 Good title to assets

Each Obligor has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

18.26 Intellectual Property

Each Group Member:

(a) is the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted;

(b) does not, in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or might have a Material Adverse Effect; and

(c) has taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it.

18.27 Group Structure Chart

The Group Structure Chart delivered to the Agent under the Amendment and Restatement Agreement is true, complete and accurate in all material respects and shows the following information:
(a) each Group Member, including current name and company registration number, its Original Jurisdiction, its jurisdiction of incorporation and/or its jurisdiction of establishment, a list of shareholders and indicating whether a company is a Dormant Subsidiary; and

(b) all minority interests in any Group Member and any person which any Group Member holds shares in its issued share capital or equivalent ownership interest of such person.

18.28 Status of Charter Documents

Subject to any applicable Legal Reservations, the Charter Documents constitute legal, valid, binding and enforceable obligations of the parties to them in accordance with their respective terms.

18.29 No Owner Change of Control

There has not been an Owner Change of Control.

18.30 No Parent Change of Control

There has not been a Parent Change of Control.

18.31 No Manager Change of Control

There has not been a Manager Change of Control.

18.32 Accounting Reference Date

The Financial Year-end of each Obligor and other Group Member is the Accounting Reference Date.

18.33 Copies of documents

The copies of those Transaction Documents which are not Finance Documents and the Constitutional Documents of the Obligors delivered to the Agent under the Amendment and Restatement 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 those Transaction Documents which would affect the transactions or arrangements contemplated by them or modify, waive or release the obligations of any party under them.

18.34 No breach of any Charter Document

(a) No Obligor nor (so far as the Obligors are aware) any other person is in material breach of any Charter Document to which it is a party nor has anything occurred which entitles or may entitle any party to rescind or terminate it or decline to perform their obligations under it.

(b) For the purposes of paragraph (a) (but without limitation), any breach of any Charter Document relating to non-payment of charterhire, reduction of charterhire, frequency of charterhire payment, the termination rights of a Charterer, cancellation of the Charter, assignment and/or transfer of any rights and/or obligations under the Charter or a change in the identity of the Charterer shall be regarded as a material breach.
18.35 No immunity

No Obligor or any of its assets is immune to any legal action or proceeding.

18.36 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 any overdue requirements and recommendations of the relevant Classification Society; and
(d) insured in the manner required by the Finance Documents.

18.37 Ship’s employment

Each Ship shall on the first day of the relevant Mortgage Period:

(a) if it is subject to a Charter on the first day of the relevant Mortgage Period, have been delivered, and accepted for service, under its Charter;
(b) be free of any other charter commitment which, if entered into after that date, would require approval under the Finance Documents; and
(c) not be subject to any agreement or arrangement whereby the Earnings of that Ship may be shared with any other person.

18.38 Address commission

There are no rebates, commissions or other payments in connection with any Charter other than those referred to in it.

18.39 No unencumbered Fleet Vessel

All Fleet Vessels are subject to Security Interests securing an Amended RA Facility or the Amended and Restated Sinosure Facility.

18.40 Times when representations are made

(a) All of the representations and warranties set out in this clause 18 (other than Ship Representations) are deemed to be made on the Effective Date.
(b) The Repeating Representations are deemed to be made and repeated on the first day of each Interest Period.
(c) All of the Ship Representations are deemed to be made on the first day of the Mortgage Period for the relevant Ship.
(d) Each representation or warranty deemed to be made after the Effective Date shall be deemed to be made and repeated by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made or repeated.

19 Information undertakings

19.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 19 will be complied with throughout the Facility Period.

19.2 Defined terms

In this clause 19:

“Annual Financial Statements” means the financial statements of the Group for a Financial Year delivered pursuant to paragraph (a) of clause 19.3 (Financial statements).

“Quarterly Financial Statements” means the financial statements of the Group for a Financial Quarter delivered pursuant to paragraph (b) of clause 19.3 (Financial statements).

19.3 Financial statements

(a) The Parent shall supply to the Agent (in sufficient copies for all the Lenders) as soon as the same become available, but in any event within 150 days after the end of each Financial Year, the audited consolidated financial statements of the Group for that Financial Year.
The Parent shall supply to the Agent (in sufficient copies for all the Lenders) as soon as the same become available, but in any event within 40 days after the end of each Financial Quarter of each of its Financial Years the unaudited consolidated financial statements of the Group for that Financial Quarter.

Upon reasonable request of the Agent (acting on the instructions of the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders), the Parent shall prepare a second set of the annual consolidated financial statements of the Group prepared on the basis of International Financial Reporting Standards (IFRS Standards) and, if so requested by the Agent (acting on the instructions of the Majority Tranche 1 Lenders or Majority Tranche 2 Lenders), have them audited and provide Agent with the same within one month after the financial statements referred to above in (a) have been provided. The costs for the preparation of such a second set of annual consolidated financial statements as well as its auditing shall be for the account of the Lenders that comprise the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders, as applicable, provided that the Parent has agreed a cost estimate with such Lenders.

19.4 Provision and contents of Compliance Certificate

(a) The Parent shall supply a Compliance Certificate to the Agent with each set of Annual Financial Statements and each set of Quarterly Financial Statements for the Group. Each Compliance Certificate shall be accompanied by the most recent valuations obtained in accordance with clause 25 (Valuations).

(b) Each Compliance Certificate shall set out (in reasonable detail):
computations as to compliance with clause 20 *(Financial covenants)*

(ii) the Total Available Cash (including details as to its calculation) as of the relevant Quarter Date; and

(iii) the balance of all the Amended RA Facilities, Amended and Restated Sinosure Facility and Financial Indebtedness secured on all Fleet Vessels as of the date of the Compliance Certificate.

(c) Each Compliance Certificate shall be signed by the chief financial officer of the Parent or chief operating officer of the Parent or, in his or her absence, by two directors of the Parent and, if required to be delivered with the Annual Financial Statements, shall be reported on by the Auditors.

(d) Each Compliance Certificate supplied to the Agent shall be reviewed by the Auditors in connection with the amounts and calculations in respect of Total Available Cash.

(e) The Compliance Certificate supplied to the Agent in respect of the Quarterly Financial Statements for the Group for the Financial Quarter ending on 30 September 2018 shall (i) set out the actual amount of any cost overrun in respect of advisors’ costs and fees in connection with the restructuring contemplated by the Restructuring Support Agreement compared to the aggregate amount for such costs and fees budgeted in the Financial Model, together with an explanation of any such cost overrun in reasonable detail, and (ii) confirm that there has been no change or amendments made or agreed to by any Group Member to any of the cost or fee arrangements with any advisor in connection with the restructuring contemplated under the Restructuring Support Agreement since the date of the Financial Model.

### 19.5 Requirements as to financial statements

(a) The Parent shall procure that each set of Annual Financial Statements and Quarterly Financial Statements:

(i) includes a profit and loss account, a balance sheet and a cashflow statement; and

(ii) is accompanied by a statement of an officer or chief officer of the Parent comparing actual performance for the Relevant Period to which the financial statements relate to the projected performance for that period set out in the Budget and the actual performance for the corresponding period in the preceding Financial Year,

and that, in addition:

(A) each set of Annual Financial Statements shall be audited by the Auditors; and

(B) each set of Quarterly Financial Statements includes a reconciliation of actual costs for that Financial Quarter against budgeted costs for that Financial Quarter (as calculated in accordance with the relevant Budget) and, in the event that any actual cost detailed therein exceeds the budgeted cost for such line item, an explanation of such variance.
(b) Each set of financial statements delivered pursuant to clause 19.3 (Financial statements) shall:

(i) be prepared in accordance with the Accounting Principles;

(ii) truly and fairly present, and be certified by an officer of the relevant Obligor as truly and fairly presenting, its financial condition and operations as at the date as at which those financial statements were drawn up and, in the case of the Annual Financial Statements, shall be accompanied by any letter addressed to the management of the relevant Obligor by the Auditors and accompanying those Annual Financial Statements;

(iii) be accompanied by a statement by the directors of the Parent comparing actual performance for the period to which the Annual Financial Statements or the Quarterly Financial Statements relate to:

(A) the projected performance for that period set out in the Budget for that Financial Year; and

(B) the actual performance for the corresponding period in the preceding Financial Year of the Group; and

(iv) in the case of Annual Financial Statements, not be the subject of any qualification in the Auditors’ opinion.

(c) The Parent shall procure that each set of financial statements delivered pursuant to clause 19.3 (Financial statements) shall be prepared using the Accounting Principles, 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 Parent notifies the Agent that there has been a change in the Accounting Principles or the accounting practices and the Auditors deliver to the Agent:

(i) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices and reference periods upon which corresponding Original Financial Statements were prepared; and

(ii) 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.

(d) 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.

(e) If the Agent (or any Lender) wishes to discuss the financial position of any Group Member with the auditors of that Group Member, the Agent (or any Lender) may notify the Parent, stating the questions or issues which the Agent wishes to discuss with those auditors. In this event, to the extent the questions or issues arising cannot satisfactorily be explained by the Parent, the Parent shall ensure that such auditors are authorised (at
the expense of the Parent and involving the Parent in all correspondence and discussions):

(i) to discuss the financial position of the relevant Group Member with the Agent on request from the Agent; and

(ii) to disclose to the Agent for the benefit of and distribution to the Lenders any information which the Agent may reasonably request.

19.6 Budget

(a) The Parent shall supply to the Agent in sufficient copies for all the Lenders, as soon as the same become available but in any event at least 30 days before the start of each of its Financial Years, an annual Budget for that Financial Year.

(b) The Parent shall ensure that each Budget for a Financial Year:

(i) is in a form reasonably acceptable to the Agent and includes:

(A) a projected consolidated profit and loss (including aggregate revenue and aggregate operating expenses and general and administrative and other corporate expenses), balance sheet and cashflow statement of the Group;

(B) projected capital expenditures (including maintenance and investment capital expenditures), operating expenses and other costs to be incurred by each Fleet Vessel;

(C) projected financial covenant calculations;

(D) projected liquidity of the Group;

(E) consolidated financial projections; and

(F) based on the same principles and with the same or higher level of detail as the Financial Model;

(ii) enables approval by the Majority Lenders of the aggregate operating expenses and general and administrative and other corporate expenses of the Group and the project capital expenditures (including maintenance and investment capital expenditures), operating expenses and other costs to be incurred in respect of each Mortgaged Ship;

(iii) is prepared in accordance with the Accounting Principles; and

(iv) has been approved by the board of directors of the Parent.

(c) The Parent shall brief, in the manner set out in clause 19.7(b) (Presentations), the Agent regarding projected capital expenditures (including maintenance and investment capital expenditures), operating expenses and general administrative expenses relating to the Fleet Vessels, including any contingencies and one off or exceptional expenditure in relation to the Fleet Vessels.

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(d) If the Agent (acting on the instructions of either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders) considers it necessary (acting reasonably having regard to the Parent’s financial position at the time), it may request, at the expense of the Parent, that the financial projections set out in the Budget are reviewed by a major accounting firm and that such accounting firm provides a reconciliation of such financial projections.

(e) The Budget that is delivered under this clause which is approved by the Majority Lenders shall be an “Approved Budget” for the purposes of the Global Intercreditor Deed in respect of this Agreement.

19.7 Presentations

(a) Once in every Financial Year, or more frequently if requested to do so by the Agent if the Agent reasonably suspects a Default is continuing or may have occurred or may occur, the Parent shall procure that at least two of its directors (one of whom shall be the chief financial officer) give a presentation to the Finance Parties about the on-going business and financial performance of the Group and any other matter which a Finance Party may reasonably request.

(b) Once in each calendar month until 31 December 2018 and thereafter every Financial Quarter, the Parent shall ensure that one or more of the chief executive officer, chief financial officer and chief operating officer gives a briefing (by telephone or in person at the option of the Parent) to the Lenders about the ongoing business and financial performance of the Group, including:

(i) the information referred to in, or delivered under, this clause 19 (Information undertakings);

(ii) the Parent’s forward-looking view of the remainder of the year;

(iii) the Parent’s current liquidity position and forecasts for its liquidity position;

(iv) the balance of amounts outstanding under each Amended RA Facility, Amended and Restated Sinosure Facility, and any other Financial Indebtedness incurred in connection with a Permitted Ship Purchase;

(v) the earnings per Fleet Vessel (including an aged creditor list), payments, expenses and other amounts incurred (including an aged debtor list) in connection with the operation, maintenance and repair of the Fleet Vessels and the profitability level of the Fleet Vessels;

(vi) an overview about (i) all Fleet Vessels and other ships associated to any Group Member and (ii) all facilities attributable to any Group Member and the outstandings thereunder (other than the facilities referred to in (iv) above); and

(vii) in the final Financial Quarter of each Financial Year, its budget for the forthcoming year,

provided that, without prejudice to the other provisions of this Agreement, nothing in this clause shall oblige the Parent to produce financial statements other than the financial statements specified in clause 19.3 (Financial statements) in accordance with
19.8 Year-end

The Parent shall procure that each Financial Year-end of each Obligor and each Group Member falls on the Accounting Reference Date.

19.9 Information: miscellaneous

The Obligors shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

(a) save to the extent publicly available, at the same time as they are dispatched, copies of all documents dispatched by the Parent to any class of its shareholders generally or dispatched by the Parent or any Obligor to any class of its creditors generally;

(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:
   
   (i) $5,000,000 (or its equivalent in other currencies) in relation to the Parent or the Group taken as a whole; or
   
   (ii) $500,000 (or its equivalent in other currencies) in relation to any Group Member (other than the Parent);

(c) promptly, details of any disposal or insurance claim or other event or circumstance which may require a prepayment under this Agreement;

(d) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental, arbitral or other regulatory body or agency which is made against any Group Member and which is reasonably likely to have a Material Adverse Effect or which would involve a liability, or a potential or alleged liability, exceeding:
   
   (i) $5,000,000 (or its equivalent in other currencies) in relation to the Parent or the Group taken as a whole; or
   
   (ii) $500,000 (or its equivalent in other currencies) in relation to any Group Member (other than the Parent);

(e) promptly, such information as the Agent or the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Security Documents;

(f) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any Group Member (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by the Obligors under this Agreement, any changes to management of the Group and an up to date copy of its shareholders’ register (or equivalent in its
jurisdiction of incorporation)) as any Finance Party through the Agent may reasonably request;

(g) promptly on request information regarding the condition and employment of each Fleet Vessel;

(h) by no later than 30 June 2023, the Parent’s proposals on how it will refinance any amounts that will remain outstanding under the Finance Documents on the Tranche 2 Final Repayment Date;

(i) promptly upon becoming aware, notification that Dr John Coustas has ceased to be Chief Executive Officer of the Parent;

(j) notification that the Parent is required to procure that security is given over a Fleet Vessel to secure the Restructured Facilities pursuant to clause 3.6 (Obligation to give Security on Unencumbered Vessels in the Existing Fleet) of the Global Intercreditor Deed; and

(k) promptly upon becoming aware that there may be a deviation of more than 20 per cent. Regarding the cashflow forecast in respect of the Group relating to any Financial Quarter.

19.10 Information: Ship Classification

The Obligors shall supply to the Agent, promptly upon its request:

(a) certified true copies of all original class records held by the Classification Society in relation to each Ship; and

(b) written confirmation that:

(i) each Obligor 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 any Obligor is in default of any of its contractual obligations and liabilities to the Classification Society, to specify to the Agent in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the Classification Society.

19.11 Information: Intra-group Funding of Excess Cash

(a) On the last day of each Interest Period, the Parent shall supply to the Agent (in sufficient copies for all the Lenders) a Ring Fencing Compliance Certificate specifying, amongst other things, the quantum of Excess Cash generated, Excess Cash Loan balances (positive and negative) in respect of each Amended RA Facility, Permitted Refinancing Danaos SPV Loan balances (positive and negative), Support Payments, the aggregate balance of all Excess Cash Loans with a negative balance across all Amended RA Facilities, and the aggregate balance of all Permitted Refinancing Danaos SPV Loans with a negative balance, and Total Available Cash (including details as to its calculation), each as of the date of the Ring Fencing Compliance Certificate.
Each Ring Fencing Compliance Certificate shall be signed by the chief financial officer of the Parent or chief operating officer of the Parent or, in his or her absence, by two directors of the Parent.

19.12 Information: Follow-on Equity Raise

(a) The Parent shall provide such information to the Lenders as either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders (or both) may from time to time request in relation to the status of the Follow-on Equity Raise and the Parent’s preparations in relation thereto, but (subject to paragraph (b) below) not more frequently than once per Financial Quarter until the date falling one year after the Effective Date and thereafter not more frequently than once per month.

(b) If the Parent fails to complete the Follow-on Equity Raise within 18 months of the Effective Date, the Parent shall, whenever reasonably requested by either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders (or both), provide to the Lenders such information in relation to the status of the Follow-on Equity Raise as such Lenders may reasonably request from time to time.

19.13 Information: Proposed Permitted Group Level Financial Indebtedness and Joint Ventures

In connection with any proposal to the Lenders to approve (a) any Financial Indebtedness to be incurred by the Parent pursuant to limb (c) of the definition of “Permitted Group Level Financial Indebtedness” or (b) any Joint Venture to be entered into by the Parent pursuant to paragraph (c) of clause 28.12 (Acquisitions and investments), the Parent shall supply to the Agent (in sufficient copies for all the Lenders) business case presentation, supporting material, third-party reports and any other available documentation (including term sheets and/or draft definitive documentation) relating to such proposed transaction, and any other information that the Lenders may request.

19.14 Notification of Default

(a) The Borrower shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) or any event which might adversely affect the ability of any Obligor to perform its obligations under any of the Finance Documents promptly upon any Obligor becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Agent, the Parent shall supply to the Agent a certificate signed by two of its directors or senior officers of the Parent 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).

(c) The Borrower must notify the Agent promptly upon becoming aware that any party to a Transaction Document is seeking to amend, vary or supplement any Transaction Document, or that any party is in breach of any Transaction Document together with reasonable details of the surrounding circumstances.
19.15 Inspection

Each Obligor who is a Party undertakes with the Finance Parties that, for so long as any moneys are owing under any of the Finance Documents, upon the request of the Agent following the occurrence of an Event of Default which is continuing or if the Agent reasonably suspects that an Event of Default is continuing or might occur, it shall provide the Finance Parties or any of their representatives, professional advisors, valuers and contractors with free access at the risk and cost of the relevant Obligor or Borrower to, and permit inspection of, the premises, assets, books, accounts and records of any Group Member and permit such persons to meet and discuss the matter with senior management of the Group, in each case at reasonable times and upon reasonable notice.

19.16 Sufficient copies

The Borrower, 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.

19.17 Use of websites

(a) The Borrower 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 an electronic website designated by the Borrower and the Agent (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) both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Borrower and the Agent.

(b) If a Designated Website has been established for the information required to be delivered under the Finance Documents, then at the request of any Lender, the Borrower will establish an additional Designated Website the title of which includes the terms “Public Only” (the “Public Only Website”). The Borrower will post all information required to be delivered under the Finance Documents to the Public Only Website, so long as all information so posted is information the Borrower has determined is either public information or information which is not material with respect to any Group Member or any of its respective securities for purposes of applicable securities laws. Each Lender shall be entitled to assume that all information posted on the Public Only Website is public information, and the confidentiality provisions of the Finance Documents will not apply to information on the Public Only Website.

(c) If any Lender (a “Paper Form Lender”) does not agree to the delivery of information electronically then the Agent shall notify the Borrower accordingly and the Borrower shall at its own cost supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall at its own cost supply the Agent with at least one copy in paper form of any information required to be provided by it.

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(d) 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 by the Borrower and the Agent.

(e) The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:

(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

(f) If the Borrower notifies the Agent under paragraphs (e)(i) to (v) above, all information to be provided by the Borrower 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.

(g) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall comply with any such request within ten Business Days.

19.18 “Know your customer” checks

(a) If:

(i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement or the application of the policies and procedures of the Agent or any Lender;

(ii) any change in the status of an Obligor (or of a Holding Company of an Obligor) or the composition of the shareholders of an Obligor (or of a Holding Company of an Obligor) after the date of this Agreement; or

(iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not already a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (ii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of

(b) Each Finance Party shall, promptly upon the request of the Agent, the Security Agent or any Lender, supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent, the Security Agent or any Lender (for itself) in order for it to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

(c) The Parent shall, by not less than ten Business Days’ prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Guarantor pursuant to Clause 32 (Changes to the Obligors).

(d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Guarantor obliges the Agent or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Parent shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective New Lender) in order for the Agent or such Lender or any prospective New Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Guarantor.

19.19 Additional investigation

(a) The Majority Lenders shall, having regard to any concerns at that time which warrant such explanation, be entitled to require the Parent to respond to such concerns in order to explain and enable Finance Parties to understand management actions and the financial performance of the Borrower and each Obligor. The Majority Lenders shall provide brief details to the Parent of the reason for requiring such an explanation and the
Parent shall, within 15 days of a request from the Majority Lenders, provide such an explanation.

(b) If the Majority Lenders are not satisfied with any explanation provided under paragraph (a) above, the Majority Lenders shall be entitled to require a major accounting firm (at the expense of the Borrower) to undertake such additional investigative work as may reasonably be required to explain and enable Finance Parties to understand management actions and the financial performance of the Borrower and each Obligor.

19.20 Tranche 2 Independent Review

(a) In the event that the Total Tranche 2 Commitment is above the Tranche 2 Target Amount as of any two (2) consecutive Quarter Date (after taking into account the amount of Balancing Payment payable in respect of such Quarter Dates), any Lender
shall have the right to require an independent review of the Group’s business by a major accounting firm for the specific purpose of explaining and enabling the Lenders to understand the financial performance of the Group (such review to be conducted in consultation with the Parent’s management team), provided that such independent review shall not unduly restrict the management team from performing its day to day functions.

(b) Any fees, costs and expenses of such independent review shall require approval by the Parent before being incurred (such consent not to be unreasonably withheld, conditioned or delayed).

(c) The Parent shall provide, on a common platform basis to all other RA Lenders, extracts from that independent review (such extracts to be limited to Group consolidated information and not to include recommendations, options analysis, valuation work or information specific to the Facilities, and such extracts otherwise to be in form and substance satisfactory to the Parent and the Lenders), subject to the execution by such other RA Lenders of non-reliance / hold-harmless letters required by the report providers in accordance with their usual procedures and on the basis that the Lenders are the engaging parties and that the provision of such common platform information does not preclude the Lenders from retaining or continuing to retain any such report providers to perform work and analysis solely on behalf of the Lenders.

20 Financial covenants

20.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 20 will be complied with throughout the Facility Period.

20.2 Financial definitions

In this clause 20:

“Accounting Principles” means US GAAP or, if chosen to be adopted by the Parent, International Financial Reporting Standards (IFRS Standards) applicable from time to time.

“Bareboat Equivalent Time Charter Income” means, at any time and in relation to a Relevant Vessel, the aggregate charter hire due and payable to a Group Member for that Relevant Vessel for the remaining unexpired term of the charter or other contract of employment in respect of that Relevant Vessel at the relevant time (excluding any relevant renewal or charter extension options at the option of the charterers) less, in the case of a contract of employment other than a bareboat charter, the aggregate operating expenses, insurances and dry-docking costs of that Relevant Vessel which would be ordinarily borne by a bareboat charterer and certified to the satisfaction of the Agent for the same period.

“Borrowings” means, at any time, the aggregate face value of the outstanding principal or capital amount (and any fixed or minimum premium payable on prepayment or redemption) of any indebtedness of Group Members for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions;
(b) any acceptances under any acceptance credit or bill discount facility (or dematerialised equivalent);
(c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
(d) any Finance Lease;
(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirements for derecognition under the Accounting Principles);
(f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of an entity which is not a Group Member which liability would fall within one of the other paragraphs of this definition;
(g) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before all amounts outstanding under the Finance Documents are discharged in full or are otherwise classified as borrowings under the Accounting Principles;
(h) any amount of any liability under an advance or deferred purchase agreement if:
   (i) one of the primary reasons behind the entry into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question; or
   (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of supply;
(i) any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; and
(j) (without double counting) 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,

and, for the avoidance of doubt, shall not include any obligation or mark to market fair value recorded in the Financial Statements in respect of derivative financial instruments.

“Cash” means, at any time, cash denominated in dollars (or any other currency which is freely transferable and freely convertible) in hand or at bank and (in the latter case) credited to an account in the name of any Group Member with an Acceptable Bank or a RA Lender and to which the relevant Group Member is alone beneficially entitled and, where held in an account rather than in hand, for so long as:

(a) that cash is repayable within 30 days after the relevant date of calculation;
(b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any Group Member or of any other person whatsoever or on the satisfaction of any other condition;

(c) there is no Security Interest or Quasi-Security over that cash except for any Security Interest or Quasi-Security which is permitted under clause 28.2 (General negative pledge); and

(d) the cash is freely and (except as mentioned in paragraph (a) above) immediately available to be applied in repayment or prepayment of the Amended RA Facilities and/or the Amended and Restated Sinosure Facility.

“Cash Equivalents” means at any time:

(a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank or an RA Lender;

(b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State (provided always that any such government has a rating for its long-term unsecured and non-credit-enhanced debt obligations of A or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or A2 or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency) or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

(c) commercial paper not convertible or exchangeable to any other security:
   (i) for which a recognised trading market exists;
   (ii) issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
   (iii) which matures within one year after the relevant date of calculation; and
   (iv) which has a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

(d) any investment in money market funds which:
   (i) have a credit rating of either A-1 or higher by Standard & Poor’s Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody’s Investors Service Limited;
   (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (c) above; and
   (iii) can be turned into cash on not more than 30 days’ notice; or
any other debt security approved by the Majority Lenders,

in each case, denominated in dollars (or any other currency which is freely transferable and freely convertible) and to which the Parent is alone beneficially entitled at that time and which is not issued or guaranteed by any Group Member or subject to any Security Interest (other than any Security Interest permitted under clause 28.2 (General negative pledge)) and the ability to deal in any such instrument or ability to apply the proceeds towards the prepayment or repayment of any Amended RA Facility and/or the Amended and Restated Sinosure Facility is not subject to the prior discharge of any other Financial Indebtedness.

“Charter Free Value At End Of Charter” means, at any time and in relation to a Relevant Vessel, the Charter Free Vessel Value of that Relevant Vessel at the end of the time charter or other contract of employment which shall be deemed to be equal to the current Charter Free Vessel Value of a vessel with similar characteristics to that Relevant Vessel, but having the age which that Relevant Vessel will have at the expiration of the term of her time-charter or other contract of employment, excluding any relevant renewal or charter extension options at the option of the charterers.

“Charter Securities” means, at any time, the value of debt and/or equity instruments or other security provided to a Group Member by charterers in consideration for a variation or other amendments or the provision of credit in relation to a charter or other contract of employment, as valued and presented within the Financial Statements in accordance with the Accounting Principles.

“Consolidated Debt” means, at any time, the aggregate of all obligations of any Group Member for or in respect of Borrowings at that time but excluding any such obligations owing by a Group Member to another Group Member.

“Consolidated EBITDA” means, in respect of any Relevant Period, the Net Income:

(a) before taking into account interest income and interest expense, gains or losses under any derivative financial instruments (whether realised or unrealised), tax, depreciation, amortisation and any other non-cash item, capital gains or losses realised from the sale of any Relevant Vessel, Finance Charges and capital losses on Relevant Vessel cancellations each as reflected in the Financial Statements for the Relevant Period; and

(b) before taking into account Non-Recurring Items (subject to the limitation set out in that definition).

“Consolidated Market Value Adjusted Net Worth” means, at any time, the amount by which Market Value Adjusted Total Consolidated Assets exceeds the Total Consolidated Liabilities.

“Consolidated Net Leverage” means, in respect of any Relevant Period, the ratio of Consolidated Debt (less Cash and Cash Equivalents) to Consolidated EBITDA in respect of that Relevant Period.

“Finance Charges” means, for any Relevant Period, the aggregate amount of the accrued interest (excluding any accrued or capitalised PIK interest), commission, exit fees, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Borrowings whether paid, payable or capitalised by any Group Member as included in the Financial Statements (calculated on a consolidated basis) in respect of that Relevant Period:
(a) including any upfront fees or costs which are included as part of the effective interest rate adjustments (including in respect of permitted interest rate caps);

(b) including the interest (but not the capital) element of payments in respect of Finance Leases;

(c) including any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any Group Member under any interest rate hedging arrangement; and

(d) taking no account of any unrealised gains or losses on any derivative financial instruments,

so that no amount shall be added (or deducted) more than once.

“Finance Leases” means any lease or hire purchase contract which would, in accordance with the Accounting Principles be treated as a finance or capital lease.

“Financial Statements” means, at any time, the consolidated financial statements of the Parent (whether quarterly or annual) delivered to the Agent under clause 19.3 (Financial statements).

“Fixed Amortization Amounts” means, the contractually fixed amortization schedule contained in, and in respect of, each Amended RA Facility.

“Interest Cover” means, for any Relevant Period, the ratio of Consolidated EBITDA to Net Interest Expense.

“Market Value” for each Relevant Vessel means, at any time:

(a) Charter Attached Vessel Value for a Relevant Vessel that, at the relevant time, is subject to a charter or other contract of employment having an unexpired term of 12 months or more, excluding any relevant renewal or charter extension options at the option of the charterers (such Relevant Vessel is described as Relevant Vessel (Charter Attached)), shall be the aggregate of:

(i) the present value of the Bareboat Equivalent Time Charter Income of that Relevant Vessel; and

(ii) the present value of the Charter Free Value At End of Charter valuation of that Relevant Vessel.

In calculating the above present values, the applicable discount rate shall be 7 per cent;

(b) Charter Free Vessel Value for a Relevant Vessel shall be its market value determined pursuant to the most recent valuations obtained for that Relevant Vessel in accordance with Clause 25 (Valuations); and

(c) Construction Vessel Value for a Relevant Vessel under construction, shall be the net book value for it as recorded in the Financial Statements.

“Market Value Adjusted Total Consolidated Assets” means, at any time, Total Consolidated Assets adjusted to reflect the Market Value of all Relevant Vessels that are operational and trading or capable of trading by replacing the aggregate net book value of such Relevant Vessels.
(as reflected in the Financial Statements for the Relevant Period) with the aggregate of their Market Values as at the relevant date, less Cash and Cash Equivalents. For the avoidance of doubt, net book value of the Relevant Vessels under construction shall not be subject to such adjustment to Total Consolidated Assets.

“Minimum Corporate Cover (Charter Attached)” means, on each Quarter Date, the ratio of (a) the aggregate of the Charter Attached Vessel Values of all Relevant Vessels (Charter Attached), the Construction Vessel Value of all Relevant Vessels under construction and the Charter Free Vessel Values of all other Relevant Vessels plus Charter Securities to (b) Consolidated Debt.

“Minimum Corporate Cover (Charter Free)” means on each Quarter Date, the ratio of (a) the aggregate of the Construction Vessel Value of all Relevant Vessels under construction and the Charter Free Vessel Value of all other Relevant Vessels (irrespective of the remaining unexpired term of their charter or other contact of employment) plus Charter Securities to (b) Consolidated Debt.

“Minimum Liquidity” means the aggregate of all Cash and Cash Equivalents at any time.

“Net Income” means:

(a) in relation to any Financial Year, the net income of the Group appearing in the Financial Statements for that Financial Year; and

(b) in relation to any Financial Quarter, the net income of the Group appearing in the Financial Statements for that Financial Quarter.

“Net Interest Expense” in respect of a Relevant Period is equal to consolidated:

(a) interest expense (excluding capitalised interest and PIK interest), less

(b) interest income, less

(c) realised gains on interest rate swaps, plus

(d) realised losses on interest rate swaps,

each as reflected in the Financial Statements for the Relevant Period. For the avoidance of doubt, Net Interest Expense excludes unrealised gains/losses on derivative financial instruments.

“Non-Recurring Items” means, in respect of a Relevant Period, any exceptional, one off, non-recurring or extraordinary items up to a maximum of 5 per cent of Consolidated EBITDA (excluding Non-Recurring Items), each as reflected in the Financial Statements for that Relevant Period. The 5 per cent limit shall not apply to expenses related to the consummation of the Amended RA Facilities and/or the Amended and Restated Sinosure Facility, which include legal and financial adviser fees to professional advisors of the Parent and the RA Lenders incurred prior to the Effective Date as well as any upfront fees and amendment fees payable to the RA Lenders and any underwriting fees in relation to the raising of equity paid on customary market terms to an equity underwriter who is a broker-dealer of international standing.

“RA Lender” means, at any time, each financial institution that is a party to an Amended RA Facility as an original party and any financial institutions that become a party to the Amended
RA Facilities in accordance with the relevant transfer and accession provisions contained therein.

“Relevant Period” means each period of twelve months ending on the last day of each Financial Quarter.

“Relevant Vessels” means, together, all of the vessels from time to time owned or leased (under a lease that constitutes a Finance Lease) or are under construction by Group Members which, at the relevant time, are included within Total Consolidated Assets in the Financial Statements or which would be included within Total Consolidated Assets in the Financial Statements if the Financial Statements were required to be prepared at that time.

“Total Consolidated Assets” means, at any time, the “Total Assets” of the Group as presented in the Financial Statements, excluding the mark to market fair value of any derivative financial instruments (where the entry into such derivative financial instrument is not prohibited by this Agreement) as recorded within the Financial Statements in accordance with the Accounting Principles.

“Total Consolidated Liabilities” means, at any time, the “Total Liabilities” of the Parent as presented in its Financial Statements (so as to reflect, if applicable, the face value of such liabilities), excluding the mark to market fair value of any derivative financial instruments (where the entry into such derivative financial instrument is not prohibited by this Agreement) as recorded within the Financial Statements in accordance with the Accounting Principles.

20.3 Minimum Corporate Cover (Charter Free)

For each Relevant Period ending on each Quarter Date specified in column 1 below, the Minimum Corporate Cover (Charter Free) shall not be less than the percentage specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Minimum Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>57.0%</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>60.0%</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>60.5%</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>63.0%</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>66.0%</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>66.0%</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>69.0%</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>69.0%</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>71.0%</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>71.0%</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>74.0%</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>76.5%</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>79.0%</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>79.0%</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>81.0%</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>83.5%</td>
</tr>
<tr>
<td>31 December 2022</td>
<td>86.0%</td>
</tr>
<tr>
<td>31 March 2023</td>
<td>93.5%</td>
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<tr>
<td>30 June 2023</td>
<td>93.5%</td>
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<tr>
<td>30 September 2023</td>
<td>100.0%</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

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20.4 Minimum Corporate Cover (Charter Attached)

For each Relevant Period ending on each Quarter Date specified in column 1 below, the Minimum Corporate Cover (Charter Attached) shall not be less than the percentage specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Minimum Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>69.5%</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>73.0%</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>73.0%</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>76.0%</td>
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<tr>
<td>31 December 2019</td>
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<tr>
<td>31 March 2020</td>
<td>78.5%</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>79.0%</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>79.0%</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>81.0%</td>
</tr>
<tr>
<td>31 March 2021</td>
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<tr>
<td>30 June 2021</td>
<td>84.0%</td>
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<tr>
<td>30 September 2021</td>
<td>84.0%</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>86.5%</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>86.5%</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>89.0%</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>89.0%</td>
</tr>
</tbody>
</table>
### Minimum Liquidity

For each Relevant Period ending on each Quarter Date specified in column 1 below, Minimum Liquidity shall not at any time be less than the figure specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Minimum Liquidity (million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>$30</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>$30</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>$30</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>$30</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>$30</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>$30</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>$30</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>$30</td>
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<tr>
<td>31 December 2020</td>
<td>$30</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>$30</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>$30</td>
</tr>
</tbody>
</table>
### 20.6 Consolidated Net Leverage

For each Relevant Period ending on each Quarter Date specified in column 1 below, Consolidated Net Leverage shall not exceed the ratio specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>7.50x</td>
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<td>31 March 2019</td>
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<tr>
<td>31 December 2023</td>
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</tr>
</tbody>
</table>

### 20.7 Interest Cover

For each Relevant Period ending on each Quarter Date specified in column 1 below, Interest Cover shall not be less than the ratio set out in column 2 opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Interest Cover</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>2.50x</td>
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<tr>
<td>Column 1 — Quarter Dates</td>
<td>Column 2 — Interest Cover</td>
</tr>
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<tr>
<td>31 December 2019</td>
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</tbody>
</table>

20.8 Consolidated Market Value Adjusted Net Worth

For each Relevant Period ending on each Quarter Date specified in column 1 below, its Consolidated Market Value Adjusted Net Worth shall not be less than the figure specified in column 2 below opposite that Quarter Date.

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Consolidated Market Value Adjusted Net Worth (million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>$ (510)</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>$ (460)</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>$ (440)</td>
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<td>30 September 2019</td>
<td>$ (380)</td>
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<tr>
<td>31 December 2019</td>
<td>$ (370)</td>
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<tr>
<td>31 March 2020</td>
<td>$ (320)</td>
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<tr>
<td>30 June 2020</td>
<td>$ (300)</td>
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<tr>
<td>30 September 2020</td>
<td>$ (280)</td>
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<tr>
<td>31 December 2020</td>
<td>$ (240)</td>
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<tr>
<td>31 March 2021</td>
<td>$ (230)</td>
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<td>30 June 2021</td>
<td>$ (190)</td>
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<td>30 September 2021</td>
<td>$ (190)</td>
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<tr>
<td>31 December 2021</td>
<td>$ (150)</td>
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<tr>
<td>31 March 2022</td>
<td>$ (150)</td>
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<tr>
<td>30 June 2022</td>
<td>$ (110)</td>
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<tr>
<td>30 September 2022</td>
<td>$ (110)</td>
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<tr>
<td>31 December 2022</td>
<td>$ (80)</td>
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<tr>
<td>31 March 2023</td>
<td>$ (50)</td>
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<tr>
<td>30 June 2023</td>
<td>10</td>
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<tr>
<td>30 September 2023</td>
<td>60</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>60</td>
</tr>
</tbody>
</table>

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20.9 **Financial testing**

The financial covenants set out in this clause 19.19 shall be calculated in accordance with the Accounting Principles and tested by reference to each set of Financial Statements and/or each Compliance Certificate delivered pursuant to clause 19.4 (Provision and contents of Compliance Certificate). Notwithstanding the foregoing provisions of this Clause 20.9, the outstanding principal amount of any moneys borrowed or debit balances at banks or financial institutions will for the purposes of this Clause 20 be determined by reference to the actual outstanding principal amounts in respect of such moneys borrowed or the outstanding principal debit balances in each case at the time of determination, irrespective of the treatment of such amounts under the Accounting Principles, and both sub-paragraph (a) of “Borrowings” and “Total Consolidated Liabilities” shall be calculated by reference to such actual amounts.

21 **General undertakings**

21.1 **Undertaking to comply**

Each Obligor who is a Party undertakes that this clause 21 will be complied with by and in respect of each Obligor and each other Group Member throughout the Facility Period.

21.2 **Authorisations**

Each Obligor 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 Authorisation required under any law or regulation of a Relevant Jurisdiction to:

(i) enable it to perform its obligations under the Transaction Documents;

(ii) ensure the legality, validity, enforceability or admissibility in evidence of any Transaction Document; 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 and Sanctions**

(a) Each Group Member will comply in all respects with all laws and regulations (including Environmental Laws) and all Sanctions to which it may be subject, if (except as regards Sanctions, to which paragraph (b) below applies) failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

(b) Each Obligor shall comply, and shall procure that each other Group Member and each Affiliate of any of them shall comply, in all respects with all Sanctions, and shall take all steps to avoid becoming a Prohibited Person.

(c) No proceeds of the Loans shall be made available, directly or indirectly, to or for the benefit of a Prohibited Person or otherwise shall be, directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.
Each Group Member acknowledges and agrees that certain of the Finance Parties, be it due to applicable laws or internal rules and regulations, are prohibited to conclude transactions or finance transactions with the government of or any person or entity owned or controlled by the government of a Restricted Country or with a Prohibited Person.

No Group Member shall (and the Parent shall ensure that no Group Member will) transfer, make use of or provide the benefits of any money, proceeds or services provided by or received from any Finance Party to any such Prohibited Person or conduct any business activity such as entering into any ship acquisition agreement, any ship refinancing agreement and/or any charter agreement related to a vessel, project, asset or otherwise for which money, proceeds or services have been received from a Finance Party with any such Prohibited Person.

Each Obligor shall not and shall procure that no Owner shall knowingly permit or knowingly authorise a Ship to be used directly or indirectly:

(i) by or for the benefit of any Prohibited Person; or

(ii) in any trade which will expose that Ship, the relevant Owner or any other Obligor or that Ship’s insurers to enforcement proceedings or any other consequences whatsoever arising from Sanctions.

**21.4 Anti-corruption law**

(a) No Obligor shall (and shall ensure that no other Group Member will) directly or indirectly use the proceeds of the Facilities for any purpose which would or might breach applicable anti-corruption laws, including, but not limited to, the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

(b) Each Obligor shall (and shall ensure that each other Group Member will):

(i) conduct its businesses in compliance with applicable anti-corruption laws and regulations; and

(ii) maintain effective policies and procedures designed to promote and achieve compliance with such laws and regulations.

(c) No Obligor shall (and shall ensure that no Group Member will) conduct its businesses in a manner which might involve or lead to any contravention of any law, official requirement or other regulatory measure or procedure implemented to combat “money laundering” (as defined in Article 1 of Directive 2015/849/EC of the European Parliament and the Council).

**21.5 Tax compliance**

Each Obligor shall (and shall ensure that each other Group Member will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

(a) such payment is being contested in good faith;
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 19.3 (Financial statements); and

(c) such payment can be lawfully withheld.

21.6 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 Borrower, the other Obligors, the Parent or the Group taken as a whole from that carried on at the Effective Date.

21.7 Merger

Except as approved by the Majority Lenders, no Obligor shall (and shall ensure that no other Group Member will) enter into any amalgamation, demerger, merger, consolidation, redomiciliation, legal migration or corporate reconstruction (other than the solvent liquidation of any Group Member which is not an Obligor so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other Group Members).

21.8 Pension exposure

The Parent shall ensure that no Obligor or any other Group Member is, or any time becomes, liable to contribute funds to any form of pension scheme or similar arrangement (other than a scheme or arrangement where the benefits conferred by it on its members are calculated solely by reference to a payment or payments made by the relevant member or by any other person in respect of that member).

21.9 Further assurance

(a) Each Obligor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Agent may reasonably specify (and in such form as the Agent or the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):

(i) 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 and/or any other Finance Parties provided by or pursuant to the Finance Documents or by law;

(ii) to confer on the Security Agent and/or any other Finance Parties 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;

(iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Documents; and/or
(iv) to facilitate the accession by a New Lender to any Security Document following an assignment in accordance with clause 31.1 (Assignments and transfers by the Lenders).

(b) Each Obligor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security Interest conferred or intended to be conferred on the Security Agent and/or any other Finance Parties by or pursuant to the Finance Documents.

21.10 Negative pledge in respect of Charged Property and Obligor shares

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 or (except for the Transaction Security) the shares in any of the Obligors or any rights deriving from, or related to, such shares.

21.11 Environmental matters

(a) The Agent will be notified in writing as soon as reasonably practicable of any Environmental Claim being made (whether current, pending or threatened) against any Group Member or any Fleet Vessel or any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any Group Member or any Fleet Vessel which, if successful to any extent, might reasonably be expected to have a Material Adverse Effect and of any Environmental Incident which may give rise to such a claim and will be kept 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.

(b) Environmental Laws (and any consents, licences, permits or approvals obtained under them) applicable to Fleet Vessels will not be violated in a way which might have a Material Adverse Effect.

21.12 Consent to transactions

No Obligor nor any other Group Member shall (and the Parent shall ensure no Group Member will) enter into any transaction (including, without limitation, any amendment to the Management Agreement (except where such amendment to the Management Agreement is permitted by clause 28.9 (Contracts and arrangements with Affiliates and Parent Affiliates)) with any Parent Affiliate (other than transactions solely between Group Members excluding the Parent and the Existing Fleet Group Members) except on standard, arm’s length terms and for full market value and with the consent of all NEDs (as certified in writing to the Agent by the Borrower from time to time).

21.13 Executive compensation

The Parent shall ensure that no material alterations are made to the terms of the Parent’s executive compensation plans (as at the Effective Date) without approval by a remuneration or compensation committee of the Parent’s board of directors, such committee to be comprised solely of NEDs. The extension of executive compensation plans on identical terms to those existing as at the Effective Date shall not constitute a material alteration for the purposes of this clause 21.13.
21.14 Corporate governance

The Parent shall ensure that it maintains a board of directors of up to nine directors from time to time, provided that a majority of such directors shall at all times be NEDs.

21.15 Equity issuance

(a) The Parent shall not issue any preferred equity securities or any class of equity securities other than Danaos Shares in each case without the consent of all NEDs.

(b) Subject to paragraph (c) below, the Parent shall use commercially reasonable efforts to complete the Follow-on Equity Raise by no later than 18 months after the Effective Date.

(c) If the Parent’s board of directors, in the proper exercise of its fiduciary duties (and after consultation with outside legal counsel) and having regard to the Parent’s obligation to use commercially reasonable efforts to complete the Follow-on Equity Raise in accordance with paragraph (b) above, reasonably considers in good faith that the market conditions are such that it is inappropriate or impractical (including, without limitation, due to the expected price achievable for the sale of Danaos Shares) to proceed with the Follow-on Equity Raise within 18 months of the Effective Date:

(i) the Parent shall promptly provide notice to the Agent of the same and shall, for a period of 60 days beginning on the date of such notice, consult with the Agent in relation to the timing within which the Follow-on Equity Raise is expected to be completed; and

(ii) the Parent shall continue to use commercially reasonable efforts to complete the Follow-on Equity Raise.

21.16 Cash management

Subject to any restrictions on the upstreaming of Excess Cash set out in the Global Intercreditor Deed, the Parent will ensure that no Obligor or any other Group Member (other than the Parent and the Manager) holds Cash or Cash Equivalents in excess of that Group Member’s projected cash needs over the next 85 days (calculated on the basis that only one instalment of principal and interest in relation to Financial Indebtedness forms part of that Group Member’s projected cash needs over the next 85 days) and that each Group Member (other than the Parent and the Manager) advances to the Parent by way of Excess Cash Loan or Permitted Subordinated Loans any Cash or Cash Equivalents in excess of its projected 85-day cash needs.

21.17 Ownership of vessels

Except in connection with the Gemini JV and subject to clause 28.12 (Acquisitions and investments), the Parent shall ensure that it does not hold, directly or indirectly, any right, title or interest in and to a vessel unless it owns all of the right, title and interest in and to that vessel or all of the share capital in any person that owns (directly or indirectly) 100 per cent of the right, title and interest in and to that vessel.

21.18 Sale or other disposal of Zim/HMM Notes

(a) The Parent shall ensure that no Obligor:
sells, transfers, or otherwise disposes of any right, title or interest in or to the Zim/HMM Notes; or

enters into any arrangement, modification or supplementation with the issuers and obligors thereof (or its Affiliates),

in each case without the prior approval of all of the Lenders.

(b) Paragraph (a)(ii) above shall not restrict any variation, amendment or supplement that is either of a formal, minor or administrative nature or is otherwise a variation that is, in the opinion of the Agent (acting on the instructions of the Majority Lenders), not materially prejudicial to the interests of the Lenders.

21.19 Guarantors

The Parent shall ensure that:

(a) in the case of any Collateral Owner or its Shareholder, and to the extent that it remains a member of the Group and that such Collateral Owner owns the Collateral Ship at the time, immediately upon the end of the Senior Security Period under (and as defined in) the Restructuring Lenders/Citi-Eurobank Lenders Intercreditor Deed or the Restructuring Lenders/Sinosure Lenders Intercreditor Deed, as applicable; or

(b) in the case of any other Group Member, prior to or at the time that it is required to grant Security to secure the Restructured Facilities pursuant to clause 3.6 (Obligation to give Security on Unencumbered Vessels in the Existing Fleet) of the Global Intercreditor Deed,

such Collateral Owner, Shareholder or Group Member shall:

(i) accede as an Additional Guarantor to this Agreement and (if it not already a party) a “Debtor” to (and as defined in) the Intercreditor Deeds and deliver such other documents and evidence as may be required to be delivered pursuant to clause 32.2 (Additional Guarantors), in each case in form and substance satisfactory to the Agent (acting reasonably); and

(ii) grant(s) Transaction Security to the extent required under the Global Intercreditor Deed and/or the Intra-Restructuring Lenders Intercreditor Deed, and carries out any action to protect, perfect or give priority to the Transaction Security as set out in the relevant Transaction Security Document (and the Parent shall ensure that any such Transaction Security is granted and that the necessary action is taken to protect, perfect or give priority to such Transaction Security as set out in such Transaction Security Documents).

22 Dealings with Ship

22.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 22 will be complied with in relation to each Mortgaged Ship throughout the relevant Ship’s Mortgage Period.
22.2 Ship’s name and registration

(a) The Ship’s name shall only be changed after prior notice to the Agent;

(b) The Ship shall be registered with the relevant Registry under the laws of its Flag State. Except with approval of the Majority Lenders, 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 such renewal at least 30 days before that date.

(c) Nothing will be done and no action will be omitted (including by any Group Member) if that might result in such registration being cancelled, forfeited or imperilled or the Ship being required to be registered under the laws of another state of registry.

22.3 Sale or other disposal of Ship

Except as may be approved by the Lenders (and subject to such conditions as the Lenders may impose in consideration for such approval):

(a) no Owner will sell, or agree to sell, transfer, agree to transfer, abandon or otherwise dispose of its Ship or any share or interest in it; and

(b) no Shareholder will sell, or agree to sell, transfer, agree to transfer, abandon or otherwise dispose of any share of or interest in any Owner.

22.4 Manager

A manager of the Ship shall not be appointed unless that manager and the terms of its appointment are approved by the Agent (acting on the instructions of the Majority Lenders) and it has delivered a duly executed Manager’s Undertaking to the Security Agent. The Manager is approved as at the Effective Date. There shall be no change to the terms of appointment of a manager whose appointment has been approved unless such change is also approved by the Agent (acting on the instructions of the Majority Lenders).

22.5 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.

22.6 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 [●] of [●]. 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”.

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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.

22.7 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.

22.8 Chartering

Except as approved by the Majority Lenders (and subject to such terms as they may in their absolute discretion require (including, without limitation, assignment of the benefit of any such charter commitment to the Security Agent)), the relevant Owner shall not enter into any charter commitment for the Ship (except for the Ship’s Charter), which is:

(a) a bareboat or demise charter or passes possession and operational control of the Ship to another person;
(b) a Long Term Charter;
(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;
(d) on terms whereby more than two months’ hire (or equivalent) is payable in advance; or
(e) to another Group Member.

22.9 Lay up

Except as approved by the Majority Lenders the Ship shall not be laid up or deactivated.

22.10 Anti-drug abuse

The relevant Owner shall take all necessary and proper precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to its Ship in any jurisdiction in or to which its Ship shall be employed or located or trade or which may otherwise be applicable to its Ship and/or the relevant Owner and, if the Security Agent shall so require, procure that each Owner enters into a “Carrier Initiative Agreement” with the United States Customs Service and procure that such agreement (or any similar agreement hereafter introduced by any government entity of the United States of America) is maintained in full force and effect and performed by the relevant Owner.

22.11 Sharing of Earnings

Except as approved by the Majority Lenders, the relevant Owner shall not enter into any agreement or arrangement:

(a) under which its Earnings from the Ship may be shared with anyone else;
(b) for the postponement of any date on which any Earnings relative to the Ship are due;
(c) for the reduction of the amount of Earnings relative to the Ship or otherwise for the release or adverse alteration of any right of the relevant Owner to any such Earnings; or
(d) for the release of, or adverse alteration to, any guarantee or Security Interest relating to any Earnings relative to its Ship.

22.12 Payment of Earnings

(a) 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.
(b) If any Earnings are held by brokers or other agents, they shall be duly accounted for and paid to the Security Agent, if it requires this after the Earnings have become payable to it under the Ship’s General Assignment or Deed of Covenant.

23 Condition and operation of Ship

23.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 23 will be complied with in relation to each Mortgaged Ship throughout the relevant Ship’s Mortgage Period.

23.2 Defined terms
In this clause 23:

“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, vessel response plans, 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 (including, without limitation, the document of compliance and safety management certificate relating to the Ship under the ISM Code and the International Ship Security Certificate relating to the Ship under the ISPS Code).

23.3 Repair

The Ship shall be kept in a good, safe and efficient state of repair consistent with first-class ship ownership and management practice. 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.

23.4 Modification

Except with approval, 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.
23.5 Removal of parts

Except with approval, 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).

23.6 Third party owned equipment

Except with approval, 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.

23.7 Maintenance of class; compliance with laws and codes

(a) The Ship’s class shall be the relevant Classification, which shall be maintained free of all overdue recommendations, requirements and conditions affecting class.

(b) 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 from time to time applicable to vessels registered under the relevant Flag State or otherwise applicable to the Ship, its ownership, management, operation or to the business or the relevant Owner or to vessels trading to any jurisdiction to which that Ship may trade from time to time including, but not limited to, the ISM Code, the ISM Code documentation, the ISPS Code and the ISPS Code documentation.

(c) 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.

23.8 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.

23.9 Inspection and notice of dry-docking

(a) Not more than once per calendar year (unless a Default is continuing), the Agent and/or surveyors or other persons appointed by it for such purpose shall be allowed to board the Ship (at the cost of the Owner and at the risk of the Owner) at all reasonable times (so as not to interfere with the normal trading schedule of the Ship) to inspect it and given all proper facilities needed for that purpose.

(b) The Agent shall be given reasonable advance notice of any intended dry-docking of the Ship (whatever the purpose of that dry-docking).

23.10 Prevention of arrest

(a) 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 or any part thereof, or lead to any of the same being arrested,
attached or levied upon pursuant to legal process or purported legal process, shall be promptly paid and discharged.

(b) The Owner shall promptly discharge or settle all taxes, dues and other amounts charged and all other outgoings whatsoever in respect of the Ship owned by it, her Earnings or her Insurances.

23.11 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.

23.12 Information about Ship

(a) The Agent shall promptly be given any information which it may require about the Ship, its Earnings (including profitability) and Insurances, or its employment, position and engagements, use or operation (including any expenses incurred or paid, or likely to be incurred or paid, in connection with the operation, maintenance or repair of the Ship), including details of towages and salvages, and copies of all its charter commitments entered into by or on behalf of any Obligor and certified true copies of any applicable operating certificates.

(b) Without prejudice to the generality of paragraph (a) above, by no later than six months prior to the expiration of any time charter or other contract of employment in respect of a Ship with a term of 12 months or longer and by no later than 45 days prior to the expiration of any other time charter or other contract of employment in respect of a Ship, the Parent shall provide the Agent with its proposals as to the chartering or employment of the relevant Ship upon expiration of the subsisting charter or other contract of employment.

23.13 Notification of certain events

The Agent shall promptly be notified in writing 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 or any other Fleet Vessel or any Group Member and Environmental Claim being made in relation to such an incident against any Fleet Vessel or any Group Member;

(e) any claims for breach of an applicable code or applicable law being made against the relevant Group Member or otherwise in connection with the Ship and, to the extent that the relevant Group Member is aware of such claim, any such claim being made against the operator of the Ship;

(f) any other matter, event or incident, actual or threatened, the effect of which would, or is reasonably likely to, lead to any applicable code not being complied with;

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any withdrawal or threat to withdraw any applicable operating certificate;

the issue of any applicable operating certificate;

the receipt of notification that any application for any applicable operating certificate has been refused;

any requirement, condition 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;

any arrest 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 or any part thereof;

any facts or matters that may result or have resulted in a change, suspension, discontinuance, withdrawal or expiry of the Ship’s class under the rules or terms and conditions of any Obligor’s or the Ship’s membership of its Classification Society; and

any intention to change the Ship’s Classification Society, or receipt of notification that the Ship’s Classification Society might be changed, and the Parent shall advise the Agent in writing, on a regular basis and in such detail as the Agent may require, of the relevant Obligor’s or any other person’s response to any of the foregoing events.

23.14 Payment of outgoings

(a) All taxes, tolls, dues and other outgoings whatsoever in respect of the Ship and its Earnings and Insurances shall be paid promptly.

(b) Proper accounting records (including books of accounts) shall be kept of the Ship and its Earnings.

23.15 Evidence of payments

The Agent shall be allowed proper and reasonable access to those accounting records when it requests it and, 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 (including the Ship’s master) 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.

23.16 Repairers’ liens

Except with approval, 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 such 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.

23.17 Survey report

At intervals of 12 months or, after the occurrence of a Default as soon as reasonably practicable after the Agent requests it, the Agent shall be given a report (at the cost of the relevant Owner) on the seaworthiness and/or safe operation (including, without limitation, with regard to crew training and safety procedures and cargo-handling operations) of the Ship, from approved surveyors or inspectors. 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 and evidence of such compliance shall be provided to the Agent upon request.

23.18 Lawful use

The Ship shall not be employed:

(a) in any way or in any manner, business or 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, penalised or made the subject of sanctions; 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.

23.19 War zones

Except with approval of the Ship’s war risks insurers and the Majority Lenders, the Ship shall not enter, trade to or continue to trade in or remain in any zone which has been declared a war zone by any government entity or the Ship’s war risk insurers. If approval is granted for it to do so, 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) shall be complied with (at the expense of the Owner).

23.20 Scrapping

(a) The Parent shall undertake periodic market checks and scrap value assessments in respect of all Ships (other than a Collateral Ship), where such Ships are older than 20 years in age, not subject to a charter commitment with at least 12 months remaining term and have not been drydocked within the past 30 months. Such assessment shall be delivered to the Lenders together with an explanation of the commercial decision (certified by a relevant officer of an Obligor) not to scrap such Ships.

(b) Subject at all times to clause 22.3 (Sale or other disposal of Ship), if a Ship is sold (directly or indirectly) for scrapping, the Obligors shall procure (or, in the case of a Ship sold indirectly for scrapping, use their reasonable endeavours to procure) that such Ship
is dismantled in accordance with The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (whether or not such Convention is in force) or, if applicable, Regulation (EU) No. 1257/2013 of the European Parliament and of the Council of 20 November 2013.

24 Insurance

24.1 Undertaking to comply

Each Obligor who is a Party 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.

24.2 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 paragraph (a) of clause 24.3 (Coverage required).

“minimum hull cover” means:

(a) in relation to a Mortgaged Ship (other than a Collateral Ship or an Additional Ship), an amount equal at the relevant time to the greater of (a) its (charter free) market value or (b) 120 per cent of such proportion of the Loans as is equal to the proportion which the market value of such Ship bears to the aggregate of the (charter free) market values of all of the Mortgaged Ships (other than the Collateral Ships or the Additional Ships (if any)) at the relevant time (and such (charter free) market values shall be those available to the Group Members at inception and at each renewal of each policy, as applicable);

(b) in relation to a Collateral Ship which is subject to First Priority Security at the relevant time, for an amount as is approved or required by the lenders of the Owner of such Mortgaged Ship benefiting from the First Priority Security or, if greater, its (charter free) market value; and

(c) in relation to an Additional Ship, shall be an amount as is approved or required by the Agent.

“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).
24.3 Coverage required

Each Ship shall at all times be insured:

(a) against fire and usual marine risks (including excess risks) and war risks (including war protection and indemnity risks, crew liability risks, terrorism risks and piracy to the extent not covered under the hull and machinery policy) on an agreed value basis, 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 for full value and tonnage of the relevant Ship (but, in relation to liability for oil pollution, for an amount of not less than $1,000,000,000);

(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.

24.4 Placing of cover

The insurance coverage required by clause 24.3 (Coverage required) shall be:

(a) in the name of the relevant Owner and the manager of the Ship and (in the case of the Ship’s hull cover) no other person (other than the Security Agent (and any other Finance Party required by the Agent) 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 (and any other Finance Party required by the Agent) 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 relevant Owner, the manager of the Ship and the Security Agent (and any other Finance Party required by the Agent) (and, to the extent reasonably practicable in the insurance market, without liability on the part of the Security Agent or such Finance Party for premiums or calls);

(c) in dollars or another approved currency;

(d) arranged free of cost and expense to the Security Agent and any other Finance Party;

(e) arranged through approved brokers or direct with approved insurers or protection and indemnity or war risks associations which are members of the International Group of Protection and Indemnity Associations, and have a Standard & Poor’s rating of at least BBB- or a comparable rating by any other rating agency acceptable to the Agent;

(f) in full force and effect; and

(g) on terms approved by the Security Agent from time to time and with approved insurers or associations.
24.5 **Deductibles**

The aggregate amount of any excess or deductible under the Ship’s hull cover shall not exceed an amount approved by the Majority Lenders.

24.6 **Mortgagee’s insurance**

The Borrower 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 approved terms, or in considering or making claims under:

(a) a mortgagee’s interest insurance and a mortgagee’s additional perils (pollution risks) for the benefit of the Finance Parties for an aggregate amount of not less than 120 per cent of the Loans; 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).

24.7 **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 any premiums due for other insurances; or

(b) cancel that cover because of non-payment of premiums in respect of such other vessels or any premiums due for other insurances,

or the relevant Owner shall ensure that hull cover for the Ship and any other Mortgaged Ships is provided under a separate policy from any other vessels and the brokers or (if relevant) the insurers will issue a separate policy in respect of the relevant Ship if and when requested by the Security Agent.

24.8 **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.

24.9 **Details of proposed renewal of Insurances**

At least 21 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.
24.10 Instructions for renewal

At least 14 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.

24.11 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.

24.12 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.

24.13 Insurance documents

The Agent shall be provided with pro forma copies of all insurance policies and other documentation (including, without limitation, all slips, cover notes, policies, certificates of entry or other instruments) 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 (including, without limitation, all slips, cover notes, policies, certificates of entry or other instruments) 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.

24.14 Letters of undertaking

Unless otherwise approved where the Agent 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.

24.15 Insurance Notices and Loss Payable Clauses

The interest of the Security Agent as assignee 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 the relevant Owner and, unless otherwise approved, each other person assured under the relevant cover (other than the Security Agent if it is itself an assured).

24.16 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.
24.17 Qualifications and exclusions

All requirements (including, without limitation, the making of all requisite declarations within any prescribed time limits and the payment of any additional premiums or calls) applicable to the Ship’s Insurances shall be complied with and the Ship’s Insurances shall only be subject to approved exclusions or qualifications.

24.18 Independent report

If the Agent asks the Borrower for a detailed report from an approved independent firm of marine insurance brokers giving their opinion on the adequacy of the Ship’s Insurances and compliance with clause 24.1 (Undertaking to comply) then the Agent shall be provided promptly with such a report at no cost to the Agent or (if the Agent obtains such a report itself) the Borrower shall reimburse the Agent for the cost of obtaining that report.

24.19 Collection of claims

All documents, evidence 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 monies and/or claims under the Ship’s Insurances shall be provided promptly.

24.20 Employment of Ship

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 relevant insurers have consented and any additional requirements (including, without limitation, as to extra premia) of the insurers have been satisfied).

24.21 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.

24.22 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.

24.23 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 the prior approval of the Majority Lenders.

24.24 Compliance with terms of insurances

No Owner 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 thereunder repayable in whole or in part; and, in particular that:

(a) each Owner shall take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Security Agent has not given its prior approval;

(b) no Owner shall make any changes relating to the classification or classification society or manager or operator of the Ship owned by it unless approved (where applicable) by the underwriters of the obligatory insurances;

(c) each Owner shall make all quarterly or other voyage declarations which may be required by the protection and indemnity risks association 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) no Owner 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.

24.25 Alteration to terms of insurances.

No Owner shall neither make or agree to any alteration to the terms of any obligatory insurance nor waive any right relating to any obligatory insurance.

24.26 Change in insurance requirements

If the Agent gives notice to the Borrower 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 Effective Date), 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.

24.27 **Insurance opinion**

If the Agent gives notice to the Borrower that it (acting on the instructions of the Majority Tranche 1 Lenders or Majority Tranche 2 Lenders) reasonably requires the Borrower to implement any of the action points set out in the insurance opinion delivered pursuant to paragraph 7(a) set out in Schedule 1 (Conditions precedent to the Effective Date of this Deed) of the Amendment and Restatement Agreement, the Borrower shall use commercially reasonable efforts to do so as soon as reasonably practicable.

25 **Valuations**

25.1 **Undertaking to comply**

(a) Each Obligor who is a Party undertakes that this clause 25 will be complied with throughout any Mortgage Period.

(b) For the purposes of this clause 25, references to Fleet Vessels shall include Relevant Vessels (as defined in clause 20 (Financial covenants)) insofar as a valuation is required for the purposes of clause 20 (Financial covenants).
25.2 Valuation of assets

For the purpose of the Finance Documents, the value at any time of the Fleet Vessels will be its value as most recently determined in accordance with this clause 25.

25.3 Valuation frequency

(a) Valuation of each Fleet Vessel in accordance with this clause 25 shall, subject to paragraph (b) below, be conducted at least semi-annually and dated as at, and for the Financial Quarter ending on, 30 June and 31 December in each year (provided that no such valuation shall be prepared more than seven days before the most recent Quarter Date that is 30 June or 31 December, as applicable, for the purposes of determining compliance with the Minimum Corporate Cover (Charter Free) or Minimum Corporate Cover (Charter Attached) financial covenants under (and as defined in) clause 20 (Financial covenants)).

(b) The Agent (acting on the instructions of either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders or both), acting reasonably with regard to the financial condition of the Group at the time) may request additional valuations dated as at, and for the Financial Quarter ending on, 31 March and/or 30 September in each year. Where a Default is continuing, the Agent (acting on the instructions of either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders) may request such additional valuations of the Mortgaged Ships as it may require.

25.4 Expenses of valuation

The Borrower shall bear, and reimburse to the Agent where incurred by the Agent, all costs and expenses of providing such a valuation.

25.5 Valuations procedure

The value of any Fleet Vessel shall be determined in accordance with, and by valuers approved and appointed in accordance with, this clause 25.

25.6 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.

25.7 Basis of valuation

Each valuation will be addressed to the Global Intercreditor Agent (for and on behalf of, amongst others, the lenders of the Amended RA Facilities) or, if requested by the Agent, to the Agent (subject to the entry into of engagement letters with the relevant valuers by the Agent, but (for the avoidance of doubt) at the cost of the Borrower), in each case in its capacity as such and made:

(a) without physical inspection (unless required by the Agent);
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 after deducting the estimated amount of the usual and reasonable expenses which would be incurred in connection with the sale); and

without taking into account the benefit (but taking into account the burden) of any charter commitment.

25.8 Information required for valuation

The Parent shall promptly provide to the Global Intercreditor Agent or the Agent and any such valuer any information which they reasonably require for the purposes of providing such a valuation.

25.9 Approval of valuers

(a) All valuers must have been approved. As at the Effective Date, Howe Robinson & Co. Ltd., H. Clarkson & Company Limited, Maersk Broker K/S and Arrow Shipbroking Group are approved for the purposes of this clause 25.

(b) The Agent (acting on the instructions of Majority Lenders) may from time to time notify the Parent of approval of one or more additional independent ship brokers as valuers for the purposes of this clause 25. The Agent shall respond promptly to any request by the Parent for approval of a broker nominated by the Parent. No person may be approved as a valuer for the purposes of this clause 25 if: (i) it has received or is entitled to receive any remuneration that is calculated with reference to the quantum of the valuation given; (ii) it is not engaged in the business of providing shipping valuations; or (iii) it is not independent from, or constitutes a Parent Affiliate or an Affiliate of any Group Member.

(c) The Agent (acting on the instructions of Majority Lenders) may at any time by notice to the Parent withdraw any previous approval of a valuer for the purposes of future valuations. That valuer may not then be appointed to provide valuations unless it is once more approved.

(d) If the Agent has not approved at least three brokers as valuers (including, for the avoidance of doubt, any brokers approved under this clause 25.9) at a time when a valuation is required under this clause 25, the Agent shall (following consultation with the Parent) promptly notify the Parent of the names of at least three valuers which are approved.

25.10 Appointment of valuers

When a valuation is required for the purposes of this clause 25, the Parent or, if so required at that time, the Agent, shall promptly appoint approved valuers to provide such a valuation. If the Parent fails to appoint approved valuers promptly when a valuation is required for the purposes of this clause 25, the Agent may appoint approved valuers to provide that valuation.

25.11 Number of valuers and differences in valuation

Subject to Clause 25.12 (Differences in valuations), each valuation shall be carried out by two approved valuers.
25.12 Differences in valuations

(a) If the valuations provided by the two approved valuers differ, the value of the relevant Fleet Vessel for the purposes of the Finance Documents will be the mean average of those two valuations, provided that if a valuation is more than 110% of the other valuation (calculated based on the lower valuation), then another valuation shall be carried out by a third approved valuer and the value of the relevant Fleet Vessel for the purposes of the Finance Documents will be the mean average of the three valuations.

(b) If an individual valuer provides a range of values for a Fleet Vessel, then the value of that Fleet Vessel for the purposes of the Finance Documents will be the mean average of the values comprising such range.

26 Chartering undertakings

26.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 26 will be complied with in relation to each Mortgaged Ship and its Charter Documents throughout the relevant Ship’s Mortgage Period.

26.2 Variations

(a) Subject to paragraph (b) below, except as approved by the Majority Lenders, the Charter Documents shall not be varied, amended or supplemented.

(b) Paragraph (a) shall not restrict any variation, amendment or supplement that is either of a formal, minor or administrative nature or is otherwise a variation that is, in the opinion of the Agent (acting on the instructions of the Majority Lenders), not materially prejudicial to the interests of the Lenders. The Agent shall be provided with a copy of any such variation, amendment or supplement not less than five Business Days prior to its execution. For the purposes of this paragraph (b), any variation, amendment or supplement relating to non-payment of charterhire, reduction of charterhire, frequency of charterhire payment, the termination rights of a Charterer, cancellation of the Charter, assignment and/or transfer of any rights and/or obligations under the Charter or a change in the identity of the Charterer shall always require approval of the Majority Lenders.

26.3 Releases and waivers

Except as approved 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 or assignment), no waiver of any breach of any such obligation and no consent to anything which would otherwise be such a breach.

26.4 Termination by the relevant Owner

Except as approved 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.
26.5 Charter performance

The relevant Owner shall perform its obligations under the Charter Documents and use reasonable endeavours to ensure that each other party to them performs their obligations under the Charter Documents.

26.6 Notice of assignment

The relevant Owner shall give notice of assignment of the Charter Documents to the other parties to them in the form specified by the Charter Assignment and/or the relevant Deed of Covenant or General Assignment for that Ship and shall ensure that the Agent receives a copy of that notice acknowledged by each addressee in the form specified therein as soon as possible and in any event within 30 days of the date of the Ship’s Mortgage.

26.7 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.

26.8 Charter opportunities

The Parent shall allocate, and it shall ensure that the Manager allocates, charter opportunities across Fleet Vessels fairly and with a view to generating the highest aggregate revenue for each Ship, having regard to the age, specification, location and availability of Fleet Vessels.

27 Bank accounts

27.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 27 will be complied with throughout the Facility Period.

27.2 Earnings Account

(a) The Parent shall be the holder of one or more Accounts per Mortgaged Ship (other than a Collateral Ship that is subject to any First Priority Security) with an Account Bank which is designated as an “Earnings Account” for the purposes of the Finance Documents.

(b) The Earnings of the Mortgaged Ships and all moneys payable to the relevant Owners under the Ships’ Insurances shall be paid by the persons from whom they are due to an Earnings Account unless required to be paid to the Security Agent under the relevant Finance Documents.

(c) The relevant Account Holder(s) shall not withdraw amounts standing to the credit of an Earnings Account except as permitted by paragraph (d) below.

(d) If there is no continuing Event of Default, the relevant Account Holder(s) may, subject to the terms of the Intercreditor Deeds, withdraw the following amounts from an Earnings Account:

(i) payments then due to Finance Parties under the Finance Documents (other than payments due in respect of a prepayment);
(ii) payments to another Earnings Account;

(iii) payments of the proper costs and expenses of insuring, repairing, operating and maintaining any Mortgaged Ship (other than a Collateral Ship that is subject to First Priority Security);

(iv) 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

(v) payments constituting Permitted Payments.

(e) At any time after the occurrence of an Event of Default which is continuing, but subject to the provisions of the Intercreditor Deeds, the Agent is hereby irrevocably authorised by the Obligors, without notice to any of them, to instruct the Account Bank (or to give instructions to the Security Agent or the RL Security Agent) to apply on each interest payment date and each Repayment Date all moneys then standing to the credit of any Earnings Account (together with interest from time to time accruing or accrued thereon) in or towards satisfaction of any sums (including repayment of principal and payment of interest on the Loans or any part thereof) due to the Finance Parties on each such date, together with all moneys expended or liabilities incurred by the Finance Parties under the Finance Documents.

(f) At any time after the occurrence of an Event of Default which is continuing, the relevant Account Holder(s) shall no longer be entitled to withdraw any moneys from their Earnings Account without the consent of the Agent (acting on the instructions of the Majority Lenders).

(g) Paragraphs (c), (d), (e) and (f) above shall not apply to the Earnings Account(s) of a Collateral Ship until the relevant Collateral Ship is no longer subject to any First Priority Security.

27.3 Other provisions

(a) An Account may only be designated for the purposes described in this clause 27 if:

(i) such designation is made in writing by the Agent and acknowledged by the Borrower and specifies the name and address of the Account Bank and the number and any designation or other reference attributed to the Account;

(ii) an Account Security has been duly executed and delivered by the relevant Account Holder(s) in favour of the Security Agent (and any other Finance Party required by the Agent);

(iii) 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

(iv) 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 the Amendment and Restatement Agreement in relation to the Account and the relevant Account Security.
(b) 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 an Account Bank.

(c) 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.

(d) 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.

(e) 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.

(f) 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 Group business restrictions

28.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 28 will be complied with by (or will procure compliance by) and in respect of each person to which each relevant provision of this clause is expressed to apply throughout the Facility Period.

28.2 General negative pledge

(a) In this clause 28.2, “Quasi-Security” means an arrangement or transaction described in paragraph (c) below.

(b) No Obligor nor any other Group Member (other than the Manager) shall create or permit to subsist any Security Interest over any of its assets.

(c) Without prejudice to clauses 28.3 (Financial Indebtedness) and 28.8 (Disposals), no Obligor nor any other Group Member (other than the Manager) shall:

(i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to, or re-acquired by, an Obligor or any other Group Member, unless (in the case of a Group Member other than an Obligor) the same constitutes part of a Permitted SLB Transaction;

(ii) sell, transfer, factor or otherwise dispose of any of its receivables on recourse terms;

(iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
(iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

(d) Paragraphs (b) and (c) above do not apply to any Security Interest or (as the case may be) Quasi-Security, listed below:

(i) (in respect of the Obligors) those granted or expressed to be granted by any of the Security Documents or the First Priority Security;

(ii) in relation to a Mortgaged Ship, Permitted Maritime Liens;

(iii) in relation to Existing Fleet Group Members who are not Obligors, those granted or expressed to be granted pursuant to the Amended RA Facilities or the Amended and Restated Sinosure Facility to which they are a party or in respect of which they provide security required by their terms (in each case in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed) and subject or pursuant to the Intercreditor Deeds, or pursuant to any Permitted Refinancing in respect of any such facility or pursuant to a Permitted Reflagging of a Fleet Vessel under any such facility;

(iv) in relation to Group Members who are neither Existing Fleet Group Members nor Obligors, Security Interests granted over the assets of such Group Members or their shares to secure financing incurred to finance Permitted Ship Purchases or otherwise in connection with a Permitted SLB Transaction;

(v) in relation to Existing Fleet Group Members, Security Interests granted over the assets of such Existing Fleet Group Members or their shares in connection with a Permitted SLB Transaction; and

(vi) in relation to the Parent only, Permitted Group Level Security Interests.

28.3 Financial Indebtedness

Save for Financial Indebtedness permitted under clause 28.5 (Guarantees) or clause 28.6 (Loans and credit):

(a) no Obligor (other than the Parent and the Manager) shall incur or permit to exist any Financial Indebtedness other than:

(i) Financial Indebtedness incurred under the Finance Documents, any Permitted Subordinated Loan or any Excess Cash Loan;

(ii) Financial Indebtedness incurred under transactions with its trade creditors in the ordinary course of its business;

(iii) debit balances in respect of Earnings Accounts or, to the extent any such transfers are or may be considered to be intercompany loans, Financial Indebtedness arising from transfers of funds from one Earnings Account to another Earnings Account; or
(iv) Financial Indebtedness constituting or secured by the First Priority Security;

(b) no Existing Fleet Group Member who is not an Obligor shall incur or permit to exist any Financial Indebtedness owed by it to anyone else other than:

(i) Financial Indebtedness incurred under the Amended RA Facilities or the Amended and Restated Sinosure Facility to which it is a party or in respect of which they provide security required by their terms (in each case in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed) and subject or pursuant to the Intercreditor Deeds and any Permitted Refinancing in respect of any such facility;

(ii) Financial Indebtedness incurred under transactions with its trade creditors in the ordinary course of its business; or

(iii) debit balances in respect of any “Earnings Accounts” (however defined or described) under any Amended RA Facility or the Amended and Restated Sinosure Facility, or any Permitted Refinancing of any such facility (but excluding any Earnings Account) (each a “Group Earnings Account”) or, to the extent any such transfers are or may be considered to be intercompany loans, Financial Indebtedness arising from transfers of funds from one Group Earnings Account to another Group Earnings Account; or

(iv) any Financial Indebtedness constituting replacement security under a Permitted Reflagging of a Fleet Vessel under any facility described in sub-paragraph (i) above; or

(v) any Financial Indebtedness incurred under the Excess Cash Loans, the Permitted Subordinated Loans or any Permitted SLB Transaction; or

(vi) any Financial Indebtedness expressly contemplated by, permitted by and regulated by the terms of the Intercreditor Agreements.

(c) the Parent shall not incur or permit to exist any Financial Indebtedness other than Permitted Group Level Financial Indebtedness; and

(d) save for the Manager, no Group Member who is neither an Existing Fleet Group Member nor an Obligor shall incur or permit to exist any Financial Indebtedness other than Financial Indebtedness incurred to finance a Permitted Ship Purchase.

28.4 Pari passu ranking

Each Obligor shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Transaction Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

28.5 Guarantees

Save for Financial Indebtedness permitted under clause 28.3 (Financial Indebtedness) and subject to the restrictions under the Global Intercreditor Deed:
(a) no Obligor (other than the Manager) 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 other than:

(i) any guarantee in respect of:

(A) Financial Indebtedness under the Finance Documents;

(B) Financial Indebtedness constituting or secured by the First Priority Security; or

(C) in the case of the Parent only, Financial Indebtedness under any Permitted SLB Transaction in respect of the Pooled Facilities Joint Collateral Ships;

(ii) any guarantee in favour of its trade creditors given in the ordinary course of its business (but only for goods and services provided to that Obligor and its Subsidiaries and not to any other person);

(b) no Existing Fleet Group Member (other than the Obligors) 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 other than:

(i) any guarantee in respect of Financial Indebtedness under the Amended RA Facilities or the Amended and Restated Sinosure Facility to which it is a party or in respect of which it provides security required by their terms (in each case in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed) and subject or pursuant to the Intercreditor Deeds and any Permitted Refinancing in respect of any such facility or any Financial Indebtedness constituting replacement security under a Permitted Reflagging of a Fleet Vessel under any such facility; or

(ii) any guarantee in favour of its trade creditors given in the ordinary course of its business (but only for goods and services provided to that Existing Fleet Group Member and its Subsidiaries and not to any other person); and

(c) no Group Member who is not an Obligor and who is not an Existing Fleet Group Member 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 Financial Indebtedness incurred to finance a Permitted Ship Purchase or any guarantee in favour of its trade creditors given in the ordinary course of its business.

28.6 Loans and credit

(a) No Obligor (other than the Parent and the Manager) and no other Existing Fleet Group Member (other than the Parent and the Manager) shall be a creditor in respect of Financial Indebtedness other than in respect of Excess Cash Loans and Permitted Subordinated Loans, any Permitted Payments, any credits arising as a result of payments under the Management Agreement, debit balances in respect of Earnings Accounts or Group Earnings Accounts or, to the extent any such transfers are or may be considered to be intercompany loans, in respect of Financial Indebtedness arising from transfers of funds from one Earnings Account to another Earnings Account or from one Group Earnings Account to another Group Earnings Account.

(b) The Parent shall not be a creditor in respect of any Financial Indebtedness other than in respect of Permitted Group Level Loans Out or any credits arising as a result of payments under the Management Agreement.

(c) Group Members who are not Existing Fleet Group Members shall not be creditors in respect of Financial Indebtedness other than in respect of loans or credits between Group Members comprised of the Parent and other Group Members other than Existing Fleet Group Members.

28.7 Bank accounts, operating leases and other financial transactions

(a) No Obligor (other than the Parent and the Manager) shall:

(i) maintain any current or deposit account with a bank or financial institution except for the Accounts, or deposit money into, operate as current accounts or conduct electronic banking operations other than through the Accounts;

(ii) hold cash in any account (other than an Account) over or in respect of which any set-off, combination of accounts, netting or Security Interest exists except as permitted by clause 28.2 (General negative pledge);

(iii) enter into any obligations under operating leases relating to assets or any charter-in or leasing contracts in relation to vessels;

(iv) be party to any banking or financial transaction, whether on or off balance sheet, that is not expressly permitted under this clause 28 (Group business restrictions); or

(v) enter into any other obligations except obligations arising from transactions with its trade creditors in the ordinary course of trading.

(b) no Existing Fleet Group Member (other than an Obligor) shall:
(i) maintain any current or deposit account with a bank or financial institution except for such accounts as they may be permitted or required to maintain by the terms of the Amended RA Facilities and the Amended and Restated Sinosure Facility (in each case, in the form of those documents as at the Effective Date and as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed) in respect of which it provides security required by their terms and subject or pursuant to the Intercreditor Deeds, or deposit money into, operate as current accounts or conduct electronic banking operations other than through such accounts as may be permitted by the terms of the relevant Amended RA Facilities or the Amended and Restated Sinosure Facility, as applicable;

(ii) hold cash in any account over or in respect of which any set-off, combination of accounts, netting or Security Interest exists except as permitted by clause 28.2 (General negative pledge);
(iii) enter into any obligations under operating leases relating to assets or any charter-in or leasing contracts in relation to vessels other than a Permitted SLB Transaction;

(iv) be party to any banking or financial transaction, whether on or off balance sheet, that is not expressly permitted under this clause 28 (Group business restrictions); or

(v) enter into any other obligations except obligations arising from transactions with its trade creditors in the ordinary course of trading.

(c) The Parent shall not enter into any obligations under operating leases relating to assets or any charter-in or leasing contracts in relation to vessels.

(d) No Group Member who is neither an Obligor nor an Existing Fleet Group Member shall enter into any obligations under operating leases relating to assets or any charter-in or leasing contracts in relation to vessels, unless such Group Member is a wholly-owned Subsidiary of the Parent.

(e) If for two consecutive Financial Quarters the aggregate of:

   (i) the costs payable pursuant to the charter-in or leaseback contract in respect of a Pooled Facilities Joint Collateral Ship subject to a Permitted SLB Transaction ("Leased Ship"); and

   (ii) the operating expenses, capital expenditure, drydocking and maintenance costs in respect of that Leased Ship,

in each case, during those two consecutive Financial Quarters, are higher than the charter hire payable under the charter or contract of employment relating to that Leased Ship, the relevant lessee will, at the earliest opportunity permitted by the relevant charter-in or leaseback contract (and subject to having found a buyer to purchase the Leased Ship from it), exercise its purchase or buy-out option thereunder and, upon the completion of the acquisition by delivery of the relevant Leased Ship to the relevant lessee, sell the Leased Ship (on a back-to-back basis) to the buyer, and provided that any such cost, expenses or expenditure described in paragraphs (i) and (ii) and the cost relating to the exercise of the purchase or buy-out option or the sale of the Leased Ship shall be at the cost of the lessee.

28.8 Disposals

(a) No Obligor (other than the Parent and the Manager) shall enter into a single transaction or a series of transactions, whether related or not and whether voluntarily or involuntarily, to sell, lease, transfer or otherwise dispose of any asset except:

   (i) disposals permitted by clause 22.3 (Sale or other disposal of Ship) or clause 28.2 (General negative pledge) or, in the case of any disposals by a Collateral Owner or its Shareholder, permitted by the Citi-Eurobank Facility or Amended and Restated Sinosure Facility, as applicable, or any Permitted Refinancing in respect of such facility secured by the First Priority Security granted by such Collateral Owner,
(ii) dealings with its trade creditors with respect to book debts in the ordinary course of trading; and

(iii) the application of Cash or Cash Equivalents in the acquisition of assets or services in the ordinary course of its business.

(b) No Group Member who is not an Obligor (but, for the avoidance of doubt, excluding the Parent and the Manager, neither of whom are restricted by this paragraph (b)) may dispose of any asset except:

(i) a disposal of a Fleet Vessel owned by that Group Member, or of all (but not part only) of the shares of a ship-owning Subsidiary of that Group Member, provided that, (A) in the case of Existing Fleet Group Members, such disposal constitutes a Permitted SLB Transaction or is otherwise made in accordance with the terms of the Amended RA Facilities or the Amended and Restated Sinosure Facility to which that Existing Fleet Group Member is a party (in each case, in the form of those documents as at the Effective Date or as amended by any amendments effected in compliance with clause 5.3 (Most Favoured Nation) of the Global Intercreditor Agreement) or any Permitted Refinancing of any such facility, which it otherwise secures by first priority security over that Fleet Vessel or the shares of that ship owning Subsidiary as required by their terms and subject or pursuant to the Intercreditor Deeds, and (B) any disposal of a Fleet Vessel by a Group Member shall be on arm’s length terms and for full market value;

(ii) dealings with its trade creditors with respect to book debts in the ordinary course of trading;

(iii) the application of Cash or Cash Equivalents in the acquisition of assets or services in the ordinary course of its business; and

(iv) any disposal contemplated in clause 28.7(e) (Bank accounts, operating leases and other financial transactions).

(c) No Group Member may, directly or indirectly or ultimately, dispose of any Fleet Vessel or any shares of any Owner or any other Subsidiary that owns a Fleet Vessel or any direct or indirect Holding Company thereof to any Parent Affiliate.

28.9 Contracts and arrangements with Affiliates and Parent Affiliates

(a) Subject to paragraph (b) below, no Obligor nor any other Group Member shall be party to any arrangement or contract with, or amend or vary the terms of any arrangement or contract with, any of its Affiliates or any Parent Affiliate unless such arrangement or contract (if applicable, as so amended or varied) is on arm’s length basis and, in respect of transactions having a value in excess of $5,000,000, have been approved by all of the NEDs, and in respect of transactions in excess of $10,000,000 are supported by a fairness opinion from a reputable investment bank having recognised expertise in delivering fairness opinions.

(b) Except as approved by the Majority Lenders, no Obligor nor any other Group Member shall:
amend, vary, novate, supplement, supersede, waive or terminate clause 5.3 (Fees and Expenses for Crewing & Technical Services), clause 6.5 (Fees and Expenses for Commercial Services), clause 8 (Backstop Obligation Credit), clause 12.1 (Termination of this Agreement) (in respect of the term of the Management Agreement) or clause 12.5 (Termination of this Agreement) (in respect of the Manager’s termination rights) of the Management Agreement or any provision which has the effect of changing the identity of the Manager, for these purposes as defined in the Management Agreement;

(ii) amend, vary, novate, supplement, supersede, waive or terminate clause 3 (Non-competition) or clause 4 (Management Services) of the Restrictive Covenant Agreement, save to the extent those provisions terminate following a Change of Control Release;

(iii) amend, vary, novate, supplement, supersede, waive or terminate any terms of the Backstop Agreement;

(iv) amend, vary, novate, supplement, supersede, waive or terminate any terms of Dividend Reinvestment Escrow Agreement in the form attached to the Shareholders Agreement; or

(v) amend, vary, novate, supplement, supersede, waive or terminate any terms of the Subordinated Loan Agreement, and the Parent shall exercise all of its rights under the Subordinated Loan Agreement, including (without limitation) fully drawing amounts available to be drawn thereunder.

For the purposes of this clause 28.9, “Change of Control Release” means the occurrence of a Parent Change of Control under paragraphs (d), (e) or (g) of the definition thereof as a result of matters not within the control of Dr John Coustas or the Plan Sponsor, including where such Parent Change of Control relates to a hostile takeover of the Parent by a third party in which Dr John Coustas is ousted as Chief Executive Officer of the Parent without his consent.

28.10 Intellectual Property

Each Obligor and each Group Member (other than the Obligors) shall, and the Borrower shall procure that each Group Member will:

(a) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Obligor or other Group Member;

(b) use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property;

(c) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property;

(d) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any Group Member to use such property; and
(e) not discontinue the use of the Intellectual Property,

where failure to do so, in the case of paragraphs (a) and (b) above, or, in the case of paragraphs (d) and (e) above, such use, permission to use, omission or discontinuation, might have a Material Adverse Effect.

28.11 Subsidiaries

No Obligor (other than the Parent and the Manager) nor any other Existing Fleet Group Member (other than the Parent and the Manager) shall establish or acquire a company or other entity. No other Group Member (who is not an Existing Fleet Group Member and excluding the Parent and the other Obligors) shall establish or acquire a company or other entity, other than a vessel-owning company or one or more Holding Companies of a vessel-owning company pursuant to a Permitted Ship Purchase.

28.12 Acquisitions and investments

(a) No Obligor (other than the Parent and the Manager), nor any other Existing Fleet Group Member (other than the Parent and the Manager) shall acquire any person, business, assets or liabilities or make any investment in any person or business or undertaking or enter into any Joint Venture arrangement except for the acquisition of assets or services (other than ships) in the ordinary course of its business.

(b) No Obligor (other than the Parent and the Manager) nor any other Group Member (other than an Existing Fleet Group Member) shall acquire any person, business, assets or liabilities or make any investment in any person or business or undertaking or enter into any Joint Venture arrangement except a Permitted Ship Purchase or the acquisition of assets or services (other than ships) in the ordinary course of its business.

(c) The Parent shall not acquire any person, business, assets or liabilities or make any investment in any person or business or undertaking or enter into any Joint Venture arrangement except:

(i) the Gemini JV;

(ii) a Permitted Group Level Acquisition; or

(iii) any Joint Venture (other than the Gemini JV) which has been approved by the Majority Corporate Lenders pursuant to the provisions of the Global Intercreditor Deed and provided that:

(A) the terms of any arrangements (including any financing arrangements) in respect of the Joint Venture shall provide that (I) all ownership or economic interest in such Joint Venture, and all Distributions made by the Joint Venture or any of its Subsidiaries to the shareholders in such Joint Venture, shall in each case be pro rata to the investments made by such shareholder in the Joint Venture, (II) do not include non-market restrictions on Distributions or loans made by the Joint Venture vehicle or any of its Subsidiaries to any Group Member or non-market restrictions on the Parent’s ability to dispose of its interest in the Joint Venture, (III) Distributions and other payment of profits of the Joint Venture are to be made to the Parent on a regular basis (and, in any...
event, at least annually), and (IV) any such Joint Venture shall be limited-recourse with respect to the Parent or any other Group Member.

(B) the Obligors would be in compliance with the financial covenants under clause 20 (Financial covenants) immediately prior to and following any investment into such Joint Venture by the Parent (calculated on a pro forma basis to reflect such investment);

(C) the value of the investment made by the Parent or any other Existing Fleet Group Member to the Joint Venture has an aggregate fair market value, when taken together with the value of all other investments in Joint Ventures (excluding, for the avoidance of doubt, the Gemini JV) at any time, not to exceed $75 million at the time of such investment plus an amount equal to 50% of any net cash proceeds received by the Parent in connection with any equity offering by the Parent;

(D) no Parent Affiliate (directly or indirectly) shall own any share or has any economic or beneficial interest in such Joint Venture (other than indirectly through its ownership of or any interest in the Parent);

(E) such Joint Venture is solely for purpose of acquiring or chartering-in a new build vessel or a second hand vessel (or the acquisition of 100 percent of one or more special purpose entities owning vessels or Holding Companies of any such vessel-owning entities); and

(F) any management or other arrangement for the operation, crewing or management of the Joint Venture vessels shall be on arm’s length terms and, in respect of any such arrangement between the Manager and the Joint Venture or its Subsidiaries, shall not contain terms that are more favourable to the Manager compared to the terms of the Management Agreement.

(d) The Parent shall ensure that no material amendment is made to the terms of, or increase in the economics of, the Gemini JV without the consent of all NEDs (as certified in writing to the Agent by the Parent from time to time).

28.13 Reduction of capital

(a) No Obligor (other than the Parent and the Manager) nor any other Existing Fleet Group Member (other than the Parent and the Manager) 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 Parent 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 a Permitted Group Level Distribution.
28.14 Increase in capital

No Obligor (other than the Parent and the Manager) nor any other Group Member (other than the Parent and the Manager) shall issue shares or other equity interests to anyone who is not a wholly-owned Subsidiary of the Parent.

28.15 Restrictions on Distributions

(a) Subject to clause 28.6 (Loans and credit), no Obligor (other than the Manager) nor any other Group Member (other than the Manager) shall make any Distribution to any other Person other than Permitted Payments and (in respect of the Parent) Permitted Group Level Distributions.

(b) The Parent shall not transfer (or give instruction to transfer) any amount standing to the credit of the Dividend Reinvestment Escrow Account to any Parent Affiliate (other than a Group Member) unless it would be a Permitted Group Level Distribution.

28.16 Amended and Restated Sinosure Facility

No Group Member may agree to any amendment, supplement, modification, variation or arrangement in relation to any term of the Amended and Restated Sinosure Facility which would relate to or have the effect of changing the Amended and Restated Sinosure Facility (relative to its form as at the Effective Date) in any of the ways contemplated by clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed (where references to “Facility” are to be construed as references to the Amended and Restated Sinosure Facility) without the consent of all Lenders, unless the Lenders also receive the benefit of the more favourable provisions contemplated by clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed at the same time.

29 Hedging Contracts

29.1 Undertaking to comply

Each Obligor who is a Party undertakes that this clause 29 will be complied with throughout the Facility Period.

29.2 Hedging

(a) If, at any time during the Facility Period, the Parent wishes to enter into any Treasury Transaction so as to hedge all or any part of the Group’s exposure under any or all of the Permitted Group Level Financial Indebtedness (other than any Hedging Contracts) to interest rate fluctuations, it shall advise the Agent in writing.

(b) Any such Treasury Transaction shall (i) only be permitted after approval of the Majority Lenders and (ii) be concluded with a Hedging Provider on the terms of the Hedging Master Agreement with that Hedging Provider provided that such Treasury Transaction complies with all of the following conditions:

(i) the Parent has entered into a Hedging Strategy Letter with the Agent (acting on the instructions of the Majority Lenders);

(ii) it is an interest rate swap, cap or cash-settled interest rate swaption, provided that in the case of interest rate caps and cash-settled interest rate swaptions such Treasury Transactions are purchased for an up-front premium funded from

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Excess Cash and without the Parent or any other any Group Member being required to post margin (whether initial or variation) or otherwise collateralise the Treasury Transaction;

(iii) it is entered into in the ordinary and usual course of business of the Parent, on standard, arm’s length terms in accordance with the Hedging Strategy Letter;

(iv) its purpose is non-speculative and solely to hedge the exposure of the relevant Group Member(s) under Permitted Group Level Financial Indebtedness, for a period expiring no later than the applicable final repayment date of the relevant Permitted Group Level Financial Indebtedness;

(v) its notional principal amount, when aggregated with the notional principal amount of any other continuing Hedging Contracts in respect of Permitted Group Level Financial Indebtedness, does not and will not exceed the outstanding principal amount of the loan under such Permitted Group Level Financial Indebtedness as then scheduled to be repaid; and

(vi) it is unsecured.

(c) If and when any such Treasury Transaction has been concluded, it shall constitute a Hedging Contract for the purposes of the Finance Documents.

29.3 Unwinding of Hedging Contracts

If, at any time, and whether as a result of any prepayment (in whole or in part) of any loan comprising Permitted Group Level Financial Indebtedness or any cancellation (in whole or in part) of any commitment or otherwise in respect thereof, the aggregate notional principal amount under all Hedging Transactions in respect of any such Permitted Group Level Financial Indebtedness entered into by one or more Group Members exceeds or will exceed the amount of such loan as is outstanding at that time after such prepayment or cancellation, then (unless otherwise approved by the Majority Lenders) the Parent shall immediately close out and terminate sufficient Hedging Transactions relating to such Permitted Group Level Financial Indebtedness as are necessary to ensure that the aggregate notional principal amount under the remaining continuing Hedging Transactions relating to such Permitted Group Level Financial Indebtedness equals, and will in the future be equal to, the amount of such loan at that time and as scheduled to be repaid from time to time thereafter pursuant to the terms of the relevant Permitted Group Level Financial Indebtedness.

29.4 Information concerning Hedging Contracts

The Parent 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 this clause 30 (except clause 30.21 (Acceleration) ) is an Event of Default. For the purposes of this clause 30, Dormant Subsidiaries who are not Obligors shall not be treated as Group Members.
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, unless its failure to pay is caused by:

(a) administrative or technical error; or
(b) a Disruption Event,

and payment is made, in the case of principal and interest, within two Business Days of its due date and, in all other cases, within two Business Days of the earlier of (i) the Agent giving notice to the relevant Obligor and (ii) an Obligor becoming aware of the failure to pay.

30.2 Material obligations

Any Obligor does not comply with clause 19.3(a) (Financial statements), clause 19.9(f) (Information: miscellaneous), clause 20 (Financial covenants), clause 21.2 (Authorisations), clause 21.4 (Anti-corruption law), clause 21.6 (Change of business), clause 21.10 (Negative pledge in respect of Charged Property and Obligor shares), clause 22.3 (Sale or other disposal of Ship), clause 27 (Bank accounts), or clause 28.2 (General negative pledge).

30.3 Insurance

(a) The Insurances of a Mortgaged Ship are not placed and kept in force in the manner required by clause 24 (Insurance).
(b) Any insurer either:

   (i) cancels any such Insurances or gives notice of the cancellation of such Insurances and such Insurances are not renewed or replaced before the earlier of the date on which such cancellation is to take place and seven days of the date of such notice; or
   (ii) disclaims liability under them or asserts that its liability under such Insurances is or should be reduced (unless as a result of any mis-statement or failure or default by any person and the same is being contested in good faith by an Obligor and the insurer accepts liability in full for the relevant claim within a period of 45 days from the date of any disclaimer).

30.4 Other obligations

(a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in clause 30.1 (Non-payment), clause 30.2 (Material obligations) and clause 30.3 (Insurance) or in any other provision of this clause 30).
(b) No Event of Default under paragraph (a) above will occur if the Agent considers that the failure to comply is capable of remedy and the failure is remedied within ten Business Days of the earlier of (A) the Agent giving notice to the Borrower and (B) the Borrower or any other Obligor becoming aware of the failure to comply.
30.5 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 incorrect or misleading in any material respect when made or deemed to be made.

30.6 Cross default

(a) Any Financial Indebtedness of any Group Member is not paid when due nor within any originally applicable grace period.

(b) 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).

(c) Any commitment for any Financial Indebtedness of any Group Member is cancelled or suspended by a creditor of any Group Member as a result of an event of default (however described).

(d) The counterparty to a Treasury Transaction (including a Hedging Transaction) entered into by any Group Member becomes entitled to terminate that Treasury Transaction early by reason of an event of default (however described).

(e) 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).

(f) Any creditor of any Group Member takes enforcement action in respect of any Financial Indebtedness of any Group Member that is due and payable as a result of an event of default (however described).

(g) No Event of Default will occur under paragraphs (a) to (f) above if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (f) above is less than $5,000,000 (or its equivalent in any other currency or currencies).

30.7 Insolvency

(a) A Group Member:

(i) is unable or admits inability to pay its debts as they fall due;

(ii) is deemed to, or is declared to, be unable to pay its debts under applicable law;

(iii) suspends or threatens to suspend making payments on any of its debts; or

(iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness.

(b) A moratorium is imposed by law or 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.

30.8 Insolvency proceedings

(a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Group Member other than a solvent liquidation or reorganisation of any Group Member which is not an Obligor;

(ii) a composition, compromise, assignment or arrangement with any creditor of any Group Member (except as otherwise expressly permitted under the Finance Documents); or

(iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a Group Member which is not an Obligor), receiver, administrative receiver, administrator, 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 any analogous procedure or step is taken in any jurisdiction (including, without limitation, any conciliation or reorganization process is entered into pursuant to the Greek Bankruptcy Code (Law 3588/2007) or any order is made under the United Stated Bankruptcy Code).

(b) Paragraph (a) above shall not apply to any winding-up petition (or analogous procedure or step) which is frivolous or vexatious or being contested in good faith and is discharged, stayed or dismissed within 15 Business Days of commencement.

30.9 Creditors’ process
(a) Any expropriation, attachment, sequestration, distress, execution, enforcement of any Security Interest (subject to clause 30.16 (Security enforceable) and clause 30.17 (Arrest of Ship)) or any other analogous process or enforcement action (including enforcement by a landlord) in any jurisdiction affects any asset or assets of any Group Member for an amount in excess of $5,000,000 (or its equivalent in other currencies) unless such process is frivolous or vexatious or being contested in good faith and, in either case, is discharged within 14 days.

(b) Any judgment or order for an amount in excess of $5,000,000 (or its equivalent in other currencies) is made against any Group Member and is not stayed or complied with within 14 days.
30.10 Unlawfulness and invalidity

(a) It is or becomes unlawful for an Obligor or any other Group Member that is a party to any Intercreditor Deed to perform any of its obligations under the Finance Documents or any Transaction Security ceases to be effective or any subordination created under any Intercreditor Deed is or becomes unlawful.

(b) Any obligation or obligations of any Obligor under any Finance Documents or any other Group Member under any Intercreditor Deed are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable.

(c) Any Finance Document or any Transaction Security or any subordination created under any Intercreditor Deed ceases to be in full force and effect or ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective for any reason.

30.11 Cessation of business, merger etc.

(a) 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 other than following the sale or Total Loss of a Fleet Vessel owned by it in accordance with the terms of this Agreement.

(b) Except as otherwise expressly permitted under the Finance Documents, any merger, consolidation, spin-off or sale in respect of all or substantially all of the assets of the Parent or the Group, whether in a single transaction or a series of related transactions, occurs.

(c) Any Group Member substantially changes the nature of its business in a manner that deviates from the ownership, operation and management of maritime shipping assets (other than as a result of the sale or Total Loss of a Fleet Vessel owned by it in accordance with the terms of this Agreement).

30.12 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.

30.13 Transaction Documents

Any party to any Transaction Document (other than a Finance Party):

(a) rescinds or purports to rescind or repudiates or purports to repudiate a Transaction Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Transaction Document or any Transaction Security; or

(b) seeks to amend, vary or supplement any Transaction Document (other than as permitted by paragraph (b) of clause 28.9 (Contracts and arrangements with Affiliates and Parent Affiliates) or, in the case of an Amended RA Facility, the Amended and Restated Sinosure Facility or the Pooled Facilities Intercreditor Deed, as permitted by clause 5.3 (Most Favoured Nation) of the Global Intercreditor Deed), or is in breach of a Transaction Document and such breach is not remedied within ten Business Days of the
earlier of (A) the Agent giving notice to the Borrower and (B) any of the Obligors becoming aware of the breach.

30.14 Litigation

Either:

(a) any litigation, alternative dispute resolution, arbitration or administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened; or

(b) any judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental, arbitral or other regulatory body or agency is made,

in relation to any Transaction Document or the transactions contemplated in the Transaction Documents or against any Group Member or any of its assets, rights or revenues which has or might reasonably be expected to have a Material Adverse Effect.

30.15 Material Adverse Effect

Any event or circumstance occurs which either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders reasonably believe has, or is reasonably likely to have, a Material Adverse Effect.

30.16 Security enforceable

Any Security Interest (other than a Permitted Maritime Lien) in respect of Charged Property becomes enforceable.

30.17 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 or otherwise taken from the possession of the relevant Owner (any such event, a “relevant event”) and the relevant Owner fails to procure the release/repossession of such Ship within a period of 15 days thereafter (or such longer period as may be approved) (unless such relevant event is in the reasonable opinion of the Agent (acting on the instructions of the Majority Lenders) also an insured event clearly constituting a Total Loss claim under the Ship’s insurances, in which case such 15 day period shall be extended to the Total Loss Repayment Date provided such relevant event constitutes such Total Loss or the date on which the Agent (acting on the instructions of the Majority Lenders) determines that such relevant event is not (or is no longer) an insured event clearly giving grounds for such a Total Loss claim and notifies the relevant Obligors accordingly).

30.18 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 or, if such Ship is only provisionally registered on the date of its Mortgage, such Ship is not permanently registered under such laws within 15 Business Days of such date.
30.19 **Political risk**

(a) Either:

(i) the Flag State of any Mortgaged Ship becomes involved in war (whether declared or not) or civil war or there is a seizure of power in the Flag State by unconstitutional means; or

(ii) any Relevant Jurisdiction of an Obligor becomes involved in war (whether declared or not) or civil war or there is a seizure of power in such Relevant Jurisdiction by unconstitutional means.

(b) No Event of Default under paragraph (a)(i) above will occur if the Parent or the relevant Owner, within 15 Business Days of the relevant occurrence of the war (whether declared or not), civil war or seizure of power, changes the Flag State of the relevant Mortgaged Ship(s) to that of any other jurisdiction approved by the Majority Lenders (provided no such approval shall be required if the jurisdiction is another Approved Flag State) and grants in favour of the Security Agent such Security Interests (including a mortgage over the relevant Ship) as the Agent may request (acting on the instructions of either the Majority Tranche 1 Lenders or the Tranche 2 Lenders) in documents in an approved form (including an agreement supplemental to this Agreement) and provided and delivered to the Agent in respect of such Security Interests any documents and evidence of the nature described in the Amendment and Restatement Agreement as required by the Agent, in each case at the cost and expense of the Borrower.

30.20 **Breach of Charter**

(a) There is a material breach by any Charterer of any Charter for any Ship (including, without limitation, any non-payment in full by the relevant Charterer of any charterhire or other amounts) or any Charter has been rescinded, repudiated or terminated for any reason whatsoever before its scheduled expiry date.

(b) No Event of Default under paragraph (a) above will occur in relation to a Charter or Mortgaged Ship if, as soon as possible after (and in any event within 90 days after) such breach, rescission, repudiation or termination:

(i) the breach is cured (if applicable); and/or

(ii) the relevant Owner has entered into an approved charter commitment (a "Replacement Charter") in respect of the relevant Ship on terms (including as to tenor, charter hire and credit standing of the charterer) which are in the opinion of the Agent (acting on the instructions of the Majority Lenders) not less favourable to the relevant Owner, the Group and the Finance Parties than those of such original Charter as at the time of its breach, rescission, repudiation or termination, the relevant Ship has been delivered under such Replacement Charter and, forthwith after the entry into such Replacement Charter, the relevant Owner has granted in favour of the Security Agent (or, in the case of a Collateral Owner or the Owner of an Additional Ship, the RL Security Agent) a Security Interest in respect of such Replacement Charter in a document in an approved form and provided and delivered to the Agent in respect of that charter commitment and Security Interest any documents and evidence of the
nature described in the Amendment and Restatement Agreement as required by the Agent.

30.21 Intercreditor Deeds

(a) Any party to an Intercreditor Deed (other than a Finance Party or an Obligor) fails to comply with the provisions of, or does not perform its obligations under, an Intercreditor Deed.

(b) A representation or warranty given by any party to an Intercreditor Deed (other than a Finance Party) is incorrect in any material respect.

30.22 Audit qualification

The Auditors of the Group materially qualify, in the opinion of either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders, the audited annual consolidated financial statements of the Parent (unless previously disclosed and approved in accordance with the provisions of the Global Intercreditor Deed prior to the relevant audited accounts being signed off by the Auditors). For the purposes of this clause, any qualification that arises from an assessment of going concern that may cast significant doubt on the Group’s ability to continue as a going concern shall be considered automatically material without any further determination, approval or agreement of either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders.

30.23 Management Agreement

(a) The Management Agreement is for any reason and by any method cancelled, terminated or rescinded or is not or ceases to be legal, valid, binding and enforceable or otherwise ceases to remain in full force and effect where the Management Agreement is not replaced by a new management agreement with the Manager on substantially the same terms as the Management Agreement within three days of the cancellation, termination, rescission, illegality, invalidity, unenforceability or otherwise ceasing to remain in full and effect of the Management Agreement.

(b) An Obligor or the Manager does not comply with any provision of the Management Agreement, provided that no Event of Default will occur if the Agent considers that the failure to comply is capable of remedy and the failure is remedied within three days of the earlier of (A) the Agent giving notice to the relevant Obligor and (B) any of the Obligors becoming aware of the failure to comply.

(c) The Manager ceases to be the manager of any Ship.

30.24 Sanctions

(a) Any of the Obligors, or any other Group Member or any Affiliate of any of them becomes a Prohibited Person or becomes owned or controlled by, or acts directly or indirectly on behalf of, a Prohibited Person or any of such persons becomes the owner or controller of a Prohibited Person.

(b) Any proceeds of the Loans are made available, directly or indirectly, to or for the benefit of a Prohibited Person or otherwise is, directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.
Any Obligor or other Group Member or any Affiliate of any of them is not in compliance with all Sanctions.

30.25 Owner Change of Control
An Owner Change of Control occurs.

30.26 Manager Change of Control
A Manager Change of Control occurs.

30.27 Suspension from trading etc.
The Danaos Shares cease to be listed on a national securities exchange registered with the US Securities and Exchange Commission or are suspended from trading from such exchange for at least ten consecutive Business Days.

30.28 Backstop Agreement and Subordinated Loan Agreement
(a) The Parent or the Plan Sponsor does not comply with any provision of the Backstop Agreement or the Subordinated Loan Agreement.

(b) No Event of Default under paragraph (a) above will occur if the Agent considers that the failure to comply is capable of remedy and the failure is remedied within ten Business Days of the earlier of (A) the Agent giving notice to the Borrower and (B) any of the Obligors becoming aware of the failure to comply.

30.29 Acceleration
On and at any time after the occurrence of an Event of Default which is continuing (but subject to the provisions of the Global Intercreditor Deed and to the Enforcement Principles) the Agent may, and shall if so directed by either the Majority Lenders or the Majority Tranche 1 Lenders:

(a) by notice to the Borrower:

(i) declare that no withdrawals be made from any Account;

(ii) cancel all or any part of the Total Tranche 1 Commitments and/or all or any part of the Tranche 2 Commitments, at which time they shall immediately be cancelled;

(iii) declare that all or any part of the Tranche 1 Loan and/or all or any part of the Tranche 2 Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents in respect of the Tranche 1 Loan, Tranche 2 Loan or both (as relevant), be immediately due and payable, at which time those amounts shall become immediately due and payable; and/or

(iv) declare that all or any part of the Tranche 1 Loan and/or all or any part of the Tranche 2 Loan be payable on demand, at which time the Tranche 1 Loan, Tranche 2 Loan or both (as relevant) shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders or the Majority Tranche 1 Lenders; and/or
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.

30.30 Acceleration — Tranche 2 Loan

On and at any time after the occurrence of an Event of Default which is continuing (but subject to the provisions of the Global Intercreditor Deed and to the Enforcement Principles) the Agent may, and shall if so directed by the Majority Tranche 2 Lenders:

(a) by notice to the Borrower:
   (i) declare that no withdrawals be made from any Account;
   (ii) cancel the Total Tranche 2 Commitments, at which time they shall immediately be cancelled;
   (iii) declare that all or part of the Tranche 2 Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents in respect of the Tranche 2 Loan, be immediately due and payable, at which time those amounts shall become immediately due and payable; and/or
   (iv) declare that all or part of the Tranche 2 Loan be payable on demand, at which time it shall immediately become payable on demand by the Agent on the instructions of the Majority Tranche 2 Lenders; and/or

(b) 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.
Section 9 — Changes to Parties

31 Changes to the Lenders

31.1 Assignments and transfers by the Lenders

Subject to this clause 31, a Lender (the “Existing Lender”) may:

(a) assign any of its rights; or

(b) transfer by novation any of its rights and obligations,

under any Finance Document 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 or to any other person (the “New Lender”).

31.2 Conditions of assignment or transfer

(a) An assignment will only be effective:

   (i) if the relevant Existing Lender has given prior written notice of the proposed assignment to the Borrower and confirmed the identity of the New Lender in such written notice;

   (ii) on receipt by the Agent of written confirmation from the New Lender (in form and substance reasonably satisfactory to the Agent) that the New Lender will assume the same obligations to the Borrower and the other Finance Parties as it would have been under if it had been an Original Lender;

   (iii) on the New Lender entering into any documentation required for it to accede as a party to each Intercreditor Deed to which the Existing Lender (in its capacity as such) is a party and into any Security Document to which the Existing Lender is a party in its capacity as a Lender and, in relation to such Security Documents, completing any filing, registration or notice requirements;

   (iv) on the performance by the Agent of all necessary “know your customer” or similar checks under all applicable laws and regulations relating to any person that it is required to carry out in relation to such transfer or assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender; and

   (v) if the procedure set out in clause 31.7 (Procedure available for assignment) is complied with.

(b) A transfer will only be effective:

   (i) if the relevant Existing Lender has given prior written notice of the proposed transfer to the Borrower and confirmed the identity of the New Lender in such written notice; and

   (ii) on the New Lender entering into any documentation required for it to accede as a party to each Intercreditor Deed to which the Existing Lender (in its capacity as such) is a party and into any Security Document to which the
Existing Lender is a party in its capacity as a Lender and, in relation to such Security Documents, completing any filing, registration or notice requirements; and

(iii) if the procedure set out in clause 31.6 (Procedure available for transfer) is complied with.

(c) Each New Lender, by executing the relevant Assignment Agreement or 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 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.

(d) If:

(i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under clause 12 (Tax gross-up or indemnities) clause 13 (Increased Costs),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under that clause to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred (unless the assignment, transfer or change is made by the Lender with the Borrower’s agreement to mitigate any circumstances giving rise to a Tax Payment or increased cost, or a right to be prepaid and/or cancelled by reason of illegality). Subject to this paragraph (d), the Obligors shall not bear any cost or expense relating to the execution of such an assignment, transfer or change.

31.3 Fee and expenses

(a) Subject to paragraph (b) below, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of $3,500 and shall, promptly on demand, pay the Agent and the Security Agent the amount of:

(i) all costs and expenses (including legal fees) properly incurred by the Agent or the Security Agent in connection with any such assignment or transfer or the accession by the New Lender to the Intercreditor Deeds and the execution of any deed of accession supplemental to them; and

(ii) any Losses the Agent or the Security Agent incurs in relation to all stamp duty, registration, documentary or other similar Taxes payable in respect of any such assignment or transfer.

(b) No fee or other amount is payable by the New Lender pursuant to paragraph (a) above if:
(i) the Agent agrees that no fee or other amount is payable; or

(ii) the assignment or transfer is made by an Existing Lender:

(A) to an Affiliate of that Existing Lender; or

(B) to a fund which is a Related Fund of that Existing Lender.

31.4 Transfer costs and expenses relating to security and Intercreditor Deeds

The New Lender 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 to facilitate the accession by the New Lender to, or assignment or transfer to the New Lender of, any Security Document and/or the benefit of any Security Document and any appropriate registration of any such accession or assignment or transfer or the accession by the New Lender to the Intercreditor Deeds (as applicable) and the execution of any deed of accession supplemental to them; and

(b) any cost, loss or liability the Agent or the Security Agent incurs in relation to all stamp duty, registration, documentary and other similar Taxes payable in respect of any such accession, assignment or transfer.

31.5 Limitation of responsibility of Existing Lenders

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Transaction Security or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor or any other person of its obligations under the Finance Documents or any other documents;

(iv) the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents; or

(v) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document, and any representations or warranties implied by law are excluded.

(b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of:

(A) the financial condition and affairs of the Obligors and their related entities in connection with its participation in this Agreement; and

(B) the application of any Basel II Regulation or 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 Transaction Document or the Transaction Security;

(ii) 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

(iii) 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.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-assignment or re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this clause 31; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under any Transaction Document or by reason of the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Transaction Documents or otherwise.
31.6 Procedure available for transfer

(a) Subject to the conditions set out in clause 31.2 (Conditions of assignment or transfer) a transfer may be effected in accordance with paragraph (d) below when (i) the Agent executes an otherwise duly completed Transfer Certificate and (ii) the Agent executes any document required under paragraph (a) of clause 31.2 (Conditions of assignment or transfer) 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, subject to paragraph (b) below, 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.

(b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

(c) The Obligors who are Parties and the other Finance Parties irrevocably authorise the Agent to execute any Transfer Certificate on their behalf without any consultation with them.

(d) On the Transfer Date:
(i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (the “Discharged Rights and Obligations”);

(ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other Group Member and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(iii) the Agent, the Security Agent, the New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Security Agent and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a “Lender”.

31.7 Procedure available for assignment

(a) Subject to the conditions set out in clause 31.2 (Conditions of assignment or transfer) an assignment may be effected in accordance with paragraph (d) below when (i) the Agent executes an otherwise duly completed Assignment Agreement and (ii) the Agent executes any document required under paragraph (a) of clause 31.2 (Conditions of assignment or transfer) 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, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of an Assignment Agreement 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 Assignment Agreement and such other document.

(b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

(c) The Obligors who are Parties and the other Finance Parties irrevocably authorise the Agent to execute any Assignment Agreement on their behalf without any consultation with them.
(d) On the Transfer Date:

(i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents and in respect of the Transaction Security (if relevant) expressed to be the subject of the assignment in the Assignment Agreement;

(ii) 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 Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security) (but the obligations owed by the Obligors under the Finance Documents shall not be released); and

(iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.

(e) Lenders may utilise procedures other than those set out in this clause 31.5(c) to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with this clause 31.5(c) to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in clause 31.2 (Conditions of assignment or transfer).

31.8 Copy of Transfer Certificate or Assignment Agreement to Borrower

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or Assignment Agreement and any other document required under paragraph (a) of clause 31.2 (Conditions of assignment or transfer), send a copy of that Transfer Certificate or Assignment Agreement and such other documents to the Borrower.

31.9 Pro rata settlement

(a) In respect of any transfer pursuant to clause 31.6 (Procedure available for transfer) or any assignment pursuant to clause 31.7 (Procedure available for assignment) the Transfer Date of which, in each case, is not on the last day of an Interest Period:

(i) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (“Accrued Amounts”) and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at exactly six Monthly intervals after the first day of that Interest Period); and

(ii) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts so that, for the avoidance of doubt:

(A) when the Accrued Amounts become payable, those Accrued Amounts will be payable for the account of the Existing Lender; and
the amount payable to the New Lender on that date will be the amount which would, but for the application of this clause 31.9, have been payable to it on that date, but after deduction of the Accrued Amounts.

(b) In this clause 31.9 references to “Interest Period” shall be construed to include a reference to any other period for accrued fees.

31.10 Security over Lenders’ rights

In addition to the other rights provided to Lenders under this clause 31, each Lender may without consulting with or obtaining consent from any 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) 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 other 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 other 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.

31.11 Sub-Participation

Any Lender may sub-participate all or any part of its rights and/or obligations under the Finance Documents without the consent of or notice to, the Parent or any other Obligor.

32 Changes to the Obligors

32.1 Assignments and transfer by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

32.2 Additional Guarantors

(a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 19.18 ( “Know your customer” checks ) and the Intercreditor Deeds, the Parent may request
that any of its Subsidiaries become an Additional Guarantor. That Subsidiary shall become an Additional Guarantor if:

(i) the Company delivers to the Agent a duly completed and executed Accession Letter and that Subsidiary enters into the documentation required in order for it to accede to the Intercreditor Deeds; and

(ii) the Agent has received all of the documents and other evidence listed in Schedule 3 (Conditions precedent required to be delivered by an Additional Guarantor) in relation to that Additional Guarantor, each in form and substance satisfactory to the Agent.

(b) The Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Schedule 3 (Conditions precedent required to be delivered by an Additional Guarantor).

(c) Other than to the extent that either the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (b) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

32.3 Repetition of Representations

Delivery of an Accession Letter constitutes confirmation by the relevant Group Member that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.
Roles of Agent or Security Agent

33.1 Appointment of the Agent and Security Agent

Each Finance Party (other than the Security Agent) has:

(a) in the Original Agency and Trust Agreement, appointed the Agent to act as its agent under and in connection with the Finance Documents, and confirms that this appointment remains in full force and effect and covers the Finance Documents (as such term is defined in this Agreement as amended and restated by the Amendment and Restatement Agreement);

(b) in the Original Agency and Trust Agreement appointed the Security Agent to act as its trustee under and for the purpose of the Security Documents comprised in each of paragraphs (a) of the definition of “Existing Security Documents” and paragraphs (b) and (c) of the definition of “Security Documents”, and in the Additional Agency and Trust Deed appointed the Security Agent to act as security trustee under and for the purpose of the Security Documents comprised in paragraph (b) of the definition of “Existing Security Documents”, and confirms that each such appointment remains in full force and effect and extends to cover any New Security executed or to be executed in connection with m.v.s “MAERSK ENPING”, “EXPRESS BERLIN”, “AMERICA”, “CSCL LE HAVRE” and “DERBY D”.

33.2 Authorisation of Agent and Security Agent

Each of the Finance Parties authorises the Agent and the Security Agent:

(a) to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent or (as the case may be) 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 Majority Lenders for execution by it.

33.3 Agent to act as Facility Representative

(a) Each of the Lenders authorises and instructs the Agent to act as Facility Representative under each of the Global Intercreditor Deed and the Intra-Restructuring Lenders Intercreditor Deed for the purposes of those Intercreditor Deeds.

(b) Each of the Lenders shall deal with the Global Intercreditor Agent and the RL Security Agent exclusively through the Agent, acting in its capacity as Facility Representative.

33.4 Instructions to Agent and the Security Agent

(a) The Agent and the Security Agent shall:

(i) subject to paragraphs (d) and (e) below, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent or (as the case may be) the Security Agent in accordance with any instructions given to it by:
in the case of the Agent, all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and

in all other cases, either the Majority Lenders or (if the Enforcement Principles specify a different group of Lenders), the group of Lenders specified by the Enforcement Principles; and

in the case of the Security Agent, on the instructions of the Agent.

(ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties).

(b) The Agent and the Security Agent shall be entitled to request instructions, or clarification of any instruction, from (in the case of the Security Agent) the Agent, and in the case of the Agent, the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent or (as the case may be) the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.

(c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and, unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.

(d) Paragraph (a) above shall not apply:

(i) where a contrary indication appears in a Finance Document;

(ii) where a Finance Document requires the Agent or the Security Agent to act in a specified manner or to take a specified action;

(iii) in respect of any provision which protects the Agent’s or the Security Agent’s own position in its personal capacity as opposed to its role of the Agent or the Security Agent for the Finance Parties including, without limitation, clauses 33.8 (No duty to account) to clause 33.13 (Exclusion of liability), clause 33.18 (Confidentiality) to clause 34.4 (Custodians and nominees) and clauses 34.7 (Acceptance of title) to 34.10 (Disapplication of Trustee Acts).

(e) If giving effect to instructions given by any other Finance Party or group of Finance Parties would (in the Agent’s or (as the case may be) the Security Agent’s opinion) have an effect equivalent to an amendment or waiver which is subject to clause 46 (Amendments and waivers), the Agent or (as the case may be) the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than itself) whose consent would have been required in respect of that amendment or waiver.
(f) The Agent or the Security Agent may refrain from acting in accordance with any instructions of any other Finance Party or group of Finance Parties until it has received any indemnification, pre-funding and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.

(g) Without prejudice to the provisions of clause 35 (Enforcement of Transaction Security), Schedule 11 (Enforcement Principles) and the remainder of this clause 33, in the absence of instructions, the Agent and the Security Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.

33.5 Legal or arbitration proceedings

Neither the Agent nor the Security Agent is authorised to act on behalf of another Finance Party (without first obtaining that Finance Party’s consent) in any legal or arbitration proceedings relating to any Finance Document. This clause 33.5 shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Transaction Security.

33.6 Duties of the Agent and the Security Agent

(a) The Agent’s and the Security Agent’s duties under the Finance Documents are solely mechanical and administrative in nature.

(b) Subject to paragraph (c) below, the Agent or (as the case may be) the Security Agent shall promptly

(i) (in the case of the Security Agent) forward to the Agent a copy of any document received by the Security Agent from any Obligor under any Finance Document; and

(ii) forward to a Party the original or a copy of any document which is delivered to the Agent or (as the case may be) the Security Agent for that Party by any other Party.

(c) Without prejudice to clause 31.8 (Copy of Transfer Certificate or Assignment Agreement to Borrower), paragraph (b) above shall not apply to any Assignment Agreement or Transfer Certificate.

(d) Except where a Finance Document specifically provides otherwise, neither the Agent nor the Security Agent is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(e) Without prejudice to clause 36.11 (Notification of prescribed events), if the Agent or the Security Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent or the Security Agent for
their own account) under this Agreement, it shall promptly notify the other Finance Parties.

(g) The Agent shall provide to the Borrower within 10 Business Days of a request by the Borrower (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Lenders as at the date of that request their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the sending and receipt of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Agent to that Lender under the Finance Documents.

(h) The Agent and the Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

33.7 No fiduciary duties

Nothing in any Finance Document constitutes the Agent or the Security Agent as a trustee or fiduciary of any other person except to the extent that the Security Agent acts as trustee for the other Finance Parties pursuant to the Agency and Trust Deeds.

33.8 No duty to account

None of the Agent or the Security Agent shall be bound to account to any other Finance Party for any sum or the profit element of any sum received by it for its own account.

33.9 Business with the Group

The Agent and the Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Obligor or other Group Member or their Affiliates.

33.10 Rights and discretions of the Agent and the Security Agent

(a) The Agent and the Security Agent may:

(i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;

(ii) assume that:

(A) any instructions received by it from the Majority Lenders, any Lenders or other Finance Parties or any group of Lenders or other Finance Parties are duly given in accordance with the terms of the Finance Documents;

(B) unless it has received notice of revocation, that those instructions have not been revoked; and
in the case of the Security Agent, if it receives any instructions from the Agent to act in relation to the Transaction Security, that all applicable conditions under the Finance Documents for so acting have been satisfied; and

(iii) rely on a certificate from any person:

(A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

(B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.

(b) The Agent and the Security Agent may assume (unless it has received notice to the contrary in its capacity as agent or (as the case may be) security trustee for the other Finance Parties) that:

(i) no Notifiable Debt Purchase Transaction has been entered into, has been terminated or has ceased to be with a Parent Affiliate;

(ii) no Default has occurred (unless (in the case of the Agent) it has actual knowledge of a Default arising under clause 30.1 (Non-payment));

(iii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and

(iv) any notice or request made by the Borrower is made on behalf of and with the consent and knowledge of all the Obligors.

(c) Each of the Agent and the Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts.

(d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, each of the Agent and the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to it (and so separate from any lawyers instructed by the Lenders or any other Finance Party) if it, in its reasonable opinion, deems this to be desirable.

(e) Each of the Agent and the Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts (whether obtained by it 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 (provided that such person has been selected using reasonable care).

(f) The Agent, the Security Agent, any Receiver and any Delegate may act in relation to the Finance Documents, the Transaction Security and the Security Property through its officers, employees and agents and shall not:

(i) be liable for any error of judgment made by any such person; or

(ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part, of any such person,

unless such error or such loss was directly caused by the Agent’s, the Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct.

(g) Unless any Finance Document expressly specifies otherwise, the Agent or the Security Agent may disclose to any other Party any information it reasonably believes it has received as agent or security trustee under this Agreement.

(h) Without prejudice to the generality of paragraph (g) above, the Agent:

(i) may disclose; and

(ii) on the written request of the Borrower or the Majority Lenders shall, as soon as reasonably practicable, disclose,

the identity of a Defaulting Lender to the other Finance Parties and the Borrower.

(i) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent or the Security Agent is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

(j) Notwithstanding any provision of any Finance Document to the contrary, neither the Agent nor the Security Agent is obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.
(k) The Agent shall not be obliged to request any certificate, opinion or other information under clause 19 (Information undertakings) unless so required in writing by a Lender, in which case the Agent shall promptly make the appropriate request of the Borrower if such request would be in accordance with the terms of this Agreement.

(l) The Security Agent shall be entitled (in its own name or in the name of nominees) to invest moneys from time to time forming part of the Charged 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 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.

(m) The Security Agent may place all deeds and other documents relating to the Charged 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 any Obligor access to, or its solicitors or auditors possession of, such documents when necessary and convenient and the Security Agent shall not be responsible for an loss incurred in connection with any such deposit, access or possession.

33.11 Responsibility for documentation and other matters

None of the Agent, the Security Agent, any Receiver or any Delegate is responsible or liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Security Agent, an Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document, the Transaction Security or the Security Property;

(c) the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents;

(d) (in the case of the Security Agent) any loss to the Security 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) the failure of any Obligor or any other party to perform its obligations under any Transaction Document or the financial condition of any such person;

(f) (save as otherwise provided in this clause 33, including, without limitation, where instructed pursuant to clause 33.4 (Instructions to Agent and the Security Agent) taking or omitting to take any other action under or in relation to the Security Documents;

(g) any other beneficiary of a Security Document failing to perform or discharge any of its duties or obligations under any Finance Document; or

(h) 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.

33.12 No duty to monitor

Neither the Agent nor the Security Agent shall be bound to enquire:

(a) whether or not any Default has occurred;

(b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
whether any other event specified in any Finance Document has occurred.

33.13 Exclusion of liability

(a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent, the Security Agent, any Receiver or Delegate), none of the Agent, the Security Agent, any Receiver nor any Delegate will be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:

(i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Security Property, unless directly caused by its gross negligence or wilful misconduct;

(ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Security Property;

(iii) any shortfall which arises on the enforcement or realisation of the Security Property; or

(iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:

   (A) any act, event or circumstance not reasonably within its control; or

   (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

   including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event), breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(b) No Party (other than the Agent, the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Agent, the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Agent, the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or any Security Property and any officer, employee or agent of the Agent, the Security Agent, a Receiver or a Delegate may rely on this clause subject to clause 1.4 (Third party rights) and the provisions of the Third Parties Act.
Neither of the Agent or the Security Agent will be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by it if it 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 it for that purpose.

Nothing in any Finance Document shall oblige the Agent or the Security Agent to carry out

(i) any “know your customer” or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by any of the Finance Documents might be unlawful for any Finance Party or for any Affiliate of any Finance Party or for any Affiliate of any Finance Party,

on behalf of any other Finance Party and each other Finance Party confirms to the Agent or the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Security Agent.

Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Agent, the Security Agent, any Receiver or any Delegate, any liability of the Agent, the Security Agent, any Receiver or any Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Agent, the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent, the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Agent, the Security Agent, any Receiver or any Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent, the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

Notwithstanding any other provision of this Agreement or any other Finance Documents, nothing contained in any of the Finance Documents shall oblige the Security Agent to become a mortgagee in possession or be liable for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable, or assume the obligations of any other person under any Finance Document or take any action which would otherwise, in its opinion, be expected to render it liable to such person. The Security Agent shall be entitled to all the rights, powers, privileges and immunities conferred on mortgagees and receivers by the Law of Property Act 1925 when such receivers have been duly appointed under the said Act but so that section 103 of that Act shall not apply.

33.14 **Lenders’ indemnity to the Agent and others**

(a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their being reduced to zero) indemnify the Agent, the Security Agent, every Receiver
and every Delegate, within three Business Days of demand, against any Losses (including, without limitation, for negligence or any other category of liability whatsoever) incurred by any of them (otherwise than by reason of the relevant Agent’s, Security Agent’s, Receiver’s or Delegate’s gross negligence or wilful misconduct) (or, in the circumstances contemplated pursuant to clause 40.11 (Disruption to payment systems etc, notwithstanding the Agent’s negligence, gross negligence, or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent, Security Agent, Receiver or Delegate under, or exercising any authority conferred under, the Finance Documents (unless the relevant Agent, Security Agent, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).

(b) Subject to paragraph (c) below, the Borrower shall immediately on demand reimburse any Lender for any payment that Lender makes to the Agent or the Security Agent or any Receiver or Delegate pursuant to paragraph (a) above.

(c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent or the Security Agent to an Obligor.

33.15 Resignation of the Agent or the Security Agent

(a) The Agent or the Security Agent may, without giving any reason therefor and without being responsible for the cost thereof, resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrower.

(b) Alternatively the Agent or the Security Agent may, without giving any reason therefor and without being responsible for the cost thereof, resign by giving 30 days’ notice to the other Finance Parties and the Borrower, in which case the Majority Lenders may appoint a successor Agent or Security Agent.

(c) If the Majority Lenders have not appointed a successor Agent or Security Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Agent or Security Agent (after consultation with (in the case of the Agent) the Borrower or (in the case of the Security Agent) the Agent) may appoint a successor Agent or Security Agent.

(d) If the Agent or Security Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent or trustee and the Agent or (as the case may be) Security Agent is entitled to appoint a successor Agent or (as the case may be) Security Agent under paragraph (c) above, the Agent or (as the case may be) Security Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent or (as the case may be) Security Agent to become a party to this Agreement as Agent or (as the case may be) Security Agent) agree with the proposed successor Agent or (as the case may be) Security Agent amendments to this clause 33 and any other term of this Agreement and the Agency and Trust Deeds dealing with the rights or obligations of the Agent or (as the case may be) Security Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the fee payable to it in its capacity as Agent or (as the case may be) Security Agent under this Agreement which are consistent with the successor Agent’s
or (as the case may be) Security Agent’s normal fee rates and those amendments will bind the Parties.

(e) The retiring Agent or Security Agent shall make available to the successor Agent or Security Agent such documents and records and provide such assistance as the successor Agent or Security Agent may reasonably request for the purposes of performing its functions as Agent or (as the case may be) Security Agent under the Finance Documents. The Borrower shall, within three Business Days of demand, reimburse the retiring Agent or (as the case may be) Security Agent for the amount of all costs and expenses (including legal fees) (together with any applicable VAT) properly incurred by it in making available such documents and records and providing such assistance.

(f) The Agent’s or Security Agent’s resignation notice shall only take effect upon:

(i) the appointment of a successor; and

(ii) (in the case of the Security Agent) the transfer or assignment of all the Transaction Security and the other Security Property to that successor and any appropriate filings or registrations, any notices of transfer or assignment and the payment of any fees or duties related to such transfer or assignment which the Security Agent considers necessary or advisable have been duly completed.

(g) Upon the appointment of a successor, the retiring Agent or Security Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of clause 34.8 (Winding up of trust) and paragraph (e) above) but shall remain entitled to the benefit of clauses 14.4 (Indemnity to the Agent and the Security Agent) and 14.5 (Indemnity concerning security) and this clause 33 (and any agency or other fees for the account of the retiring Agent or Security Agent in its capacity as such 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 that successor had been an original Party.

(h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:

(i) the Agent fails to respond to a request under clause 12.8 (FATCA Information) and the Borrower or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

(ii) the information supplied by the Agent pursuant to clause 12.8 (FATCA Information) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or

(iii) the Agent notifies the Borrower and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,
and (in each case) the Borrower or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Borrower or that Lender, by notice to the Agent, requires it to resign.

33.16 Replacement of the Agent

(a) After consultation with the Borrower, the Majority Lenders may, by giving 30 days’ notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Agent by appointing a successor Agent.

(b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor 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.

(c) 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 paragraph (b) above) but shall remain entitled to the benefit of clauses 14.4 (Indemnity to the Agent and the Security Agent) and 14.5 (Indemnity concerning security) and this clause 33 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).

(d) 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.

33.17 Replacement of the Security Agent

The Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) of clause 33.15 (Resignation of the Agent or the Security Agent). In this event, the Security Agent shall resign in accordance with that paragraph.

33.18 Confidentiality

(a) In acting as agent or trustee for the Finance Parties, the Agent or (as the case may be) the Security Agent shall be regarded as acting through its agency, trustee or other division or department directly responsible for the management of the Finance Documents which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Agent or (as the case may be) Security Agent, it may be treated as confidential to that division or department and the Agent or (as the case may be) Security Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent or the Security Agent is obliged to disclose to any other person (i) any Confidential Information or (ii) any other information if the disclosure would, or might
in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

33.19 Agent’s relationship with the Lenders

(a) The Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent’s principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:

(i) entitled to or liable for any payment due under any Finance Document on that day; and

(ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under clause 42.6 (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 (or such other information) by that Lender for the purposes of clause 42.2 (Addresses) and clause 42.6 (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.

33.20 Information from the Finance Parties

Each Finance Party shall, subject to any applicable duties of confidentiality or restriction imposed by applicable law or regulation or contract, supply the Agent or the Security Agent with any information that the Agent or (as the case may be) the Security Agent may reasonably specify as being necessary to enable the Agent or (as the case may be) the Security Agent to perform its functions as Agent or (as the case may be) Security Agent.

33.21 Credit appraisal by the Finance Parties

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each other Finance Party confirms to the Agent or the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each Obligor and other Group Member;
the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Transaction Security, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document, the Transaction Security or the Security Property;

the application of any Basel II Regulation or Basel III Regulation to the transactions contemplated by the Finance Documents;

whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document, the Transaction Security or the Security Property;

the adequacy, accuracy or completeness of any information provided by the Agent or the Security Agent or any other Party or by any other person under or in connection with any Transaction Document, the transactions contemplated by any Transaction Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; and

the right or title of any person in or to, or the value or sufficiency of, any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security Interest affecting the Charged Property.

33.22 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.

33.23 Reliance and engagement letters

Each of the Agent or the Security Agent may enter into any reliance letter or engagement letter relating to any valuations, reports, opinions or letters or advice or assistance provided by lawyers, accountants, tax advisers, insurance consultants, ship managers, valuers, surveyors or other professional advisers or experts in connection with the Transaction Documents or the transactions contemplated in the Finance Documents on such terms as it may consider appropriate (including, without limitation, restrictions on the lawyer’s, accountant’s, tax adviser’s, insurance consultant’s, ship manager’s, valuer’s, surveyor’s or other professional adviser’s or expert’s liability and the extent to which their valuations, reports, opinions or letters may be relied on or disclosed).

33.24 Appointment of Tranche 2 Agent

If at any time:
(a) the Agent;
(b) the Majority Tranche 1 Lenders; or
(c) the Majority Tranche 2 Lenders,

require that the Tranche 2 Lenders appoint and maintain or have, as applicable, their own agent in respect of the Tranche 2 Facility for the purpose of this Agreement and/or the Intercreditor Deeds, then the Tranche 2 Lenders shall promptly appoint an agent which is approved by the Tranche 2 Lenders to act as the “Tranche 2 Agent” under an in connection with the Finance Documents (and all the parties to this Agreement acknowledge and undertake that they will take whatever action is reasonably required, including any necessary amendments to this Agreement or any other Finance Document or the entry into any necessary additional document, in order to effect the appointment of such “Tranche 2 Agent”). Upon such appointment (and subject to all necessary amendments being made to this Agreement and the other Finance Documents) the Agent shall cease to be the agent for the Tranche 2 Lenders.

33.25 Illegality

The Agent or the Security Agent may refrain without liability from doing anything that would or might in its own opinion be contrary to any law of any state or jurisdiction (including but not limited to the United States of America or any jurisdiction forming a part of it, and England & Wales) or any directive or regulation of any agency of any such state or jurisdiction and may without liability do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

34 Trust and security matters

34.1 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

(a) ascertain whether all deeds and documents which should have been deposited with it under or pursuant to any of the Security Documents have been so deposited;
(b) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;
(c) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Finance Document or the Transaction Security;
(d) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;
(e) take, or to require any Obligor to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security Interest under any law or regulation; or
(f) require any further assurance in relation to any Security Document.

34.2 Insurance by Security Agent

(a) The Security Agent shall not be obliged:

(i) to insure any of the Charged Property;
(ii) to require any other person to maintain any insurance; or
(iii) to verify any obligation to arrange or maintain insurance contained in any Finance Document,

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

(b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Agent requests it to do so in writing and the Security Agent fails to do so within fourteen days after receipt of that request.

34.3 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 other Finance Parties and (as appropriate) security agent and trustee for all of the other Finance Parties.

34.4 Custodians and nominees
The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

34.5 Delegation by the Security Agent

(a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such under any Finance Document.

(b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Finance Parties.

(c) No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible to any Party under any Finance Document for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.
34.6 Additional trustees

(a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:

(i) if it considers that appointment to be in the interests of the Finance Parties;

(ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or

(iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Agent shall give prior notice to the Borrower and the Finance Parties of that appointment.

(b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.

(c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

(d) At the request of the Security Agent, the other Parties 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.

(e) 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.

(f) 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.

(g) The appointment by the Security Agent of any additional trustees in accordance with this clause 34.6 shall terminate on the appointment of a replacement security trustee in accordance with clause 33.17 (Replacement of the Security Agent).

(h) Whenever there shall be more than two trustees having equal authority under this Agreement the majority of such trustees shall be competent to exercise and execute all the duties, powers, trusts, authorities and discretions vested in the Security Agent by this Agreement.

34.7 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Obligor may have to any of the Charged Property and shall not be liable for, or bound to require any Obligor to remedy, any defect in its right or title.
34.8 Winding up of trust

If the Security Agent, with the approval of the Agent, determines that:

(a) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged; and

(b) no Finance Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents,

then:

(i) the trusts described in this Agreement and the Agency and Trust Deeds shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and

(ii) any Security Agent which has resigned pursuant to clause 33.15 (Resignation of the Agent or the Security Agent) shall release, without recourse or warranty, all of its rights under each Security Document.

34.9 Powers supplemental to Trustee Acts

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

34.10 Disapplication of Trustee Acts

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

34.11 Suspension of certain provisions of the Agency and Trust Agreements

(a) Each party to the Finance Documents who is also party to the Original Agency and Trust Agreement agrees that on and from the Effective Date until such time as all parties to this Agreement agree otherwise, the following provisions of the Original Agency and Trust Agreement shall be suspended and superseded by this Agreement: clauses 2.5 — 2.9 (inclusive); clauses 3.3 - 3.12 (inclusive); and clauses 4 — 6 (inclusive).

(b) Each party to the Finance Documents who is also party to the Additional Agency and Trust Deed agrees that on and from the Effective Date until such time as all parties to this Agreement agree otherwise, the following provisions of the Additional Agency and Trust Deed shall be suspended and superseded by this Agreement: clauses 2.6 — 2.20 (inclusive); clauses 2.22 — 2.38 (inclusive); clauses 3.5 — 3.7 (inclusive); clauses 4 — 9 (inclusive); and clause 12 in respect of any Security Document which, following the
35 Enforcement of Transaction Security

35.1 Enforcement Instructions

(a) The Security Agent may refrain from enforcing the Transaction Security unless instructed otherwise by the Agent.

(b) Subject to the Transaction Security having become enforceable in accordance with its terms, the Agent may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security in accordance with Schedule 11 (Enforcement Principles).

(c) The Security Agent is entitled to rely on and comply with instructions given in accordance with this clause 35.1.

35.2 Manner of enforcement

If the Transaction Security is being enforced pursuant to clause 35.1 (Enforcement Instructions), the Security Agent shall enforce the Transaction Security in such manner as the Agent shall instruct or, in the absence of any such instructions, as the Security Agent considers in its discretion to be appropriate.

35.3 Waiver of rights

To the extent permitted under applicable law and subject to clause 35.1 (Enforcement Instructions), clause 35.2 (Manner of enforcement), clause 36 (Application of Proceeds) and Schedule 11 (Enforcement Principles), each of the Finance Parties and the Obligors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

35.4 Enforcement through Security Agent only

(a) The other Finance Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising or to grant any consents or releases under the Security Documents except through the Agent, who shall instruct the Security Agent.

(b) Each Finance Party (other than the Security Agent) 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 enforce or have recourse to the relevant Transaction Security or to exercise any such right, power, authority or discretion or to grant any such consent or release.
36 Application of proceeds

36.1 Order of application

Subject to the provisions of the Intercreditor Deeds, and clause 36.2 (Prospective Liabilities) all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Document or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this clause 36, the “Recoveries”) shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this clause 36), in the following order of priority:

(a) **first**, in discharging any sums (including all costs and expenses incurred by the Security Agent in connection with or incidental to the realisation, or attempted realisation, or enforcement of the Transaction Security taken in accordance with the terms of this Agreement and all costs and expenses incurred by a Finance Party in respect of any action taken by that Finance Party at the request of the Security Agent under paragraph 3.5 (Further assurance — Insolvency Event) of Schedule 11 (Enforcement Principles) owing to the Security Agent (other than pursuant to paragraph 16 (Parallel debt) of Schedule 10), any Receiver or any Delegate, but only to the extent such expenses take priority over any Prior Claims;

(b) **secondly**, in or towards satisfaction of any Prior Claims in respect of such Recoveries;

(c) **thirdly** in discharging any voyage and operating expenses and costs (including without limitation maintenance costs, bunkering and lubricant costs, crew voyages and insurance costs), general and administrative costs (including without limitation, management fees, registration costs and sundries) dry docking costs (including costs of any intermediate or special costs) and costs of repairs and maintenance in each case relating or allocated to any Mortgaged Ship and which are not otherwise discharged by an Obligor and which the Security Agent has incurred and which it has considered necessary or desirable in order to protect, preserve or maximise the value of the Charged Property; and

(d) **fourthly**, in payment or distribution to the Agent on its own behalf and on behalf of the other Finance Parties for application in accordance with clause 40.6 (Partial payments).

36.2 Prospective liabilities

Following a Distress Event, or the receipt by the Security Agent of any amounts pursuant to paragraph 6 (Turnover of Receipts) of Schedule 11 (Enforcement Principles), the Security Agent may, in its discretion:

(a) hold any amount of the Recoveries which is in the form of cash, and any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any Non-Cash Consideration, in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) as the Security Agent shall think fit (the interest being credited to the relevant account); and

(b) hold, manage, exploit, collect and realise any amount of the Recoveries which is in the form of Non-Cash Consideration,
in each case for so long as the Security Agent shall think fit for later application under clause 36.1 (Order of Application) in respect of:

(i) any sum due to the Security Agent, the Agent, any Receiver or any Delegate; and

(ii) any part of the Liabilities,

that Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

36.3 Prompt application

Subject to clause 36.4 (Investment of cash proceeds), the Security Agent shall make each application and/or distribution falling to be made in accordance with clause 36.1 (Order of application) as soon as is practicable after the relevant moneys are received by, or otherwise become available to, the Security Agent.

36.4 Investment of cash proceeds

Prior to the application of the proceeds of the Security Property in accordance with clause 36.1 (Order of application) the Security Agent may, in its discretion, hold:

(a) all or part of any Recoveries which are in the form of cash; and

(b) any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any proceeds of the Security Property which are not in the form of cash,

in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those monies in the Security Agent’s discretion in accordance with the provisions of this clause 36, provided always that any Lender may instruct the Agent, Security Agent, Receiver or Delegate to release its share of such amounts.

36.5 Currency conversion

(a) For the purpose of, or pending the discharge of, any of the Secured Obligations the Security Agent may:

(i) convert any moneys received or recovered by the Security Agent from one currency to another; and

(ii) notionally convert the valuation provided in any opinion or valuation from one currency to another,

in each case at the Security Agent’s Spot Rate of Exchange for the purchase of that other currency with the currency in which the relevant moneys are received or recovered or the valuation is provided in the London foreign exchange market at or about 11:00 am (London time) on a particular day.

(b) The obligations of any Obligor to pay in the due currency shall only be satisfied:
(i) in the case of paragraph (a)(i) above, to the extent of the amount of the due currency purchased after deducting the costs of conversion; and

(ii) in the case of paragraph (a)(ii) above, to the extent of the amount of the due currency which results from the notional conversion referred to in that paragraph.

36.6 Permitted Deductions

The Agent or the Security Agent shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any law or regulation to make from any distribution or payment made by it under this Agreement, or any costs and expenses referred to in clause 36.1 above, and to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Agent or Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

36.7 Good discharge

(a) Any distribution or payment to be made in respect of the Secured Obligations by the Security Agent may be made to the Agent on behalf of the Finance Parties.

(b) Any distribution or payment made as described in paragraph (a) above shall be a good discharge, to the extent of that payment or distribution, by the Security Agent:

(i) in the case of a payment in cash, to the extent of that payment; and

(ii) in the case of a distribution of Non-Cash Recoveries, as determined by paragraph 8.2 (Cash Value of Non-Cash Recoveries) of Schedule 11 Enforcement Principles

(c) The Security Agent is under no obligation to make the payments to the Agent under paragraph (a) above in the same currency as that in which the Secured Obligations owing to the relevant Finance Party are denominated pursuant to the relevant Finance Document.

36.8 Calculation of amounts

For the purpose of calculating any person’s share of any amount payable to or by it, the Security Agent shall be entitled to:

(a) notionally convert the Secured Obligations owed to any person into a common base currency (decided in its discretion by the Security Agent), that notional conversion to be made at the spot rate at which the Security Agent is able to purchase the notional base currency with the actual currency of the Secured Obligations owed to that person at the time at which that calculation is to be made; and

(b) assume that all amounts received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Secured Obligations in accordance with the terms of the Finance Documents under which those Secured Obligations have arisen.
36.9 Dealings with Security Agent

Subject to clause 42.5 (Communication when Agent is Impaired Agent), each Finance Party shall deal with the Security Agent exclusively through the Agent.

36.10 Disclosure between Finance Parties and Security Agent

Notwithstanding any agreement to the contrary, each of the Obligors consents, until the end of the Facility Period, to the disclosure by any Finance Party to each other (whether or not through the Agent or the Security Agent) of such information concerning the Obligors as any Finance Party shall see fit.

36.11 Notification of prescribed events

(a) If an Event of Default or Default either occurs or ceases to be continuing, the Agent shall, upon becoming aware of that occurrence or cessation, notify the Security Agent.

(b) If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each other Finance Party of that action.

(c) If any Finance Party exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Finance Party of that action.

38 Conduct of business by the Finance Parties

38.1 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.

38.2 Conflicts

(a) Each Obligor who is a Party acknowledges that each Finance Party and its parent undertaking, subsidiary undertakings and fellow subsidiary undertakings (each a “Finance Party Group”) may be providing debt finance, equity capital or other services (including financial advisory services) to other persons with which the Obligors may have conflicting interests in respect of the Facility or otherwise.

(b) No member of a Finance Party 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 that Finance Party Group has as a Finance Party in respect of the Finance Documents. The Obligors who are a Party also acknowledge that no member of a Finance Party Group has any obligation to use or furnish to any Obligor information obtained from other persons for their benefit.

(c) 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.

39 Sharing among the Finance Parties

39.1 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 40 (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 40 (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 40.6 (Partial payments).

39.2 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 40.6 (Partial payments) towards the obligations of that Obligor to the Sharing Finance Parties.

39.3 Recovering Finance Party’s rights

On a distribution by the Agent under clause 39.2 (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.

39.4 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.

39.5 Exceptions

(a) This clause 39 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this clause, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings;

(ii) the taking legal or arbitration proceedings was in accordance with the terms of this Agreement; and

(iii) 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

40 Payment mechanics

40.1 Payments to the Agent

(a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Agent and with such bank as the Agent, in each case, specifies.

40.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to clause 40.3 (Distributions to an Obligor) and clause 40.4 (Clawback and pre-funding) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five 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).

40.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with clause 41 (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.

40.4 Clawback and pre-funding

(a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

(c) If the Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the
extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:

(i) the Borrower shall on demand refund it to the Agent; and

(ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower, shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

40.5 Impaired Agent

(a) If, at any time, the Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with clause 40.1 (Payments to the Agent) may instead either:

(i) pay that amount direct to the required recipient(s); or

(ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of “Acceptable Bank” and in relation to which no Insolvency Event has occurred and is continuing, in the name of an Obligor or the Lender making the payment (the “Paying Party”) and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the “Recipient Party” or “Recipient Parties”).

In each case such payments must be made on the due date for payment under the Finance Documents.

(b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties pro rata to their respective entitlements.

(c) A Party which has made a payment in accordance with this clause 40.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.

(d) Promptly upon the appointment of a successor Agent in accordance with this Agreement, each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with clause 40.2 (Distributions by the Agent).

(e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:

(i) that it has not given an instruction pursuant to paragraph (d) above; and

(ii) that it has been provided with the necessary information by that Recipient Party,
give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

40.6 Partial payments

(a) If the Agent receives a payment for application against amounts due in respect of any 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 the Finance Documents in the following order (but subject to the provisions of the Intercreditor Deeds):

(i) **first**, in or towards payment *pro rata* of any unpaid amount owing to the Agent or the Security Agent for their own account under those Finance Documents;

(ii) **secondly**, in or towards payment to the Lenders *pro rata* of any amount owing to the Lenders under clause 33.14 (Lenders’ indemnity to the Agent and others) or under clauses 12.11 (Lenders’ indemnity to the Global Intercreditor Agent) of the Global Intercreditor Deed and 15.13 (Lenders’ indemnity to the RL Security Agent) of the Intra-Restructuring Lenders Intercreditor Deed;

(iii) **thirdly**, in or towards payment to the Tranche 1 Lenders *pro rata* of any accrued interest, fee or commission due but unpaid in respect of the Tranche 1 Loan;

(iv) **fourthly**, in or towards payment to the Tranche 1 Lenders *pro rata* of any principal due but unpaid under the Tranche 1 Loan;

(v) **fifthly**, in or towards payment to the Tranche 1 Lenders *pro rata* for any loss suffered by the Tranche 1 Lenders by reason of any such payment in respect of principal not being effected on the last day of each Interest Period relating to the part of the Tranche 1 Loan repaid; and

(vi) **sixthly**, in or towards payment to the Tranche 1 Lenders *pro rata* for any other sum due to the Tranche 1 Lenders but unpaid under the Finance Documents;

(vii) **seventhly**, in or towards payment to the Tranche 2 Lenders *pro rata* of any accrued interest, fee or commission due but unpaid in respect of the Tranche 2 Loan;

(viii) **eighthly**, in or towards payment to the Tranche 2 Lenders *pro rata* of any principal due but unpaid under the Tranche 2 Loan;

(ix) **ninthly**, in or towards payment to the Tranche 2 Lenders *pro rata* for any loss suffered by the Tranche 2 Lenders by reason of any such payment in respect of principal not being effected on the last day of each Interest period relating to the part of the Tranche 2 Loan repaid;

(x) **tenthly**, in or towards payment to the Tranche 2 Lenders *pro rata* for any other sum due to the Tranche 2 Lenders but unpaid under the Finance Documents.

(b) The Agent shall, if so directed by all the Lenders, vary the order set out in paragraphs (ii) to (x) of paragraph (a) above.
Paragraphs (a) and (iii) above will override any appropriation made by an Obligor.

40.7 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.

40.8 Business Days

(a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

40.9 Currency of account

(a) Subject to paragraphs (b) and (c) below, dollars is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) 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.

(c) 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.

(d) 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.

40.10 Change of currency

(a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Interbank Market and otherwise to reflect the change in currency.

40.11 Disruption to payment systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:

(a) the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facility as the Agent may deem necessary in the circumstances;

(b) the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) 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 Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of clause 46 (Amendments and waivers);

(e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this clause 40.11; and

(f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

41 Set-off

(a) A Finance Party may set off any matured obligation due from an Obligor (other than the Manager) 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 (other than the Manager), 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.

(b) Without prejudice to paragraph (a) above, each Finance Party may for that purpose:

(i) break, or alter the maturity of, all or any part of a deposit by any Obligor (other than the Manager);

(ii) convert or translate all or any part of a deposit or other credit balance into dollars;
enter into any other transaction, execute such document or make any entry in the name of the relevant Obligor (other than the Manager) and/or the Finance Party with regard to the credit balance which the Finance Party considers appropriate; and

combine and/or consolidate and/or liquidate all or any accounts (whether current, deposit, loan or of any other nature whatsoever, whether subject to notice or not and in whatever currency) of any one or more of the Obligors (other than the Manager) with any office or branch of the Finance Party.

(c) No Finance Party shall be obliged to exercise any of its rights under this clause 41 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 Finance Party is entitled (whether under law or any document, including, without limitation, under any Hedging Master Agreement).

42 Notices

42.1 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.

42.2 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 who 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 Finance Parties and the Obligors who are Parties, if a change is made by the Agent) by not less than five Business Days’ notice.

42.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or
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 42.2 (Addresses), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified in Schedule 1 (The original parties) (or any substitute department or officer as the Agent or the Security Agent shall specify for this purpose).

c) All notices from or to an Obligor shall be sent through the Agent.

d) Any communication or document made or delivered to the Borrower in accordance with this clause 42.3 will be deemed to have been made or delivered to each of the Obligors.

e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

42.4 Notification of address and fax number

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to clause 42.2 (Addresses) or changing its address or fax number, the Agent shall notify the other Parties.

42.5 Communication when Agent is Impaired Agent

If the Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.

42.6 Electronic communication

(a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:

(i) notify each other in writing (whether pursuant to clause 42.2 (Addresses) or otherwise) of their electronic mail address and/or any other information required to enable the transmission of information by that means; and

(ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days’ notice.

(b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent
that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication

(c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and, in the case of any electronic communication made by a Party to the Agent or the Security Agent, only if it is addressed in such a manner as the Agent or the Security Agent shall specify for this purpose.

(d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement or any other Finance Document shall be deemed only to become effective on the following day.

(e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this clause 42.6.

(f) The Obligors who are Parties and the Finance Parties hereby agree that they may send information via email to another such Obligor or Finance Party or one or more third parties involved in the provision of services (each a “Recipient”). Each Recipient hereby acknowledges that:

(i) any unencrypted information may be transported over an open, publicly accessible network and may, in principle, be viewed by others, which may enable conclusions to be drawn about a banking relationship;

(ii) such information can be changed and/or manipulated by a third party;

(iii) the identity of the sender of any such email may be assumed or otherwise manipulated;

(iv) no Finance Party assumes any liability for any loss incurred as a result of manipulation of the email address or content of such an email or the information therein nor for any loss incurred by any Recipient due to interruptions and/or delays in transmission caused by technical problems; and

(v) each Finance Party is entitled to assume that all the orders and instructions received from any Obligor or a third party designated by any Obligor are from an authorised individual, irrespective of the existing signatory rights in accordance with the commercial register or the specimen signature. Each Obligor who is a Party shall further procure that all third parties referred to herein agree with the use of emails and are aware of the above terms and conditions related to the use of email.

42.7 **English language**

(a) Any notice given under or in connection with any Finance Document must be in English.
All other documents provided under or in connection with any Finance Document must be:

(i) in English; or

(ii) if not in English, and if so required by the Agent, accompanied by a certified English translation (at the Borrower’s cost) and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

43 Calculations and certificates

43.1 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.

43.2 Certificates and determinations

Any certification or determination by a Finance Party or a copy of a certificate signed by an officer of a Finance Party of a rate or amount under any Finance Document (including, without limitation, the amount of any indebtedness comprised in the Guaranteed Obligations) or standing to the credit of any account for the time being or at any time is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

43.3 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.

44 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.

45 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 Finance Document. No election to affirm any Finance Document 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 each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.
Amendments and waivers

46 Global Intercreditor Deed

This clause 46 is subject to the terms of the Global Intercreditor Deed.

46.2 Required consents

(a) Subject to clause 46.3 (All Lender matters) and clause 46.4 (Other exceptions), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrower and any such amendment or waiver will be binding on all the Finance Parties and other Obligors.

(b) The Agent may effect (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 46.

(c) Without prejudice to the generality of paragraphs (c), (d) and (e) of clause 33.10 (Rights and discretions of the 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.

(d) Each Obligor agrees to any such amendment or waiver permitted by this clause 46 which is agreed to by the Borrower.

46.3 All Lender matters

An amendment, waiver or discharge or release or a consent of, or in relation to, any term of any Finance Document that has the effect of changing or which relates to:

(a) the definition of “Effective Date”, “Flag State”, “Finance Documents” and/or “Majority Lenders” in clause 1.1 (Definitions);

(b) an extension to the date of payment of any amount under the Finance Documents;

(c) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable or the rate at which they are calculated;

(d) an increase in any Commitment or the Total Commitments, an extension of any period within which a Facility is available for Utilisation or any requirement that a cancellation of Commitments reduces the Commitments rateably;

(e) a change to the Borrower or any other Obligor;

(f) clause 30.25 (Owner Change of Control), clause 30.26 (Manager Change of Control) and the definitions of “Manager Change of Control” and “Owner Change of Control” in clause 1.1 (Definitions);

(g) any provision which expressly requires the consent or approval of all the Lenders;

(h) clause 39 (Sharing among the Finance Parties);

(i) clause 2.2 (Finance Parties’ rights and obligations), clause 6.1 (Illegality), clause 7.10 (Application of prepayments), clause 6.6 (Sale or Total Loss), clause 28.16 (Amended and Restated Sinosure Facility), clause 31 (Changes to the Lenders), clause 32 (Changes to the Obligors), this clause 46, clause 51 (Governing law) or clause 52.1 (Jurisdiction of English courts);

(j) the order of distribution under clause 36.1 (Order of application);

(k) the order of distribution under clause 40.6 (Partial payments);

(l) the currency in which any amount is payable under any Finance Document;

(m) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:

(i) any guarantee and indemnity granted under any Finance Document (including under Schedule 10 (Additional Guarantors’ Guarantee and Indemnity));

(ii) the Charged Property; or

(iii) the manner in which the proceeds of enforcement of the Transaction Security are distributed;

(n) consent to withdrawal by the relevant Account Holder(s) from an Earnings Account (other than any withdrawal which is in accordance with the Account Security and this Agreement);
the circumstances in which any of the Transaction Security is permitted or required to be released under any of the Finance Documents; or

any All Lender Intercreditor Matter,

shall not be made, or given, without the prior consent of all the Lenders.

46.4 Other exceptions

(a) An amendment or waiver which relates to the rights or obligations of the Agent, the Security Agent or an Intercreditor Agent in their respective capacities as such (and not just as a Lender) may not be effected without the consent of the Agent, the Security Agent or that Intercreditor Agent (as the case may be).

(b) Notwithstanding clauses 46.1 and 46.3 and paragraph (a) above, 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.

46.5 Global Intercreditor Deed Matters

(a) Save as set out in paragraphs (a) or (b) below:
(i) any decision or determination to be made by, or consent or waiver to be given by, the Majority Facility Lenders (as defined in the Global Intercreditor Deed) may be made or given by the Majority Lenders; and

(ii) the Majority Lenders may instruct the Agent to give any notification, instruction, direction or authorisation required to be (or which may be) given by a Facility Representative (under and as defined in the Global Intercreditor Deed).

(b) At any time prior to Tranche 1 Discharge Date:

(i) any decision that may be made by the Majority Facility Lenders (as so defined) under clause 4.3 (Suspension of Excess Cash Loans while an Event of Default is continuing) of the Global Intercreditor Deed to permit an Excess Cash Loan to be made while an Event of Default is continuing may be made by the Majority Tranche 1 Lenders, and if the Majority Tranche 1 Lenders elect to permit such an advance, each Tranche 2 Lender shall be deemed to have instructed the Agent to notify the Global Intercreditor Agent that the “Majority Facility Lenders” (as defined in the Global Intercreditor Deed) have consented to an advance under an Excess Cash Loan being made; and

(ii) at any time the Facility Agreement constitutes a “Non-Waiving Facility” (under and as defined in the Global Intercreditor Deed), any decision to deliver a Restriction Notice (under and as defined in the Global Intercreditor Deed) may be made by the Simple Majority Tranche 1 Lenders, and if the Simple Tranche 1 Facility Lenders elect to deliver such notice, each Tranche 2 Lender shall be deemed to have instructed the Facility Agent to deliver such notice to the Parent for the purpose of the Global Intercreditor Deed.

(c) At any time after the Tranche 1 Discharge Date:

(i) any decision to permit a Guarantor to make an advance under an Excess Cash Loan may be made by the Majority Lenders; and

(ii) at any time the Facility Agreement constitutes a “Non-Waiving Facility” (under and as defined in the Global Intercreditor Deed), any decision to deliver a Restriction Notice (under and as defined in the Global Intercreditor Deed) may be made by the Simple Majority Lenders, and if the Simple Facility Lenders elect to deliver such notice, the Facility Agent shall deliver such notice to Danaos.

46.6 Replacement of Screen Rate

(a) Subject to paragraph (a) of Clause 42.4 (Other exceptions), any amendment or waiver which relates to:

(i) providing for the use of a Replacement Benchmark; and

(A) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);

(C) implementing market conventions applicable to that Replacement Benchmark;

(D) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or

(E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Borrower.

(b) For the purposes of this clause 46.5:

“Relevant Nominating Body” means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

“Replacement Benchmark” means a benchmark rate which is:

(a) formally designated, nominated or recommended as the replacement for a Screen Rate by:

(i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or

(ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the “Replacement Benchmark” will be the replacement under paragraph (a) above;

(b) in the opinion of the Majority Lenders and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to that Screen Rate; or

(c) in the opinion of the Majority Lenders and the Borrower, an appropriate successor to a Screen Rate, may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Borrower.
46.7 Releases

Except with the approval of all of the Lenders or for a release which 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 Transaction Security; or
(b) any Obligor from any of its guarantee or other obligations under any Finance Document.

46.8 Excluded Commitments

If any Defaulting Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within three Business Days of that request being made.

Unless the Borrower and the Agent agree to a longer time period in relation to any request:

(a) its Commitment or its participation in the Loans shall not be included for the purpose of calculating the Total Commitments or the amount of the Loans when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments or the amount of the Loans has been obtained to approve that request; and

(b) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

46.9 Replacement of a Defaulting Lender

(a) The Borrower may, at any time a Lender has become and continues to be a Defaulting Lender, by giving 20 Business Days’ prior notice to the Agent and such Lender replace such Lender by requiring such Lender to (and to the extent permitted by law such Lender shall) transfer pursuant to clause 31 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement (and any Security Document to which that Lender is a party in its capacity as a Lender) to an Eligible Institution (a “Replacement Lender”) which confirms its willingness to undertake and does undertake all the obligations or all the relevant obligations of the transferring Lender in accordance with clause 31 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer which is either:

(i) in an amount equal to:

(A) the outstanding principal amount of such Lender’s participation in the Loans;
(B) all accrued interest owing to such Lender;
(C) the Break Costs which would have been payable to such Lender pursuant to clause 10.5 (Break Costs) had the Borrower prepaid in full that Lender’s participation in the Loans 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; or
in an amount agreed between that Defaulting Lender, the Replacement Lender and the Borrower and which does not exceed the amount described in paragraph (i) above.

(b) Any transfer of rights and obligations by a Defaulting Lender pursuant to this clause 46.9 shall be subject to the following conditions:

(i) the Borrower shall have no right to replace the Agent or the Security Agent;

(ii) neither the Agent nor the Defaulting Lender shall have any obligation to the Borrower to find a Replacement Lender;

(iii) the transfer must take place no later than 30 Business Days after the notice referred to in paragraph (a) above;

(iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and

(v) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.

c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

46.10 Disenfranchisement of Parent Affiliates

(a) For so long as a Parent Affiliate:

(i) beneficially owns a Commitment; or

(ii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,

in ascertaining:

(A) the Majority Lenders; or

(B) whether:

(1) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or

(2) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents,
such Commitment shall be deemed to be zero and such Parent Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender for the purposes of paragraphs (A) and (B) above (unless in the case of a person not being a Parent Affiliate it is a Lender by virtue otherwise than by beneficially owning the relevant Commitment).

(b) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Parent Affiliate (a “Notifiable Debt Purchase Transaction”), such notification to be substantially in the form set out in Part I of Schedule 6 (Forms of Notifiable Debt Purchase Transaction Notice).

(c) A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party:

(i) is terminated; or

(ii) ceases to be with a Parent Affiliate,

such notification to be substantially in the form set out in Part II of Schedule 6 (Forms of Notifiable Debt Purchase Transaction Notice).

(d) Each Parent Affiliate that is a Lender agrees that:

(i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same if so requested by the Agent or, unless the Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and

(ii) 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. For the avoidance of doubt, the only information such Lender is entitled to receive are operational notices for that Lender in connection with its Commitment.

47 Confidential Information

47.1 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 47.2 (Disclosure of Confidential Information) and clause 47.3 (Disclosure to numbering service providers), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

47.2 Disclosure of Confidential Information

(a) Any Finance Party may disclose to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that

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(b) Any Finance Party and any of that Finance Party’s Affiliates may disclose to any person:

(i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent or Security Agent and, in each case, to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;

(ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person’s Affiliates, Related Funds, Representatives and professional advisers;

(iii) appointed by any Finance Party or any of that Finance Party’s Affiliates or by a person to whom paragraphs (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of clause 33.19 (Relationship with the Lenders));

(iv) appointed by any Finance Party or any of that Finance Party’s Affiliates or by a person to whom paragraph (b)(ii) above applies to act as a verification agent in respect of any transaction referred to in paragraph (b)(ii) above;

(v) appointed by any Finance Party or any of that Finance Party’s Affiliates or by a person to whom paragraphs (b)(i) or (b)(ii) above applies in connection with the exercise, protection or enforcement of such person’s rights under the Finance Documents;

(vi) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraphs (b)(i) or (b)(ii) above;

(vii) 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;

(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 or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to clause 31.10 (Security over Lenders’ rights);

(x) who is a Party; or

(xi) with the consent of the Borrower,

in each case, such Confidential Information shall consider appropriate, if:

(A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii), (b)(iv) and (b)(v) above, the person to whom the Confidential Information is to be given has entered into a confidentiality undertaking substantially in the appropriate recommended form of the Loan Market Association from time to time or in any other form agreed between the Borrower and the relevant Finance Party (a “Confidentiality Undertaking”) save that no Obligor countersignature or consent to execution of such confidentiality undertaking shall be required and there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

(B) in relation to paragraph (b)(vi) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; and

(C) in relation to paragraphs (b)(vii), (b)(viii) and (b)(ix) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances.

(c) Any Finance Party may disclose to any person appointed by that Finance Party or by a person to whom paragraphs (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party (save that no Obligor countersignature or consent to execution of such confidentiality undertaking shall be required).
Any Finance Party may disclose to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.
Disclosure to numbering service providers

(a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:

(i) names of Obligors;
(ii) country of domicile of Obligors;
(iii) place of incorporation of Obligors;
(iv) date of this Agreement and Effective Date;
(v) clause 51 (Governing law);
(vi) the names of the Agent;
(vii) date of each amendment and restatement of this Agreement;
(viii) amount of Total Commitments;
(ix) currency of the Facilities;
(x) type of Facilities;
(xi) ranking of Facilities;
(xii) the term of the Facilities;
(xiii) changes to any of the information previously supplied pursuant to paragraphs 47.2(a)(i) to 44.3(a)(xii) above; and
(xiv) such other information agreed between such Finance Party and the Borrower,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

(b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

(c) The Borrower represents that none of the information set out in clauses 47.2(a)(i) to 44.3(a)(xiii) above is, nor will at any time be, unpublished price-sensitive information.

(d) The Agent shall notify the Borrower and the other Finance Parties of:

(i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities and/or one or more Obligors; and
47.4 Entire agreement

This clause 47 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.

47.5 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.

47.6 Notification of disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

(a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (vi) of clause 47.2(b) (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(b) upon becoming aware that Confidential Information has been disclosed in breach of this clause 47.

47.7 Continuing obligations

The obligations in this clause 47 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 the Finance Documents have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and

(b) the date on which such Finance Party otherwise ceases to be a Finance Party.

48 Confidentiality of Funding Rates

48.1 Confidentiality and disclosure

(a) The Agent and each Obligor agree to keep each Funding Rate confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.

(b) The Agent may disclose:

(i) any Funding Rate to the Borrower pursuant to clause 8.6 (Notification of rates of interest); and
(ii) any Funding Rate to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender.

(c) The Agent may disclose any Funding Rate, and each Obligor may disclose any Funding Rate, to:

(i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or is otherwise bound by requirements of confidentiality in relation to it;

(ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;

(iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and

(iv) any person with the consent of the relevant Lender.

48.2 Related obligations

(a) The Agent and each Obligor acknowledge that each Funding Rate is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and each Obligor undertake not to use any Funding Rate for any unlawful purpose.

(b) The Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender:
(i) of the circumstances of any disclosure made pursuant to clause 48.1(c)(ii) (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ii) upon becoming aware that any information has been disclosed in breach of this clause 48.

48.3 No Event of Default

No Event of Default will occur under clause 30.4 (Other obligations) by reason only of an Obligor’s failure to comply with this clause 48.

49 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.

50 Contractual recognition of bail in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

(a) any Bail-In Action in relation to any such liability, including (without limitation):

(i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;

(ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and

(iii) a cancellation of any such liability; and

(b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.
Section 12 — Governing Law and Enforcement

51 Governing law

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

52 Enforcement

52.1 Jurisdiction of English courts

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement or any non-contractual obligations arising out of or in connection with it (including a dispute relating to and/or regarding the existence, validity or termination of this Agreement) (a “Dispute”).

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) Notwithstanding paragraph (a) above, 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.

52.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, any Obligor who 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 an agent for service of process 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.

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Schedule 1

The original parties

Borrower / Parent

Name of Borrower: Danaos Corporation
Original Jurisdiction: Marshall Islands
English process agent (if not incorporated in England): Law Debenture Corporate Services Limited
Address: Fifth Floor, 100 Wood Street, London, United Kingdom EC2V 7EX
Registered office: Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, The Marshall Islands
MH 96960
Address and email address for service of notices: DANAOS SHIPPING CO. LTD
14 Akti Kondyli Street, 185 45 Piraeus, Greece
Legal@danaos.com

Shareholder:

Name: Baker International S.A.

Original Obligors

Name: Boxcarrier (No. 5) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-108723
English process agent (if not incorporated in England): Law Debenture Corporate Services Limited
Address: Fifth Floor, 100 Wood Street, London, United Kingdom EC2V 7EX
Registered office: 80 Broad Street, Monrovia, Liberia
Address and email address for service of notices: DANAOS SHIPPING CO. LTD
14 Akti Kondyli Street, 185 45 Piraeus, Greece
Legal@danaos.com

Name: Cellcontainer (No.4) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-109774
English process agent (if not incorporated in England):
Law Debenture Corporate Services Limited
Address: Fifth Floor, 100 Wood Street, London, United Kingdom EC2V 7EX
Registered office:
80 Broad Street, Monrovia, Liberia
Address and email address for service of notices:
DANAOS SHIPPING CO. LTD
14 Akti Kondyli Street, 185 45 Piraeus, Greece
Legal@danaos.com
Shareholder:
Baker International S.A.
<table>
<thead>
<tr>
<th>Name:</th>
<th>Speedcarrier (No.6) Corp.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Jurisdiction:</td>
<td>Liberia</td>
</tr>
<tr>
<td>Registration number (or equivalent, if any):</td>
<td>C-110972</td>
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<tr>
<td>English process agent (if not incorporated in England):</td>
<td>Law Debenture Corporate Services Limited</td>
</tr>
<tr>
<td>Address and email address for service of notices:</td>
<td>DANAOS SHIPPING CO. LTD 14 Akti Kondyli Street, 185 45 Piraeus, Greece <a href="mailto:Legal@danaos.com">Legal@danaos.com</a></td>
</tr>
<tr>
<td>Registered office:</td>
<td>80 Broad Street, Monrovia, Liberia</td>
</tr>
<tr>
<td>Shareholder:</td>
<td>Baker International S.A.</td>
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<tr>
<th>Name:</th>
<th>Teucarrier (No.5) Corp.</th>
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<tbody>
<tr>
<td>Original Jurisdiction:</td>
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<tr>
<td>Registration number (or equivalent, if any):</td>
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<tr>
<td>English process agent (if not incorporated in England):</td>
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<tr>
<td>Registered office:</td>
<td>80 Broad Street, Monrovia, Liberia</td>
</tr>
<tr>
<td>Address and email address for service of notices:</td>
<td>DANAOS SHIPPING CO. LTD 14 Akti Kondyli Street, 185 45 Piraeus, Greece <a href="mailto:Legal@danaos.com">Legal@danaos.com</a></td>
</tr>
<tr>
<td>Shareholder:</td>
<td>Baker International S.A.</td>
</tr>
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<tr>
<th>Name:</th>
<th>Oceanprize Navigation Limited</th>
</tr>
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<tbody>
<tr>
<td>Original Jurisdiction:</td>
<td>Cyprus</td>
</tr>
<tr>
<td>Registration number (or equivalent, if any):</td>
<td>HE 135751</td>
</tr>
<tr>
<td>English process agent (if not incorporated in England):</td>
<td>Law Debenture Corporate Services Limited</td>
</tr>
<tr>
<td>Registered office:</td>
<td>Kyriakou Matsi 11, Nikis Centre, 8th Floor, PC1082, Nicosia</td>
</tr>
<tr>
<td>Address and email address for service of notices:</td>
<td>DANAOS SHIPPING CO. LTD 14 Akti Kondyli Street, 185 45 Piraeus, Greece <a href="mailto:Legal@danaos.com">Legal@danaos.com</a></td>
</tr>
<tr>
<td>Shareholder:</td>
<td>Bayard Maritime Limited</td>
</tr>
</tbody>
</table>

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Name: Megacarrier (No. 3) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110528
English process agent (if not incorporated in England): Law Debenture Corporate Services Limited
Address: Fifth Floor, 100 Wood Street, London, United Kingdom EC2V 7EX
Registered office: 80 Broad Street, Monrovia, Liberia
Address and email address for service of notices: DANAOS SHIPPING CO. LTD
14 Akti Kondyli Street, 185 45 Piraeus, Greece
Legal@danaos.com
Shareholder: Bounty Investment Inc.

Name: Speedcarrier (No. 8) Corp.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110974
English process agent (if not incorporated in England): Law Debenture Corporate Services Limited
Address: Fifth Floor, 100 Wood Street, London, United Kingdom EC2V 7EX
Registered office: 80 Broad Street, Monrovia, Liberia
Address and email address for service of notices: DANAOS SHIPPING CO. LTD
14 Akti Kondyli Street, 185 45 Piraeus, Greece
Legal@danaos.com
Shareholder: Bounty Investment Inc.

Name: Containers Lines Inc.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-103776
English process agent (if not incorporated in England): Law Debenture Corporate Services Limited
Address: Fifth Floor, 100 Wood Street, London, United Kingdom EC2V 7EX
Registered office: 80 Broad Street, Monrovia, Liberia
Address and email address for service of notices: DANAOS SHIPPING CO. LTD
14 Akti Kondyli Street, 185 45 Piraeus, Greece
Legal@danaos.com
Shareholder: Lydia Inc.

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<tr>
<th>Name:</th>
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<td>80 Broad Street, Monrovia, Liberia</td>
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<tr>
<td>Address and email address for service of notices:</td>
<td>DANAOS SHIPPING CO. LTD 14 Akti Kondyli Street, 185 45 Piraeus, Greece <a href="mailto:Legal@danaos.com">Legal@danaos.com</a></td>
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<tr>
<td>Shareholder:</td>
<td>Lydia Inc.</td>
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<tr>
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<td>English process agent (if not incorporated in England):</td>
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<td>Address:</td>
<td>Fifth Floor, 100 Wood Street, London, United Kingdom EC2V 7EX</td>
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<td>Registered office:</td>
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<tr>
<td>Shareholder:</td>
<td>Sapfo Navigation Inc.</td>
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<tr>
<th>Name:</th>
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<tr>
<td>Original Jurisdiction:</td>
<td>Cyprus</td>
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<tr>
<td>Registration number (or equivalent, if any):</td>
<td>HE 136611</td>
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<td>English process agent (if not incorporated in England):</td>
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<tr>
<td>Shareholder:</td>
<td>Sapfo Navigation Inc.</td>
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<tr>
<td>Name</td>
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<tr>
<td>Continent Marine Inc.</td>
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<tr>
<td>Cellcontainer (No. 3) Corp.</td>
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<tr>
<td>Cellcontainer (No. 6) Corp.</td>
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### The Original Lenders

<table>
<thead>
<tr>
<th>Name</th>
<th>Tranche 1 Commitment ($)</th>
<th>Tranche 2 Commitment ($)</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>THE ROYAL BANK OF SCOTLAND PLC</td>
<td>36 St Andrew Square Edinburgh Scotland EH2 2YB</td>
<td>acting through its office at: 250 Bishopsgate London, EC2M 4AA United Kingdom</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL:**

**TOTAL COMMITMENTS ($):**

### The Agent

<table>
<thead>
<tr>
<th>Name</th>
<th>Facility Office, address, fax number and attention details for notices</th>
</tr>
</thead>
<tbody>
<tr>
<td>THE ROYAL BANK OF SCOTLAND PLC</td>
<td>acting through its office at: 250 Bishopsgate London, EC2M 4AA United Kingdom</td>
</tr>
</tbody>
</table>

### The Security Agent

<table>
<thead>
<tr>
<th>Name</th>
<th>Facility Office, address, fax number and attention details for notices</th>
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</thead>
<tbody>
<tr>
<td>NATWEST MARKETS PLC</td>
<td>acting through its office at: 250 Bishopsgate London, EC2M 4AA</td>
</tr>
</tbody>
</table>
The Account Bank

Name: THE ROYAL BANK OF SCOTLAND PLC
Address, fax number and attention details for notices: acting through its office at:
250 Bishopsgate
London, EC2M 4AA
United Kingdom
**Schedule 2**

**Ship information**

**Part 1: Ships**

<table>
<thead>
<tr>
<th>Name of Ship:</th>
<th>PROGRESS C (ex HYUNDAI PROGRESS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner:</td>
<td>Speedcarrier (No.6) Corp</td>
</tr>
<tr>
<td>Shareholder:</td>
<td>Baker International S.A.</td>
</tr>
<tr>
<td>Flag State:</td>
<td>Panama</td>
</tr>
<tr>
<td>Port of Registry:</td>
<td>Panama</td>
</tr>
<tr>
<td>Official Number:</td>
<td>25723-98-F</td>
</tr>
<tr>
<td>Charter description:</td>
<td>Recap email dated 27 March 2018 for time charter</td>
</tr>
<tr>
<td>Charterer:</td>
<td>Greencompass Marine S.A.</td>
</tr>
<tr>
<td>Classification:</td>
<td>+KRS 1 — CONTAINER SHIP</td>
</tr>
<tr>
<td></td>
<td>CLEAN1 IWS CDG LG LI</td>
</tr>
<tr>
<td></td>
<td>+ KRM1 — UMA1 PMS BWE STCM</td>
</tr>
<tr>
<td>Classification Society:</td>
<td>KR</td>
</tr>
<tr>
<td>Major Casualty Amount:</td>
<td>$500,000</td>
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<table>
<thead>
<tr>
<th>Name of Ship:</th>
<th>HIGHWAY (ex HYUNDAI HIGHWAY)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner:</td>
<td>Speedcarrier (No.7) Corp</td>
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<tr>
<td>Shareholder:</td>
<td>Lydia Inc.</td>
</tr>
<tr>
<td>Flag State:</td>
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<tr>
<td>Port of Registry:</td>
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<td>Official Number:</td>
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<tr>
<td>Charter description:</td>
<td>Recap dated 13/02/2018</td>
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<tr>
<td>Charterer:</td>
<td>New Golden Sea Shipping Pte Ltd, Singapore</td>
</tr>
<tr>
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</tr>
<tr>
<td></td>
<td>CLEAN1 IWS LG LI</td>
</tr>
<tr>
<td></td>
<td>+ KRM1 — UMA1 PMS BWE STCM</td>
</tr>
<tr>
<td>Classification Society:</td>
<td>KR</td>
</tr>
<tr>
<td>Major Casualty Amount:</td>
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</table>

<table>
<thead>
<tr>
<th>Name of Ship:</th>
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</tr>
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<tbody>
<tr>
<td>Owner:</td>
<td>Speedcarrier (No.8) Corp</td>
</tr>
<tr>
<td>Shareholder:</td>
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</tr>
<tr>
<td>Flag State:</td>
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<tr>
<td>Port of Registry:</td>
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<tr>
<td>Charter description:</td>
<td>Recap 24/01/2018</td>
</tr>
<tr>
<td>Charterer:</td>
<td>Yang Ming (UK) Ltd.</td>
</tr>
<tr>
<td>Classification:</td>
<td>+KRS1 — CONTAINER SHIP CLEAN1 IWS CDG LG LI</td>
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<td></td>
<td>+ KRM1 — UMA1 PMS BWE STCM</td>
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<tr>
<td>Classification Society:</td>
<td>KR</td>
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<td>Major Casualty Amount:</td>
<td>$500,000</td>
</tr>
<tr>
<td>Name of Ship</td>
<td>ZIM MONACO</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>Shareholder</td>
<td>Tully Enterprises S.A.</td>
</tr>
<tr>
<td>Flag State</td>
<td>Malta</td>
</tr>
<tr>
<td>Charter description</td>
<td>Charterparty dated 17/05/2006</td>
</tr>
<tr>
<td>Classification</td>
<td>A1 CONTAINER CARRIER BIS E0 NAUTICUS NEWBUILDING TMON</td>
</tr>
<tr>
<td>Major Casualty Amount</td>
<td>$500,000</td>
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</table>

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>CMA CGM RACINE</th>
<th>Owner</th>
<th>Boxcarrier (No.5) Corp.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shareholder</td>
<td>Baker International S.A.</td>
<td>Port of Registry</td>
<td>Valletta</td>
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<tr>
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<td>Charter description</td>
<td>Charterparty dated 10/06/2006</td>
<td>Charterer</td>
<td>CMA CGM S.A</td>
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<tr>
<td>Classification</td>
<td>100 A5 CONTAINER SHIP BWM SOLAS-II-2 REG. 19 IWRSCS MC AUT CM-PS</td>
<td>Classification Society</td>
<td>DNV GL</td>
</tr>
<tr>
<td>Major Casualty Amount</td>
<td>$1,000,000</td>
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</table>

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>EXPRESS ARGENTINA</th>
<th>Owner</th>
<th>Cellcontainer (No.1) Corp</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shareholder</td>
<td>Sapfo Navigation Inc.</td>
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<td>Valletta</td>
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<td>Charter description</td>
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<td>Charterer</td>
<td>Maersk Line A/S</td>
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<tr>
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<td>Classification Society</td>
<td>DNV GL</td>
</tr>
<tr>
<td>Major Casualty Amount</td>
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<td></td>
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<tr>
<td>Name of Ship</td>
<td>EXPRESS FRANCE</td>
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<td>---------------</td>
<td>------------------------------------</td>
<td></td>
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</tr>
<tr>
<td>Owner</td>
<td>Cellcontainer (No.3) Corp.</td>
<td></td>
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<tr>
<td>Shareholder</td>
<td>Westwood Marine S.A.</td>
<td></td>
<td></td>
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<tr>
<td>Flag State</td>
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<tr>
<td>Port of Registry</td>
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<td>Official Number</td>
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<tr>
<td>Charter description</td>
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<td>Charterer</td>
<td>CMA CGM S.A.</td>
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<tr>
<td>Classification</td>
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<td>Classification Society</td>
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<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>EXPRESS SPAIN</th>
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</thead>
<tbody>
<tr>
<td>Owner</td>
<td>Cellcontainer (No.4) Corp.</td>
</tr>
<tr>
<td>Shareholder</td>
<td>Baker International S.A.</td>
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<td>Flag State</td>
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<tr>
<td>Port of Registry</td>
<td>Valletta</td>
</tr>
<tr>
<td>Official Number</td>
<td>9443047</td>
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<tr>
<td>Charter description</td>
<td>Charterparty dated 21/11/2016</td>
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<tr>
<td>Charterer</td>
<td>Maersk Line A/S</td>
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<tr>
<td>Classification</td>
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</tr>
<tr>
<td>Classification Society</td>
<td>DNV GL</td>
</tr>
<tr>
<td>Major Casualty Amount</td>
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</table>

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>CMA CGM MELISANDE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner</td>
<td>Teucarrier (No.5) Corp.</td>
</tr>
<tr>
<td>Shareholder</td>
<td>Baker International S.A.</td>
</tr>
<tr>
<td>Flag State</td>
<td>Malta</td>
</tr>
<tr>
<td>Port of Registry</td>
<td>Valletta</td>
</tr>
<tr>
<td>Official Number</td>
<td>9473028</td>
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<tr>
<td>Charter description</td>
<td>Charterparty dated 17/09/2007</td>
</tr>
<tr>
<td>Charterer</td>
<td>CMA CGM, as nominee (addenda executed by CMA CGM, S.A.)</td>
</tr>
<tr>
<td>Classification</td>
<td>100 A5 CONTAINER SHIP BMW SOLAS-II-2 REG.19 IW LC NAV-OC RSCS RSD MC AUT CM-PS EP-D</td>
</tr>
<tr>
<td>Classification Society</td>
<td>DNV GL</td>
</tr>
<tr>
<td>Major Casualty Amount</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>
Name of Ship: MAERSK ENPING
Owner: Megacarrier (No.3) Corp.
Shareholder: Bounty Investment Inc.
Flag State: Greece
Port of Registry: Piraeus
Official Number: 9475686
Charter description: Charterparty dated 18/10/2007
Charterer: Hyundai Merchant Marine Co., Ltd.
Classification: 100 A5 CONTAINER SHIP BWN DG IW LC RSCS RSD
Classification Society: DNV GL
Major Casualty Amount: $1,250,000

Name of Ship: EXPRESS BERLIN
Owner: Cellcontainer (No.6) Corp.
Shareholder: Westwood Marine S.A.
Flag State: Greece
Port of Registry: Piraeus
Official Number: 9484924
Charter description: Charterparty dated 06/10/2017
Charterer: Yang Ming (UK) Ltd
Classification: +KRS1 — CONTAINER SHIP LS(CL,RS) SEATRUST(DSA2,FSA3,HCM) CLEAN1 IWS CDG IHM EDD OHIMP LG LI
+KRM1 — UMA PMS BWE STCM NBS1
Classification Society: Korean Register
Major Casualty Amount: $1,000,000

Name of Ship: AMERICA (ex CSCL AMERICA)
Owner: Oceanprize Navigation Limited (Cyprus)
Shareholder: Bayard Maritime Ltd.
Flag State: Cyprus
Port of Registry: Limassol
Official Number: 9285990
Charter description: Charterparty dated 30/04/2018
Charterer: Zim Integrated Shipping Services Ltd.
Classification: +KRS1 — CONTAINER SHIP LS(CL,RS) SEATRUST(DSA1,FSA3,HCM) CLEAN1 IWS CDG IHM EDD
+KRM1 — UMA PMS BWE STCM NBS1
Classification Society: KOREAN REGISTER
Major Casualty Amount: $1,000,000

Name of Ship: CSCL LE HAVRE
Owner: Ramona Marine Company Limited (Cyprus)
Shareholder: Sapfo Navigation Inc.
Flag State: Cyprus
Port of Registry: Limassol
Official Number: 9307243
Charter description: Charterparty dated 18/11/2003
Charterer: CHINA SHIPPING CONTAINER LINES(ASIA)CO., LTD
Classification: 100A1 CONTAINER SHIP,SHIPRIGHT(SDA,FDA,CM), *IWS,LI,EP,BOXMAX LMC, UMS,NAV1, CAC(2)
Classification Society: LLOYDS REGISTER OF SHIPPING
Major Casualty Amount: $1,000,000

Name of Ship: DERBY D
Owner: Container Lines Inc.
Shareholder: Lydia Inc.
Flag State: Liberia
Port of Registry: Monrovia, Liberia
Official Number and IMO Number: Official Number: 13437
IMO Number: 9278117
Charter description: Charterparty dated 21/02/2015
Charterer: CMA CGM - addenda executed by CMA CGM S.A.
Classification: 1A1 CONTAINER CARRIER DG(P) E0 NAUTICUS (NEWBUILDING) TMON
Classification Society: DNV GL
Major Casualty Amount: $500,000
### Part 2: Collateral Ships

<table>
<thead>
<tr>
<th>Name of Collateral Ship:</th>
<th>“CMA CGM TANCREDI”</th>
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</thead>
<tbody>
<tr>
<td>Collateral Owner:</td>
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</tr>
<tr>
<td>Original Jurisdiction:</td>
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<tr>
<td>Registration number (or equivalent, if any):</td>
<td>C-109523</td>
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<td>Flag State:</td>
<td>Malta</td>
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<tr>
<td>Port of Registry:</td>
<td>Valletta</td>
</tr>
<tr>
<td>Official Number:</td>
<td>9436355</td>
</tr>
<tr>
<td>Charter description:</td>
<td>Time charter dated 17 September 2007 (as amended or supplemented from time to time)</td>
</tr>
<tr>
<td>Charterer:</td>
<td>CMA CGM, as nominee (addenda executed by CMA CGM, S.A.)</td>
</tr>
<tr>
<td>Classification:</td>
<td>100 A5 CONTAINER SHIP BWM SOLAS-II-2, REG.19 IW LC NAV-OC RSCS RSD STAR MC AUT CM-PS EP-D</td>
</tr>
<tr>
<td>Classification Society:</td>
<td>DNV GL</td>
</tr>
<tr>
<td>Major Casualty Amount:</td>
<td>$1,000,000</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Collateral Ship:</th>
<th>“CMA CGM BIANCA”</th>
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</thead>
<tbody>
<tr>
<td>Collateral Owner:</td>
<td>TEUCARRIER (NO.3) CORP.</td>
</tr>
<tr>
<td>Collateral Owner Shareholder:</td>
<td>Lito Navigation Inc.</td>
</tr>
<tr>
<td>Original Jurisdiction:</td>
<td>Liberia</td>
</tr>
<tr>
<td>Registration number (or equivalent, if any):</td>
<td>C-109524</td>
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<td>Flag State:</td>
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<td>Port of Registry:</td>
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<td>Official Number:</td>
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</tr>
<tr>
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<td>DNV GL</td>
</tr>
<tr>
<td>Major Casualty Amount:</td>
<td>$1,000,000</td>
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</table>
Name of Collateral Ship: “CMA CGM SAMSON”
Collateral Owner: TEUCARRIER (NO.4) CORP.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-109525
Flag State: Malta
Port of Registry: Valletta
Official Number: 9436379
Charter description: Time charter dated 17 September 2007 (as amended by an addendum no.1 dated 9 February 2009, an addendum no.2 dated 25 February 2011, an addendum no.3 dated 16 March 2011, an addendum no.4 dated 15 July 2013 and an addendum no.5 dated 12 July 2016 and as amended or supplemented from time to time)
Charterer: CMA CGM, as nominee (addenda executed by CMA CGM, S.A.)
Classification: 100 A5 CONTAINER SHIP BWM SOLAS-II-2, REG.19 IW LC NAV-OC RSCS RSD STAR MC AUT CM-PS EP-D
Classification Society: DNV GL
Major Casualty Amount: $1,000,000

Name of Collateral Ship: “MSC AMBITION”
Collateral Owner: MEGACARRIER (NO.5) CORP.
Original Jurisdiction: Liberia
Registration number (or equivalent, if any): C-110530
Flag State: Liberia
Port of Registry: Monrovia, Liberia
Official Number: 15607
Charter description: Time charter dated 18 October 2007, an addendum no.1, an addendum no.2 dated 18 June 2009, an addendum no.3 dated 18 October 2010, an addendum no.4 dated 17 February 2012, an addendum no.5 dated 28 June 2012, an addendum no.6 dated 29 January 2013, an addendum no.7 dated 12 August 2015 and as amended or supplemented from time to time)
Charterer: Hyundai Merchant Marine Co., Ltd.
Classification: 1A1 CONTAINER CARRIER BIS BWM(E(S)) DG(P) E0 LC NAUTICUS (NEWBUILDING) RSCS TMON
Classification Society: DNV GL
Major Casualty Amount: $1,250,000

Schedule 3

Conditions Precedent required to be delivered by an Additional Guarantor

1. An Accession Letter executed by the Additional Guarantor and the Parent.
2. A copy of the Additional Guarantor’s constitutional documents (including its articles of association, memorandum of association, by-laws, and a certificate of good standing, if applicable).
3. In each case as applicable, a copy of a resolution of the board of directors of the Additional Guarantor under the respective applicable law approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party and resolving that it execute, deliver and perform the Finance Documents to which it is a party.
4. If applicable, a copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which that Additional Guarantor is a party.
5. A specimen of the signature of each person authorised in relation to the Finance Documents and related documents.
6. If required, legal opinions of the legal advisers to the Agent or the RL Security Agent.
7. If the proposed Additional Guarantor is incorporated or established in a jurisdiction other than England and Wales, evidence that the process agent appointed in clause 52.2 (Service of process) has accepted such appointment.
8. Each other document reasonably required by the Agent (acting in its own name and on behalf of the other Finance Parties) or the RL Security Agent, including each such document required in order for each Finance Party to carry out and be satisfied with the results of all necessary “know your customer” or other similar checks (if any) to be carried out by any Finance Party under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
Schedule 4

Form of Assignment Agreement and Transfer Certificate

Part 1 — Form of Assignment Agreement

To: [Agent] as Agent

From: [The Existing Lender] (the “Existing Lender”) and [The New Lender] (the “New Lender”)

Dated:

$[●] Facility Agreement dated [●]

( the “Facility Agreement”)

1 We refer to the Facility Agreement and to the Global Intercreditor Deed (as defined in the Facility Agreement). This agreement (the “Agreement”) shall take effect as an Assignment Agreement for the purposes of the Facility Agreement and a Creditor Accession Undertaking for the purposes of the Global Intercreditor Deed (and as defined in the Global Intercreditor Deed). Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2 We refer to clause 31.7 (Procedure available for assignment) of the Facility Agreement:

(a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facility Agreement and the other Finance Documents which correspond to that portion of the Existing Lender’s Commitment and participation in the Loan under the Facility Agreement as specified in the Schedule.

(b) The Existing Lender is released from the obligations owed by it which correspond to that portion of the Existing Lender’s Commitment and participation in the Loan under the Facility Agreement specified in the Schedule (but the obligations owed by the Obligors under the Finance Documents shall not be released).

(c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.

(d) On the Transfer Date the New Lender becomes:

(i) a Party to the relevant Finance Documents (other than the Global Intercreditor Deed and the Intra-Restructuring Lenders Intercreditor Deed) as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above; and

(ii) a party to the Global Intercreditor Deed as an RBS Lender (as defined in the Global Intercreditor Deed);

(iii) a party to the Intra-Restructuring Lenders Intercreditor Deed as an RBS Facility Lender (as defined in the Intra-Restructuring Lenders Intercreditor Deed); and
The proposed Transfer Date is [●].

The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 42.2 (Addresses) of the Facility Agreement are set out in the Schedule.

The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in clause 31.5 (Limitation of responsibility of Existing Lenders) of the Facility Agreement.

The New Lender confirms that it [is]/[is not] a Parent Affiliate.

We refer to clause [●] (/●/) of the Global Intercreditor Deed. In consideration of the New Lender being accepted as an RBS Lender for the purposes of the Global Intercreditor Deed (and as defined in the Global Intercreditor Deed), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Global Intercreditor Deed as an RBS Lender, and undertakes to perform all the obligations expressed in the Global Intercreditor Deed to be assumed by an RBS Lender and agrees that it shall be bound by all the provisions of the Global Intercreditor Deed, as if it had been an original party to the Global Intercreditor Deed.

We refer to clause [●] (/●/) of the Intra-Restructuring Lenders Intercreditor Deed. In consideration of the New Lender being accepted as an RBS Facility Lender for the purposes of the Intra-Restructuring Lenders Intercreditor Deed (and as defined in the Intra-Restructuring Lenders Intercreditor Deed), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intra-Restructuring Lenders Intercreditor Deed as an RBS Facility Lender, and undertakes to perform all the obligations expressed in the Intra-Restructuring Lenders Intercreditor Deed to be assumed by an RBS Facility Lender and agrees that it shall be bound by all the provisions of the Intra-Restructuring Lenders Intercreditor Deed, as if it had been an original party to the Intra-Restructuring Lenders Intercreditor Deed.

This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with clause 31.8 (Copy of Transfer Certificate or Assignment Agreement to Borrower), to the Borrower (on behalf of each Obligor) of the assignment referred to in this Agreement.

This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

This Agreement and any non-contractual obligations connected with it are governed by English law.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Assignment Agreement may not assign a proportionate share of the Existing Lender’s interest in 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 Security Documents in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.
The Schedule

Rights to be assigned and obligations to be released and undertaken

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments.]

[Existing Lender] [New Lender]

By: By:

This Agreement is accepted by the Agent as an Assignment Agreement for the purposes of the Facility Agreement and the Transfer Date is confirmed as [ ].

This Agreement is also accepted by the Security Agent as a Creditor Accession Undertaking for the purposes of the Global Intercreditor Deed.

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party.

[ Agent ]

By:

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Part 2 — Form of Transfer Certificate

To: [Agent] as Agent

From: [The Existing Lender] (the “Existing Lender”) and [The New Lender] (the “New Lender”)

Dated:

[S[●] Facility Agreement dated [●]

(the “Facility Agreement”)

1 We refer to the Facility Agreement and to the Global Intercreditor Deed (as defined in the Facility Agreement). This agreement (the “Agreement”) shall take effect as a Transfer Certificate for the purposes of the Facility Agreement and a Creditor Accession Undertaking for the purposes of the Global Intercreditor Deed (and as defined in the Global Intercreditor Deed). Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2 We refer to clause 31.6 (Procedure available for transfer) of the Facility Agreement:

(a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with 31.6 (Procedure available for transfer) of the Facility Agreement all of the Existing Lender’s rights and obligations under the Facility Agreement, the other Finance Documents and in respect of the Transaction Security which relate to that portion of the Existing Lender’s Commitment(s) and participations in Utilisations under the Facilities Agreement as specified in the Schedule.

(b) On the Transfer Date the New Lender becomes:

(i) a Party to the relevant Finance Documents (other than the Global Intercreditor Deed) as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above;

(ii) a Party to the Global Intercreditor Deed as a [●] (as defined in the Global Intercreditor Deed).

(iii) a party to the Global Intercreditor Deed as an RBS Lender (as defined in the Global Intercreditor Deed);

(iv) a party to the Intra-Restructuring Lenders Intercreditor Deed as an RBS Facility Lender (as defined in the Intra-Restructuring Lenders Intercreditor Deed); and

(c) The proposed Transfer Date is [●].

(d) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 42.2 (Addresses) of the Facility Agreement are set out in the Schedule.

3 The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in clause 31.5 (Limitation of responsibility of Existing Lenders) of the Facility Agreement.]
The New Lender confirms that it [is]/[is not] a Parent Affiliate.

We refer to clause [●] (f) of the Global Intercreditor Deed. In consideration of the New Lender being accepted as an RBS Lender for the purposes of the Global Intercreditor Deed (and as defined in the Global Intercreditor Deed), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Global Intercreditor Deed as an RBS Lender, and undertakes to perform all the obligations expressed in the Global Intercreditor Deed to be assumed by an RBS Lender and agrees that it shall be bound by all the provisions of the Global Intercreditor Deed, as if it had been an original party to the Global Intercreditor Deed.

We refer to clause [●] (f) of the Intra-Restructuring Lenders Intercreditor Deed. In consideration of the New Lender being accepted as an RBS Facility Lender for the purposes of the Intra-Restructuring Lenders Intercreditor Deed (and as defined in the Intra-Restructuring Lenders Intercreditor Deed), the New Lender confirms that, as from the Transfer Date, it intends to be party to the Intra-Restructuring Lenders Intercreditor Deed as an RBS Facility Lender, and undertakes to perform all the obligations expressed in the Intra-Restructuring Lenders Intercreditor Deed to be assumed by an RBS Facility Lender and agrees that it shall be bound by all the provisions of the Intra-Restructuring Lenders Intercreditor Deed, as if it had been an original party to the Intra-Restructuring Lenders Intercreditor Deed.

This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with clause 31.8 (Copy of Transfer Certificate or Assignment Agreement to Borrower), to the Borrower (on behalf of each Obligor) of the assignment referred to in this Agreement.

This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

This Agreement and any non-contractual obligations connected with it are governed by English law.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Transfer Certificate may not assign a proportionate share of the Existing Lender’s interest in 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 Security Documents in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.
The Schedule

Rights to be assigned and obligations to be released and undertaken

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments.]

[Existing Lender] [New Lender]

By: By:

This Agreement is accepted by the Agent as a Transfer Certificate for the purposes of the Facility Agreement and the Transfer Date is confirmed as [●].

This Agreement is also accepted by the Security Agent as a Creditor Accession Undertaking for the purposes of the Global Intercreditor Deed.

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:
To: [Agent] as Agent
From: Danaos Corporation as Parent
Dated: [●]

Dear Sirs

$[●] Facility Agreement dated [●]

( the “Facility Agreement”) 

1 [I/We] refer to the Facility Agreement. This is a Compliance Certificate for the Financial Quarter ended on [●] and the Relevant Period ending on the Quarter Date of [●]. Terms defined in the Facility Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2 [I/We] attach(1) computations as to compliance with clause 20 (Financial covenants) of the Facility Agreement and confirm that:

(a) Actual Free Cash Flow for the Financial Quarter ended on [●] was $[●], comprising Free Cash Flow of $[●] and a pro rata allocation of Unencumbered Free Cash Flow of $[●];

(b) Minimum Corporate Cover (Charter Free) for the Relevant Period ending on the Quarter Date of [●] was [●]%;

(c) Minimum Corporate Cover (Charter Attached) for the Relevant Period ending on the Quarter Date of [●] was [●]%;

(d) Minimum Liquidity for the Relevant Period ending on the Quarter Date of [●] was $[●];

(e) Consolidated Net Leverage for the Relevant Period ending on the Quarter Date of [●] was [●];

(f) Interest Cover for the Relevant Period ending on the Quarter Date of [●] was [●];

(g) Consolidated Market Value Adjusted Net Worth for the Relevant Period ending on the Quarter Date of [●] was $[●].

3 [I/We confirm that no Default is continuing.](2)

(1) Note: calculations to be attached to Compliance Certificate.

(2) Note: 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.

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Part 2 — Form of Ring Fencing Compliance Certificate

To: [Agent] as Agent

From: Danaos Corporation as Parent

Dated: [●]

Dear Sirs

I/We refer to the Facility Agreement. This is a Ring Fencing Compliance Certificate. Terms defined in the Facility Agreement have the same meaning when used in this Ring Fencing Compliance Certificate unless given a different meaning in this Ring Fencing Compliance Certificate.

I/We confirm that:

1. [Insert details of (i) Excess Cash generated, (ii) Excess Cash Loan balances (positive and negative) in respect of each Amended RA Facility, (iii) Permitted Refinancing Danaos SPV Loan) balances (positive and negative), (iv) aggregate of Excess Cash Loans with negative balances across all Amended RA Facilities, (v) aggregate of all Permitted Refinancing Danaos SPV Loans with negative balances, (vi) Support Payments, and (vii) Total Available Cash; (viii) outstanding balances of each Amended RA Facility, (ix) variable amortisation payments to be made for each Amended RA Facility]

   together with calculation in reasonable detail as set out in the Appendix (Calculations).

2. [I/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:

[Finance Director] [Chief Financial Officer]

Danaos Corporation
Schedule 6

Forms of Notifiable Debt Purchase Transaction

Part 1 — Form of Notice on Entering into Notifiable Debt Purchase Transaction

To: [Agent] as Agent

From: [Lender]

Dated: [●]

Dear Sirs

$[●] Facility Agreement dated [●]

( the “Facility Agreement”)

1 We refer to clause 46.10 (Disenfranchisement of Parent 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 $[●] of our Commitment.

Signed by:

________________________________________

[Lender]

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Part 2 — Form of Notice on Termination of Notifiable Debt Purchase Transaction / Notifiable Debt Purchase Transaction ceasing to be with Parent Affiliate

To: [Agent] as Agent
From: [Lender]
Dated: [●]

Dear Sirs

$[●] Facility Agreement dated [●]

(The “Facility Agreement”)

1. We refer to clause 46.10 (Disenfranchisement of Parent 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 Parent Affiliate].

3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to $[●] of our Commitment.

Signed by:

[Lender]

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### Schedule 7

#### ZIM/HMM Notes

<table>
<thead>
<tr>
<th>Issuer</th>
<th>Description of ZIM/HMM Note</th>
<th>Noteholder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zim Integrated Shipping Services Limited</td>
<td>USD 1,472,000 3% Series 1 ZIM Notes due 2023</td>
<td>Continent Marine Inc.</td>
</tr>
<tr>
<td>Zim Integrated Shipping Services Limited</td>
<td>USD 6,872,000 5% Series 2 Zim Notes due 2023</td>
<td>Continent Marine Inc.</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>USD 913,942.00 3% Class A HMM Notes maturing 31 December 2022</td>
<td>Speedcarrier (No.6) Corp.</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>USD 969,760.00 3% Class A HMM Notes maturing 31 December 2022</td>
<td>Speedcarrier (No.7) Corp.</td>
</tr>
<tr>
<td>Hyundai Merchant Marine Co., Ltd.</td>
<td>USD 972,952.00 3% Class A HMM Notes maturing 31 December 2022</td>
<td>Speedcarrier (No.8) Corp.</td>
</tr>
</tbody>
</table>
Schedule 8

Form of Accession Letter

To: [ ] as Agent

From: [Collateral Owner], [Collateral Owner Shareholder] and [Parent]

Dated:

Dear Sirs

Danaos Corporation — USD 700,000,000 Facilities Agreement dated 20 February 2007 as amended from time to time and most recently on [●] (the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This letter shall take effect as an Accession Letter for the purposes of the Facilities Agreement. Terms defined in the Facilities Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.

2. Each of [Collateral Owner] and [Collateral Owner Shareholder] agrees to become an Additional Guarantor and to be bound by the terms of the Facilities Agreement and the other Finance Documents as an Additional Guarantor pursuant to Clause [●] (Additional Guarantors) of the Facilities Agreement.

3. We confirm to each Finance Party that each of the Repeating Representations is true and correct in all material respects in relation to us as at the date hereof as if made by reference to the facts and circumstances existing on the date hereof.

4. The details are set out below:

Name of Ship: [●]
Owner: [●]
Shareholder: [●]
Flag State: [●]
Port of Registry: [●]
Official Number: [●]
Charter description: [●]
Charterer: [●]
Classification: [●]
Classification Society: [DNV GL/American Bureau of Shipping/Lloyds Register of Shipping/Bureau Veritas/Germanischer Lloyd/insert other]

Major Casualty Amount: $[●]
Zim/HMM Notes [●]

5. This Accession Letter is governed by English law and is entered into and delivered as a Deed

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The Additional Guarantor

EXECUTED AS A DEED
By: [Collateral] Owner

______________________________
Director

______________________________
Director/Secretary

EXECUTED AS A DEED
By: [Collateral Owner] Shareholder

______________________________
Director

______________________________
Director/Secretary

The Parent

EXECUTED AS A DEED
By: [Company]

______________________________
Director

______________________________
Director/Secretary

This letter is accepted as an Accession Letter for the purposes of the Facilities Agreement by the Agent by:

For and on behalf of [Agent]

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Schedule 9

Tranche 2 Target Amount

<table>
<thead>
<tr>
<th>Column 1 — Quarter Dates</th>
<th>Column 2 — Tranche 2 Target Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 December 2018</td>
<td>$ 152,600,000</td>
</tr>
<tr>
<td>31 March 2019</td>
<td>$ 152,500,000</td>
</tr>
<tr>
<td>30 June 2019</td>
<td>$ 152,300,000</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>$ 152,000,000</td>
</tr>
<tr>
<td>31 December 2019</td>
<td>$ 151,800,000</td>
</tr>
<tr>
<td>31 March 2020</td>
<td>$ 151,400,000</td>
</tr>
<tr>
<td>30 June 2020</td>
<td>$ 151,300,000</td>
</tr>
<tr>
<td>30 September 2020</td>
<td>$ 150,800,000</td>
</tr>
<tr>
<td>31 December 2020</td>
<td>$ 150,500,000</td>
</tr>
<tr>
<td>31 March 2021</td>
<td>$ 150,100,000</td>
</tr>
<tr>
<td>30 June 2021</td>
<td>$ 149,700,000</td>
</tr>
<tr>
<td>30 September 2021</td>
<td>$ 148,900,000</td>
</tr>
<tr>
<td>31 December 2021</td>
<td>$ 148,200,000</td>
</tr>
<tr>
<td>31 March 2022</td>
<td>$ 146,700,000</td>
</tr>
<tr>
<td>30 June 2022</td>
<td>$ 145,400,000</td>
</tr>
<tr>
<td>30 September 2022</td>
<td>$ 144,300,000</td>
</tr>
<tr>
<td>31 December 2022</td>
<td>$ 142,900,000</td>
</tr>
<tr>
<td>31 March 2023</td>
<td>$ 134,000,000</td>
</tr>
<tr>
<td>30 June 2023</td>
<td>$ 133,000,000</td>
</tr>
<tr>
<td>30 September 2023</td>
<td>$ 132,100,000</td>
</tr>
<tr>
<td>31 December 2023</td>
<td>$ 132,100,000</td>
</tr>
</tbody>
</table>
1. GUARANTEE AND INDEMNITY

(a) Each Additional Guarantor irrevocably and unconditionally jointly and severally:

(i) guarantees to the Security Agent (as trustee for the Finance Parties) and the other Finance Parties due and punctual performance by each other Obligor of all such Obligor’s present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) which are, or may become, due and payable under or in connection with the Finance Documents (as such documents may be varied, amended, waived, released, novated, supplemented, extended, restated or replaced from time to time, in each case, however fundamentally) together with all Losses incurred by the Agent or any other Finance Party which are, or may become, due, owing or payable by each Obligor under or in connection with any Finance Document (the “Guaranteed Obligations”);

(ii) undertakes with the Security Agent (as trustee for the Finance Parties) and the other Finance Parties that whenever another Obligor does not pay any Guaranteed Obligations when due under or in connection with any Finance Document, that Additional Guarantor shall immediately and unconditionally on demand (which may be made at any time on or after the date upon which payment is due) pay such Guaranteed Obligations as if it was the principal obligor; and

(iii) 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 and keep indemnified each Finance Party immediately on demand for all Losses incurred by it:

(A) if any Guaranteed Obligation is or becomes unenforceable, invalid or illegal or by operation of law and as a result of the same the Borrower has not paid any amount which would, but for such unenforceability, invalidity, illegality or operation of law, have been payable by the Borrower under any Finance Document on the date when it would have been due; or

(B) 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 (a “Change 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 that Additional Guarantor is payable.

(b) The amount payable by an Additional Guarantor under paragraph (a)(iii):

(i) in respect of paragraph (a)(iii)(A) above, shall be the amount it would have had to pay under this paragraph 1 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 (a)(iii)(B) above, shall include:

(A) the difference between the amount (if any) received by the Security Agent and the other Finance Parties from the Borrower and the amount that the Borrower was 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

(B) all further Losses suffered or incurred by the Security Agent and the other Finance Parties as a result of a Change in Law.

(c) For the purposes of paragraph (b)(ii)(A) above, if payment was not received by the Security Agent or the other Finance Parties in the Original Currency, the amount received by the Security 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 Security Agent’s discretion, on the day of receipt at the then prevailing Spot Rate of Exchange of the Security Agent or if, in the Security 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 Security Agent could, in its opinion, reasonably and properly have made a conversion of the Original Currency with the currency of payment.

(d) If the Original Currency no longer exists, each Additional Guarantor shall make such payment in such currency as is, in the reasonable opinion of the Security Agent, required, after taking into account any payments by the Borrower, to place the Security 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.

2. CONTINUING GUARANTEE

This guarantee and the obligations of each Additional Guarantor under this guarantee are continuing and do, and will, extend to the ultimate balance of the Guaranteed Obligations from time to time regardless of any intermediate payment, discharge or satisfaction in whole or in part.

3. REINSTATEMENT

If:

(a) 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 event or otherwise; or

(b) the Agent reasonably considers that any payment to, or guarantee or security provided to it or any Finance Party is capable of being avoided, reduced or invalidated by virtue of applicable law, notwithstanding any release or discharge of the Guaranteed Obligations,
in each case:

(i) the liability of each Additional Guarantor under this Schedule 10 will continue or be reinstated as if the discharge, release or arrangement had not occurred; and

(ii) 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.

4. WAIVER OF DEFENCES

Without prejudice to any other provision of this guarantee, none of the obligations of any Additional Guarantor under this Schedule 10, nor the liability of any Obligor or any other person for the Guaranteed Obligations, will be prejudiced, reduced, released or otherwise adversely affected by any act, omission, fact, matter or any other thing (whether or not known to it or any Finance Party) which, but for this Schedule 10, would or may prejudice, reduce, release or otherwise adversely affect any of its obligations under this Schedule 10, including (without limitation):

(a) any time, waiver or consent granted, or any other indulgence or concession granted to, or composition with, any Obligor or any other person;

(b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Group Member;

(c) the taking, holding, variation, compromise, exchange, renewal, realisation or release by any person of any rights under or in connection with any guarantee, indemnity, security or any other document including any arrangement or compromise entered into by any Finance Party with any Obligor or any other person;

(d) the refusal, failure or neglect to perfect, take up, hold or enforce by any person any rights against, or security over assets of, any Obligor or other person under or in connection with any guarantee, indemnity, security or other document (including, without limitation, any non-presentation, non-compliance with or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security);

(e) the existence of any claim, set-off or other right which any Obligor may have at any time against any Finance Party or any other person;

(f) the making or absence of any demand for payment or discharge of any of the Guaranteed Obligations;

(g) any amalgamation, merger or reconstruction that may be effected by any Finance Party with any other person, including any reconstruction by any Finance Party involving the formation of a new company and the transfer of all or any of its assets to that company, or any sale or transfer of the whole or any part of the undertaking and assets of any Finance Party to any other person;

(h) 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;

(i) 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;

(j) any change in the identity of any Finance Party;

(k) any unenforceability, illegality or invalidity of any obligation of any Guaranteed Obligation or of any obligation of any person under any other guarantee, indemnity, security or other document;

(l) any law or regulation of any jurisdiction or any other event affecting any term of any Guaranteed Obligations;

(m) any other circumstance that might constitute a defence of that Additional Guarantor; or

(n) any insolvency or similar proceedings.

In this clause 4, “Dissolution” includes, in relation to any person, any corporate action, legal proceedings or other procedure or step 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); (b) any composition, compromise, assignment or arrangement with any of its creditors; (c) the appointment of any liquidator, receiver, administrative receiver, compulsory manager or other similar officer in respect of it or any of its assets; or (d) the enforcement of any security interest over any of its assets, or (in each case) any analogous procedure or step taken in any jurisdiction.

5. GUARANTOR INTENT

Without prejudice to the generality of paragraph 4 (Waiver of defences), each Additional Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents.

6. PRINCIPAL DEBTOR

Each Additional Guarantor agrees as an independent and primary obligation to pay on demand, immediately and unconditionally, any Guaranteed Obligation which is not recoverable from each Additional Guarantor on the basis of the guarantee set out in this Schedule 10. Any amount due under this paragraph 6 will be recoverable from each Additional Guarantor as though the obligation had been incurred by each Additional Guarantor as sole or principal debtor, regardless of any unenforceability, illegality or invalidity of any Guaranteed Obligation.

7. IMMEDIATE REcourse

Each Additional Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Additional Guarantor under this Schedule 10. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.
8. **APPROPRIATIONS**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Additional Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account, for as long as it considers fit, any moneys received, recovered or realised under or in connection with the guarantee in, or the Additional Guarantor’s liability under, this Schedule 10 to the extent of the Guaranteed Obligations, without any obligation on the part of the Agent to apply such moneys in or towards the discharge of such Guaranteed Obligations.

9. **DEFERRAL OF GUARANTOR’S RIGHTS**

(a) Until such time as the Guaranteed Obligations have been irrevocably paid and discharged in full and unless the Agent otherwise directs in writing, no Additional Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of (1) any amount being payable, or liability arising, under this Schedule 10 or (2) under or in relation any Excess Cash Loans, to:

(i) demand, or accept payment or repayment, in whole or in part, from the Parent or any other persons liable, of any such cost, claim or other liability unless it is a Permitted Payment;

(ii) exercise, receive, claim or have the benefit of any right of payment, guarantee, indemnity, contribution, subrogation or security from or on account of any Obligor (in whole or in part);

(iii) 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;

(iv) take any step or bring legal or other proceedings to force any Obligor to make any payment, or perform any obligation, in respect of which any Additional Guarantor has given a guarantee, undertaking or indemnity under paragraph 1 (Guarantee and indemnity) ;

(v) exercise any right of set-off, combination or counterclaim or any right in relation to any “flawed asset” or “hold back” arrangement as against any Group Member; and/or

(vi) claim, rank, vote or prove as a creditor of any other Group Member in competition with any Finance Party.

(b) If an Additional Guarantor receives any benefit, payment or distribution in relation to or as a result of the exercise of any right referred to in paragraph 52.2(a)(a), it shall hold such benefit, payment or distribution on trust for the Finance Parties and will
immediately pay an amount equal to any payment, benefit or distribution to the Agent for application in accordance with clause 40 (Payment mechanics). This only applies until all Guaranteed Obligations have been irrevocably paid and discharged in full.

(c) If an Additional Guarantor exercises any right of set-off, combination or counterclaim or any “flawed asset” or “hold back” arrangement referred to in sub-paragraph 52.2(a)(iv) of paragraph 9, it will immediately pay or transfer an amount equal to the amount set-off, combined, counterclaimed or subjected to any “flawed asset” or “hold back” arrangement to the Agent for application in accordance with clause 40 (Payment mechanics). This only applies until all Guaranteed Obligations have been irrevocably paid and discharged in full.

10. ADDITIONAL SECURITY

This guarantee and the obligations of each Additional Guarantor under this guarantee are in addition to, independent of, and in no way prejudiced by (or prejudicial to) any other guarantee or security which may be held at any time by any Finance Party.

11. NEW ACCOUNT

If, for any reason, the obligations of each Additional Guarantor under this Schedule 10 are determined or otherwise cease to be continuing, all payments made by or on behalf of any Obligor to the Agent or any Finance Party (whether in their capacity as trustee or otherwise) shall be treated as having been credited to a new account of the relevant Obligor and not as having been applied in reduction of the Guaranteed Obligations.

12. NO SECURITY

Each Additional Guarantor does not have, and shall not take or receive, the benefit of any security or any other surety in respect of its rights against any Obligor as a result of its entry into the guarantee in this paragraph 12. If any Additional Guarantor takes or receives the benefit of any security or any other surety in breach of this paragraph 12, it shall hold such security or other surety on trust for the Agent to the extent necessary to discharge the Guaranteed Obligations in full and shall, upon request by the Agent, transfer or assign such security or other surety to the Agent as security for the Guaranteed Obligations.

13. NON-CREATION OF CHARGE

Nothing in this Schedule 10 is intended to create or shall create a charge or other security.

14. TRUSTS

If any trust intended to arise pursuant to any provision in this Schedule 10 fails or for any reason (including the laws of any jurisdiction in which any assets, moneys, payments or distributions may be situated) cannot be given effect to, the relevant Additional Guarantor will pay to the Agent for application in accordance with clause 40.6 (Partial payments) an amount equal to the amount intended to be so held on trust for the Agent.

15. AMENDMENTS

Any amendment, waiver, discharge, release or consent in relation to the guarantee and/or this Schedule 10 may only be made or given in writing.
16. **PARALLEL DEBT**

   (a) The provisions of this paragraph 16 shall apply only to the extent that any Security Interest is required to be granted to the Security Interest Agent under a parallel debt structure in accordance with the terms of the Finance Documents.

   (b) Each Additional Guarantor irrevocably and unconditionally undertakes to pay to the Security Agent, as creditor in its own right and not as representative of the other Finance Parties, amounts equal to, and in the currency of, any amounts owing from time to time by that Additional Guarantor to any Finance Party under any Finance Document, as and when those amounts are due.

   (c) Each Additional Guarantor and the Security Agent acknowledge that the obligations of each Additional Guarantor under paragraph (b) above are several and are separate and independent from, and shall not in any way limit or affect, the corresponding obligations of that Additional Guarantor to any other Finance Party under any Finance Document (its “Corresponding Debt”) nor shall the amounts for which each Additional Guarantor is liable under paragraph (b) above (for the purposes of this paragraph (c), its “Parallel Debt”) be limited or affected in any way by its Corresponding Debt, provided that notwithstanding any other provision of this Agreement or the Finance Documents:

      (i) the Parallel Debt of each Additional Guarantor shall be automatically decreased and discharged to the extent that its Corresponding Debt has been irrevocably paid or (in the case of guarantee obligations) discharged;

      (ii) the Corresponding Debt of each Additional Guarantor shall be automatically decreased and discharged to the extent that its Parallel Debt has been irrevocably paid or (in the case of guarantee obligations) discharged;

      (iii) the amount of the Parallel Debt of an Additional Guarantor shall at all times be equal to the amount of its Corresponding Debt; and

      (iv) the aggregate amount outstanding owed by the Additional Guarantors under the Finance Documents (including under this paragraph 16 at any time shall not exceed the amount of the Corresponding Debt at that time.

   (d) For the purpose of this paragraph 16, the Security Agent acts in its own name and not as a trustee, and its claims in respect of the Parallel Debt shall not be held on trust. The Security Agent shall have its own independent right to demand payment of the amounts payable by each Additional Guarantor under this paragraph 16. The Transaction Security granted under the Security Documents to the Security Agent to secure the Parallel Debt is granted to the Security Agent in its capacity as creditor of the Parallel Debt and shall not be held on trust.

   (e) All moneys received or recovered by the Security Agent pursuant to this paragraph 16, and all amounts received or recovered by the Security Agent from or by the enforcement of any Transaction Security granted to secure the Parallel Debt, shall be applied in accordance with clause 36.1 (Order of application).

   (f) Without limiting or affecting the Security Agent’s rights against the Additional Guarantors (whether under this paragraph 16 or under any other provision of any Finance Document), each Additional Guarantor acknowledges that:
nothing in this paragraph 16 shall impose any obligation on the Security Agent to advance any sum to any Additional Guarantor or otherwise under any Finance Document, except, if applicable, in its capacity as a Finance Party; and

for the purpose of any vote taken under any Finance Document, the Security Agent shall not be regarded as having any participation or commitment other than, if applicable, those which it has in its capacity as a Finance Party.

Notwithstanding anything to the contrary in any of the Finance Documents, each Additional Guarantor and each of the Finance Parties (other than the Security Agent) agree that the Security Agent shall be the joint and several creditor (together with each Finance Party (other than the Security Agent)) of each and every present and future obligation of any Additional Guarantor (whether actual or contingent) towards each of the Finance Parties under any of the Finance Documents and that accordingly the Security Agent will have its own independent right to demand performance by an Additional Guarantor of those obligations. However, any discharge of any obligation of an Additional Guarantor to one of the Security Agent or the relevant Finance Party shall, to the same extent, discharge the corresponding obligation owing to the other. Nothing in this Agreement or in any other Finance Document shall in any way limit the Security Agent’s right to act in the protection or preservation of rights under, or to enforce any Security Document as contemplated by this Agreement and/or the relevant Security Document (or to do any act reasonably incidental to any of the foregoing).

Schedule 11

Enforcement Principles

1. DEFINITIONS

For the purposes of this Schedule 11, the following terms shall have the following meaning:

“Appropriation” means the appropriation (or similar process) of the shares in the capital of an Obligor by the Security Agent (or any Receiver or Delegate) which is effected (to the extent permitted under the relevant Security Document and applicable law) by enforcement of the Transaction Security.

“Borrowing Liabilities” means any liabilities any Obligor has as borrower to another Obligor.

“Cash Proceeds” means:

(a) proceeds of the Security Property which are in the form of cash; and

(b) any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any proceeds of the Security Property which are in the form of Non-Cash Consideration.

“Common Assurance” means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible, given to all the Finance Parties in respect of their Liabilities.

“Competitive Sales Process” means:

(a) any public auction or other competitive sale process conducted in accordance with the advice of a Value Adviser appointed in accordance with paragraph 7.4 (Appointment of Value Advisor) and in which the Lenders are entitled to participate as prospective buyers and/or financiers (including as part of a consortium) and with a view to facilitating a prompt and expeditious sale at a fair market price in the prevailing market conditions or any other process agreed to by the Agent (acting on the instructions of the requisite group of Lenders); and

(b) any enforcement of the Transaction Security carried out by way of auction or other competitive sales process pursuant to requirements of applicable law.

For the purposes of this definition, “entitled to participate” shall be interpreted to mean:

(i) that any offer, or indication of a potential offer, that a holder of any Tranche 1 Liabilities or Tranche 2 Liabilities makes shall be considered by those running the Competitive Sales Process against the same criteria as any offer, or indication of a potential offer, by any other bidder or potential bidder;

(ii) any holder of any Tranche 1 Liabilities or Tranche 2 Liabilities that is considering making an offer in any Competitive Sales Process is provided with the same information, including any due diligence reports, and access to management that is being provided to any other bidder at the same stage of the process; and
the consideration for any offer or indication of a potential offer that a holder of any Tranche 2 Liabilities makes includes cash consideration that is sufficient to discharge the Tranche 1 Liabilities in full.

If, after having applied the same criteria referred to in sub-paragraph (i) above, the offer or indication of a potential offer made by a holder of any Tranche 1 Liabilities or Tranche 2 Liabilities (as relevant) is not considered by those running the Competitive Sales Process to be sufficient to continue in the sales process, such consideration being against the same criteria as any offer, or indication of a potential offer, by any other bidder or potential bidder (such continuation may include being invited to review additional information or being invited to have an opportunity to make a subsequent or revised offer, whether in another round of bidding or otherwise), then the right of a holder of any Tranche 1 Liabilities or Tranche 2 Liabilities (as relevant) under this Agreement to so participate shall be deemed to be satisfied.

“Debt Disposal” means any disposal of any Liabilities or Obligors’ Intra-Group Receivables pursuant to paragraphs (a)(iv) or (v) of paragraph 7.1 (Facilitation of Distressed Disposals and Appropriation).

“Distress Event” means any of:

(a) the Agent exercising any of its rights under clause 30.29 (Acceleration);

(b) the Agent exercising any of its rights under clause 30.30 (Acceleration — Tranche 2 Loan); or

(c) the enforcement of any Transaction Security.

“Distressed Disposal” means a disposal of an asset of an Obligor which is:

(a) being effected at the request of the Agent (on the instructions of the requisite group of Lenders) in circumstances where the Transaction Security has become enforceable;

(b) being effected by enforcement of the Transaction Security (including the disposal of any Property of an Obligor, the shares in which have been subject to an Appropriation); or

(c) being effected, after the occurrence of a Distress Event, by an Obligor to a person or persons which is, or are, not a member, or members, of the Group.

“Enforcement” means the enforcement of any Transaction Security or disposal of Charged Property, the requesting of a Distressed Disposal and/or the release or disposal of claims and/or Transaction Security or a Distressed Disposal under paragraph 7 (Distressed Disposals and Appropriation), the giving of instructions as to actions with respect to the Transaction Security and/or the Charged Property following an Insolvency Event under paragraph 3.6 (Security Agent instructions) and the taking of any other actions consequential on (or necessary to effect) any of those actions.

“Enforcement Instructions” means instructions given by the Majority Tranche 1 Lenders or the Majority Tranche 2 Lenders to the Agent to instruct the Security Agent or the RL Security Agent as to Enforcement (including the manner and timing of Enforcement).

“Event of Default Notice” means a notice given by the Agent, the Majority Tranche 1 Lender or the Majority Tranche 2 Lenders to the Parent stating that an Event of Default has occurred and is continuing and stating that the notice is an “Event of Default Notice” for the purpose of
paragraph 2.4 (Consultation and Standstill Period). An Event of Default Notice may be given at any time in respect of an Event of Default for so long as it remains continuing (unless an Event of Default Notice has already been given in respect of the same Event of Default), regardless of whether an Obligor has otherwise been notified of that Event of Default.

“Fairness Opinion” means, in respect of any Distressed Disposal of a Mortgaged Ship, an opinion from a Value Adviser appointed in accordance with paragraph 7.4 (Appointment of Value Adviser) that the proceeds received or recovered in connection with that Distressed Disposal (taking into account all relevant circumstances) fairly reflect the value of that Mortgaged Ship following the deduction of any maritime liens and claims affecting that Mortgaged Ship.

“Guarantee Liabilities” means, in relation to an Obligor, the liabilities and obligations under the Finance Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Finance Party (other than to the Agent) or another Obligor as or as a result of it being a guarantor or surety (including, without limitation, liabilities and obligations arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Finance Documents).

“Liabilities Sale” means a Debt Disposal pursuant to paragraph (a)(v) of paragraph 7.1 (Facilitation of Distressed Disposals and Appropriation).

“Non-Cash Consideration” means consideration in a form other than cash.

“Non-Cash Recoveries” means:

(a) any proceeds of a Distressed Disposal or a Debt Disposal; or
(b) any amount distributed to the Security Agent pursuant to paragraph 4.1 (Turnover by the Finance Parties),

which are, or is, in the form of Non-Cash Consideration.

“Obligors’ Intra-Group Receivables” means any liabilities and obligations owed to any Obligor (whether actual or contingent and whether incurred solely or jointly) by a Group Member.

“Other Liabilities” means, in relation to an Obligor, any trading and other liabilities and obligations (not being Guarantee Liabilities) it may have to a Group Member.

“Permitted Liabilities Payment” means a payment received in respect of Liabilities due and payable and received prior to the occurrence of a Distress Event.

“Property” of an Obligor means:

(a) any asset of that Obligor;
(b) any Subsidiary of that Obligor; and
(c) any asset of any such Subsidiary.

“Relevant Liabilities” means:
in the case of a Finance Party:

(i) the Liabilities owed to Finance Parties; and

(ii) all present and future liabilities and obligations, actual and contingent, of the Obligors to the Security Agent; and

(b) in the case of an Obligor, the Liabilities owed to the Finance Parties together with all present and future liabilities and obligations, actual and contingent, of the Obligors to the Security Agent.

“Tranche 1 Liabilities” means the aggregate amount of the Liabilities owed by the Obligors to the Tranche 1 Lenders under the Finance Documents.

“Tranche 2 Liabilities” means the aggregate amount of the Liabilities owed by the Obligors to the Tranche 2 Lenders under the Finance Documents.

“Value Adviser” means:

(a) in respect of shares in the capital of any company, an independent internationally recognized investment bank or accountancy firm; or

(b) in respect of a Mortgaged Ship, two or more independent internationally recognized shipbrokers approved by the relevant Lenders in accordance with clause 25.9 (Approval of Valuers).

2. ENFORCEMENT

2.1 Restrictions

(a) A Lender may only instruct the Agent to instruct the Security Agent or the RL Security Agent to enforce the Transaction Security or to take any other Enforcement Action if permitted to so in accordance with this Schedule 11.

(b) No Lender has any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents (other than this Agreement) or to give instructions to the Security Agent or the RL Security Agent (in each case) except through the Agent or otherwise acting pursuant to the instructions of the Agent or the Security Agent.

(c) Nothing in this Schedule 11 shall restrict any Finance Party’s rights under clause 2.2(c) (Finance Parties’ rights and obligations).

2.2 Enforcement Instructions

(a) The Security Agent may refrain from enforcing the Transaction Security unless it receives instructions to do so from the Agent pursuant to Enforcement Instructions given by either:

(i) the Majority Tranche 1 Lenders; or

(ii) if required under paragraph (c) below, the Majority Tranche 2 Lenders.

(b) Subject to the Transaction Security having become enforceable in accordance with its terms and to paragraph 2.4 (Consultation and Standstill Period), the Majority Tranche
1 Lenders or (if permitted to do so in accordance with paragraph 2.5 (Enforcement Rights of Tranche 2 Facility Lenders)) the Majority Tranche 2 Lenders, may give or refrain from giving Enforcement Instructions to the Security Agent or the RL Security Agent to enforce or refrain from enforcing the Transaction Security or to take any other action as to Enforcement as they see fit.

(c) Prior to the Tranche 1 Discharge Date, if:

(i) the Majority Tranche 1 Lenders have given Enforcement Instructions for the Security Agent not to take or to cease taking any action as to Enforcement; or

(ii) the Majority Tranche 1 Lenders have not given any Enforcement Instructions,

and in each case the Agent (acting on behalf of the Majority Tranche 1 Lenders) has not required any Obligor to make any Distressed Disposal, the Security Agent shall give effect to any Enforcement Instructions given by the Majority Tranche 2 Lenders which the Majority Tranche 2 Lenders are entitled to give under paragraph 2.5 (Enforcement Rights of Tranche 2 Facility Lenders).

(d) Notwithstanding paragraph (c) above, if any time the Majority Tranche 2 Lenders have given Enforcement Instructions pursuant to the preceding paragraph (c), then the Majority Tranche 1 Lenders may give Enforcement Instructions (other than any instruction to cease Enforcement) in each case as the Majority Tranche 1 Lenders see fit, in lieu of any Enforcement Instructions given by the Majority Tranche 2 Lenders, and the Security Agent shall act on or the Agent shall give instructions to the RL Security Agent pursuant to any such Enforcement Instructions given by the Majority Tranche 1 Lenders.

(e) The Security Agent is:

(i) entitled to rely conclusively on and comply with any instructions it receives from the Agent in accordance with this paragraph 2 and

(ii) to assume without further enquiry that the Agent is has been properly authorised by the requisite group of Lenders to give such instructions.

2.3 Manner of enforcement

If the Transaction Security is being enforced pursuant to paragraph 2.2 (Enforcement Instructions), the Security Agent shall enforce the Transaction Security or take any other action as to Enforcement in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of any Obligor to be appointed by the Security Agent as the Agent (on behalf of the requisite group of Lenders) shall instruct provided that in the case of a Distressed Disposal, such Distressed Disposal shall be effected in accordance with paragraph (b) of paragraph 7.1 (Facilitation of Distressed Disposals and Appropriation).

2.4 Consultation and Standstill Period

(a) Prior to the Tranche 1 Discharge Date, the Tranche 1 Lenders and the Tranche 2 Lenders shall consult for a period of up to seven calendar days following the issuance of an Event of Default Notice (or for such shorter period as the Majority Lenders shall agree) (the “Consultation Period”) with a view to agreeing a common approach to Enforcement.
Subject to paragraph (c) below, the Majority Tranche 1 Lenders shall only be entitled to:

(i) give Enforcement Instructions for the Security Agent to take any actions as to Enforcement; or

(ii) take any other Enforcement Action,

on and from the expiry of the Consultation Period (being on and from 11.59 pm (London time) of the last day of the Consultation Period).

The requirement to consult in accordance with paragraphs (a) and (b) above shall not apply, and the Majority Tranche 1 Lenders shall be entitled to give Enforcement Instructions for the Security Agent to take any actions as to Enforcement or take any other Enforcement Action at any time if:

(i) an Event of Default under any of clause 30.1 (Non-payment), clause 30.7 (Insolvency), clause 30.8 (Insolvency Proceedings), or clause 30.6(f) (Cross-Default) has occurred and is continuing; or

(ii) any lender of the Group has taken any Enforcement Action; or

(iii) any other Event of Default has occurred and is continuing, and the Majority Tranche 1 Lenders believe, in their absolute discretion, that to enter into such consultations and thereby delay the commencement of Enforcement would reasonably be expected to have a material adverse effect on:

(A) a material part of the Charged Property;

(B) the Security Agent’s ability to enforce any of the Transaction Security; or

(C) the quantum of realisation proceeds of any enforcement of the Transaction Security.

2.5 Enforcement Rights of Tranche 2 Facility Lenders

(a) Until the Tranche 1 Discharge Date, no Tranche 2 Lender may take or require the taking of any Enforcement Action, except as permitted under this paragraph 2.5.

(b) Prior to the Tranche 1 Discharge Date, the Majority Tranche 2 Lenders shall only be entitled to give Enforcement Instructions to the Security Agent or the RL Security Agent or take any other Enforcement Action in relation to the Tranche 2 Liabilities if at the same time as, or prior to, that action:

(i) a Tranche 1 Acceleration Event has occurred, in which case each Tranche 2 Lender may take the same Enforcement Action (but only in respect of the Tranche 2 Liabilities) as constitutes that Tranche 1 Acceleration Event; or

(ii) a period (a “Standstill Period”) of not less than 90 days has elapsed since the date on which an Event of Default Notice was issued and the Event of Default that is the subject of such notice is continuing at the end of the Standstill Period; or
(iii) the Majority Tranche 1 Lenders have consented to such Enforcement Action being taken;

To the extent permitted under applicable law, after the occurrence of an Insolvency Event in relation to any Obligor, each Tranche 2 Lender may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Tranche 2 Lender in accordance with paragraph 3.4 (Filing of Claims)) exercise any right they may otherwise have against that Obligor to:

(i) accelerate any of that Obligor’s Tranche 2 Liabilities or declare them prematurely due and payable or payable on demand;

(ii) make a demand under any guarantee, indemnity or other assurance against loss given by that Obligor in respect of any Tranche 2 Liabilities;

(iii) exercise any right of set-off or take or receive any Payment or claim in respect of any Tranche 2 Liabilities of that Obligor; or

(iv) claim and prove in the liquidation, administration or other insolvency proceedings of that Obligor for the Tranche 2 Liabilities owing to it.

2.6 Enforcement on behalf of Tranche 2 Lenders

(a) If the Security Agent has notified the Agent (who shall promptly notify the Tranche 2 Lenders) that it is enforcing the Security Interest created pursuant to any Security Document over shares of an Obligor, no Tranche 2 Lender may take any action referred to in paragraph 2.5 (Enforcement Rights of Tranche 2 Facility Lenders) against that Obligor while the Security Agent is taking steps to enforce that Security Interest in accordance with any Enforcement Instructions given in accordance with paragraph 2.2 (Enforcement Instructions) where such action might be reasonably likely to adversely affect such enforcement or the amount of proceeds to be derived therefrom.

(b) If the Tranche 2 Lenders are permitted to give Enforcement Instructions in accordance with paragraph 2.5 (Enforcement Rights of Tranche 2 Facility Lenders), such Enforcement Action must require the realisation of the relevant Security Interest by way of a sale or disposal conducted in compliance with the provisions of paragraph (b) of paragraph 7.1 (Facilitation of Distressed Disposals and Appropriation).

2.7 Option to Purchase: Tranche 2 Facility Creditors

(a) Prior to the Tranche 1 Discharge Date, and subject to paragraph (b) below, the Agent (on behalf of one or more of the Tranche 2 Lenders) (the “Purchasing Tranche 2 Lenders”) may after the occurrence of a Distress Event or for so long as a Standstill Period is outstanding, by giving not less than 10 days’ prior written notice to the Security Agent, require the transfer to the Purchasing Tranche 2 Lenders (or to a nominee or nominees) of all, but not part, of the rights, benefits and obligations in respect of the Tranche 1 Liabilities:

(i) any conditions relating to such a transfer contained in this Agreement are complied with, other than any requirement to obtain the consent of, or consult with, any Obligor or other member of the Group relating to such transfer, which consent or consultation shall not be required;
the Agent, on behalf of the Tranche 1 Lenders, is paid an amount equal to the aggregate of:

(A) all of the Tranche 1 Liabilities at that time (whether or not due), including all amounts that would have been payable if the Tranche 1 Facility were being prepaid by the relevant Obligors on the date of that payment; and

(B) all costs and expenses (including legal fees) incurred by the Agent and/or the Tranche 1 Lenders as a consequence of giving effect to that transfer;

(iii) as a result of that transfer the Tranche 1 Lenders have no further actual or contingent liability to any Obligor under the Finance Documents;

(iv) an indemnity is provided from (or on behalf of) the Purchasing Tranche 2 Lenders (but, for the avoidance of doubt, this does not include the Agent) (or from another third party acceptable to all the Tranche 1 Lenders) in a form reasonably satisfactory to the Agent in respect of all losses which may be sustained or incurred by any Tranche 1 Lender in consequence of any sum received or recovered by any Tranche 1 Lender from any person being required (or it being alleged that it is required) to be paid back by or clawed back from any Tranche 1 Lender for any reason; and

(v) the transfer is made without recourse to, or representation or warranty from, the Tranche 1 Lenders, except that each Tranche 1 Lender shall be deemed to have represented and warranted on the date of that transfer that it has the corporate power to effect that transfer and it has taken all necessary action to authorise the making by it of that transfer.

If more than one Purchasing Tranche 2 Lender wishes to exercise the option to purchase the Tranche 1 Liabilities in accordance with paragraph (a) above, each such Purchasing Tranche 2 Lender shall acquire the Tranche 1 Liabilities pro rata, in the proportion that its credit participation bears to the aggregate credit participations of all the Purchasing Tranche 2 Lenders. Any Purchasing Tranche 2 Lender wishing to exercise the option to purchase the Tranche 1 Liabilities shall inform the Agent, who will determine (consulting with each other as required) the appropriate share of the Tranche 1 Liabilities to be acquired by each such Purchasing Tranche 2 Lender and who shall inform each such Purchasing Tranche 2 Lender accordingly.

The Agent shall notify the Purchasing Tranche 2 Lenders of the sum of the amounts described in paragraphs (a)(ii)(A) and (a)(ii)(B) above.

3. EFFECT OF INSOLVENCY EVENT

3.1 Distributions

(a) After the occurrence of an Insolvency Event in relation to any Obligor, any Party entitled to receive a distribution out of the assets of that Obligor or any Charged Property in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that Obligor or any Charged Property to make that distribution to the Security Agent (or to such other person as the Security Agent shall direct) until the Liabilities owing to the Finance Parties have been paid in full.
The Security Agent shall apply distributions made to it under paragraph (a) above in accordance with clause 36 (Application of Proceeds).

3.2 Set-Off

To the extent that any Obligor’s Liabilities are discharged by way of set-off (mandatory or otherwise) against any Finance Party’s obligation to that Obligor after the occurrence of an Insolvency Event in relation to that Obligor, any Finance Party which benefited from that set-off shall pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with clause 36 (Application of Proceeds).

3.3 Non-cash distributions

If the Security Agent or any other Finance Party receives a distribution in the form of Non-Cash Consideration in respect of any of the Liabilities (other than any distribution of Non-Cash Recoveries), the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

3.4 Filing of claims

After the occurrence of an Insolvency Event in relation to any Obligor, each Finance Party irrevocably authorises the Security Agent, on its behalf, to:

(a) take any Enforcement Action (in accordance with the terms of this Agreement) against that Obligor;
(b) demand, sue, prove and give receipt for any or all of that Obligor’s Liabilities;
(c) collect and receive all distributions on, or on account of, any or all of that Obligor’s Liabilities; and
(d) file claims, take proceedings and do all other things the Intercreditor Security Agent considers reasonably necessary to recover that Obligor’s Liabilities.

3.5 Further assurance — Insolvency Event

Each Finance Party will:

(a) do all things that the Security Agent requests in order to give effect to this paragraph 3 (Effect of Insolvency Event); and
(b) if the Security Agent is not entitled to take any of the actions contemplated by this paragraph 3.5 or if the Security Agent requests that a Finance Party take that action, undertake that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action.

3.6 Security Agent instructions

For the purposes of paragraph 3.1 (Distributions), paragraph 3.4 (Filing of claims) and paragraph 3.5 (Further assurance — Insolvency Event) the Security Agent shall act:

(a) on the instructions of the Agent, and the Agent shall give such instructions:
prior to the Tranche 1 Discharge Date, if instructed to do so by the Majority Tranche 1 Lenders; and

(ii) after the Tranche 1 Discharge Date, if instructed to do so by the Majority Tranche 2 Lenders; or

(b) in the absence of any such instructions, as the Security Agent sees fit.

3.7 Limitation by Applicable Law

Each of the provisions of this paragraph 3 (Effect of Insolvency Event) shall apply only to the extent permitted by applicable law.

4. TURNOVER OF RECEIPTS

4.1 Turnover by the Finance Parties

Subject to paragraph 4.2 (Permitted assurance and receipts), if at any time prior to the Final Discharge Date, any Finance Party receives or recovers:

(a) any Payment or distribution of, or on account of or in relation to, any of the Liabilities (in each case) from or in respect of any Obligor, or any Charged Property which is neither:

(i) a Permitted Liabilities Payment; nor

(ii) made in accordance with clause 36 (Application of Proceeds).

(b) other than where paragraph 3.2 (Set-Off) applies, any amount by way of set-off against any Finance Party’s obligations to an Obligor in respect of any of the Liabilities owed to it which does not give effect to a Permitted Liabilities Payment;

(c) notwithstanding paragraphs (a) and (b) above, and other than where paragraph 3.2 (Set-Off) applies, any amount from or in respect of any Obligor or any Charged Property:

(i) on account of, or in relation to, any of the Liabilities:

(A) after the occurrence of a Distress Event; or

(B) as a result of any other litigation or proceedings against an Obligor (other than after the occurrence of an Insolvency Event in respect of that Obligor); or

(ii) by way of set-off against any Finance Party’s obligations to an Obligor in respect of any of the Liabilities owed to it after the occurrence of a Distress Event,

other than, in each case, any amount received or recovered in accordance with clause 36 (Application of Proceeds);

(d) the proceeds of any enforcement of any Transaction Security except in accordance with clause 36 (Application of Proceeds); or

(e) other than where paragraph 3.2 (Set-Off) applies, any distribution or Payment of, or on account of or in relation to, any of the Liabilities owed by an Obligor which is not in accordance with clause 36 (Application of Proceeds) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that Obligor,

that Finance Party will:

(i) in relation to any such receipts and recoveries not received or recovered by way of set-off:

(A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay or distribute that amount to the Security Agent for application in accordance with the terms of this Agreement; and

(B) promptly pay or distribute an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and

(ii) in relation to receipts and recoveries received or recovered by way of set-off against any Finance Party’s obligations to an Obligor, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

4.2 Permitted assurance and receipts
Nothing in this Agreement shall restrict the ability of any Finance Party to:

(a) arrange with any person which is not an Obligor any assurance against loss in respect of, or reduction of its credit exposure to, an Obligor (including assurance by way of credit based derivative or sub-participation); or

(b) make any assignment or transfer permitted by clause 31 (Changes to the Lenders),

which is permitted by the this Agreement, and that Finance Party shall not be obliged to account to any other Party for any sum received by it as a result of that action.

4.3 **Amounts received by Obligors**

If any of the Obligors receives or recovers any amount which, under the terms of any of the Finance Documents, should have been paid to the Security Agent, that Obligor will:

(a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and

(b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

4.4 **Turnover of Enforcement Proceeds**

If:

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(a) the Security Agent is not entitled, for reasons of applicable law, to pay amounts received pursuant to the making of a demand under any guarantee, indemnity or other assurance against loss or the enforcement of the Transaction Security to the Tranche 1 Lenders but is entitled to distribute those amounts to Tranche 2 Lenders; and

(b) the Tranche 1 Discharge Date has not yet occurred (nor would occur after taking into account such payments)

then the Tranche 2 Lenders shall make such payments to the Tranche 1 Lenders as the Security Agent shall require to place the Tranche 1 Lenders in the position they would have been in had such amounts been available for application against the Relevant Liabilities of such Tranche 1 Lenders.

4.5 Saving provision

If, for any reason, any of the trusts expressed to be created in this paragraph 4 should fail or be unenforceable, the affected Finance Party or Obligor will promptly pay or distribute an amount equal to that receipt or recovery to the Security Agent to be held on trust by the Security Agent for application in accordance with the terms of this Agreement.

4.6 Turnover of Non-Cash Consideration

For the purposes of this paragraph 4, if any Finance Party receives or recovers any amount or distribution in the form of Non-Cash Consideration which is subject to paragraph 4.1 (Turnover by the Finance Parties) the cash value of that Non-Cash Consideration shall be determined in accordance with paragraph 8.2 (Cash value of Non-Cash Recoveries).

5. REDISTRIBUTION

5.1 Recovering Finance Party’s rights

(a) Any amount paid or distributed by a Finance Party (a “Recovering Finance Party”) to the Security Agent under paragraph 3 (Effect of Insolvency Event) or paragraph 4 (Turnover of Receipts) shall be treated as having been paid or distributed by the relevant Obligor and shall be applied by the Security Agent in accordance with clause 36 (Application of Proceeds).

(b) On an application by the Security Agent pursuant to clause 36 (Application of Proceeds) of a Payment or distribution received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party an amount equal to the amount received or recovered by the Recovering Finance Party and paid or distributed to the Security Agent by the Recovering Finance Party (the “Shared Amount”) will be treated as not having been paid or distributed by that Obligor.

5.2 Reversal of redistribution

(a) If any part of the Shared Amount received or recovered by a Recovering Finance Party becomes repayable or returnable to an Obligor and is repaid or returned by that Recovering Creditor to that Obligor, then:

(i) each Party that received any part of that Shared Amount pursuant to an application by the Intercreditor Security Agent of that Shared Amount under paragraph 5.1 (Recovering Creditor’s rights) (a “Sharing Party”) shall, upon request of the Security Agent, pay or distribute to the Security Agent for the account of that Recovering Finance Party an amount equal to the appropriate
part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Shared Amount which that Recovering Finance Party is required to pay) (the “Redistributed Amount”); and

(ii) as between the relevant Obligor and each relevant Sharing Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid or distributed by that Obligor.

The Security Agent shall not be obliged to pay or distribute any Redistributed Amount to a Recovering Finance Party under paragraph (a) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Party.

6. FACILITATION OF NON-DISTRESSED DISPOSALS

(a) If the Parent certifies to the Agent that, and the Agent confirms to the Security Agent it is satisfied that, in respect of a disposal of an asset which is subject to Transaction Security:

(i) the disposal is permitted under the Finance Documents and no Event of Default will occur as a result of such disposal, or that the requisite consent of the Finance Parties for such disposal has been obtained; and

(ii) the disposal is not a Distressed Disposal,

(a “Non-Distressed Disposal”), the Security Agent is irrevocably authorised (at the cost of the Parent and without any consent, sanction, authority or further confirmation from any Finance Party or Obligor) but subject to paragraph (b) below:

(A) to release the Transaction Security or any other claim (relating to a Finance Document) over that asset;

(B) where that asset consists of shares in the capital of an Obligor, to release the Transaction Security or any other claim (relating to a Finance Document) over that Obligor’s Property; and

(C) to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraphs (i) and (ii) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable.

(b) Each release of Transaction Security or any claim described in paragraph (a) above shall become effective only on the making of the relevant Non-Distressed Disposal and, if that Non-Distressed Disposal is not made, each release of Transaction Security or its Liabilities or claim described in paragraph (a) above shall have no effect and the Transaction Security or any Liabilities or claim subject to that release shall continue in such force and effect as if that release had not been effected.
7. DISTRESSED DISPOSALS AND APPROPRIATION

7.1 Facilitation of Distressed Disposals and Appropriation

(a) Subject to paragraph (b) below, if a Distressed Disposal or an Appropriation is being effected the Security Agent is irrevocably authorised (at the cost of the Parent and without any consent, sanction, authority or further confirmation from any Finance Party or Obligor):

(i) release of Transaction Security/non-crystallisation certificates: to release the Transaction Security or any other claim over the asset subject to the Distressed Disposal or Appropriation and execute and deliver or enter into any release of that Transaction Security or claim and issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable;

(ii) release of liabilities and Transaction Security on a share sale/Appropriation (Obligor): if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of an Obligor, to release:

(A) that Obligor and any Subsidiary of that Obligor from all or any part of:

(1) its Borrowing Liabilities;
(2) its Guarantee Liabilities; and
(3) its Other Liabilities;

(B) any Transaction Security granted by that Obligor or any Subsidiary of that Obligor over any of its assets; and

(C) any other claim of another Obligor over that Obligor’s assets or over the assets of any Subsidiary of that Obligor, on behalf of the relevant Finance Parties and Obligor;

(iii) release of liabilities and Transaction Security on a share sale/Appropriation (Holding Company): if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of any Holding Company of an Obligor, to release:

(A) that Holding Company and any Subsidiary of that Holding Company from all or any part of:

(1) its Borrowing Liabilities;
(2) its Guarantee Liabilities; and
(3) its Other Liabilities;

(B) any Transaction Security granted by any Subsidiary of that Holding Company over any of its assets; and
(C) any other claim of another Obligor over the assets of any Subsidiary of that Holding Company,
on behalf of the relevant Finance Parties and Obligors;

(iv) facilitative disposal of liabilities on a share sale/Appropriation: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of an Obligor or the Holding Company of an Obligor and the Security Agent decides to dispose of all or any part of:

(A) the Liabilities (other than Liabilities due to the Agent or Security Agent); or

(B) the Obligors’ Intra-Group Receivables,

owed by that Obligor or Holding Company or any Subsidiary of that Obligor or Holding Company on the basis that any transferee of those Liabilities or Obligors’ Intra-Group Receivables (the “Transferee”) will not be treated as a Finance Party for the purposes of this Deed, to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities or Obligors’ Intra-Group Receivables on behalf of the relevant Finance Parties and Obligors provided that notwithstanding any other provision of any Debt Document the Transferee shall not be treated as a Finance Party for the purposes of this Agreement;

(v) sale of liabilities on a share sale/Appropriation: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of an Obligor or the Holding Company of an Obligor and the Security Agent decides to dispose of all or any part of:

(A) the Liabilities (other than Liabilities due to the Agent, or the Security Agent); or

(B) the Obligors’ Intra-Group Receivables, owed by that Obligor or Holding Company or any Subsidiary of that Obligor or Holding Company on the basis that any transferee of those Liabilities or Obligors’ Intra-Group Receivables will be treated as a Finance Party for the purposes of this Deed, to execute and deliver or enter into any agreement to dispose of:

(1) all (and not part only) of the Liabilities owed to the Finance Parties (other than to the Agent or the Security Agent); and

(2) all or part of any other Liabilities (other than Liabilities owed to the Agent or the Security Agent);) and the Obligors’ Intra-Group Receivables,
on behalf of, in each case, the relevant Finance Parties and Obligors;

(vi) transfer of obligations in respect of liabilities on a share sale/Appropriation: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of an Obligor or the Holding Company of an Obligor (the “Disposed Entity”) and the Security Agent decides to transfer to another Obligor (the “Receiving Entity”) all or any part of the Disposed Entity’s
obligations or any obligations of any Subsidiary of that Disposed Entity in respect of the Obligors’ Intra-Group Receivables, to execute and deliver or enter into any agreement to:

(A) agree to the transfer of all or part of the obligations in respect of those Obligors’ Intra-Group Receivables on behalf of the relevant Obligors to which those obligations are owed and on behalf of the Obligors which owe those obligations; and

(B) to accept the transfer of all or part of the obligations in respect of those Obligors’ Intra-Group Receivables on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Obligors’ Intra-Group Receivables are to be transferred.

(b) A Distressed Disposal shall only be made (and the Security Agent will only be taken to have satisfied all of its obligations under this Agreement and any other Finance Document and generally at law, if so made):

(i) pursuant to a Competitive Sales Process; or

(ii) if a Fairness Opinion (which can be relied upon by the Security Agent and disclosed to the Lenders on such terms as the Security Agent considers appropriate) is obtained in respect of such Distressed Disposal, although there shall be no obligation to postpone any such Distressed Disposal in order to achieve a higher price; or

(iii) that Distressed Disposal is made pursuant to any process or proceedings approved or supervised by or on behalf of any court of law; or

(iv) that Distressed Disposal is made by, at the direction of or under the control of, a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer (or any analogous officer in any jurisdiction) appointed in respect of an Obligor or the assets of an Obligor.

7.2 Form of consideration for Distressed Disposals and Debt Disposals

Subject to paragraph 8.5 (Security Agent protection), a Distressed Disposal or a Debt Disposal may be made in whole or in part for consideration in the form of cash or, if not for cash, for Non-Cash Consideration which is acceptable to the Security Agent.

7.3 Proceeds of Distressed Disposals and Debt Disposals

The net proceeds of each Distressed Disposal and each Debt Disposal shall be paid, or distributed, to the Security Agent for application in accordance with clause 36 (Application of Proceeds) and, to the extent that:

(a) any Liabilities Sale has occurred; or

(b) any Appropriation has occurred,

as if that Liabilities Sale, or any reduction in the Secured Obligations resulting from that Appropriation, had not occurred.
7.4 Appointment of Value Adviser

(a) Without prejudice to clause 33.10 (Rights and discretions), the Security Agent may engage, or approve the engagement of, (in each case on such terms as it may consider appropriate (including, without limitation, restrictions on that Value Adviser’s liability and the extent to which any advice, valuation or opinion may be relied on or disclosed)), pay for and rely on the services of a Value Adviser to provide advice, a valuation or an opinion in connection with:

(i) a Distressed Disposal or a Debt Disposal;
(ii) the application or distribution of any proceeds of a Distressed Disposal or a Debt Disposal; or
(iii) any amount of Non-Cash Consideration which is subject to paragraph 4.1 (Turnover by the Finance Parties).

(b) For the purposes of paragraph (a) above, the Security Agent shall act:

(i) on the instructions of the Agent (acting on the instructions of the requisite group of creditors) if the Value Adviser is providing a valuation for the purposes of paragraph 8.2 (Cash value of Non-Cash Recoveries); or
(ii) otherwise in accordance with paragraph 7.5 (Security Agent’s actions).

7.5 Security Agent’s actions

For the purposes of paragraph 7.1 (Facilitation of Distressed Disposals and Appropriation) and paragraph 7.2 (Form of consideration for Distressed Disposals and Debt Disposals) the Security Agent shall act:

(a) in the case of an Appropriation or a Distressed Disposal which is being effected by way of enforcement of the Transaction Security, in accordance with paragraph 2.3 (Manner of enforcement); and

(b) in any other case:

(i) on the instructions of the Agent (acting on the instructions of the requisite group of Lenders); or
(ii) in the absence of any such instructions, as the Security Agent sees fit.

8. NON-CASH RECOVERIES

8.1 Security Agent and Non-Cash Recoveries

To the extent the Security Agent receives or recovers any Non-Cash Recoveries, it may (acting on the instructions of the Instructing Group) but without prejudice to its ability to exercise discretion under clause 36.2 (Prospective liabilities):

(a) distribute those Non-Cash Recoveries pursuant to paragraph 36 (Application of Proceeds) as if they were Cash Proceeds;

(b) hold, manage, exploit, collect, realise and dispose of those Non-Cash Recoveries; and

(c) hold, manage, exploit, collect, realise and distribute any resulting Cash Proceeds.

8.2 Cash value of Non-Cash Recoveries

(a) The cash value of any Non-Cash Recoveries shall be determined by reference to a valuation obtained by the Security Agent from a Value Adviser appointed by the Security Agent pursuant to paragraph 7.4 (Appointment of Value Adviser) taking into account any notional conversion made pursuant to clause 36.5 (Currency conversion).

(b) If any Non-Cash Recoveries are distributed pursuant to clause 36 (Application of Proceeds), the extent to which such distribution is treated as discharging the Liabilities shall be determined by reference to the cash.

8.3 Agent and Non-Cash Recoveries

(a) Subject to paragraph (b) below and to paragraph 8.4 (Alternative to Non-Cash Consideration), if, pursuant to clause 36.1 (Order of application), the receives Non-Cash Recoveries for application towards the discharge of any Liabilities, the Agent shall apply such Non-Cash Recoveries in accordance with this Agreement, as if they were Cash Proceeds.

(b) The Agent may:

(i) use any reasonably suitable method of distribution, as it may determine in its discretion, to distribute those Non-Cash Recoveries in the order of priority that would apply under this Agreement for which it acts as facility agent if those Non-Cash Recoveries were Cash.
Proceeds;

(ii) hold any Non-Cash Recoveries through another person; and

(iii) hold any amount of Non-Cash Recoveries for so long as it shall think fit for later application pursuant to paragraph (a) above.

8.4 Alternative to Non-Cash Consideration

(a) If any Non-Cash Recoveries are to be distributed pursuant to clause 36 (Application of Proceeds), the Security Agent shall (prior to that distribution and taking into account the Liabilities then outstanding and the cash value of those Non-Cash Recoveries) notify the Agent.

(b) If:

(i) it would be unlawful for a Finance Party to receive such Non-Cash Recoveries (or it would otherwise conflict with that Finance Party’s constitutional documents for it to do so); and

(ii) that Finance Party promptly so notifies the Security Agent and supplies such supporting evidence as the Security Agent may reasonably require,

that Finance Party shall be a “Cash Only Creditor” and the Non-Cash Recoveries to which it is entitled shall be “Retained Non-Cash”.

(c) To the extent that, in relation to any distribution of Non-Cash Recoveries, there is a Cash Only Creditor:
(i) the Security Agent shall not distribute any Retained Non-Cash to that Cash Only Creditor (or to the Agent on behalf of that Cash Only Creditor) but shall otherwise treat the Non-Cash Recoveries in accordance with this Agreement;

(ii) the Security Agent shall notify the Agent of that Cash Only Creditor’s identity and its status as a Cash Only Creditor; and

(iii) to the extent notified pursuant to paragraph (ii) above, the Agent shall not distribute any of those Non-Cash Recoveries to that Cash Only Creditor.

(d) Subject to paragraph 8.5 (Security Agent protection), the Security Agent shall hold any Retained Non-Cash and shall, acting on the instructions of the Cash Only Creditor entitled to it, manage, exploit, collect, realise and dispose of that Retained Non-Cash for cash consideration and shall distribute any Cash Proceeds of that Retained Non-Cash to that Cash Only Creditor in accordance with clause 36 (Application of Proceeds).

(e) On any such distribution of Cash Proceeds which are attributable to a disposal of any Retained Non-Cash, the extent to which such distribution is treated as discharging the Liabilities due to the relevant Cash Only Creditor shall be determined by reference to:

(i) the valuation which determined the extent to which the distribution of the Non-Cash Recoveries to the other Finance Party discharged the Liabilities due to those Finance Parties; and

(ii) the Retained Non-Cash to which those Cash Proceeds are attributable.

(f) Each Finance Party shall, following a request by the Security Agent (acting in accordance with paragraph 7.5 (Security Agent’s actions)), notify the Security Agent of the extent to which paragraph (b)(i) above would apply to it in relation to any distribution or proposed distribution of Non-Cash Recoveries.

8.5 Security Agent protection

(a) No Distressed Disposal or Debt Disposal may be made in whole or part for Non-Cash Consideration if the Security Agent has reasonable grounds for believing that its receiving, distributing, holding, managing, exploiting, collecting, realising or disposing of that Non-Cash Consideration would have an adverse effect on it.

(b) If Non-Cash Consideration is distributed to the Security Agent pursuant to paragraph 4.1 (Turnover by the Finance Parties) the Security Agent may, at any time after notifying the Creditor Parties entitled to that Non-Cash Consideration and notwithstanding any instruction from a Finance Party or group of Creditor Parties pursuant to the terms of any Finance Document, immediately realise and dispose of that Non-Cash Consideration for cash consideration (and distribute any Cash Proceeds of that Non-Cash Consideration to the relevant Creditor Parties in accordance with clause 36 (Application of Proceeds)) if the Security Agent has reasonable grounds for believing that holding, managing, exploiting or collecting that Non-Cash Consideration would have an adverse effect on it.

(c) If the Security Agent holds Retained Non-Cash for a Cash Only Creditor (each as defined in paragraph 8.4 (Alternative to Non-Cash Consideration)) the Security Agent may at any time, after notifying that Cash Only Creditor and notwithstanding any instruction from a Finance Party or group of Finance Parties pursuant to the terms of any Finance Document, immediately realise and dispose of that Retained Non-Cash for cash consideration (and distribute any Cash Proceeds of that Retained Non-Cash to that
Cash Only Creditor in accordance with clause 36 (Application of Proceeds) if the Security Agent has reasonable grounds for believing that holding, managing, exploiting or collecting that Retained Non-Cash would have an adverse effect on it.

9. **INSURANCE CLAIMS**

9.1 **Facilitation of claims**

If any insurance or other claim is to be made, or is made, by an Obligor in respect of a Total Loss in respect of the Charged Property (or any of it) prior to a Distress Event and that claim or that insurance claim (or any proceeds of that claim or insurance claim (the “Proceeds”)) is or are expressed to be subject to the Transaction Security, the Security Agent is irrevocably authorised (at the cost of the relevant Obligor or the Parent and without any consent, sanction, authority or further confirmation from any Finance Party or Obligor) to:

(a) give a consent under or release the Transaction Security, or any other claim, over the relevant document or insurance policy solely to the extent necessary to allow that Obligor to make that claim or that insurance claim and to comply with that Obligor’s obligations in respect of that claim or that insurance claim and any Proceeds under the Facility Agreement; and

(b) execute and deliver or enter into any such consent under or release of that Transaction Security, or claim, that may, in the discretion of the Security Agent, be considered necessary or desirable.

10. **FURTHER ASSURANCE - DISPOSALS AND RELEASES**

Each Finance Party and Obligor will:

(a) do all things that the Security Agent requests in order to give effect to clause 6 (Non-Distressed Disposals), paragraph 7 (Distressed Disposals and Appropriation) and paragraph 9 (Insurance claims) (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent may consider to be necessary to give effect to the releases or disposals contemplated by those clauses); and

(b) if the Security Agent is not entitled to take any of the actions contemplated by those clauses or if the Security Agent requests that any Finance Party or Obligor take any such action, take that action itself in accordance with the instructions of the Security Agent, provided that the proceeds of those disposals or claims are applied in accordance with paragraph 7 (Distressed Disposals and Appropriation) or the relevant Finance Documents as the case may be.

11. **INTERCREDITOR DEEDS**

(a) Each of the Parties agrees that:

(i) the terms of this Schedule are subject to the terms of the Global Intercreditor Deed and in the event of any conflict between any provision of this Schedule and any provision of the Global Intercreditor Deed, the Global Intercreditor Deed shall prevail;

(ii) the terms of this Schedule are subject to the terms of the Intra-Restructuring Lenders Intercreditor Deed and in the event of any conflict between any provision of this Schedule and any provision of the Intra-Restructuring
Intercreditor Deed, the Intra-Restructuring Lenders Intercreditor Deed shall prevail; and

(iii) in the case of any conflict between the terms of the Intra-Restructuring Lenders Intercreditor Deed and the Global Intercreditor Deed, the Global Intercreditor Deed shall prevail.

(b) During such time as the Majority Tranche 1 Lenders are entitled to give Enforcement Instructions or take any other action as to Enforcement:

(i) at any time the “Instructing Group” under (and as defined in) the Intra-Restructuring Lenders Intercreditor Agreement is constituted by any two Facility Representatives, each Tranche 2 Lender authorises and instructs the Agent to vote its Tranche 2 Commitment in favour of any decision to be made by the “Instructing Group” as the Majority Tranche 1 Lenders may elect; and

(ii) at any time the “Instructing Group” under (and as defined in) the Intra-Restructuring Lenders Intercreditor Agreement is constituted by the Majority Creditors (as defined therein) and is entitled to make a decision, each Tranche 2 Lender authorises and instructs the Agent to notify the RL Security Agent that any instruction, consent or waiver given by the Majority Tranche 1 Lenders has also been given by that Tranche 2 Lender.

(c) During such time as both (i) the Majority Tranche 2 Lenders are entitled to give Enforcement Instructions or take any other action as to Enforcement; and (ii) the Agent is required to give effect to those instructions of the Majority Tranche 2 Lenders:

(i) at any time the “Instructing Group” under (and as defined in) the Intra-Restructuring Lenders Intercreditor Deed is constituted by any two Facility Representatives, each Tranche 1 Lender authorises and instructs the Agent to vote in connection with any decision to be made by the “Instructing Group” as the Majority Tranche 2 Lenders may decide; and

(ii) at any time the “Instructing Group” under (and as defined in) the Intra-Restructuring Lenders Intercreditor Deed is constituted by the Majority Creditors (as defined therein) and is required to make a decision, each Tranche 1 Lender authorises and instructs the Agent to notify the RL Security Agent, that any instruction, consent or waiver given by the Majority Tranche 2 Lenders has also been given by that Tranche 1 Lender.

12. RANKING AND PRIORITY

12.1 Creditor Liabilities

Each of the Parties agrees that the Tranche 1 Liabilities and the Tranche 2 Liabilities, shall rank (subject to the terms of this Agreement) pari passu in right and priority of payment and without any preference between them.

12.2 Transaction Security

Each of the Parties agrees that the Transaction Security shall rank and secure the Tranche 1 Liabilities, and the Tranche 2 Liabilities (subject to the terms of this Agreement) pari passu and without any preference between them (but only to the extent that such Transaction Security is expressed to secure those Liabilities).

SCHEDULE 3

OBLIGORS

Part A — Group A Obligors

Danaos

1. Danaos Corporation

Manager

2. Danaos Shipping Company Limited

Owners

3. Boxcarrier (No.5) Corp.
4. Cellcontainer (No.1) Corp.
5. Cellcontainer (No.3) Corp.
6. Cellcontainer (No.4) Corp.
7. Continent Marine Inc.
8. Speedcarrier (No.6) Corp.
9. Speedcarrier (No.7) Corp.
10. Speedcarrier (No.8) Corp.
11. Teucarrier (No.5) Corp.

Shareholders

12. Baker International S.A.
13. Bounty Investment Inc.
14. Lydia Inc.
15. Sapfo Navigation Inc.
16. Tully Enterprises S.A.
17. Westwood Marine S.A.
Part B — Group B Obligors

Danaos

1. Danaos Corporation

Manager

2. Danaos Shipping Company Limited

Owners

3. Cellcontainer (No.6) Corp.
4. Containers Lines Inc.
5. Megacarrier (No.3) Corp.
6. Oceanprize Navigation Limited
7. Ramona Marine Company Limited

Shareholders

8. Bayard Maritime Limited
9. Bounty Investment Inc.
10. Lydia Inc.
11. Sapfo Navigation Inc.
12. Westwood Marine S.A.
# SCHEDULE 4

## EFFECTIVE DATE SECURITY DOCUMENTS

### Part 1. First Priority Effective Date Security Documents

<table>
<thead>
<tr>
<th>Name of Obligor</th>
<th>Effective Date Security Document</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Danaos documents</strong></td>
<td></td>
</tr>
<tr>
<td>Danaos</td>
<td>Amendment and Restatement of account charge dated 30 April 2015 in respect of certain accounts held by Danaos with the Facility Agent, executed by Danaos in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td>Danaos</td>
<td>Assignment of certain support payments executed by Danaos and each other party thereto in favour of the Group A Security Trustee</td>
</tr>
<tr>
<td><strong>m.v. “PROGRESS C”</strong></td>
<td></td>
</tr>
<tr>
<td>Baker International S.A.</td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Speedcarrier (No.6) Corp. dated 14 April 2010, executed by Baker International S.A. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 15 April 2008 in relation to the m.v. “PROGRESS C” executed by Danaos Shipping Company Limited in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.6) Corp.</td>
<td>Four originals of a fourth addendum to the first preferred Panamanian law mortgage over the m.v. “PROGRESS C” dated 15 April 2008 executed by Speedcarrier (No.6) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.6) Corp.</td>
<td>Amendment and restatement deed relating to the guarantee dated 21 March 2018 executed by Speedcarrier (No.6) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.6) Corp.</td>
<td>Amendment and restatement deed relating to the general assignment dated 15 April 2008 in relation to the m.v. “PROGRESS C” executed by Speedcarrier (No.6) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td>Speedcarrier (No.6) Corp.</td>
<td>Assignment of certain intra-group loans executed by Speedcarrier (No.6) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Danaos</td>
<td>Assignment of certain HMM notes executed by Speedcarrier (No.6) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “HIGHWAY”</strong></td>
<td></td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 15 April 2008 in relation to the m.v. “HIGHWAY” executed by Danaos Shipping Company Limited in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Lydia Inc.</td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Speedcarrier (No.7) Corp. dated 14 April 2010, executed by Lydia Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Name of Obligor</td>
<td>Effective Date Security Document</td>
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</tr>
<tr>
<td>Speedcarrier (No.7) Corp.</td>
<td>Four originals of a fourth addendum to the first preferred Panamanian law mortgage over the m.v. “HIGHWAY” dated 15 April 2008 executed by Speedcarrier (No.7) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.7) Corp.</td>
<td>Amendment and restatement deed relating to the guarantee dated 21 March 2018 executed by Speedcarrier (No.7) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.7) Corp.</td>
<td>Amendment and restatement deed relating to the general assignment dated 15 April 2008 in relation to the m.v. “HIGHWAY” executed by Speedcarrier (No.7) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td>Speedcarrier (No.7) Corp. Danaos</td>
<td>Assignment of certain intra-group loans executed by Speedcarrier (No.7) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.7) Corp.</td>
<td>Assignment of certain HMM notes executed by Speedcarrier (No.7) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “BRIDGE”</strong></td>
<td></td>
</tr>
<tr>
<td>Bounty Investment Inc.</td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Speedcarrier (No.8) Corp. dated 14 April 2010, executed by Bounty Investment Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 15 April 2008 in relation to the m.v. “BRIDGE” executed by Danaos Shipping Company Limited in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.8) Corp.</td>
<td>Four originals of a fourth addendum to the first preferred Panamanian law mortgage over the m.v. “BRIDGE” dated 15 April 2008 executed by Speedcarrier (No.8) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.8) Corp.</td>
<td>Amendment and restatement deed relating to the guarantee dated 21 March 2018 executed by Speedcarrier (No.8) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.8) Corp.</td>
<td>Amendment and restatement deed relating to the general assignment dated 15 April 2008 in relation to the m.v. “BRIDGE” executed by Speedcarrier (No.8) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td>Speedcarrier (No.8) Corp. Danaos</td>
<td>Assignment of certain intra-group loans executed by Speedcarrier (No.8) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Speedcarrier (No.8) Corp.</td>
<td>Assignment of certain HMM notes executed by Speedcarrier (No.8) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “ZIM MONACO”</strong></td>
<td></td>
</tr>
<tr>
<td>Continent Marine Inc.</td>
<td>Third amendment to first priority Maltese law mortgage over the m.v. “ZIM MONACO” dated 2 January 2009 executed by Continent Marine Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Name of Obligor</td>
<td>Effective Date Security Document</td>
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</tr>
<tr>
<td>Continent Marine Inc.</td>
<td>Amendment and restatement deed relating to the deed of covenants dated 2 January 2009 executed by Continent Marine Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Continent Marine Inc.</td>
<td>Amendment and restatement deed relating to the guarantee dated 1 August 2008 executed by Continent Marine Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Continent Marine Inc.</td>
<td>Amendment and restatement deed relating to the general assignment dated 2 January 2009 in relation to the m.v. “ZIM MONACO” executed by Continent Marine Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Continent Marine Inc.</td>
<td>Amendment and restatement deed relating to the charter assignment dated 2 January 2009 in relation to the m.v. “ZIM MONACO” executed by Continent Marine Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 2 January 2009 in relation to the m.v. “ZIM MONACO” executed by Danaos Shipping Company Limited in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Tully Enterprises S.A.</td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Continent Marine Inc. dated 14 April 2010, executed by Tully Enterprises S.A. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
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</tr>
<tr>
<td>Continent Marine Inc. Danaos</td>
<td>Assignment of certain intra-group loans executed by Continent Marine Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Continent Marine Inc.</td>
<td>Assignment of certain ZIM notes executed by Continent Marine Inc. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “CMA CGM RACINE”</strong></td>
<td></td>
</tr>
<tr>
<td>Baker International S.A.</td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Boxcarrier (No.5) Corp. dated 14 April 2010, executed by Baker International S.A. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Boxcarrier (No.5) Corp.</td>
<td>Second amendment to first priority Maltese law mortgage over the m.v. “CMA CGM RACINE” dated 16 August 2010 executed by Boxcarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Boxcarrier (No.5) Corp.</td>
<td>Amendment and restatement deed relating to the deed of covenants dated 16 August 2010 executed by Boxcarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Boxcarrier (No.5) Corp.</td>
<td>Amendment and restatement deed relating to the guarantee dated 1 August 2008 executed by Boxcarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Boxcarrier (No.5) Corp.</td>
<td>Amendment and restatement deed relating to the general assignment dated 16 August 2010 in relation to the m.v. “CMA CGM RACINE” executed by Boxcarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Boxcarrier (No.5) Corp.</td>
<td>Amendment and restatement deed relating to the charter assignment dated 16 August 2010 in relation to the m.v. “CMA CGM RACINE” executed by Boxcarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
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<td>Name of Obligor</td>
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</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 16 August 2010 in relation to the m.v. “CMA CGM RACINE” executed by Danaos Shipping Company Limited in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Boxcarrier (No.5) Corp. Danaos</td>
<td>Assignment of certain intra-group loans executed by Boxcarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
</tbody>
</table>

**m.v. “EXPRESS ARGENTINA”**

| Cellcontainer (No.1) Corp.             | Second amendment to first priority Maltese law mortgage over the m.v. “EXPRESS ARGENTINA” dated 27 May 2010 executed by Cellcontainer (No.1) Corp. in favour of the Group A Security Trustee in the agreed form |
| Cellcontainer (No.1) Corp.             | Amendment and restatement deed relating to the deed of covenants dated 27 May 2010 executed by Cellcontainer (No.1) Corp. in favour of the Group A Security Trustee in the agreed form |
| Cellcontainer (No.1) Corp.             | Amendment and restatement deed relating to the guarantee dated 1 August 2008 executed by Cellcontainer (No.1) Corp. in favour of the Group A Security Trustee in the agreed form |
| Cellcontainer (No.1) Corp.             | Amendment and restatement deed relating to the general assignment dated 27 May 2010 in relation to the m.v. “EXPRESS ARGENTINA” executed by Cellcontainer (No.1) Corp. in favour of the Group A Security Trustee in the agreed form |
| Danaos Shipping Company Limited        | Amendment and restatement deed relating to the manager’s undertaking dated 27 May 2010 in relation to the m.v. “EXPRESS ARGENTINA” executed by Danaos Shipping Company Limited in favour of the Group A Security Trustee in the agreed form |
| Sapfo Navigation Inc.                  | Amendment and restatement deed relating to the share security relating to the shares of Cellcontainer (No.1) Corp. dated 14 April 2010, executed by Sapfo Navigation Inc. in favour of the Group A Security Trustee in the agreed form |

**New Security Documents**

| Cellcontainer (No.1) Corp.             | Charter Assignment in relation to the m.v. “EXPRESS ARGENTINA” executed by Cellcontainer (No.1) Corp. in favour of the Group A Security Trustee in the agreed form |
| Cellcontainer (No.1) Corp. Danaos      | Assignment of certain intra-group loans executed by Cellcontainer (No.1) Corp. in favour of the Group A Security Trustee in the agreed form |

**m.v. “EXPRESS FRANCE”**

<p>| Cellcontainer (No.3) Corp.             | Second amendment to first priority Maltese law mortgage over the m.v. “EXPRESS FRANCE” dated 11 October 2010 executed by Cellcontainer (No.3) Corp. in favour of the Group A Security Trustee in the agreed form |
| Cellcontainer (No.3) Corp.             | Amendment and restatement deed relating to the deed of covenants dated 11 October 2010 executed by Cellcontainer (No.3) Corp. in favour of the Group A Security Trustee in the agreed form |
| Cellcontainer (No.3) Corp.             | Amendment and restatement deed relating to the guarantee dated 1 August 2008 executed by Cellcontainer (No.3) Corp. in favour of the Group A Security Trustee in the agreed form |</p>
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<thead>
<tr>
<th>Name of Obligor</th>
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<tbody>
<tr>
<td><strong>Cellcontainer (No.3) Corp.</strong></td>
<td>Amendment and restatement deed relating to the general assignment dated 11 October 2010 in relation to the m.v. “EXPRESS FRANCE” executed by Cellcontainer (No.3) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Danaos Shipping Company Limited</strong></td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 11 October 2010 in relation to the m.v. “EXPRESS FRANCE” executed by Danaos Shipping Company Limited in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Westwood Marine S.A.</strong></td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Cellcontainer (No.3) Corp. dated 14 April 2010, executed by Westwood Marine S.A. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Cellcontainer (No.3) Corp.</strong></td>
<td>Charter Assignment in relation to the m.v. “EXPRESS FRANCE” executed by Cellcontainer (No.3) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Cellcontainer (No.3) Corp. Danaos</strong></td>
<td>Assignment of certain intra-group loans executed by Cellcontainer (No.3) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “EXPRESS SPAIN”</strong></td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Cellcontainer (No.4) Corp. dated 14 April 2010, executed by Baker International S.A. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Cellcontainer (No.4) Corp.</strong></td>
<td>Second amendment to first priority Maltese law mortgage over the m.v. “EXPRESS SPAIN” dated 16 January 2011 executed by Cellcontainer (No.4) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Cellcontainer (No.4) Corp.</strong></td>
<td>Amendment and restatement deed relating to the deed of covenants dated 16 January 2011 executed by Cellcontainer (No.4) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Cellcontainer (No.4) Corp.</strong></td>
<td>Amendment and restatement deed relating to the guarantee dated 1 August 2008 executed by Cellcontainer (No.4) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Cellcontainer (No.4) Corp.</strong></td>
<td>Amendment and restatement deed relating to the general assignment dated 26 January 2011 in relation to the m.v. “EXPRESS SPAIN” executed by Cellcontainer (No.4) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Danaos Shipping Company Limited</strong></td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 26 January 2011 in relation to the m.v. “EXPRESS SPAIN” executed by Danaos Shipping Company Limited in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Cellcontainer (No.4) Corp.</strong></td>
<td>Charter Assignment in relation to the m.v. “EXPRESS SPAIN” executed by Cellcontainer (No.4) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Cellcontainer (No.4) Corp. Danaos</strong></td>
<td>Assignment of certain intra-group loans executed by Cellcontainer (No.4) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “CMA CGM MELISANDE”</strong></td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Teucarrier (No.5) Corp. dated 14 April 2010, executed by Baker International S.A. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Baker International S.A.</strong></td>
<td>First amendment to first priority Maltese law mortgage over the m.v. “CMA CGM MELISANDE” dated 28 February 2012 executed by Baker International S.A. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Danaos Shipping Company Limited</strong></td>
<td>Amendment and restatement deed relating to the deed of covenants dated 28 February 2012 executed by Teucarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Teucarrier (No.5) Corp.</strong></td>
<td>Amendment and restatement deed relating to the guarantee dated 22 October 2007 executed by Teucarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Teucarrier (No.5) Corp.</strong></td>
<td>Amendment and restatement deed relating to the general assignment dated 28 February 2012 in relation to the m.v. “CMA CGM MELISANDE” executed by Teucarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Teucarrier (No.5) Corp.</strong></td>
<td>Amendment and restatement deed relating to the charter assignment dated 28 February 2012 in relation to the m.v. “CMA CGM MELISANDE” executed by Teucarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Teucarrier (No.5) Corp. Danaos</strong></td>
<td>Assignment of certain intra-group loans executed by Teucarrier (No.5) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “MAERSK ENPING”</strong></td>
<td>First preferred Greek law ship mortgage over the m.v. “MAERSK ENPING” with IMO number 9475686 dated 7 May 2014 executed by Megacarrier (No.3) Corp as mortgagor in favour of the Lender pursuant to notarial deed No 40.605/7-5-2014.</td>
</tr>
<tr>
<td><strong>Megacarrier (No.3) Corp.</strong></td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Megacarrier (No.3) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>Bounty Investment Inc.</strong></td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Megacarrier (No.3) Corp. in favour of the Group A Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Company</td>
<td>Description</td>
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<tr>
<td>---------------------------------</td>
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</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 3 May 2012 in relation to the m.v. “MAERSK ENPING” executed by Danaos Shipping Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Megacarrier (No.3) Corp.</td>
<td>Amendment and restatement deed relating to the guarantee dated 18 February 2011 executed by Megacarrier (No.3) Corp. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Megacarrier (No.3) Corp.</td>
<td>Amendment and restatement deed relating to the general assignment dated 3 May 2012 in relation to the m.v. “MAERSK”</td>
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<thead>
<tr>
<th>Name of Obligor</th>
<th>Effective Date Security Document</th>
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<tbody>
<tr>
<td>Megacarrier (No.3) Corp.</td>
<td>Amendment and restatement deed relating to the charter assignment dated 18 February 2011 in relation to the m.v. “MAERSK ENPING” executed by Megacarrier (No.3) Corp. in favour of the Group B Security Trustee in the agreed form</td>
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<tr>
<td><strong>New Security Documents</strong></td>
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<tr>
<td>Megacarrier (No.3) Corp. Danaos</td>
<td>Assignment of certain intra-group loans executed by Megacarrier (No.3) Corp. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Megacarrier (No.3) Corp. Danaos</td>
<td>Second preferred Greek law mortgage over the m.v. “MAERSK ENPING” with IMO number 9475686 in favour of the Lender in the agreed form</td>
</tr>
<tr>
<td>Megacarrier (No.3) Corp.</td>
<td>Assignment of certain HMM notes executed by Megacarrier (No.3) Corp. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “EXPRESS BERLIN”</strong></td>
<td></td>
</tr>
<tr>
<td>Cellcontainer (No.6) Corp.</td>
<td>First preferred Greek law ship mortgage over the m.v. “EXPRESS BERLIN” with IMO number 9484924 dated 31 March 2014 executed by Cellcontainer (No.6) Corp. as mortgagor in favour of the Lender pursuant to notarial deed No 40.490/31-3-2014.</td>
</tr>
<tr>
<td>Cellcontainer (No.6) Corp.</td>
<td>Amendment and restatement deed relating to the guarantee dated 18 February 2011 executed by Cellcontainer (No.6) Corp. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Cellcontainer (No.6) Corp.</td>
<td>Amendment and restatement deed relating to the general assignment dated 10 March 2011 in relation to the m.v. “EXPRESS BERLIN” executed by Cellcontainer (No.6) Corp. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 10 March 2011 in relation to the m.v. “EXPRESS BERLIN” executed by Danaos Shipping Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Westwood Marine S.A.</td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Cellcontainer (No.6) Corp. dated 18 February 2011, executed by Westwood Marine S.A. in favour of the Group B Security Trustee in the agreed form</td>
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<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td>Cellcontainer (No.6) Corp.</td>
<td>Charter Assignment in relation to the m.v. “EXPRESS BERLIN” executed by Cellcontainer (No.6) Corp. in favour of the Group B Security Trustee in the agreed form</td>
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<tr>
<td>Cellcontainer (No.6) Corp. Danaos</td>
<td>Assignment of certain intra-group loans executed by Cellcontainer (No.6) Corp. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Cellcontainer (No.6) Corp. Danaos</td>
<td>Second preferred Greek law mortgage over the m.v. “EXPRESS BERLIN” with IMO number 9484924 in favour of the Original Lender in the agreed form.</td>
</tr>
<tr>
<td><strong>m.v. “AMERICA”</strong></td>
<td></td>
</tr>
<tr>
<td>Bayard Maritime Ltd.</td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Oceanprize Navigation Limited dated 14</td>
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<table>
<thead>
<tr>
<th>Name of Obligor</th>
<th>Effective Date Security Document</th>
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<tbody>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>May 2018, executed by Bayard Maritime Ltd. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Oceanprize Navigation Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking 20 July 2015 in relation to the m.v. “AMERICA” executed by Danaos Shipping Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Oceanprize Navigation Limited</td>
<td>Amendment deed relating to the deed of covenants dated 20 July 2015 executed by Oceanprize Navigation Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Oceanprize Navigation Limited</td>
<td>Amendment and restatement deed relating to the guarantee dated 20 July 2015 executed by Oceanprize Navigation Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Oceanprize Navigation Limited</td>
<td>Amendment and restatement deed relating to the general assignment dated 20 July 2015 in relation to the m.v. “AMERICA” executed by Oceanprize Navigation Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Oceanprize Navigation Limited</td>
<td>Charter Assignment in relation to the m.v. “AMERICA” executed by Oceanprize Navigation Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Oceanprize Navigation Limited</td>
<td>Assignment of certain intra-group loans executed by Oceanprize Navigation Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Danaos</td>
<td>Manager’s Undertaking in relation to the m.v. “CSCL LE HAVRE” executed by Danaos Shipping Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Ramona Marine Company Limited</td>
<td>Amendment deed relating to the deed of covenants dated 20 July 2015 executed by Ramona Marine Company Limited in favour of the Group B Security Trustee in the agreed form</td>
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<tr>
<td>Ramona Marine Company Limited</td>
<td>Amendment and restatement deed relating to the guarantee dated 20 July 2015 executed by Ramona Marine Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Ramona Marine Company Limited</td>
<td>Amendment and restatement deed relating to the general assignment dated 20 July 2015 in relation to the m.v. “CSCL LE HAVRE” executed by Ramona Marine Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Ramona Marine Company Limited</td>
<td>Charter Assignment in relation to the m.v. “CSCL LE HAVRE” executed by Ramona Marine Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Ramona Marine Company Limited</td>
<td>Assignment of certain intra-group loans executed by Ramona Marine Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Sapfo Navigation Inc.</td>
<td>Share security relating to the shares of Ramona Marine Company Limited executed by Sapfo Navigation Inc. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Containers Lines Inc.</td>
<td>Amendment and Restatement of Liberian law mortgage over the m.v. “DERBY D” dated 20 July 2015 executed by Containers</td>
</tr>
<tr>
<td>Name of Obligor</td>
<td>Effective Date Security Document</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Containers Lines Inc.</td>
<td>Amendment and restatement deed relating to the guarantee dated 20 July 2015 executed by Containers Lines Inc. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Containers Lines Inc.</td>
<td>Amendment and restatement deed relating to the general assignment dated 20 July 2015 in relation to the m.v. “DERBY D” executed by Containers Lines Inc. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Amendment and restatement deed relating to the manager’s undertaking dated 20 July 2015 in relation to the m.v. “DERBY D” executed by Danaos Shipping Company Limited in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Lydia Inc.</td>
<td>Amendment and restatement deed relating to the share security relating to the shares of Containers Lines Inc. dated 14 May 2018, executed by Lydia Inc. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td><strong>New Security Documents</strong></td>
<td></td>
</tr>
<tr>
<td>Containers Lines Inc.</td>
<td>Charter Assignment in relation to the m.v. “DERBY D” executed by Containers Lines Inc. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
<tr>
<td>Containers Lines Inc. Danaos</td>
<td>Assignment of certain intra-group loans executed by Containers Lines Inc. in favour of the Group B Security Trustee in the agreed form</td>
</tr>
</tbody>
</table>
## Part 2. Second Priority Effective Date Security Documents

<table>
<thead>
<tr>
<th>Name of Obligor</th>
<th>Effective Date Security Document</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>m.v. “CMA CM TANCREDI”</strong></td>
<td></td>
</tr>
<tr>
<td>Teucarrier (No.2) Corp.</td>
<td>Second priority Maltese ship mortgage over vessel MV CMA CM TANCREDI with IMO No. 9436355 executed by Teucarrier (No.2) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Teucarrier (No.2) Corp.</td>
<td>Deed of Covenants, subject to English law, for vessel MV CMA CM TANCREDI with IMO No. 9436355 executed by Teucarrier (No.2) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Teucarrier (No.2) Corp.</td>
<td>Second priority account pledge executed by Teucarrier (No.2) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Teucarrier (No.2) Corp.</td>
<td>Second priority charter party assignment executed by Teucarrier (No.2) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Bounty Investment Inc.</td>
<td>Second priority share pledge (regarding the shares in Teucarrier (No.2) Corp.) executed by Bounty Investment Inc. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Second priority manager’s undertaking executed by Danaos Shipping Company Limited in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “CMA CM BIANCA”</strong></td>
<td></td>
</tr>
<tr>
<td>Teucarrier (No.3) Corp.</td>
<td>Second priority Maltese ship mortgage over vessel MV CMA CM BIANCA with IMO No. 9436367 executed by Teucarrier (No.3) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Teucarrier (No.3) Corp.</td>
<td>Deed of Covenants, subject to English law, for vessel MV CMA CM BIANCA with IMO No. 9436367 executed by Teucarrier (No.3) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Teucarrier (No.3) Corp.</td>
<td>Second priority account pledge executed by Teucarrier (No.3) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Teucarrier (No.3) Corp.</td>
<td>Second priority charter party assignment executed by Teucarrier (No.3) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Lito Navigation Inc.</td>
<td>Second priority share pledge (regarding the shares in Teucarrier (No.3) Corp.) executed by Lito Navigation Inc. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Second priority manager’s undertaking executed by Danaos Shipping Company Limited in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td><strong>m.v. “CMA CM SAMSON”</strong></td>
<td></td>
</tr>
<tr>
<td>Teucarrier (No.4) Corp</td>
<td>Second priority Maltese ship mortgage over vessel MV CMA CM SAMSON with IMO No. 9436379 executed by Teucarrier (No.4) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Teucarrier (No.4) Corp</td>
<td>Deed of Covenants, subject to English law, for vessel MV CMA CM SAMSON with IMO No. 9436379 executed by Teucarrier (No.4) Corp. in favour of the RL Security Agent in the agreed form</td>
</tr>
<tr>
<td>Name of Obligor</td>
<td>Effective Date Security Document</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Teucarrier (No.4) Corp</td>
<td>Second priority account pledge executed by Teucarrier (No.4) Corp. in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Teucarrier (No.4) Corp</td>
<td>Second priority charter party assignment executed by Teucarrier (No.4) Corp. in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Bayard Maritime Ltd.</td>
<td>Second priority share pledge (regarding the shares in Teucarrier (No.4) Corp. executed by Bayard Maritime Ltd.) in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Second priority manager’s undertaking executed by Danaos Shipping Company Limited in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Megacarrier (No.5) Corp.</td>
<td>Second priority Liberian law ship mortgage over vessel MSC AMBITION with official number 15607 executed by Megacarrier (No.5) Corp. in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Megacarrier (No.5) Corp.</td>
<td>Second priority account pledge executed by Megacarrier (No.5) Corp. in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Megacarrier (No.5) Corp.</td>
<td>Second priority general assignment executed by Megacarrier (No.5) Corp. in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Megacarrier (No.5) Corp.</td>
<td>Second priority charter party assignment executed by Megacarrier (No.5) Corp. in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Bayard Maritime Ltd.</td>
<td>Second priority share pledge (regarding the shares in Megacarrier (No.5) Corp. executed by Bayard Maritime Ltd.) in favour of the RL Security Agent</td>
</tr>
<tr>
<td>Danaos Shipping Company Limited</td>
<td>Second priority manager’s undertaking executed by Danaos Shipping Company Limited in favour of the RL Security Agent</td>
</tr>
</tbody>
</table>

**SIGNATURE PAGES TO RBS FACILITY AMENDMENT & RESTATEMENT DEED**

**OBLIGORS**

**Danaos:**

EXECUTED AS A DEED by
DANAOS CORPORATION, a corporation incorporated in the Marshall Islands, acting by a person who, in accordance with the laws of that jurisdiction is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

**Manager:**

EXECUTED AS A DEED by
DANAOS SHIPPING COMPANY LIMITED
acting by
in the presence of:

Witness’s signature: /s/ Robert Moner
Witness’s name: Robert Moner

**Group A Obligors**

EXECUTED AS A DEED by
DANAOS CORPORATION, a corporation incorporated in the Marshall Islands, acting by a person who, in accordance with the laws of that jurisdiction is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact
EXECUTED AS A DEED
by DANAOS SHIPPING COMPANY
LIMITED
acting by
in the presence of:

Witness’s signature:
Witness’s name:

EXECUTED AS A DEED by
BOXCARRIER (NO.5) CORP., a corporation
incorporated in Liberia, acting by a person who,
in accordance with the laws of that jurisdiction,
is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
CELLCONTAINER (NO.1) CORP., a corporation
incorporated in Liberia, acting by a person who,
in accordance with the laws of that jurisdiction,
is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
CELLCONTAINER (NO.3) CORP., a corporation
incorporated in Liberia, acting by a person who,
in accordance with the laws of that jurisdiction,
is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED by
CELLCONTAINER (NO.4) CORP., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
CONTINENT MARINE INC., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
SPEEDCARRIER (NO.6) CORP., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
SPEEDCARRIER (NO.7) CORP., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED by
SPEEDCARRIER (NO.8) CORP., a corporation
incorporated in Liberia, acting by a person who,
in accordance with the laws of that jurisdiction,
is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
TEUCARRIER (NO.5) CORP., a corporation
incorporated in Liberia, acting by a person who,
in accordance with the laws of that jurisdiction,
is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
BAKER INTERNATIONAL S.A., a corporation
incorporated in Liberia, acting by a person who,
in accordance with the laws of that jurisdiction,
is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
BOUNTY INVESTMENT INC., a corporation
incorporated in Liberia, acting by a person who,
in accordance with the laws of that jurisdiction,
is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED by
LYDIA INC., a corporation
incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
SAPFO NAVIGATION INC., a corporation
incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
TULLY ENTERPRISES S.A., a corporation
incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
WESTWOOD MARINE S.A., a corporation
incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

[Signature Page to RBS Facility Amendment and Restatement Deed]

Group B Obligors

EXECUTED AS A DEED by
DANAOS CORPORATION, a corporation
incorporated in the Marshall Islands, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by
DANAOS SHIPPING COMPANY LIMITED
acting by
in the presence of:

Witness’s signature:

/s/ Georgios Macheras

/s/ Robert Moner

Georgios Macheras
Attorney-in-fact
Witness’s name: Robert Moner

EXECUTED AS A DEED by CELLCONTAINER (NO.6) CORP., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED by CONTAINERS LINES INC. , a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by MEGACARRIER (NO.3) CORP. , a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by OCEANPRIZE NAVIGATION LIMITED , a company incorporated in Cyprus, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that company:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

EXECUTED AS A DEED by RAMONA MARINE COMPANY LIMITED , a company incorporated in Cyprus, acting by a person who, in accordance with the laws of that jurisdiction is acting under the authority of that company:

/s/ Georgios Macheras
Signature

Georgios Macheras
Name
Attorney-in-fact

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED by BAYARD MARITIME LTD., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:  

/s/ Georgios Macheras  
Signature  
Georgios Macheras  
Name  
Attorney-in-fact

EXECUTED AS A DEED by BOUNTY INVESTMENT INC., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:  

/s/ Georgios Macheras  
Signature  
Georgios Macheras  
Name  
Attorney-in-fact

EXECUTED AS A DEED by LYDIA INC., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:  

/s/ Georgios Macheras  
Signature  
Georgios Macheras  
Name  
Attorney-in-fact

EXECUTED AS A DEED by SAPFO NAVIGATION INC., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:  

/s/ Georgios Macheras  
Signature  
Georgios Macheras  
Name  
Attorney-in-fact

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED by
WESTWOOD MARINE S.A., a corporation incorporated in Liberia, acting by a person who, in accordance with the laws of that jurisdiction, is acting under the authority of that corporation:

/s/ Georgios Macheras
Signature
Georgios Macheras
Name
Attorney-in-fact

THE LENDER:

EXECUTED AS A DEED on behalf of THE
ROYAL BANK OF SCOTLAND PLC in its capacity as Lender
acting by: Karen Drummond

/s/ Karen Drummond
Authorised Signatory
Karen Drummond
Printed Name
Witness

Address: 250 Bishopsgate London,
EC2M 4AA, GB
Occupation: Corporate Manager

Address: The Royal Bank of Scotland plc
250 Bishopsgate London,
EC2M 4AA, GB
Principal Contact Person: Christopher Patrick
Phone Number: +44 (0) 207 085 9451
Email address: 

[Signature Page to RBS Facility Amendment and Restatement Deed]
THE AGENT:
EXECUTED AS A DEED on behalf of THE
ROYAL BANK OF SCOTLAND PLC in its
capacity as Agent
acting by: Karen Drummond
being a person who, in accordance with the
laws of England & Wales, is acting under the
authority of the company, in the presence of:

/s/ Karen Drummond
Authorised Signatory

Thomas Reynolds
Printed Name
/s/ Thomas Reynolds
Witness

Address: 250 Bishopsgate London,
EC2M 4AA, GB
Occupation: Corporate Manager

Address: The Royal Bank of Scotland plc
250 Bishopsgate London,
EC2M 4AA, GB
Principal Contact Person: Christopher Patrick
Phone Number: +44 (0) 207 085 9451
Email address:

[Signature Page to RBS Facility Amendment and Restatement Deed]
THE SECURITY TRUSTEES:

EXECUTED AS A DEED on behalf of
NATWEST MARKETS PLC in its capacity as Group A Security Trustee
acting by: Stephen Hair
being a person who, in accordance with the laws of England & Wales, is acting under the authority of the company, in the presence of:

Thomas Reynolds
Printed Name
Address: 250 Bishopsgate London, EC2M 4AA, GB
Occupation: Corporate Manager

Address: NatWest Markets plc
250 Bishopsgate London,
EC2M 4AA, GB
Principal Contact Person: Christopher Patrick
Phone Number: +44 (0) 207 085 9451
Email address: 

/s/ Stephen Hair
Authorised Signatory
/s/ Thomas Reynolds
Witness

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED on behalf of
NATWEST MARKETS PLC in its capacity as Group B Security Trustee
acting by: Stephen Hair
being a person who, in accordance with the laws of England & Wales, is acting under the authority of the company, in the presence of:

/s/ Stephen Hair

Authorised Signatory

Thomas Reynolds
Printed Name
/s/ Thomas Reynolds
Witness

Address: 250 Bishopsgate London, EC2M 4AA, GB
Occupation: Corporate Manager

Address: NatWest Markets plc
250 Bishopsgate London, EC2M 4AA, GB
Principal Contact Person: Christopher Patrick
Phone Number: +44 (0) 207 085 9451
Email address:

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED on behalf of
NATWEST MARKETS PLC in its capacity
as Swap Bank
acting by: Stephen Hair

being a person who, in accordance with the
laws of England & Wales, is acting under the
authority of the company, in the presence of:

Thomas Reynolds
Printed Name
Address: 250 Bishopsgate London,
Occupation: Corporate Manager

Address: NatWest Markets plc
250 Bishopsgate London,
EC2M 4AA, GB
Principal Contact Person: Christopher Patrick
Phone Number: +44 (0) 207 085 9451
Email address:

[Signature Page to RBS Facility Amendment and Restatement Deed]

EXECUTED AS A DEED on behalf of THE
ROYAL BANK OF SCOTLAND PLC in its
capacity as Issuing Bank
acting by: Karen Drummond

being a person who, in accordance with the
laws of England & Wales, is acting under the
authority of the company, in the presence of:

Thomas Reynolds
Printed Name
Address: 250 Bishopsgate London,
Occupation: Corporate Manager

Address: The Royal Bank of Scotland plc
250 Bishopsgate London,
EC2M 4AA, GB
Principal Contact Person: Christopher Patrick
Phone Number: +44 (0) 207 085 9451
Email address:

[Signature Page to RBS Facility Amendment and Restatement Deed]
EXECUTED AS A DEED on behalf of THE ROYAL BANK OF SCOTLAND PLC in its capacity as 2011 Agent acting by: Karen Drummond being a person who, in accordance with the laws of England & Wales, is acting under the authority of the company, in the presence of: /s/ Karen Drummond Authorised Signatory

Thomas Reynolds /s/ Thomas Reynolds Witness

Address: 250 Bishopsgate London, EC2M 4AA, GB
Occupation: Corporate Manager

Address: The Royal Bank of Scotland plc 250 Bishopsgate London, EC2M 4AA, GB
Principal Contact Person: Christopher Patrick
Phone Number: +44 (0) 207 085 9451
Email address: [Signature Page to RBS Facility Amendment and Restatement Deed]
<table>
<thead>
<tr>
<th>Company</th>
<th>Country of Incorporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actaea Company Limited</td>
<td>Malta</td>
</tr>
<tr>
<td>Asteria Shipping Company Ltd.</td>
<td>Malta</td>
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<tr>
<td>Auckland Marine Inc.</td>
<td>Liberia</td>
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<td>Baker International S.A.</td>
<td>Liberia</td>
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<tr>
<td>Balticsea Marine Inc.</td>
<td>Liberia</td>
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<td>Bayard Maritime Ltd.</td>
<td>Liberia</td>
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<td>Bayview Shipping Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Blacksea Marine Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Boulevard Shiptrade S.A.</td>
<td>Marshall Islands</td>
</tr>
<tr>
<td>Bounty Investment Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Boxcarrier (No. 1) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Boxcarrier (No. 2) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Boxcarrier (No. 3) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Boxcarrier (No. 4) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Boxcarrier (No. 5) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Cellcontainer (No. 1) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Cellcontainer (No. 2) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Cellcontainer (No. 3) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Cellcontainer (No. 4) Corp.</td>
<td>Liberia</td>
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<tr>
<td>Cellcontainer (No. 5) Corp.</td>
<td>Liberia</td>
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<tr>
<td>Cellcontainer (No. 6) Corp.</td>
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<td>Cellcontainer (No. 7) Corp.</td>
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<td>Cellcontainer (No. 8) Corp.</td>
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<tr>
<td>Channelview Marine Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Containers Lines Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Containers Services Inc.</td>
<td>Liberia</td>
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<tr>
<td>Continent Marine Inc.</td>
<td>Liberia</td>
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<td>Erato Navigation Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Expresscarrier (No. 1) Corp.</td>
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</tr>
<tr>
<td>Expresscarrier (No. 2) Corp.</td>
<td>Liberia</td>
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<tr>
<td>Karlita Shipping Company Ltd.</td>
<td>Cyprus</td>
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<tr>
<td>Lito Navigation Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Lydia Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Medsea Marine Inc.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Megacarrier (No. 1) Corp.</td>
<td>Liberia</td>
</tr>
<tr>
<td>Megacarrier (No. 2) Corp.</td>
<td>Liberia</td>
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<td>Westwood Marine S.A.</td>
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1. **INTRODUCTION**

The reputation and integrity of Danaos Corporation, its subsidiaries and its affiliates (the “Company”) are valuable assets that are vital to the Company’s success. Each employee of the Company, including each of the Company’s officers, is responsible for conducting the Company’s business in a manner that demonstrates a commitment to the highest standards of integrity. No Code of Conduct can replace the thoughtful behavior of an ethical employee. The purpose of this Code is to focus employees on areas of ethical risk, provide guidance to help employees to recognize and deal with ethical issues, provide mechanisms for employees to report unethical conduct, and foster among employees a culture of honesty and accountability. Dishonest or unethical conduct or conduct that is illegal will constitute a violation of this Code, regardless of whether such conduct is specifically referenced herein.

The Company’s Board of Directors (the “Board”) is ultimately responsible for the implementation of the Code of Conduct. The Board will designate a compliance officer (the “Compliance Officer”) for the implementation and administration of the Code.

Questions regarding the application or interpretation of the Code of Conduct are inevitable. Employees should feel free to direct questions to the Compliance Officer. In addition, employees who observe, learn of, or, in good faith, suspect a violation of the Code, must immediately report the violation to the Compliance Officer, another member of the Company’s senior management, or to the Nominating and Corporate Governance Committee of the Board of Directors. Employees who report violations or suspected violations in good faith will not be subject to retaliation of any kind. Reported violations will be investigated and addressed promptly and will be treated confidentially to the extent possible. A violation of the Code of Conduct may result in disciplinary action, up to and including termination of employment.

Requests for a waiver of a provision of the Code of Conduct must be submitted in writing to the Compliance Officer for appropriate review, and an officer, director or appropriate Board committee will decide the outcome. For conduct, involving an executive officer or Board member, only the Board or the Nominating and Corporate Governance Committee of the Board, has the authority to waive a provision of the Code. The Audit Committee must review and approve any “related party” transaction as defined in Item 7.B of Form 20-F before it is consummated. In the event of an approved waiver involving the conduct of an officer or Board member, appropriate and prompt disclosure must be made to the Company’s shareholders as and to the extent required by listing standards or any other regulation.

Statements in the Code of Conduct to the effect that certain actions may be taken only with “Company approval” will be interpreted to mean that appropriate officers or Board directors must give prior written approval before the proposed action may be undertaken.

Employees will receive periodic training on the contents and importance of the Code of Conduct, related policies, and the manner in which violations must be reported and waivers must be requested. Each employee of the Company will be asked to certify on an annual basis that he/she is in full compliance with the Code of Conduct and related policy statements.

2. **VIOLATIONS OF LAW**

A variety of laws apply to the Company and its operations, and some carry criminal penalties. These laws include banking regulations, securities laws, and state laws relating to duties owed by corporate directors and officers, as well as data protection regulations. Examples of criminal violations of the law include: stealing; embezzling; misappropriating corporate or bank funds; using threats, physical force or other unauthorized means to collect money; making a payment for an expressed purpose on the Company’s behalf to an individual who intends to use it for a different purpose; making payments, whether corporate or personal, of cash or other items of value that are intended to influence the judgment or actions of political candidates, government officials or businesses in connection with any of the Company’s activities; The Company must and will report all suspected criminal violations to the appropriate authorities for possible prosecution, and will investigate, address and report, as appropriate, non-criminal violations.
3. CONFLICTS OF INTEREST

A conflict of interest can occur or appear to occur in a wide variety of situations. A conflict of interest occurs when an employee’s or an employee's immediate family’s personal interest interferes with, has the potential to interfere with, or appears to interfere with the interests or business of the Company. For example, a conflict of interest could arise that makes it difficult for an employee to perform corporate duties objectively and effectively where he/she is involved in a competing interest. Another such conflict may occur where an employee or a family member receives a gift, a unique advantage, or an improper personal benefit because of the employee’s position at the Company. Because a conflict of interest can occur in a variety of situations, you must keep the foregoing general principle in mind in evaluating both your conduct and that of others.

Employees are prohibited from trading in securities while in possession of material inside information. Among other things, trading while in possession of material inside information can subject the employee to criminal or civil penalties. The Company’s policy on insider trading is incorporated by reference into this Code.

OUTSIDE ACTIVITIES/EMPLOYMENT

Any outside activity, including employment, should not significantly encroach on the time and attention employees devote to their corporate duties, should not adversely affect the quality or quantity of their work, and should not make use of corporate equipment, facilities, or supplies, or imply (without the Company’s approval) the Company’s sponsorship or support. In addition, under no circumstances are employees permitted to compete with the Company, or take for themselves or their family members business opportunities that belong to the Company that are discovered or made available by virtue of their positions at the Company. Employees are prohibited from taking part in any outside employment without the Company’s prior approval.

CIVIC/POLITICAL ACTIVITIES

Employees are encouraged to participate in civic, charitable or political activities so long as such participation does not encroach on the time and attention they are expected to devote to their company-related duties. Such activities are to be conducted in a manner that does not involve the Company or its assets or facilities, and does not create an appearance of Company involvement or endorsement.

LOANS TO EMPLOYEES

The Company will not make loans or extend credit guarantees to or for the personal benefit of officers, except as permitted by law. Loans or guarantees may be extended to other employees only with Company approval.

4. FAIR DEALING

Each employee should deal fairly and in good faith with the Company’s customers, suppliers, regulators, business partners and others. No employee may take unfair advantage of anyone through manipulation, misrepresentation, inappropriate threats, fraud, abuse of confidential information, or other related conduct.

5. PROPER USE OF COMPANY ASSETS

Company assets, such as information, materials, supplies, time, intellectual property, facilities, software, and other assets owned or leased by the Company, or that are otherwise in the Company’s possession, may be used only for legitimate business purposes. The personal use of Company assets, without Company approval, is prohibited.
6. **DELEGATION OF AUTHORITY**

Each employee, and particularly each of the Company’s officers, must exercise due care to ensure that any delegation of authority is reasonable and appropriate in scope, and includes appropriate and continuous monitoring. No authority may be delegated to employees who the Company has reason to believe, through the exercise of reasonable due diligence, may have a propensity to engage in illegal activities.

7. **HANDLING CONFIDENTIAL INFORMATION**

Employees should observe the confidentiality of information that they acquire by virtue of their positions at the Company, including information concerning customers, suppliers, competitors, and other employees, except where disclosure is approved by the Company or otherwise legally mandated. Of special sensitivity are personal data and financial information, which should under all circumstances, be considered confidential except where the Company approves their disclosure, or when the information has been publicly disseminated.

8. **HANDLING PERSONAL DATA**

All employees should exercise care and discretion in handling personal data. Personal data is information that can directly or indirectly identify an individual, including employees, directors, shareholders, suppliers, customers and anyone else with whom the Company does business. Personal data is an important asset, and the way employees handle this data is critical to Company’s success, demonstrates respect, and promotes trust. In many cases, there are laws that govern how the Company collects, uses, and disposes of personal data. For these reasons, employees should follow Company’s policies and guidelines for handling personal data.

The Company respects the confidentiality of personal data, in both paper and electronic form. This information may not be used or disclosed improperly or used by someone who is not authorized to do so. The Company has a data privacy policy that sets expectations for how employees handle personal data. When collecting and using personal data, employees should keep several important principles in mind. Personal data should be processed only if there is a legitimate business reason to do so. Employees should collect and process only the personal data which is adequate, relevant and limited to what is necessary in the applicable context. Employees should keep all personal data secure by following Company’s policies and guidelines, and if they are in doubt about the procedures or if there is any data breach, they should contact (immediately in the case of a data breach) the Legal Department, the appointed employees for Data Protection or the Compliance Officer.

9. **HANDLING OF FINANCIAL INFORMATION**

U.S. federal law requires the Company to set forth guidelines pursuant to which the principal executive officer and senior financial employees perform their duties. Employees subject to this requirement include the principal executive officer, the principal financial officer, comptroller or principal accounting officer, and any person who performs a similar function. However, the Company expects that all employees who participate in the preparation of any part of the Company’s financial statements follow these guidelines:

- Act with honesty and integrity, avoiding violations of the code, including actual or apparent conflicts of interest with the Company in personal and professional relationships.
- Disclose to the Compliance Officer any material transaction or relationship that reasonably could be expected to give rise to any violations of the code, including actual or apparent conflicts of interest with the Company.
- Provide the Company’s other employees, consultants, and advisors with information that is accurate, complete, objective, relevant, timely, and understandable.
- Endeavor to ensure full, fair, timely, accurate, and understandable disclosure in the Company’s periodic reports.
• Comply with rules and regulations of federal, state, provincial, and local governments, and other appropriate private and public regulatory agencies.

• Act in good faith, responsibly, and with due care, competence and diligence, without misrepresenting material facts or allowing his/her independent judgment to be subordinated.

• Respect the confidentiality of information acquired in the course of his/her work except where you have Company approval or where disclosure is otherwise legally mandated. Confidential information acquired in the course of his/her work will not be used for personal advantage.

• Share and maintain skills important and relevant to the Company’s needs.

• Proactively promote ethical behavior among peers in his/her work environment.

• Achieve responsible use of and control over all assets and resources employed or entrusted to the employee.

• Record or participate in the recording of entries in the Company’s books and records that are accurate to the best of his/her knowledge.

The foregoing are set forth as guidelines for the principal executive officer and financial employees but, are, in fact, statements of mandatory conduct. It is also important to note that U.S. federal law requires that any waiver of, or amendment to the requirements in this Section VII will be subject to public disclosure.

(1) Acceptance of gifts in the nature of a memento, e.g. a conference gift or other inconsequential gift, valued at less than one hundred dollars ($100) is permitted.

This Code of Business Conduct and Ethics was adopted by the Board on September 18, 2006; last revised on September 14, 2018.
CODE OF CONDUCT & ETHICS
FOR CORPORATE OFFICERS & DIRECTORS

1. INTRODUCTION

Danaos Corporation (the “Company”) is committed to the highest standards of ethical business conduct. In addition to our code of conduct for all Company employees and officers, we provide this Code of Conduct (the “Code”) as a set of guidelines pursuant to which our principal executive officer and senior financial employees should perform their duties. The Code is intended to deter wrongdoing and to promote adherence to the items set forth below. Employees subject to the Code include the chief executive officer, the principal financial officer, the principal accounting officer, and any person who performs a materially similar function. The particular employees who are subject to the Code from time to time (the “Covered Employees”) will be designated by, and informed of such designation, by the Company.

In carrying out their duties and responsibilities, Covered Employees should endeavor to act with honesty and integrity, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships.

To promote full, fair, accurate, timely, and understandable disclosure in the periodic reports that the Company files with, or submits to, the Securities and Exchange Commission and in other public communications made by the Company, it is the responsibility of each Covered Employee promptly to bring to the attention of the Company’s Audit Committee:

(a) Any material information of which he/she may become aware of that affects the disclosures made by the Company in its public filings or otherwise.

(b) Assist the Audit Committee in fulfilling its responsibilities.

In addition, each Covered Employee shall promptly bring to the attention of the Audit Committee any information he/she may have concerning:

(a) 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 data.

(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.

In carrying out their duties and responsibilities, Covered Employees should endeavor to comply, and to cause the Company to comply, with applicable governmental laws, rules, and regulations. In addition, each Covered Employee shall promptly bring to the attention of the chairman of the Audit Committee any information he or she may have concerning evidence of a material violation of the securities or other laws, rules or regulations applicable to the Company and the operation of its business, by the Company or any agent thereof.

Each Covered Employee shall promptly report to the Compliance Officer any information he or she may have concerning evidence of a material violation of the Code.

Covered Employees are expected to adhere to the Code. The Board of Directors shall determine, or designate appropriate persons to determine, appropriate actions to be taken in the event of violations of this Code. Such actions shall be reasonably designed to deter wrongdoing and to promote accountability for adherence to this Code, and may include written notices to the individual involved that there has been a violation, censure, demotion, or re-assignment of the individual involved, suspension with or without pay or benefits and/or termination of the individual’s employment. In determining what action is appropriate in a particular case, the Board of Directors or such designee shall take into account all relevant information, including the nature and severity of the violation, whether the violation was a single occurrence or repeated occurrences, whether the violation appears to have been intentional or inadvertent, whether the individual
in question had been advised prior to the violation as to the proper course of action and whether or not the individual in question had committed other violations in the past.

2. **CODE OF ETHICS FOR DIRECTORS**

Danaos Corporation (the “Company”) is committed to the highest standards of ethical business conduct. In order to further its core purpose, the Board of Directors has adopted this Code of Ethics (the “Code”) as a set of guidelines for our directors, intended to promote ethical behavior and to provide guidance to help directors recognize and deal with ethical issues.

The business of the Company is managed under the direction of the Board of Directors and the various committees thereof. The basic responsibility of the directors is to exercise their business judgment in carrying out their responsibilities in a manner that they reasonably believe to be in the best interest of the Company and its stockholders. The Board of Directors is not expected to assume an active role in the day-to-day operational management of the Company.

3. **CONFLICTS OF INTEREST**

Directors should endeavor to avoid actual or apparent conflicts of interest with the Company in personal and professional relationships. A conflict of interest occurs when a director’s or a director’s immediate family’s personal interest interferes, has the potential to interfere, or appears to interfere materially with: (a) the interests or business of the Company; or (b) the ability of the director to carry out his or her duties and responsibilities. A director should disclose to the Board any transaction or relationship that the director reasonably expects could give rise to an actual or apparent conflict of interest with the Company.

4. **CORPORATE OPPORTUNITIES**

In carrying out their duties and responsibilities, directors should endeavor to advance the legitimate interests of the Company when the opportunity to do so arises. Directors should endeavor to avoid: (a) taking for themselves personally opportunities that are discovered in carrying out their duties and responsibilities; (b) using Company property or information, or their position as directors, for personal gain; and (c) competing with the Company, in each case, to the material detriment of the Company. Whether any of the foregoing actions is to the material detriment of the Company will be determined by the Board based on all relevant facts and circumstances, including in the case of (a), whether the Company has previously declined to pursue such proposed corporate opportunity for its own benefit.

5. **CONFIDENTIALITY**

Directors should observe the confidentiality of information that they acquire in carrying out their duties and responsibilities, including confidential information concerning customers entrusted to the Company, except where disclosure is approved by the Company or legally mandated. Confidential information includes, but is not limited to, all non-public information that might be of use to competitors, or harmful to the Company or its customers, if disclosed. Of special sensitivity are personal data and financial information, which should under all circumstances, be considered confidential except where the Company approves their disclosure or when the information has been publicly disseminated or when such personal data is required by law to be disclosed.

6. **FAIR DEALING**

In carrying out their duties and responsibilities and setting the general policies pursuant to which the Company operates, directors should endeavor to promote fair dealing by the Company and its employees and agents with customers, suppliers, competitors and employees.

7. **PROTECTION AND PROPER USE OF COMPANY ASSETS**

Directors should endeavor to promote the responsible use and control of the Company’s assets and resources by the Company and its employees. Company assets, such as information, materials, supplies, intellectual property, facilities, software, and other assets owned or leased by the Company, or that are
otherwise in the Company’s possession, should be used only for legitimate business purposes of the Company.

8. **COMPLIANCE WITH LAWS, RULES AND REGULATIONS**

In carrying out their duties and responsibilities, directors should endeavor to comply, and to cause the Company to comply, with applicable governmental laws, rules and regulations. In addition, each director should bring to the attention of the Company’s chief executive officer any information known to the director that he or she believes constitutes evidence of a material violation of the securities or other laws, rules or regulations applicable to the Company and the operation of its business, by the Company, any employee or another director.

9. **ENCOURAGING THE REPORTING OF ILLEGAL OR UNETHICAL BEHAVIOR**

Directors should endeavor to cause the Company to proactively promote ethical behavior and to encourage employees to report evidence of illegal or unethical behavior to appropriate Company personnel.

10. **INSIDER TRADING**

Directors should observe Company policies applicable to them with respect to the purchase and sale of capital stock of the Company by individuals who may be in possession of material inside information with respect to the Company from time to time.

11. **PERSONAL LOANS TO EXECUTIVE OFFICERS OR DIRECTORS**

U.S. securities laws prohibit the Company from, directly or indirectly (including through subsidiaries), (a) extending or arranging for the extension of personal loans to its directors and executives officers and (b) renewing or materially modifying existing loans to such persons. Directors shall not seek or facilitate personal loans from the Company in contravention of the foregoing.

Directors are expected to adhere to this Code. It is the responsibility of each director to become familiar with and understand this Code, seek further explanation and advise concerning the interpretation and requirements of this Code, as well as any situation, which appears to be in conflict with it. The Board of Directors shall determine appropriate actions to be taken in the event of violations of this Code.

Any waiver of or amendment to, the requirements of this Code may only be authorized by the Board of Directors, and will be subject to public disclosure to the extent required by law or the listing standards of the New York Stock Exchange.

*This Code of Conduct & Ethics for Corporate Officers & Directors was adopted by the Board on September 18, 2006; last revised on September 14, 2018.*
CERTIFICATIONS

I, Dr. John Coustas, certify that:

1. I have reviewed this annual report on Form 20-F of Danaos Corporation;

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 officers 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;

5. The Company’s other certifying officers 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 function):

   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 5, 2019

/s/ Dr. John Coustas
Dr. John Coustas
President and Chief Executive Officer
I, Evangelos Chatzis, certify that:

1. I have reviewed this annual report on Form 20-F of Danaos Corporation;

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 officers 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 officers 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 function):
   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 5, 2019

/s/ Evangelos Chatzis
Evangelos Chatzis
Chief Financial Officer
CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 20-F of Danaos Corporation (the “Company”) for the fiscal year ended December 31, 2018 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), the undersigned officer of the Company hereby certifies to the undersigned’s knowledge, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 5, 2019

/s/ Dr. John Coustas
Dr. John Coustas
President and Chief Executive Officer
CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 20-F of Danaos Corporation (the “Company”) for the fiscal year ended December 31, 2018 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), the undersigned officer of the Company hereby certifies to the undersigned’s knowledge, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 5, 2019

/s/ Evangelos Chatzis
Evangelos Chatzis
Chief Financial Officer
CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form F-3 (No. 333-169101, No. 333-147099 and No. 333-174494) and Form S-8 (No. 333-138449) of Danaos Corporation of our report dated March 5, 2019 relating to the consolidated financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 20-F. We also consent to the reference to us under the heading “Selected Consolidated Financial Data” in this Form 20-F.

/s/ PricewaterhouseCoopers S.A.

Athens, Greece
March 5, 2019