

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

FORM 10-K

(Mark One)

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 _____

Commission file number: 001-35784

NORWEGIAN CRUISE LINE HOLDINGS LTD.

(Exact name of registrant as specified in its charter)

Bermuda
(State or other jurisdiction of
incorporation or organization)

98-0691007
(I.R.S. Employer
Identification No.)

7665 Corporate Center Drive, Miami, Florida 33126
(Address of principal executive offices) (zip code)

(305) 436-4000
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

| Title of each class | Name of each exchange on which registered |
|---|---|
| Ordinary shares, par value \$.001 per share | New York Stock Exchange |

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

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

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

| | | | |
|-------------------------|-------------------------------------|---------------------------|--------------------------|
| Large accelerated filer | <input checked="" type="checkbox"/> | Accelerated filer | <input type="checkbox"/> |
| Non-accelerated filer | <input type="checkbox"/> | Smaller reporting company | <input type="checkbox"/> |
| | | Emerging growth company | <input type="checkbox"/> |

If an emerging growth company, 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 whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes No

As of June 29, 2018, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of voting stock held by non-affiliates of the registrant based upon the closing sales price for the registrant's ordinary shares as reported on The New York Stock Exchange was \$9.7 billion.

There were 217,727,855 ordinary shares outstanding as of February 15, 2019.

Documents Incorporated by Reference

Portions of the Proxy Statement for the registrant's 2019 Annual General Meeting of Shareholders, to be filed with the Securities and Exchange Commission not later than 120 days after December 31, 2018, are incorporated by reference in Part III herein.



NORWEGIAN CRUISE LINE HOLDINGS LTD.

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Terms Used in this Annual Report

Unless otherwise indicated or the context otherwise requires, references in this annual report to (i) the “Company,” “we,” “our” and “us” refer to NCLH (as defined below) and its subsidiaries (including Prestige (as defined below), except for periods prior to the consummation of the Acquisition of Prestige (as defined below)), (ii) “NCLC” refers to NCL Corporation Ltd., (iii) “NCLH” refers to Norwegian Cruise Line Holdings Ltd., (iv) “Norwegian Cruise Line” or “Norwegian” refers to the Norwegian Cruise Line brand and its predecessors, (v) “Prestige” refers to Prestige Cruises International S. de R.L. (formerly Prestige Cruises International, Inc.), together with its consolidated subsidiaries, including Prestige Cruise Holdings S. de R.L. (formerly Prestige Cruise Holdings, Inc.), Prestige’s direct wholly-owned subsidiary, which in turn is the parent of Oceania Cruises S. de R.L. (formerly Oceania Cruises, Inc.) (“Oceania Cruises”) and Seven Seas Cruises S. de R.L. (“Regent”) (Oceania Cruises also refers to the brand by the same name and Regent also refers to the brand Regent Seven Seas Cruises), (vi) “Apollo” refers to Apollo Global Management, LLC, its subsidiaries and the affiliated funds it manages, (vii) “TPG” refers to certain affiliates of TPG Global, LLC, (viii) “Genting HK” refers to Genting Hong Kong Limited and/or its affiliates, and (ix) “Sponsors” refers to Apollo, TPG and/or Genting HK.

References to the “U.S.” are to the United States of America, and “dollars” or “\$” are to U.S. dollars, the “U.K.” are to the United Kingdom and “euros” or “€” are to the official currency of the Eurozone.

This annual report includes certain non-GAAP financial measures, such as Net Revenue, Net Yield, Net Cruise Cost, Adjusted Net Revenue, Adjusted Net Yield, Adjusted Net Cruise Cost Excluding Fuel, Adjusted EBITDA, Adjusted Net Income and Adjusted EPS. Definitions of these non-GAAP financial measures are included below. For further information about our non-GAAP financial measures including detailed adjustments made in calculating our non-GAAP financial measures and a reconciliation to the most directly comparable GAAP financial measure, we refer you to “Item 7—Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

Unless otherwise indicated in this annual report, the following terms have the meanings set forth below:

- *Acquisition of Prestige.* In November 2014, we acquired Prestige in a cash and stock transaction for total consideration of \$3.025 billion, including the assumption of debt.
- *Adjusted EBITDA.* EBITDA adjusted for other income (expense), net and other supplemental adjustments.
- *Adjusted EPS.* Adjusted Net Income divided by the number of diluted weighted-average shares outstanding.
- *Adjusted Net Cruise Cost Excluding Fuel.* Net Cruise Cost Excluding Fuel adjusted for supplemental adjustments.
- *Adjusted Net Income.* Net income adjusted for supplemental adjustments.
- *Adjusted Net Revenue.* Net Revenue adjusted for supplemental adjustments.
- *Adjusted Net Yield.* Net Yield adjusted for supplemental adjustments.
- *Allura Class Ships.* Oceania Cruises’ two ships on order.
- *Bareboat Charter.* The hire of a ship for a specified period of time whereby no crew or provisions are provided by the Company.
- *Berths.* Double occupancy capacity per cabin (single occupancy per studio cabin) even though many cabins can accommodate three or more passengers.
- *Breakaway Class Ships.* Norwegian Breakaway and Norwegian Getaway.
- *Breakaway Plus Class Ships.* Norwegian Escape, Norwegian Joy, Norwegian Bliss and Norwegian Encore.
- *Business Enhancement Capital Expenditures.* Capital expenditures other than those related to new ship construction and ROI Capital Expenditures.
- *Capacity Days.* Available Berths multiplied by the number of cruise days for the period.
- *Constant Currency.* A calculation whereby foreign currency-denominated revenue and expenses in a period are converted at the U.S. dollar exchange rate of a comparable period to eliminate the effects of foreign exchange fluctuations.
- *Dry-dock.* A process whereby a ship is positioned in a large basin where all of the fresh/sea water is pumped out in order to carry out cleaning and repairs of those parts of a ship which are below the water line.

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- *EBITDA*. Earnings before interest, taxes, and depreciation and amortization.
- *EPS*. Earnings per share.
- *Explorer Class Ships*. Regent's Seven Seas Explorer, Seven Seas Splendor, and an additional ship on order.
- *GAAP*. Generally accepted accounting principles in the U.S.
- *Gross Cruise Cost*. The sum of total cruise operating expense and marketing, general and administrative expense.
- *Gross Tons*. A unit of enclosed passenger space on a cruise ship, such that one gross ton equals 100 cubic feet or 2.831 cubic meters.
- *Gross Yield*. Total revenue per Capacity Day.
- *IMO*. International Maritime Organization, a United Nations agency that sets international standards for shipping.
- *IPO*. The initial public offering of 27,058,824 ordinary shares, par value \$.001 per share, of NCLH, which was consummated on January 24, 2013.
- *Net Cruise Cost*. Gross Cruise Cost less commissions, transportation and other expense and onboard and other expense.
- *Net Cruise Cost Excluding Fuel*. Net Cruise Cost less fuel expense.
- *Net Revenue*. Total revenue less commissions, transportation and other expense and onboard and other expense.
- *Net Yield*. Net Revenue per Capacity Day.
- *O-Class Ships*. Oceania Cruises' Marina and Riviera.
- *Occupancy Percentage*. The ratio of Passenger Cruise Days to Capacity Days. A percentage greater than 100% indicates that three or more passengers occupied some cabins.
- *Passenger Cruise Days*. The number of passengers carried for the period, multiplied by the number of days in their respective cruises.
- *Project Leonardo*. The next generation of ships for our Norwegian brand.
- *R-Class Ships*. Oceania Cruises' Regatta, Insignia, Nautica, and Sirena.
- *Revolving Loan Facility*. \$875.0 million senior secured revolving credit facility.
- *ROI Capital Expenditures*. Comprised of project-based capital expenditures which have a quantified return on investment.
- *SEC*. U.S. Securities and Exchange Commission.
- *Secondary Equity Offering(s)*. Secondary public offering(s) of NCLH's ordinary shares in December 2018, March 2018, November 2017, August 2017, December 2015, August 2015, May 2015, March 2015, March 2014, December 2013 and August 2013.
- *Shipboard Retirement Plan*. An unfunded defined benefit pension plan for certain crew members which computes benefits based on years of service, subject to certain requirements.

Cautionary Statement Concerning Forward-Looking Statements

Certain statements in this annual report constitute forward-looking statements within the meaning of the U.S. federal securities laws intended to qualify for the safe harbor from liability established by the Private Securities Litigation Reform Act of 1995. All statements other than statements of historical facts contained, or incorporated by reference, in this annual report, including, without limitation, those regarding our business strategy, financial position, results of operations, plans, prospects and objectives of management for future operations (including expected fleet additions, development plans, objectives relating to our activities and expected performance in new markets), are forward-looking statements. Many, but not all, of these statements can be found by looking for words like “expect,” “anticipate,” “goal,” “project,” “plan,” “believe,” “seek,” “will,” “may,” “forecast,” “estimate,” “intend,” “future” and similar words. Forward-looking statements do not guarantee future performance and may involve risks, uncertainties and other factors which could cause our actual results, performance or achievements to differ materially from the future results, performance or achievements expressed or implied in those forward-looking statements. Examples of these risks, uncertainties and other factors include, but are not limited to the impact of:

- adverse events impacting the security of travel, such as terrorist acts, armed conflict and threats thereof, acts of piracy, and other international events;
- adverse incidents involving cruise ships;
- adverse general economic and related factors, such as fluctuating or increasing levels of unemployment, underemployment and the volatility of fuel prices, declines in the securities and real estate markets, and perceptions of these conditions that decrease the level of disposable income of consumers or consumer confidence;
- the spread of epidemics and viral outbreaks;
- breaches in data security or other disturbances to our information technology and other networks;
- the risks and increased costs associated with operating internationally;
- changes in fuel prices and/or other cruise operating costs;
- fluctuations in foreign currency exchange rates;
- our expansion into and investments in new markets;
- overcapacity in key markets or globally;
- the unavailability of attractive port destinations;
- our inability to obtain adequate insurance coverage;
- evolving requirements and regulations regarding data privacy and protection and any actual or perceived compliance failures by us;
- our indebtedness and restrictions in the agreements governing our indebtedness that limit our flexibility in operating our business, including the significant portion of assets that are collateral under these agreements;
- volatility and disruptions in the global credit and financial markets, which may adversely affect our ability to borrow and could increase our counterparty credit risks, including those under our credit facilities, derivatives, contingent obligations, insurance contracts and new ship progress payment guarantees;
- our inability to recruit or retain qualified personnel or the loss of key personnel;
- delays in our shipbuilding program and ship repairs, maintenance and refurbishments;
- our reliance on third parties to provide hotel management services to certain ships and certain other services;
- future increases in the price of, or major changes or reduction in, commercial airline services;

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- amendments to our collective bargaining agreements for crew members and other employee relation issues;
- pending or threatened litigation, investigations and enforcement actions;
- our ability to keep pace with developments in technology;
- seasonal variations in passenger fare rates and occupancy levels at different times of the year;
- changes involving the tax and environmental regulatory regimes in which we operate; and
- other factors set forth under “Risk Factors.”

The above examples are not exhaustive and new risks emerge from time to time. Such forward-looking statements are based on our current beliefs, assumptions, expectations, estimates and projections regarding our present and future business strategies and the environment in which we expect to operate in the future. These forward-looking statements speak only as of the date made. We expressly disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement to reflect any change in our expectations with regard thereto or any change of events, conditions or circumstances on which any such statement was based, except as required by law.

PART I

Item 1. Business

History and Development of the Company

Norwegian commenced operations from Miami in 1966, launching the modern cruise industry by offering weekly departures from Miami to the Caribbean. In February 2011, NCLH, a Bermuda limited company, was formed with the issuance to the Sponsors of, in aggregate, 10,000 ordinary shares, with a par value of \$.001 per share. In January 2013, NCLH completed its IPO and the ordinary shares of NCLC, which were owned entirely by the Sponsors, were exchanged for the ordinary shares of NCLH, and NCLH became the owner of 100% of the ordinary shares and parent company of NCLC (the "Corporate Reorganization"). At the same time, NCLH contributed \$460.0 million to NCLC and the historical financial statements of NCLC became those of NCLH. The Corporate Reorganization was affected solely for the purpose of reorganizing our corporate structure.

In November 2014, we completed the Acquisition of Prestige. We believe that the combination of Norwegian and Prestige creates a cruise operating company with a rich product portfolio and strong market presence.

The Sponsors have completed numerous Secondary Equity Offerings of NCLH's ordinary shares. As of December 2018, the Sponsors no longer own any NCLH ordinary shares.

Additional Information

NCLH is a Bermuda exempted company formed as a holding company in 2011, with predecessors dating from 1966. Our registered offices are located at Walkers Corporate (Bermuda) Limited, Park Place, 3rd Floor, 55 Par-la-Ville Road, Hamilton HM 11, Bermuda. Our principal executive offices are located at 7665 Corporate Center Drive, Miami, Florida 33126. Our telephone number is (305) 436-4000. Our website is located at www.nclhltinvestor.com. The information that appears on our websites is not part of, and is not incorporated by reference into this annual report or any other report or document filed with or furnished to the SEC. Daniel S. Farkas, the Company's Executive Vice President, General Counsel and Assistant Secretary, is our agent for service of process at our principal executive offices.

Our Company

Business Overview

We are a leading global cruise company which operates the Norwegian Cruise Line, Oceania Cruises and Regent Seven Seas Cruises brands. As of December 31, 2018, we had 26 ships with approximately 54,400 Berths. We plan to introduce 11 additional ships through 2027, subject to certain conditions.

Norwegian Encore is on order for delivery in the fall of 2019. We have two Explorer Class Ships, Seven Seas Splendor and one additional ship, on order for delivery in the winter of 2020 and fall of 2023, respectively. We have two Allura Class Ships on order for delivery in the winter of 2022 and spring of 2025. Project Leonardo will introduce an additional six ships with expected delivery dates from 2022 through 2027. These additions to our fleet will increase our total Berths to approximately 82,000.

Our brands offer itineraries to worldwide destinations including Europe, Asia, Australia, New Zealand, South America, Africa, Canada, Bermuda, Caribbean, Alaska and Hawaii. Norwegian's U.S.-flagged ship, Pride of America, provides the industry's only entirely inter-island itinerary in Hawaii.

All of our brands offer an assortment of features, amenities and activities, including a variety of accommodations, multiple dining venues, bars and lounges, spa, casino and retail shopping areas and numerous entertainment choices. All brands also offer a selection of shore excursions at each port of call as well as hotel packages for stays before or after a voyage.

Our Fleet

The following table presents information about our ships and their primary areas of operation based on current and future itineraries, which are subject to change.

| Ship (1) | Year Built | Primary Areas of Operation |
|-------------------------|-------------------|---|
| Norwegian | | |
| Norwegian Encore (2) | 2019 | Bahamas, Bermuda, Canada & New England, Caribbean, Central America |
| Norwegian Bliss | 2018 | Alaska, Bahamas, Caribbean, Central America, Mexico-Pacific, U.S. East Coast, U.S. West Coast |
| Norwegian Joy | 2017 | Alaska, Asia, Bahamas, Caribbean, Central America, Mexico-Pacific, U.S. West Coast |
| Norwegian Escape | 2015 | Bahamas, Bermuda, Canada & New England, Caribbean, Europe, U.S. West Coast |
| Norwegian Getaway | 2014 | Bahamas, Bermuda, Caribbean, Central America, Europe, U.S. East Coast |
| Norwegian Breakaway | 2013 | Bahamas, Bermuda, Canada & New England, Caribbean, Europe, U.S. East Coast |
| Norwegian Epic | 2010 | Bahamas, Caribbean, Europe, U.S. East Coast |
| Norwegian Gem | 2007 | Bahamas, Bermuda, Canada & New England, Caribbean, Central America, Mexico-Pacific, U.S. East Coast, U.S. West Coast |
| Norwegian Jade | 2006 | Asia, Bahamas, Bermuda, Caribbean, Central America, Europe |
| Norwegian Pearl | 2006 | Alaska, Bahamas, Bermuda, Canada & New England, Caribbean, Central America, Europe, Mexico-Pacific, U.S. West Coast |
| Norwegian Jewel | 2005 | Alaska, Asia, Australia & New Zealand, Hawaii, South Pacific, U.S. West Coast |
| Pride of America | 2005 | Hawaii |
| Norwegian Dawn | 2002 | Bahamas, Bermuda, Canada & New England, Caribbean, Europe, U.S. East Coast |
| Norwegian Star | 2001 | Bahamas, Bermuda, Central America, Europe, Mexico-Pacific, South America, U.S. West Coast |
| Norwegian Sun | 2001 | Bahamas, Caribbean, Central America, Cuba, South America |
| Norwegian Sky | 1999 | Bahamas, Cuba |
| Norwegian Spirit | 1998 | Africa, Asia, Europe |
| Oceania Cruises | | |
| Oceania Riviera | 2012 | Bahamas, Bermuda, Canada & New England, Caribbean, Central America, Cuba, Europe |
| Oceania Marina | 2011 | Bermuda, Canada & New England, Europe, Hawaii, Mexico-Pacific, South America, South Pacific |
| Oceania Nautica | 2000 | Africa, Asia, Europe |
| Oceania Sirena | 1999 | Bahamas, Bermuda, Canada & New England, Caribbean, Central America, Cuba, Europe, South America, U.S. West Coast |
| Oceania Regatta | 1998 | Alaska, Asia, Australia & New Zealand, Central America, Cuba, Hawaii, Mexico-Pacific, U.S. West Coast |
| Oceania Insighnia | 1998 | Africa, Alaska, Asia, Australia & New Zealand, Bahamas, Bermuda, Canada & New England, Caribbean, Central America, Cuba, Europe, Hawaii, Mexico-Pacific, South America, South Pacific, U.S. East Coast, U.S. West Coast |
| Regent | | |
| Seven Seas Splendor (3) | 2020 | Caribbean, Cuba, Europe |
| Seven Seas Explorer | 2016 | Africa, Alaska, Asia, Australia & New Zealand, Caribbean, Cuba, Europe, South America |
| Seven Seas Voyager | 2003 | Africa, Australia & New Zealand, Caribbean, Cuba, Europe, South America |
| Seven Seas Mariner | 2001 | Africa, Alaska, Asia, Australia & New Zealand, Caribbean, Cuba, Europe, South America, South Pacific, U.S. West Coast |
| Seven Seas Navigator | 1999 | Africa, Asia, Australia & New Zealand, Bermuda, Caribbean, Cuba, Europe, South America, South Pacific, U.S. West Coast |

(1) The table above does not include an additional 9 ships on order.

(2) Norwegian Encore is scheduled for delivery in the fall of 2019.

(3) Seven Seas Splendor is scheduled for delivery in the winter of 2020.

Our Competitive Strengths

We believe that the following business strengths will enable us to execute our strategy:

Rich Stateroom Mix

The Norwegian, Oceania Cruises and Regent fleets offer an attractive mix of staterooms, suites and villas. Norwegian's accommodations include the groundbreaking Studio staterooms designed for solo travelers centered around the Studio Lounge, a private lounge area solely for Studio guests, as well as ocean views, balconies, and connecting accommodations to meet the needs of all types of cruisers. Norwegian's suites range from two-bedroom family suites to penthouses and owner suites, as well as three bedroom Garden Villas measuring up to 6,694 square feet. In addition, nine of Norwegian's ships offer The Haven, a key-card access enclave on the upper decks with luxurious suite accommodations, exclusive amenities, and 24/7 butler and concierge service. The Haven suites surround a private courtyard with pool, hot tubs, sundeck, fitness center and steam rooms. Onboard Norwegian Epic, the Breakaway Class Ships and the Breakaway Plus Class Ships, The Haven also includes a private lounge and fine dining restaurant.

The spacious and elegant accommodations on Oceania Cruises' six award-winning ships, the 684-Berth Regatta, Insignia, Sirena and Nautica, and the 1,250-Berth Marina and Riviera, range from 143-square foot inside staterooms to opulent 2,030-square foot owner suites. The Regent fleet is comprised of four ships — Seven Seas Voyager, Seven Seas Mariner and Seven Seas Explorer feature all-suite, all-balcony accommodations and a majority of the accommodations on Seven Seas Navigator include balconies.

High-Quality Service

The Norwegian, Oceania Cruises and Regent brands all offer a high level of onboard service. We collaborate amongst the brands to provide an enhanced guest experience across all brands. Norwegian offers guests the freedom and flexibility to design their ideal cruise vacation on their schedule with no set dining times, a variety of entertainment options and no formal dress codes. Oceania Cruises and Regent are known for their quality of service, including some of the highest crew-to-guest ratios in the industry and a staff trained to deliver personalized and attentive service.

Diverse Selection of Premium Itineraries

We have expanded our already broad range of premium itineraries. Our fleet has a worldwide deployment, offering a few days to 180-day itineraries, including destinations in Scandinavia, Russia, the Mediterranean, the Greek Isles, Alaska, Canada and New England, Asia, Tahiti and the South Pacific, Australia and New Zealand, Africa, India, South America, the Panama Canal, and the Caribbean. We introduced a new destination, Harvest Caye, in November 2016. This destination in Southern Belize features Belize's only cruise ship pier, expansive seven-acre white sand beach, 15,000 sq. ft. pool with swim up bar, multiple dining options and a nature center with wildlife experiences plus adventure tours.

Strong Cash Flow

We believe our business model will generate a significant amount of cash flow with high revenue visibility. All three of our brands afford the ability to pre-sell tickets, receive customer deposits and sell onboard activities in advance with long lead times ahead of sailing. In terms of newbuild capital expenditures, the cash flow impact is mitigated as we have obtained export credit financing for the ships which is expected to fund approximately 80% of the contract price of each ship expected to be delivered through 2027, subject to certain conditions.

Highly Experienced Management Team

Our senior management team is comprised of executives with extensive experience in the cruise, travel, leisure and hospitality-related industries. See "Executive Officers" below.

Our Business Strategies

Driving Demand

We seek to attract vacationers to our products and services in several ways, including:

- delivering an enhanced, value-added vacation experience to our guests relative to other vacation alternatives;
- creating diverse and unique itineraries in new and existing markets for our current and upcoming ships;
- utilizing effective marketing and sales initiatives with a market-to-fill strategy; and
- expanding internationally.

Our value-added-vacation product, itinerary diversification, marketing and sales initiatives and international expansion strategies contribute to driving increased revenues for our fleet. Our market-to-fill strategy maintains pricing integrity by offering both the best price early in the booking cycle and value-added promotions when necessary to mitigate the need to compromise on price.

Diversification of deployment is achieved by our destination management team which reviews deployments across the fleet, either repositioning ships to new destinations or fine-tuning itineraries, with the goal of creating product scarcity which, in turn, leads to higher pricing.

We also seek to increase demand through effective marketing campaigns across various channels such as branding campaigns on nationwide television, robust and varied digital campaigns or targeted mail campaigns aimed at supporting seasonal deployments. Our sales forces are also drivers of demand, particularly in terms of educating travel agents on our products and services in order to better sell to potential vacationers.

Lastly, our international expansion efforts are aimed at increasing brand awareness across the globe which allows us to diversify our guest sourcing. We maintain numerous sales offices which support sales and marketing efforts in various markets outside of North America including the United Kingdom, Europe, China, Australia, New Zealand, Brazil, India, Japan and Singapore.

Leveraging Scale to Suppress Costs

We continue to leverage the combined purchasing power of our three brands to reduce costs throughout the organization. This initiative is bolstered by our Supply Chain and Logistics Management function which supports our three brands as well as our corporate and international offices.

Enhanced Product Offerings and Guest Experience

Norwegian's ships offer up to 28 dining options, a diverse range of accommodations and what we believe is the widest array of entertainment at sea. Oceania Cruises' award-winning onboard dining, with multiple open seating dining venues, is a central highlight of its cruise experience. Regent's all-inclusive offering includes air transportation, shore excursions, pre-cruise hotel stays (for concierge level and above), specialty restaurants, premium spirits and fine wines, gratuities, wi-fi and other amenities.

Maximize Revenue

We focus on growing revenue through various initiatives aimed at increasing ticket prices and Occupancy Percentages as well as onboard spending to drive higher overall revenue. Our specific initiatives include:

Strategic Relationships. We have strategic relationships with travel agencies and tour operators who commit to purchasing a certain level of inventory with long lead times.

Promotional Strategy. With our Norwegian brand, we utilize a more inclusive product offering on certain sailings and in certain cabin selections which provides guests a choice of multiple amenities.

Casino Player Strategy. We have non-exclusive arrangements with over 100 casino partners worldwide whereby loyal gaming guests are offered cruise reward certificates redeemable for cruises. Through property sponsored events and joint marketing programs, we have the opportunity to market cruises to these guests. These arrangements with casino partners have the dual benefit of filling open inventory and reaching guests expected to generate above average onboard revenue through the casino and other onboard spending.

Optimization of Deployment. We manage our ships' deployment to promote better breadth of itineraries and to offer sailings further in advance.

Ship Refurbishments. We have invested in revitalizations to our ships which provides a product which we believe delivers higher guest satisfaction and, in turn, higher pricing.

Measured Fleet Expansion

We have Norwegian Encore on order for delivery in the fall of 2019. This ship will be the largest in our fleet, reaching approximately 168,000 Gross Tons. With approximately 4,000 Berths, she will be similar in design to Norwegian Bliss, which was delivered in April 2018, and will include additional innovative features. Project Leonardo consists of six ships on order for the Norwegian brand with expected delivery dates through 2027, subject to certain conditions. Each of the six Project Leonardo ships are approximately 140,000 Gross Tons and 3,300 Berths. For the Regent brand, we have orders for two Explorer Class Ships, Seven Seas Splendor and an additional ship, to be delivered in 2020 and 2023, respectively. Each of the Explorer Class Ships will be approximately 55,000 Gross Tons and 750 Berths. For the Oceania Cruises brand, we have orders for two Allura Class Ships to be delivered in 2022 and 2025. Each of the Allura Class Ships will be approximately 67,000 Gross Tons and 1,200 Berths.

We believe these new ships will allow us to continue expanding the reach of our brands, positioning us for accelerated growth and providing an optimized return on invested capital. We have obtained export credit financing which is expected to fund approximately 80% of the contract price of each ship expected to be delivered through 2027, subject to certain conditions.

Expand and Strengthen Our Product Distribution Channels

As part of our growth strategy, we continually look for ways to deepen and expand our sales channels. We continue to invest in our brands by enhancing websites and passenger services departments through which travel agents and guests have the ability to book cruise vacations.

We focus on distribution through our three primary channels: "Retail/Travel Agent," "International," and "Meetings, Incentives and Charters."

Retail/Travel Agent. The retail/travel agent channel represents the majority of our ticket sales. Our travel partner base is comprised of an extensive network of approximately 23,000 independent travel agencies including brick and mortar, internet-based and home-based operators located in North America, South America, Europe, Africa, Asia and Australia. We have made substantial investments with improvements in booking technologies, transparent pricing strategies, effective marketing tools, improved communication and cooperative marketing initiatives. We have expanded sales teams who work closely with our travel agency partners on maximizing their marketing and sales effectiveness across all three of our brands. Our focused account management is designed to create solutions catered to the individual retailer through product and sales training. This education creates a deeper understanding of all our offerings.

International. The international channel represents an underpenetrated channel of distribution and one that we have increased focus on since 2015. Focus on this market accomplishes the dual objective of allowing us to grow our yields and capacity faster than if we only focused on the North American market while also allowing us to diversify our risk. As part of this focus, we have undertaken a three-pronged strategy of:

- expanding the management, sales and marketing teams that oversee this area,
- broadening our travel agency distribution to multiple partners in each region, and
- expanding the geographic reach of our product by deploying our ships in areas that appeal to international guests and by personalizing our product for their tastes.

As part of this strategy, we have opened offices in Sydney, Shanghai, Beijing, Hong Kong, Mumbai, Tokyo, Auckland and Singapore and expanded or renovated our existing offices in Southampton, Sao Paulo and Wiesbaden.

For information regarding risks associated with our international operations, see Part I Item 1A-Risk Factors in this annual report on Form 10-K, including the risk factor titled "Conducting business internationally may result in increased costs and risks."

Meetings, Incentives and Charters. This channel focuses on full ship charters as well as corporate meetings and incentive travel. These sales often have very long lead times and can fill a significant portion of the ship's capacity, or even an entire sailing, in one transaction. The acquisition of Sixthman in 2012, a company specializing in developing and delivering music-oriented charters, opened up a new market for travel partners enabling travel partners to sell high-quality music experiences at sea to guests.

Itineraries

We offer cruise itineraries ranging from a few days to 180-days calling on worldwide locations, including destinations in Scandinavia, Russia, the Mediterranean, the Greek Isles, Alaska, Canada and New England, Asia, Tahiti and the South Pacific, Australia and New Zealand, Africa, India, South America, the Panama Canal and the Caribbean, including the Republic of Cuba. We have developed, and are continuing to develop, innovative itineraries to position our ships in new and niche markets as well as in the mainstream markets throughout the world.

We believe that these destination-focused itineraries, complemented by a comprehensive shore excursion program (which is included in the all-inclusive fare for cruises on the Regent ships), differentiate our brands from many of our competitors. We call on varied destinations, many of which include overnight stays in port, allowing guests to have more in-depth experiences than would otherwise be possible in only a single day port call.

For some of our longer itineraries, we strive to maximize profitability by selling segments of the longer itineraries as shorter cruises (i.e., which last 7 to 20 days) in order to capture more time-constrained customers. We believe the deployment flexibility created by the use of longer itineraries translates off-peak seasons into more profitable portions of longer cruises.

Passenger Ticket Revenue

We offer our guests a wide variety of cruise fare options when booking a cruise. Our cruise ticket prices generally include cruise fare and a wide variety of onboard activities and amenities, as well as meals and entertainment. In some instances, cruise ticket prices include round-trip airfare to and from the port of embarkation, complimentary beverages, unlimited shore excursions, free internet, pre-cruise hotel packages, and on some of the exotic itineraries pre or post land packages. Prices vary depending on the particular cruise itinerary, stateroom category selected and the time of year that the voyage takes place.

Onboard and Other Revenue

All three brands generate onboard and other revenue for additional products and services which are not included in the cruise fare, including casino operations, certain food and beverage, gift shop purchases, spa services, photo services and other similar items. Food and beverage, casino operations and shore excursions are generally managed directly by us while retail shops, spa services, art auctions and internet services may be managed through contracts with third-party concessionaires. These contracts generally entitle us to a fixed percentage for the gross sales derived from these concessions. Norwegian's ticket prices typically include cruise accommodations, meals in certain dining facilities and many onboard activities such as entertainment, pool-side activities, some internet services and various sports programs. Norwegian generates additional revenue on our ships from casino operations, food and beverage, shore excursions, gift shop purchases, spa services, photo services and other similar items. To maximize onboard revenue, Norwegian uses various cross-marketing and promotional tools which are supported by point-of-sale systems permitting "cashless" transactions for the sale of these products and services. Oceania Cruises' offerings may include air transportation and certain other amenities. Regent's offerings typically include air transportation, unlimited shore excursions, a pre-cruise hotel night stay (for concierge level and above), premium wines and top shelf liquors, specialty restaurants, Wi-Fi and gratuities. Both Regent and Oceania Cruises generate additional revenue from casino operations, gift shop purchases, premium shore excursions and spa services.

Onboard and other revenue accounted for 30%, 31% and 30% of our consolidated revenue in 2018, 2017 and 2016, respectively.

Revenue Management Practices

Our revenue management function performs extensive analyses in order to determine booking history and trends by sailing, stateroom category, travel partner, market segment, itinerary and distribution channel in order to determine cruise ticket pricing. We concentrate on improving early booking occupancy rates to drive higher Net Yields. We execute targeted and high-frequency marketing campaigns that communicate a message of a value-packed cruise offering in both North American and select international markets. To increase the effectiveness of these targeted marketing programs, we emphasize communication to keep the travel agents engaged and informed and utilize call centers focusing on both inbound calls and outbound calls to high potential targeted customers. This marketing strategy assists in maximizing the revenue potential from each customer contact generated by various marketing campaigns. We believe these strategies and other initiatives executed by our distribution channels will drive sustainable growth in the number of guests carried and in Net Yields achieved.

Seasonality

Our revenue is seasonal and based on the demand for cruises. Historically, the seasonality of the North American cruise industry generally results in the greatest demand for cruises during the Northern Hemisphere's summer months. This predictable seasonality in demand has resulted in fluctuations by quarter in our revenue and results of operations. The seasonality of our results is increased due to ships being taken out of service for regularly scheduled Dry-docks, which we typically schedule during non-peak demand periods.

Competition

Our primary competition includes operators such as Carnival Corporation and Carnival plc, which owns and operates Carnival Cruise Line, Holland America Line, Princess Cruises and Seabourn Cruise Line, among others, and Royal Caribbean Cruises Ltd., which owns and operates Royal Caribbean International, Celebrity Cruises, Azamara Club Cruises, and Silversea Cruises among others, as well as other cruise lines such as MSC Cruises, Crystal Cruises, and Viking Ocean Cruises. In addition, we compete with land-based vacation alternatives, such as hotels and resorts, vacation ownership properties, casinos, and tourist destinations throughout the world.

Sales of cruises and onboard offerings are subject to consumer discretionary spending levels and may be influenced by geopolitical events and economic conditions.

Marketing Strategy

Our marketing teams work to enhance brand awareness and consideration of our products and services among consumers and travel partners with the ultimate goal of driving sales. We utilize a multi-channel strategy that may include a combination of print, television, radio, website/e-commerce, direct mail, social media, mobile and e-mail campaigns, partnerships, customer loyalty initiatives, market research, and business-to-business events.

Building customer loyalty among our past guests is an important element of our marketing strategy. We believe that attending to the needs and motivations of our past guests creates a cost-effective means of attracting business, particularly to our new ships and itineraries, because past guests are familiar with our brands, products and services and often return to cruise with us. We have shared customer databases across our brands to further enhance our communications with our past guests who receive newsletters and mailings with informative destination and product information and promotional amenities. Continued investments in our websites is also key not only to driving interest and bookings, but also to ensuring the optimal pre-cruise planning experience offering guests the ability to shop, reserve and purchase a breadth of onboard products and services. We have a strong communications stream that provides customized pre-cruise information to help guests maximize their cruise experience as well as a series of communications to welcome them home and ultimately engage them in booking another cruise.

Travel agents are crucial to our marketing and distribution efforts. We provide robust marketing support and enhanced tools for our travel agent partners through a variety of programs. Our travel partners can benefit from our online travel partner education programs that include a wide variety of courses about our ships, itineraries and other best-selling practices. Agents can also easily customize a multitude of consumer marketing materials for their use in promoting our products through our online platform.

Guest feedback is also a critically important element in the development of our overall marketing and business strategies. We regularly initiate guest feedback studies among both travel partners and consumers to assess the impact of various programs and/or to solicit information that helps shape future direction.

Ship Operations and Cruise Infrastructure

Ship Maintenance and Logistics

Sophisticated and efficient maintenance and operations systems support the technical superiority and modern look of our fleet. In addition to routine repairs and maintenance performed on an ongoing basis and in accordance with applicable requirements, each of our ships is generally taken out of service, approximately every 24 to 60 months, for a period of one or more weeks for scheduled maintenance work, repairs and improvements performed in Dry-dock. Dry-dock interval is a statutory requirement controlled under IMO requirements reflected in chapters of the International Convention of the Safety of Life at Seas ("SOLAS") and to some extent the International Load Lines Convention. Under these regulations, it is required that a passenger ship Dry-dock once in five years (depending on age of vessel), twice in 5 years (depending on flag state and age of vessel) and the maximum interval between each Dry-dock cannot exceed 3 years (depending age of vessel and flag state). However, most of our international ships qualify under a special exemption provided by the Bahamas and/or Marshall Islands (flag state), as applicable, after meeting certain criteria set forth by the ship's flag state to Dry-dock once every 5 years. To the extent practical, each ship's crew, catering and hotel staff remain with the ship during the Dry-dock period and assist in performing repair and maintenance work. Accordingly, Dry-dock work is typically performed during non-peak demand periods to minimize the adverse effect on revenue that results from ships being out of service. Dry-docks are typically scheduled in spring or autumn and depend on shipyard availability. We take this opportunity to upgrade the vessels in all areas of both guest-facing services and innovative compliance technology.

Suppliers

Our largest capital expenditures are for ship construction and acquisition. Our largest operating expenditures are for payroll and related (including our contract with a third party who provides certain crew services), fuel, food and beverage, advertising and marketing and travel agent services. Most of the supplies that we require are available from numerous sources at competitive prices. In addition, owing to the large quantities that we purchase, we can obtain favorable prices for many of our supplies. Our purchases are denominated primarily in U.S. dollars. Payment terms granted by the suppliers are generally customary terms for the cruise industry.

Crew and Staff

Best-in-class guest service levels are paramount in the markets in which we operate, where travelers have discriminating tastes and high expectations for service quality. We have dedicated increasing attention and resources to ensure that our service offerings on all of our ships meet the demands of our guests. Among other initiatives, we have implemented rigorous onboard training programs, with a focus on career development. We believe that our dedication to anticipating and meeting our guests' every need differentiates our operations and fosters close relationships between our guests and crew, helping to build customer loyalty.

We place the utmost importance on the safety of our guests and crew. We operate all of our vessels to meet and exceed the requirements of SOLAS and International Management Code for the Safe Operation of Ships and for Pollution Prevention ("ISM Code"), the international safety standards which govern the cruise industry. Every crew member is well trained in the Company's stringent safety protocols, participating in regular safety trainings, exercises and drills onboard every one of our ships.

Our captains are experienced seafarers. We further ensure that our captains and watch standing officers regularly undergo rigorous training on navigation and bridge operations. To assist our captains and officers while at sea, we have extensive navigation protocols in place. Our bridge operations are based on robust navigational procedures and risk analysis. Our bridge teams follow pre-set voyage plans which are thoroughly reviewed and discussed by the captain and bridge team prior to port departures and arrivals. In addition, all of our ships employ the latest state-of-the-art navigational equipment and technology to ensure that our bridge teams have the most accurate data regarding the planned itinerary.

Prior to every cruise setting sail or upon departure, we hold a mandatory safety drill for all guests during which important safety information is reviewed and demonstrated. We also show an extensive safety video which runs continuously on the stateroom televisions. Our fleet is equipped with modern navigational control and fire prevention and control systems. In recent years, our ships have continuously been upgraded and include internal and external regulatory audits.

We have developed Safety Management Systems ("SMS"), which establish policies, procedures, training, qualification, quality, compliance, audit and self-improvement standards for all employees, both shipboard and shoreside. SMS also provides real-time reports and information to support the fleet and risk management decisions. Through these systems, our senior managers, as well as ship management, can focus on consistent, high quality operation of the fleet. Our SMS are approved and audited regularly by our classification society, Lloyds Register, and they also undergo regular internal audits as well as annual/semiannual inspections by the U.S. Coast Guard, flag state and other port and state authorities. We screen and train our crew to ensure crew familiarity and proficiency with the safety equipment onboard. Various safety measures have been implemented on all of our ships and additional personnel have been appointed in our ship operations departments.

Insurance

We maintain insurance on the hull and machinery of our ships, which are maintained in amounts related to the estimated market value of each ship. The coverage for each of the hull and machinery policies is maintained with syndicates of insurance underwriters from the European and U.S. insurance markets.

In addition to the insurance coverage on the hull and machinery of our ships, we seek to maintain comprehensive insurance coverage and believe that our current coverage is at appropriate levels to protect against most of the accident-related risks involved in the conduct of our business. The insurance we carry includes:

- Protection and indemnity insurance (coverage for passenger, crew and third-party liabilities), including insurance against risk of pollution liabilities;

- War risk insurance, including terrorist risk insurance. The terms of our war risk policies include provisions where underwriters can give seven days' notice to the insured that the policies will be cancelled in the event of a change of risk which is typical for policies in the marine industry. Upon any proposed cancellation the insurer shall, before expiry of the seven day period, submit new terms; and
- Insurance for our shoreside property, cybersecurity and general liability risks.

Our insurance coverage, including those noted above, is subject to certain limitations, exclusions and deductible levels.

Trademarks and Tradenames

Under the Norwegian brand, we own a number of registered trademarks relating to, among other things, the names "NORWEGIAN CRUISE LINE" and "FEEL FREE," the names of our ships (except where trademark applications for these have been filed and are pending), incentive programs and specialty services rendered on our ships and specialty accommodations such as "THE HAVEN BY NORWEGIAN." In addition, we own registered trademarks relating to the "FREESTYLE" family of names, including, "FREESTYLE CRUISING," "FREESTYLE DINING" and "FREESTYLE VACATION." We believe that these trademarks are widely recognized throughout North America, Europe and other areas of the world and have considerable value.

Under the Oceania Cruises brand, we own a number of registered trademarks relating to, among other things, the names "OCEANIA CRUISES" and its logo, "REGATTA," "INSIGNIA," and "YOUR WORLD. YOUR WAY."

Under the Regent brand, we own registered trademarks relating to, among other things, the names "SEVEN SEAS CRUISES" and "LUXURY GOES EXPLORING" as well as the names of our ships (except where trademark applications have been filed and are pending).

We also claim common law rights in trademarks and tradenames used in conjunction with our ships, incentive programs, customer loyalty program and specialty services rendered onboard our ships for each of our brands.

The Regent ships have been operating under the Regent brand since 2006. We entered into a trademark license agreement with Regent Hospitality Worldwide, Inc., which we amended in February 2011, granting us the right to use the "Regent" brand family of marks. The amended trademark license agreement allows Regent to use the Regent tradename, in conjunction with cruises, in perpetuity, subject to the terms and conditions in the agreement.

Regulatory Issues

Registration of Our Ships

Eighteen of the ships that we currently operate are registered in the Bahamas. One of our ships, Pride of America, is a U.S.-flagged ship. Seven of our ships are registered in the Marshall Islands. Our ships registered in the Bahamas and the Marshall Islands are inspected at least annually pursuant to Bahamian and Marshall Islands requirements and are subject to International laws and regulations and to various U.S. federal regulatory agencies, including, but not limited to, the U.S. Public Health Service and the U.S. Coast Guard. Our U.S.-registered ship is subject to laws and regulations of the U.S. federal government, including, but not limited to, the Food and Drug Administration ("FDA"), the U.S. Coast Guard and U.S. Department of Labor. The international, national, state and local laws, regulations, treaties and other legal requirements applicable to our operations change regularly, depending on the itineraries of our ships and the ports and countries visited.

Our ships are subject to inspection by the port regulatory authorities in the various countries that they visit. Such inspections include verification of compliance with the maritime safety, security, environmental, customs, immigration, health and labor regulations applicable to each port as well as with international requirements.

Environmental Protection

Our ships are subject to various international, national, state and local laws and regulations relating to environmental protection, including those that govern air emissions, waste discharge, waste water management and disposal, and use and disposal of hazardous substances such as chemicals, solvents and paints. Under such laws and regulations, we are prohibited from discharging certain materials, such as petrochemicals and plastics, into waterways, and we must adhere to various water and air quality-related requirements.

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With regard to air quality requirements, the International Maritime Organization's ("IMO") convention entitled Prevention of Pollution from Ships ("MARPOL") has set a global limit on fuel sulfur content of 0.5% (reduced from the current 3.5% global limit) beginning January 2020. Various compliance methods, such as the use of alternative fuels, or exhaust gas cleaning systems that reduce an equivalent amount of sulfur emissions, may be utilized.

MARPOL also requires stricter limitations on sulfur emissions within designated Emission Control Areas ("ECAs"), which include the Baltic Sea, the North Sea/English Channel, North American waters and the U.S. Caribbean Sea. Ships operating in these waters are required to use fuel with a sulfur content of no more than 0.1% or use approved alternative emission reduction methods. ECAs have also been established to limit emissions of oxides of nitrogen from newly built ships. Additional ECAs may also be established in the future, with areas around Norway, Japan, and the Mediterranean Sea being considered.

Ballast water discharges are governed by the MARPOL Ballast Water Management Convention, which came into force in 2017 ("The Convention"), and which governs the discharge of ballast water from ships. Ballast water, which is seawater held onboard ships and used for stabilization, may contain a variety of marine species. The Convention is designed to regulate the treatment and discharge of ballast water to avoid the transfer of marine species to new, different, or potentially unsuitable environments. Applicable vessels sailing in specific itineraries have also been upgraded with ballast water treatment systems to further prevent the spread of invasive species.

MARPOL also sets forth requirements for discharges of garbage, oil and sewage from ships, including regulations regarding the ships' equipment and systems for the control of such discharges, and the provision of port reception facilities for sewage handling. Ships are generally prohibited from discharging sewage into the sea within a specified distance from the nearest land. Governments are required to ensure the provision of adequate reception facilities at ports and terminals for the reception of sewage, without causing delay to ships. Ships are generally required to be equipped with either approved sewage treatment plants, disinfecting systems or sewage holding tanks.

Recently adopted amendments to MARPOL will make the Baltic Sea a "Special Area" where sewage discharges from passenger ships will be prohibited. Stricter discharge restrictions will be in effect for new passenger ships in 2019, and for existing passenger ships starting in 2021.

These requirements may impact our operations unless suitable port waste facilities are available, or new technologies for onboard waste treatment are developed. Accordingly, the cost of complying with these requirements is not determinable at this time.

In the U.S., the Clean Water Act of 1972, and other laws and regulations, provide the Environmental Protection Agency ("EPA") and the U.S. Coast Guard with the authority to regulate commercial vessels' incidental discharges of ballast water, bilge water, gray water, anti-fouling paints and other substances during normal operations while a vessel is in inland waters, within three nautical miles of land, and in designated federally-protected waters. The U.S. National Pollutant Discharge Elimination System ("NPDES") program, authorized by the Clean Water Act, was established to reduce pollution within U.S. territorial waters. For our affected ships, all of the NPDES requirements are set forth in the EPA's Vessel General Permit ("VGP"). The VGP establishes effluent limits for 26 specific discharge streams incidental to the normal operation of a vessel. In addition to these discharge- and vessel-specific requirements, the VGP includes requirements for inspections, monitoring, reporting and recordkeeping.

The Act to Prevent Pollution from Ships, which implements certain elements of MARPOL in the U.S., provides for potentially severe civil and criminal penalties related to ship-generated pollution for incidents in U.S. waters within three nautical miles of land and, in some cases, within the 200-nautical mile Exclusive Economic Zone ("EEZ").

The Oil Pollution Act of 1990 ("OPA 90") provides for strict liability for water pollution caused by the discharge of oil in the 200-nautical mile EEZ of the U.S., subject to defined monetary limits. OPA 90 requires that in order for us to operate in U.S. waters, we must have Certificates of Financial Responsibility ("COFR") from the U.S. Coast Guard for each ship. Our continued OPA 90 certification signifies our ability to meet the requirements for related OPA 90 liability in the event of an oil spill or release of a hazardous substance.

Many coastal U.S. states have also enacted environmental regulations that impose strict liability for removal costs and damages resulting from a discharge of oil or a release of a hazardous substance. These laws may be more stringent than U.S. federal law and, in some cases, the laws have no statutory limits of liability. Among the most stringent requirements are those set by the State of Alaska, which has enacted legislation that prohibits certain discharges in designated state waters and requires that certain discharges be monitored to verify compliance with the established standards. The legislation also provides that repeat violators of the regulations could be prohibited from operating in Alaskan waters.

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The European Union (“EU”) has also adopted a substantial and diverse range of environmental measures aimed at maintaining or improving the quality of the environment. To support the implementation and enforcement of European environmental legislation, the EU has adopted directives on environmental liability and enforcement as well as a recommendation providing for minimum criteria for environmental inspections.

With regard to air emissions from seagoing ships, the EU requires the use of low sulfur (less than 0.1%) marine gas oil in EU ports. Passenger ships on regular service to EU ports (and not operating in an ECA) are required to use fuels containing a maximum sulfur content of 1.5%. The EU has set January 2020 as the compliance date for the 0.5% fuel sulfur limit within their jurisdictional waters.

In addition to the existing legal requirements, we are committed to helping to preserve the environment, because a clean, unspoiled environment is a key element that attracts guests to our ships. Furthermore, NCL (Bahamas) Ltd. and NCL America LLC are certified under the International Organization for Standardization’s 14001 Standard. This voluntary standard sets requirements for establishment and implementation of a comprehensive environmental management system which we have adopted for our operations. Currently we operate under an Environmental Management System that is incorporated into the Company’s SMS, promoting environmental awareness both through our Sail & Sustain program and annual Stewardship Report.

If we violate or fail to comply with environmental laws, regulations or treaties, we could be fined or otherwise sanctioned by regulators. We have made, and will continue to make, capital and other expenditures to comply with changing environmental laws, regulations and treaties. Any fines or other sanctions for violation or failure to comply with environmental requirements or any expenditures required to comply with environmental requirements could have a material adverse effect on our business, operations, cash flow or financial condition.

Permits for Glacier Bay, Alaska

In connection with certain Alaska cruise operations, we rely on concession permits from the U.S. National Park Service to operate our ships in Glacier Bay National Park and Preserve. We currently hold a concession permit allowing for 22 calls per summer cruising season through September 30, 2019. Our renewal application for Glacier Bay National Park and Preserve was submitted in 2018. However, there can be no assurance that such permit will be renewed when necessary or that regulations relating to the renewal of such permit will remain unchanged in the future.

Passenger Well-Being

In the U.S., we must meet the U.S. Public Health Service’s requirements, which include vessel ratings by inspectors from the Vessel Sanitation Program of the Centers for Disease Control and Prevention (“CDC”) and the U.S. Food and Drug Administration (“FDA”). We rate at the top of the range of CDC and FDA scores achieved by the major cruise lines. In addition, the cruise industry and the U.S. Public Health Service have agreed on regulations for food, water and hygiene, aimed at proactively protecting the health of travelers and preventing illness transmission to U.S. ports.

Security and Safety

The IMO has adopted safety standards as part of the SOLAS convention, which apply to all of our ships. SOLAS establishes requirements for vessel design, structural features, construction methods and materials, refurbishment standards, life-saving equipment, fire protection and detection, safe management and operation and security in order to help ensure the safety and security of our guests and crew. All of our crew undergo regular security and safety training exercises that meet all international and national maritime regulations.

SOLAS requires that all cruise ships are certified as having safety procedures that comply with the requirements of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (“ISM Code”). All of our ships are certified as to compliance with the ISM Code. Each such certificate is granted for a five-year period and is subject to periodic verification.

The SOLAS requirements are amended and extended by the IMO from time to time. For example, the International Port and Ship Facility Code (“ISPS Code”) was adopted by the IMO in December 2002 with the goal of strengthening maritime security by placing new requirements on governments, port authorities and shipping companies.

Amendments to SOLAS required that ships constructed in accordance with pre-1974 SOLAS requirements install automatic sprinkler systems. IMO adopted an amendment to SOLAS which requires partial bulkheads on stateroom balconies to be of non-combustible construction. The SOLAS regulation implemented Long-Range Identification and Tracking. All of our ships are in compliance with the requirements of SOLAS as amended and/or as applicable to the keel-laying date.

In addition to the requirements of the ISPS Code, the U.S. Congress enacted the Maritime Transportation Security Act of 2002 (“MTSA”) which implements a number of security measures at ports in the U.S. including measures that apply to ships registered outside the U.S. while docking at ports in the U.S. The U.S. Coast Guard has published MTSA regulations that require a security plan for every ship entering the territorial waters of the U.S., provide for identification requirements for ships entering such waters and establish various procedures for the identification of crew members on such ships. The Transportation Workers Identification Credential is a U.S. requirement for accessibility into and onto U.S. ports and U.S.-flagged ships.

Maritime-Labor

In 2006, the International Labor Organization (“ILO”), an agency of the United Nations that develops and oversees international labor standards, adopted a new Consolidated Maritime Labor Convention (“MLC 2006”). MLC 2006 contains a comprehensive set of global standards based on those that are already found in 68 maritime labor Conventions and Recommendations adopted by the ILO since 1920. MLC 2006 includes a broad range of requirements, such as a broader definition of a seafarer, minimum age of seafarers, medical certificates, recruitment practices, training, repatriation, food, recreational facilities, health and welfare, hours of work and rest, accommodations, wages and entitlements. MLC 2006 added requirements not previously in effect, in the areas of occupational safety and health. MLC 2006 became effective in certain countries commencing August 2013. The Standard of Training Certification and Watch Keeping for Seafarers (“STCW”), as amended, establishes minimum standards relating to training, certification and watch-keeping for our seafarers.

Financial Requirements

The Federal Maritime Commission (“FMC”) requires evidence of financial responsibility for those offering transportation on passenger ships operating out of U.S. ports to indemnify passengers in the event of non-performance of the transportation. Accordingly, each of our three brands are required to maintain a \$30.0 million third-party performance guarantee in respect of liabilities for non-performance of transportation and other obligations to passengers. The guarantee requirements are subject to additional consumer price index-based adjustments. Also, our brands have a legal requirement to maintain a security guarantee based on cruise business originated from the U.K. As of December 31, 2018, approximately British Pound Sterling 30.5 million was in place as a security guarantee. We also are required to establish financial responsibility by other jurisdictions to meet liability in the event of non-performance of our obligations to passengers from those jurisdictions.

From time to time, various other regulatory and legislative changes have been or may in the future be proposed that may have an effect on our operations in the U.S. and the cruise industry in general.

For information regarding risks associated with our compliance with legal and regulatory requirements, see Part I Item 1A-Risk Factors in this annual report on Form 10-K, including the risk factor titled “We are subject to complex laws and regulations, including environmental laws and regulations, which could adversely affect our operations and any changes in the current laws and regulations could lead to increased costs or decreased revenue.”

Taxation

U.S. Income Taxation

The following discussion is based upon current provisions of the Internal Revenue Code (the “Code”), U.S. Treasury regulations, administrative rulings and court decisions, all of which are subject to change, possibly with retroactive effect. Changes in these authorities may cause the tax consequences to vary substantially from the consequences described below.

Exemption of International Shipping Income under Section 883 of the Code

Under Section 883 of the Code (“Section 883”) and the related regulations, a foreign corporation will be exempt from U.S. federal income taxation on its U.S.-source income derived from the international operation of ships (“shipping income”) if: (a) it is organized in a qualified foreign country, which is one that grants an “equivalent exemption” from tax to corporations organized in the U.S. in respect of each category of shipping income for which exemption is being claimed under Section 883; and (b) either: (1) more than 50% of the value of its stock is beneficially owned, directly or indirectly, by qualified shareholders, which includes individuals who are “residents” of a qualified foreign country; (2) one or more classes of its stock representing, in the aggregate, more than 50% of the combined voting power and value of all classes of its stock are “primarily and regularly traded on one or more established securities markets” in a qualified foreign country or in the U.S. (the “publicly traded test”); or (3) it is a “controlled foreign corporation” (a “CFC”) for more than half of the taxable year and more than 50% of its stock is owned by qualified U.S. persons for more than half of the taxable year (the “CFC test”). In addition, U.S. Treasury Regulations require a foreign corporation and certain of its direct and indirect shareholders to satisfy detailed substantiation and reporting requirements.

NCLH is incorporated in Bermuda, a qualified foreign country which grants an equivalent exemption, and NCLH meets the publicly traded test because its ordinary shares were primarily and regularly traded on the Nasdaq Stock Market (the “Nasdaq”) until December 18, 2017, and since December 19, 2017, have been primarily and regularly traded on the New York Stock Exchange (“NYSE”). Both the Nasdaq and the NYSE are considered to be established securities markets in the U.S. Therefore, we believe that NCLH qualifies for the benefits of Section 883.

We believe and have taken the position that substantially all of NCLH’s income, including the income of its ship-owning subsidiaries, is properly categorized as shipping income, and that we do not have a material amount of non-qualifying income. It is possible, however, that the IRS interpretation of shipping income could differ from ours and that a much larger percentage of our income does not qualify (or will not qualify) as shipping income. Moreover, the exemption for shipping income is only available for years in which we will satisfy complex tests under Section 883. There are factual circumstances beyond our control, including changes in the direct and indirect owners of NCLH’s ordinary shares, which could cause NCLH or its subsidiaries to lose the benefit of the exemption under Section 883. Further, any changes in our operations could significantly increase our exposure to taxation on shipping income, and we can give no assurances on this matter.

Under certain circumstances, changes in the identity, residence or holdings of NCLH’s direct or indirect shareholders could cause NCLH’s ordinary shares not to be regularly traded on an established securities market within the meaning of the regulations under Section 883. Therefore, as a precautionary matter, NCLH has provided protections in its bye-laws to reduce the risk of such changes impacting our ability to meet the publicly traded test by prohibiting any person from owning, directly, indirectly or constructively, more than 4.9% of NCLH’s ordinary shares unless such ownership is approved by NCLH’s Board of Directors (the “4.9% limit”). Any outstanding shares held in excess of the 4.9% limit will be transferred to and held in a trust.

For U.S. federal income tax purposes, Regent and its non-U.S. subsidiaries are disregarded as entities separate from their immediate foreign parent (PCH) and Oceania Cruises was treated as a corporation until December 31, 2017, and a disregarded entity as of January 1, 2018. For 2018, 2017 and 2016, both Regent and Oceania Cruises relied on NCLH’s ability to meet the requirements necessary to qualify for the benefits of Section 883 as discussed above.

Taxation of International Shipping Income Where Section 883 of the Code is Inapplicable

Unless exempt from U.S. federal income taxation, a foreign corporation is subject to U.S. federal income tax in respect of its “shipping income” that is derived from sources within the U.S. If we fail to qualify for the exemption under Section 883 in respect of our U.S.-sourced shipping income, or if the provision was repealed, then we will be subject to taxation in the U.S. on such income.

Generally, “shipping income” is any income that is derived from the use of vessels, from the hiring or leasing of vessels for use on a time, voyage or Bareboat Charter basis or from the performance of services directly related to those uses. For these purposes, shipping income attributable to transportation that begins or ends, but that does not both begin and end, in the U.S., which we refer to as “U.S.- source shipping income,” will be considered to be 50% derived from sources within the U.S.

If we do not qualify for exemption under Section 883, or if the provision was repealed, then any U.S.-sourced shipping income or any other income that is considered to be effectively connected income would be subject to U.S. federal corporate income taxation on a net basis (generally at a 35% rate, 21% rate effective January 1, 2018) and state and local taxes, and our effectively connected earnings and profits may also be subject to an additional branch profits tax of 30%, unless a lower treaty rate applies (the “Net Tax Regime”). Our U.S. source shipping income is considered effectively connected income if we have, or are considered to have, a fixed place of business in the U.S. involved in the earning of U.S. source shipping income, and substantially all of our U.S. source shipping 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 voyages that begin or end in the U.S.

If we do not have a fixed place of business in the U.S. or substantially all of our income is not derived from regularly scheduled transportation, the income will generally not be considered to be effectively connected income. In that case, we would be subject to a special 4% tax on our U.S. source shipping income (the “4% Tax Regime”).

Other United States Taxation

U.S. Treasury Regulations list several items of income which are not considered to be incidental to the international operation of ships and, to the extent derived from U.S. sources, are subject to U.S. federal income taxes under the Net Tax Regime discussed above. Income items considered non-incidental to the international operation of ships include income from the sale of single-day cruises, shore excursions, air and other transportation, and pre- and post-cruise land packages. We believe that substantially all of our income currently derived from the international operation of ships is shipping income.

Income from U.S.-flagged Operation under the NCL America

Income derived from our U.S.-flagged operation generally will be subject to U.S. corporate income taxes both at the federal and state levels. We expect that such income will not be subject to U.S. branch profits tax nor a U.S. dividend withholding tax under the U.S.-U.K. Income Tax Treaty.

U.K. Income Taxation

NCLH and NCLC are tax residents of the U.K. and are subject to normal U.K. corporation tax.

U.S. Taxation of Gain on Sale of Vessels

Gains from the sale of vessels should generally also be exempt from tax under Section 883 provided NCLH qualifies for exemption from tax under Section 883 in respect of our shipping income. If, however, our gain does not qualify for exemption under Section 883, or if the provision was repealed, then such gain could be subject to either the Net Tax Regime or the 4% Tax Regime.

Certain State, Local and Non-U.S. Tax Matters

We may be subject to state, local and non-U.S. income or non-income taxes in various jurisdictions, including those in which we transact business, own property or reside. We may be required to file tax returns in some or all of those jurisdictions. Our state, local or non-U.S. tax treatment may not conform to the U.S. federal income tax treatment discussed above. We may be required to pay non-U.S. taxes on dispositions of foreign property, or operations involving foreign property may give rise to non-U.S. income or other tax liabilities in amounts that could be substantial.

Changes in Tax Laws

The various tax regimes to which we are currently subject result in a relatively low effective tax rate on our worldwide income. These tax regimes, however, are subject to change, possibly with retroactive effect. For example, legislation has been proposed in the past that would eliminate the benefits of the exemption from U.S. federal income tax under Section 883 and subject all or a portion of our shipping income to taxation in the U.S. Moreover, we may become subject to new tax regimes and may be unable to take advantage of favorable tax provisions afforded by current or future law including exemption of branch profits and dividend withholding taxes under the U.S.-U.K. Income Tax Treaty on income derived in respect of our U.S.-flagged operation.

In December 2017, the Tax Cuts and Jobs Act (the “Act”) was enacted, and among other provisions, reduced the U.S. federal corporate tax rate from 35% to 21%. Also in December 2017, the SEC staff issued Staff Accounting Bulletin (“SAB”) No. 118, which addresses the recognition of provisional amounts when a company does not have the necessary information available, prepared or analyzed (including computations) in reasonable detail to complete its accounting for the effect of the changes by the Act. The measurement period ends when a company has obtained, prepared and analyzed the information necessary to finalize its accounting, but cannot extend beyond one year. The Company completed the accounting for the tax effects of enactment of the Act. There was no material change to the \$7.4 million reduction of the value of net deferred tax liabilities (which represents future tax expenses) recorded in 2017 as a discrete tax benefit resulting from the lower U.S. federal corporate income tax rate under the Act. Other aspects of the Act were either not applicable or did not have a material impact on the Company’s consolidated financial statements.

Employees

As of December 31, 2018, we employed approximately 3,200 employees worldwide in our shoreside operations and approximately 30,000 shipboard employees. Regent and Oceania Cruises’ ships also utilize a third party to provide additional hotel and restaurant employees onboard. We refer you to “Risk Factors—Amendments to the collective bargaining agreements for crew members of our fleet and other employee relation issues may materially adversely affect our financial results” for more information regarding our relationships with union employees and our collective bargaining agreements that are currently in place.

Ports and Facilities

We own a private island in the Bahamas, Great Stirrup Cay, which we utilize as a port-of-call on certain itineraries. We also operate a cruise destination in Belize, Harvest Caye, which we introduced in November 2016. We have agreed to develop, in conjunction with PortMiami, a new terminal, which will be our primary facility at the port. In addition, we have entered into various agreements relating to port or berthing rights for our ships, which include the following:

- an agreement with the Government of Bermuda whereby we are permitted weekly calls in Bermuda through 2022 from Boston and New York.
- contracts for the Port of New Orleans, PortMiami, Port Canaveral, Manhattan Cruise Terminal, A.J. Juneau Dock, Ogden Point Cruise Ship Terminal in Victoria, BC, Puerto Costa Maya, Port of Roatan, Puerto Plata, and various Hawaiian ports pursuant to which we receive preferential Berths to the exclusion of other vessels for certain specified days of the week at the terminals.
- a concession permit with the U.S. National Park Service whereby our ships are permitted to call on Glacier Bay during each summer cruise season through September 30, 2019.
- an agreement with the British Virgin Islands Port Authority granting priority berthing rights for a 15-year term through April 2032 with options to extend the agreement for two additional five-year terms.
- an agreement with the West Indian Company Limited granting priority berthing rights in St. Thomas for a 10-year term through September 2026 with an option to extend the agreement for an additional five years.
- an agreement with the Port of Seattle for a 15-year lease through October 2030 with an option to extend the agreement for an additional five years where we have committed to a capital investment to develop the port for approximately \$30 million and the port has committed to reimburse \$15 million.
- an agreement with the Huna Totem Corporation to develop a second pier in Icy Strait Point, Alaska, which includes preferential berthing rights.

Available Information

We file annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy statements and other information with the SEC. Our SEC filings are available to the public at the SEC's website at <http://www.sec.gov>.

We also maintain an Internet site at <http://www.nclhldinvestor.com>. We will, as soon as reasonably practicable after we electronically file or furnish our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy statements and amendments to those reports, if applicable, make available such reports free of charge on our website. **Our website and the information contained therein or connected thereto are not incorporated into this annual report on Form 10-K.**

Executive Officers

The following table sets forth certain information regarding NCLH's executive officers as of February 18, 2019.

| <u>Name</u> | <u>Age</u> | <u>Position</u> |
|-------------------|------------|--|
| Frank J. Del Rio | 64 | Director, President and Chief Executive Officer |
| Mark A. Kempa | 47 | Executive Vice President and Chief Financial Officer |
| Robert Binder | 54 | Vice Chairman Oceania Cruises and Regent, President and Chief Executive Officer, Oceania Cruises brand |
| Jason M. Montague | 45 | President and Chief Executive Officer, Regent brand |
| Harry Sommer | 51 | President International |
| Andrew Stuart | 55 | President and Chief Executive Officer, Norwegian brand |
| Daniel S. Farkas | 50 | Executive Vice President, General Counsel and Assistant Secretary |
| T. Robin Lindsay | 61 | Executive Vice President, Vessel Operations |
| Faye L. Ashby | 47 | Senior Vice President and Chief Accounting Officer |

All the executive officers listed above hold their offices at the pleasure of our Board of Directors, subject to rights under any applicable employment agreements. There are no family relationships between or among any directors and executive officers.

Frank J. Del Rio has served as President and Chief Executive Officer of NCLH since January 2015 and became a director of NCLH in August 2015. Mr. Del Rio has been responsible for the successful integration of NCLH and Prestige and oversees the financial, operational and strategic performance of the Norwegian, Regent and Oceania Cruises brands. Mr. Del Rio founded Oceania Cruises in October 2002 and served as Chief Executive Officer of Prestige or its predecessor from October 2002 through September 2016. Mr. Del Rio was instrumental in the growth of Oceania Cruises and Regent. Prior to founding Oceania Cruises, Mr. Del Rio played a vital role in the development of Renaissance Cruises, serving as Co-Chief Executive Officer, Executive Vice President and Chief Financial Officer from 1993 to April 2001. Mr. Del Rio holds a B.S. in Accounting from the University of Florida and is a Certified Public Accountant (inactive license).

Mark A. Kempa has served as Executive Vice President and Chief Financial Officer since August 2018. Prior to that, he served as Interim Chief Financial Officer from March 2018 to August 2018 and as NCLH's Senior Vice President, Finance, from November 2014 to August 2018. From September 2008 to November 2014, he served as Vice President, Corporate and Capital Planning, and was an instrumental figure in the completion of NCLH's IPO in 2013. From January 2007 to August 2008, he served as Director, Corporate and Capital Planning. From January 2003 to December 2006, he served as Director, Newbuild Cost and Control. In this role, he spent almost three years representing the financial interests of the Company's expansive newbuild program while positioned overseas in Germany. From May 1998 to December 2002, he served in various roles in accounting and internal audit. Prior to joining the Company, Mr. Kempa served as the Assistant Controller for International Voyager Media, a travel portfolio company. Mr. Kempa holds a Bachelor's degree in Accounting from Barry University.

Robert J. Binder has served as President and Chief Executive Officer of the Oceania Cruises brand since September 2016 and as Vice Chairman, Oceania Cruises and Regent since May 2015. He served as President of International Operations from February 2015 until May 2015. Prior to the Acquisition of Prestige in November 2014, Mr. Binder served as the Vice Chairman of Prestige since May 2011 and as President of Prestige since January 2008, where he oversaw the global expansion of the Prestige brands and was responsible for sales, marketing and branding efforts internationally. Mr. Binder is co-founder of Oceania Cruises and previously served as President of Oceania Cruises. Before launching Oceania Cruises, Mr. Binder was the President of Meadowoods Consulting, which provided consulting services to the financial and travel services industries. From 1992 to 2001, he held several executive posts in the cruise industry. Mr. Binder also held senior management positions at JP Morgan Chase, where he was a Strategic Planning Officer, and at Renaissance Cruises, where he was Vice President of Sales. Mr. Binder earned master's degrees in both Finance and Marketing from Cornell University and did his undergraduate studies at Purdue University.

Jason M. Montague has served as President and Chief Executive Officer of the Regent brand since September 2016. In this role, he is responsible for financial and day-to-day operations of the Regent brand. Previously, he served as President and Chief Operating Officer for the Oceania Cruises and Regent brands from December 2014 until September 2016, where he successfully oversaw the launch of Sirena for the Oceania Cruises brand and the Seven Seas Explorer for the Regent brand. Prior to that, he served as Executive Vice President and Chief Integration Officer for NCLH during the Acquisition of Prestige. Before the acquisition by NCLH, he served as Chief Financial Officer and Executive Vice President for Prestige, from September 2010 until November 2014. During his 12-year tenure at Prestige, Mr. Montague helped build the business plan for the launch of Oceania Cruises in 2002, including oversight for the purchase of its initial three R-class vessels, was involved with the equity investment by Apollo Global Management, LLC and acquisition of Regent Seven Seas Cruises, and drove financing and delivery of Oceania Cruises' newbuilds, Marina and Riviera. Mr. Montague served as Oceania Cruises' Vice President and Treasurer from 2004 to 2007 and Senior Vice President of Finance from 2008 to 2010. Prior to joining Oceania Cruises, Mr. Montague operated a successful consulting practice focused on strategic planning and development of small to medium-sized companies. Previously, he held the position of Vice President, Finance for Alton Entertainment Corporation, a brand equity marketer that was majority owned by the Interpublic Group of Companies. Mr. Montague holds a B.B.A. in Accounting from the University of Miami.

Harry Sommer has served as President, International, since January 2019. Prior to that, he served as Executive Vice President, International Business Development from May 2015 to January 2019. From February 2015 until May 2015, he served as Executive Vice President and Chief Integration Officer for NCLH. Mr. Sommer previously served as Senior Vice President and Chief Marketing Officer of Prestige from October 2013 until February 2015, Senior Vice President, Finance, and Chief Information Officer of Prestige from September 2011 until October 2013 and Senior Vice President, Accounting, Chief Accounting Officer and Controller of Prestige from August 2009 until August 2011. Prior to joining Prestige, Mr. Sommer was the co-founder and President of Luxury Cruise Center, a high-end travel agency and prior to that, held various marketing and finance roles at Renaissance Cruises. Mr. Sommer holds an M.B.A. from Pace University and a B.B.A. from Baruch College.

Andrew Stuart has served as the President and Chief Executive Officer for the Norwegian brand since September 2016 and as President and Chief Operating Officer for the Norwegian brand from March 2015 until September 2016. He was previously Executive Vice President, Global Sales and Passenger Services from November 2008 until March 2015. From April 2008 through September 2008, he held the position of Executive Vice President and Chief Product Officer. From September 2003 through March 2008, he served as Executive Vice President of Marketing, Sales and Passenger Services. Prior to that, he was the Company's Senior Vice President of Passenger Services as well as Vice President of Sales Planning. He joined the Company in August 1988 in our London office holding various Sales and Marketing positions before relocating to our headquarters in Miami. Mr. Stuart earned a B.S. in Catering Administration from Bournemouth University, United Kingdom.

Daniel S. Farkas has served as Executive Vice President and General Counsel of NCLH since January 2019. He has also served as Assistant Secretary of the Company since 2013. Since Mr. Farkas joined the Company in January 2004, he has held the positions of Secretary from 2010 to 2013, Senior Vice President and General Counsel from 2008 through 2018, Vice President and Assistant General Counsel from 2005 to 2008, and Assistant General Counsel from 2004 to 2005 and was instrumental in the Company's IPO and the Acquisition of Prestige. Mr. Farkas was formerly a partner in the Miami offices of the law firm Mase and Gassenheimer specializing in maritime litigation. Before that he was an Assistant State Attorney for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Mr. Farkas currently serves as Chairman of the board of directors of the Cruise Industry Charitable Foundation and on the board of directors of the Steamship Mutual Underwriting Association Limited. Mr. Farkas earned a B.A., cum laude, in English and American Literature from Brandeis University and a J.D. from the University of Miami.

T. Robin Lindsay has served as Executive Vice President, Vessel Operations, for NCLH since January 2015. From November 2014 until January 2015, Mr. Lindsay served as Executive Vice President, Newbuild, for Prestige. Prior to the Acquisition of Prestige, he served as the Executive Vice President of Vessel Operations for Prestige from January 2008 until November 2014 and Senior Vice President of Hotel Operations from February 2003 until January 2008 and oversaw all marine, technical and hotel operations. Mr. Lindsay was instrumental in the extensive refurbishment and launch of Oceania Cruises' Regatta, Insignia and Nautica and the development of the Marina and Riviera. Mr. Lindsay possesses a substantial amount of experience in the cruise industry and has overseen the design and construction of many of the industry's most acclaimed cruise ships. Prior to joining Oceania Cruises in 2003, Mr. Lindsay was the Senior Vice President of Vessel Operations at Silversea Cruises and, prior to that, Vice President of Operations at Radisson Seven Seas Cruises. Mr. Lindsay earned his B.S. degree from Louisiana Tech University.

Faye L. Ashby has served as Senior Vice President and Chief Accounting Officer of NCLH since February 2016. She joined NCLH as Controller in November 2014 after the Acquisition of Prestige and served in that position until February 2016. From January 2012 to November 2014, Ms. Ashby served as Controller for Prestige, where she managed and developed the Accounting and External Financial Reporting teams. From March 2010 to December 2011, Ms. Ashby held the position of Senior Director of Financial Reporting with Prestige, where she started the Financial Reporting Department and was responsible for the preparation of annual financial statements, coordination of external audits and researching technical accounting issues. Before joining Prestige, Ms. Ashby was a Senior Manager at the international public accounting firm of Deloitte. She has an M.B.A. and B.B.A. with concentrations in accounting from the University of Miami and is a Certified Public Accountant in Florida and New York.

Item 1A. Risk Factors

In addition to the other information contained in this annual report, you should carefully consider the following risk factors in evaluating us and our business. If any of the risks discussed in this annual report actually occur, our business, financial condition and results of operations could be materially adversely affected. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial may also materially adversely affect our business, financial condition and results of operations. The ordering of the risk factors set forth below is not intended to reflect an indication of priority or likelihood. In connection with the forward-looking statements that appear in this annual report, you should also carefully review the cautionary statement referred to under “Cautionary Statement Concerning Forward-Looking Statements.”

Risks Related to the Company

Terrorist acts, armed conflict and threats thereof, acts of piracy, and other international events impacting the security of travel could adversely affect the demand for cruises.

The threat or possibility of future terrorist acts, an outbreak of hostilities or armed conflict abroad or the possibility or fear of such events, political unrest and instability, the issuance of travel advisories or elevated national threat warnings by national governments, an increase in the activity of pirates, and other geo-political uncertainties have had in the past and may again in the future have an adverse impact on the demand for cruises, and consequently, the pricing for cruises. Decreases in demand and reduced pricing in response to such decreased demand would adversely affect our business by reducing our profitability.

Adverse incidents involving cruise ships may adversely affect our business, financial condition and results of operations.

The operation of cruise ships carries an inherent risk of loss caused by adverse weather conditions and maritime disasters, including, but not limited to, oil spills and other environmental mishaps, extreme weather conditions such as hurricanes, floods and typhoons, fire, mechanical failure, collisions, human error, war, terrorism, piracy, political action, civil unrest and insurrection in various countries and other circumstances or events. Any such event may result in loss of life or property, loss of revenue or increased costs. The operation of cruise ships also involves the risk of other incidents at sea or while in port, including missing guests, inappropriate crew or passenger behavior and onboard crimes, which may bring into question passenger safety, may adversely affect future industry performance and may lead to litigation against us. Although we place passenger safety as the highest priority in the design and operation of our fleet, we have experienced accidents and other incidents involving our cruise ships and there can be no assurance that similar events will not occur in the future. It is possible that we could be forced to cancel a cruise or a series of cruises due to these factors or incur increased port-related and other costs resulting from such adverse events. Any such event involving our cruise ships or other passenger cruise ships may adversely affect guests' perceptions of safety or result in increased governmental or other regulatory oversight. An adverse judgment or settlement in respect of any of the ongoing claims against us may also lead to negative publicity about us. The expanded use of social media has increased the speed that negative publicity spreads and makes it more difficult to mitigate reputational damage. Anything that damages our reputation (whether or not justified), including adverse publicity about passenger safety, could have an adverse impact on demand, which could lead to price discounting and a reduction in our sales and could adversely affect our business, financial condition and results of operations. If there is a significant accident, mechanical failure or similar problem involving a ship, we may have to place a ship in an extended Dry-dock period for repairs. This could result in material lost revenue and/or expenditures.

The adverse impact of general economic and related factors, such as fluctuating or increasing levels of unemployment, underemployment and the volatility of fuel prices, declines in the securities and real estate markets and perceptions of these conditions can decrease the level of disposable income of consumers or consumer confidence. The demand for cruises is affected by international, national and local economic conditions.

The demand for cruises is affected by international, national and local economic conditions. Adverse changes in the perceived or actual economic climate in North America or globally, such as the volatility of fuel prices, higher interest rates, stock and real estate market declines and/or volatility, more restrictive credit markets, higher unemployment or underemployment rates, higher taxes, changes in governmental policies and political developments impacting international trade including continued uncertainty surrounding the United Kingdom's withdrawal from the European Union, trade disputes and increased tariffs, could reduce the level of discretionary income or consumer confidence in the countries from which we source our guests. Consequently, this may negatively affect demand for cruise vacations in these countries, which are a discretionary purchase. Decreases in demand for cruise vacations could result in price discounting, which, in turn, could reduce the profitability of our business. In addition, these conditions could also impact our suppliers, which could result in disruptions in our suppliers' services and financial losses for us.

Epidemics and viral outbreaks could have an adverse effect on our business, financial condition and results of operations.

Public perception about the safety of travel and adverse publicity related to passenger or crew illness, such as incidents of viral illnesses, stomach flu or other contagious diseases, may impact demand for cruises and result in cruise cancellations and employee absenteeism. If any wide-ranging health scare should occur, our business, financial condition and results of operations would likely be adversely affected.

Breaches in data security or other disturbances to our information technology and other networks could impair our operations and have a material adverse impact on our business, financial condition and results of operations.

We have made significant investments in our information technology systems to optimize booking procedures, enhance the marketing power of our websites and control costs. The integrity and reliability of these systems and networks are crucial to our business operations and disruptions to these systems or networks could impair our operations and have an adverse impact on our financial results and negatively affect our reputation and customer demand. In addition, certain networks are dependent on third-party technologies, systems and service providers for which there is no certainty of uninterrupted availability. Among other things, actual or threatened natural disasters (e.g., hurricanes, earthquakes, tornadoes, fires, floods or similar events), information systems failures, computer viruses, denial of service attacks and other cyber-attacks may cause disruptions to our information technology, telecommunications and other networks. While we have and continue to invest in business continuity, disaster recovery, data restoration plans and data and information technology security, we cannot completely insulate ourselves from disruptions that could result in adverse effects on our operations and financial results. We carry limited business interruption insurance for certain shoreside operations, subject to limitations, exclusions and deductibles.

As part of our ordinary business operations, we and certain of our third-party service providers collect, process, transmit and store a large volume of personally identifiable information, including email addresses, home addresses and financial data such as credit card information. The security of the systems and networks where we and our service providers store this data is a critical element of our business. Despite our implementation of security measures to protect against security breaches, unauthorized access to our data and other cyber-attacks or incidents, our systems and networks are vulnerable to computer viruses, malware, worms, hackers and other security issues, including physical and electronic break-ins, router disruption, sabotage or espionage, disruptions from unauthorized access and tampering (including through social engineering such as phishing attacks), impersonation of authorized users and coordinated denial-of-service attacks. For example, in October 2018, we discovered limited instances of unauthorized access to certain employee e-mail communications, some of which contained proprietary business and personally identifiable information. We have implemented additional safeguards, and we do not believe that we experienced any material losses related to this incident; however, there can be no assurance that this or any other breach or incident will not have a material impact on our operations and financial results in the future. In addition, we may not be in a position to promptly address security breaches, unauthorized access or other cyber-attacks or incidents or to implement adequate preventative measures if we are unable to immediately detect such incidents. Our failure to successfully prevent, mitigate or timely respond to any breach, attack or unauthorized use of our information systems to gain access to sensitive information, corrupt data or create general disturbances in our operations systems could impair our ability to conduct business and damage our reputation.

We are also subject to laws relating to privacy of personal data, including European Union data privacy regulations. The compromise of our information systems resulting in the loss, disclosure, misappropriation of or access to the personally identifiable information of our guests, prospective guests or employees could result in governmental investigation, civil liability or regulatory penalties under laws protecting the privacy of personal information, any or all of which could disrupt our operations and materially adversely affect our business. Additionally, any material failure by us or our service providers to maintain compliance with the Payment Card Industry security requirements or to rectify a data security issue may result in fines and restrictions on our ability to accept credit cards as a form of payment.

In the event of a data security breach of our systems and/or third-party systems or a cyber-attack or other cyber incident, we may incur costs associated with the following: response, notification, forensics, regulatory investigations, public relations, consultants, credit identity monitoring, credit freezes, fraud alert, credit identity restoration, credit card cancellation, credit card reissuance or replacement, data restoration, regulatory fines and penalties, vendor fines and penalties, legal fees, damages and settlements. In addition, data security breaches, a cyber-attack or other cyber incident may cause business interruption, information technology disruption, disruptions as a result of regulatory investigation or litigation, digital asset loss related to corrupted or destroyed data, loss of company assets, damage to our reputation, damages to intangible property and other intangible damages, such as loss of consumer confidence, all of which could impair our operations and have an adverse impact on our financial results.

Conducting business internationally may result in increased costs and risks.

We operate our business internationally and plan to continue to develop our international presence. Operating internationally exposes us to a number of risks, including political risks, risks of increases in duties and taxes, risks relating to anti-bribery laws, as well as risks that laws and policies affecting cruising, vacation or maritime businesses, or governing the operations of foreign-based companies may change. Additional risks include imposition of trade barriers, withholding and other taxes on remittances and other payments by subsidiaries and changes in and application of foreign taxation structures, including value added taxes. If we are unable to address these risks adequately, our business, financial condition and results of operations could be materially and adversely affected.

Operating internationally also exposes us to numerous and sometimes conflicting legal and regulatory requirements. In many parts of the world, including countries in which we operate, practices in the local business communities might not conform to international business standards. We have implemented safeguards and policies to prevent violations of various anti-corruption laws that prohibit improper payments or offers of payments to foreign governments and their officials for the purpose of obtaining or retaining business by our employees and agents. However, our existing safeguards and policies and any future improvements may prove to be less than effective and our employees or agents may engage in conduct prohibited by our policies, but for which we nevertheless may be held responsible. If our employees or agents violate our policies, if we fail to maintain adequate record-keeping and internal accounting practices to accurately record our transactions or if we fail to implement or maintain other adequate safeguards, we may be subject to regulatory sanctions or severe criminal or civil sanctions and penalties.

We have operations in and source passengers from the U.K. and other member countries of the European Union. On June 23, 2016, voters in the U.K. approved an advisory referendum to withdraw from the European Union. Negotiations on the terms of the U.K.'s future relationship with the European Union are ongoing, with the U.K. due to exit the European Union on March 29, 2019. While negotiations are continuing, there remains considerable uncertainty around the withdrawal. Current discussions between the U.K. and the European Union may result in any number of outcomes including an extension or delay of the U.K.'s withdrawal from the European Union. The consequences for the economies of the U.K. and other European Union member states as a result of the U.K.'s withdrawal from the European Union are unknown and unpredictable, which could make it more difficult to source passengers from these regions. The proposed withdrawal could also potentially adversely affect tax, legal and regulatory regimes to which our business in the region is subject and disrupt the free movement of goods, services and people between the U.K. and the European Union. These events could have a material adverse effect on our business, financial condition and results of operations.

Changes in fuel prices and/or other cruise operating costs would impact the cost of our cruise ship operations and our hedging strategies may not protect us from increased costs related to fuel prices.

Fuel expense is a significant cost for our Company. Future increases in the cost of fuel globally or regulatory requirements which require us to use more expensive types of fuel would increase the cost of our cruise ship operations. For example, the IMO's convention entitled Prevention of Pollution from Ships (MARPOL) has set a global limit on fuel sulfur content of 0.5% (reduced from the current 3.5% global limit) beginning January 2020. Various compliance methods, such as the use of low-sulfur fuels or exhaust gas cleaning systems that reduce an equivalent amount of sulfur emissions, may be utilized. We have elected to install exhaust gas cleaning systems on some ships in our fleet, which will allow us to continue to use high-sulfur fuel on those ships. However, if exhaust gas cleaning systems are not widely used in the industry, low demand for high-sulfur fuel may increase the price for such fuel. Other ships in our fleet that do not have exhaust gas cleaning systems will be required to use low-sulfur fuels. Low-sulfur fuels may be costly due to increased demand and scarcity if suppliers are not able to produce sufficient quantities. In addition, we could experience increases in other cruise operating costs due to market forces and economic or political instability resulting from increases or volatility in fuel expense. Despite any fuel hedges we are currently a party to, or may enter into in the future, increases in fuel prices or other cruise operating costs could have a material adverse effect on our business, financial condition and results of operations if we are unable to recover these increased costs through price increases charged to our guests. Our hedging program may not be successful in mitigating higher fuel costs, and any price protection provided may be limited due to market conditions, including choice of hedging instruments, breakdown of correlation between hedging instrument and market price of fuel and failure of hedge counterparties. To the extent that we use hedge contracts that have the potential to create an obligation to pay upon settlement if fuel prices decline significantly, such hedge contracts may limit our ability to benefit fully from lower fuel costs in the future. There can be no assurance that our hedging arrangements will be cost-effective, will provide any particular level of protection against rises in fuel prices or that our counterparties will be able to perform under our hedging arrangements. Additionally, deterioration in our financial condition could negatively affect our ability to enter into new hedge contracts in the future.

Fluctuations in foreign currency exchange rates could adversely affect our financial results.

We earn revenues, pay expenses, purchase and own assets and incur liabilities in currencies other than the U.S. dollar; most significantly a portion of our revenue and expenses are denominated in foreign currencies, particularly British pound, Canadian dollar, euro and Australian dollar. Because our consolidated financial statements are presented in U.S. dollars, we must translate revenues and expenses, as well as assets and liabilities, into U.S. dollars at exchange rates in effect during or at the end of each reporting period. The strengthening of the U.S. dollar against our other major currencies may adversely affect our U.S. dollar financial results and will reduce the U.S. dollar amount received upon conversion of these currencies into U.S. dollars.

We have historically and may in the future enter into ship construction contracts denominated in euros or other foreign currencies. While we have entered into foreign currency derivatives to manage a portion of the currency risk associated with such contracts, we are exposed to fluctuations in the euro exchange rate for the portions of the ship construction contracts that have not been hedged. Additionally, if the shipyard is unable to perform under the related ship construction contract, any foreign currency hedges that were entered into to manage the currency risk would need to be terminated.

Our expansion into and investments in new markets may not be successful.

We believe there remains significant opportunity to expand our passenger sourcing into major markets, such as Europe and Australia, as well as into emerging markets and to expand our itineraries in new markets, as we did with Cuba, and we are in the process of such expansion efforts. Expansion into new markets requires significant levels of investment and attention from management. There can be no assurance that these markets will develop as anticipated or that we will have success in these markets, and if we do not, we may be unable to recover our investment spent to expand our business into these markets and may forgo opportunities in more lucrative markets, which could adversely impact our business, financial condition and results of operations.

Overcapacity in key markets or globally could adversely affect our operating results.

We continue to expand our fleet through our newbuild program and expect to add 11 additional ships to our fleet through 2027. Our competitors have also announced similar expansions to their fleets. These increases in capacity in the cruise industry globally and potential overcapacity in certain key markets may cause us to lower pricing, which would reduce profitability and adversely affect our results of operations. Additionally, older ships in our fleet may not be as competitive as new ships enter the market and we may not be able to sell such older ships at optimal prices.

Unavailability of ports of call may materially adversely affect our business, financial condition and results of operations.

We believe that attractive port destinations are a major reason why guests choose to go on a particular cruise or on a cruise vacation. The availability of ports, including the specific port facility at which our guests will embark and disembark, is affected by a number of factors, including, but not limited to, existing capacity constraints, security, safety and environmental concerns, adverse weather conditions and natural disasters such as hurricanes, floods, typhoons and earthquakes, financial limitations on port development, political instability, exclusivity arrangements that ports may have with our competitors, local governmental regulations and fees, local community concerns about port development and other adverse impacts on their communities from additional tourists and sanctions programs implemented by the Office of Foreign Assets Control of the United States Treasury Department or other regulatory bodies. For example, we had to temporarily change certain itineraries in the Caribbean due to damage some ports sustained during an active hurricane season in 2017. There can be no assurance that our ports of call will not be similarly affected in the future. We garner a pricing premium from our itineraries to Cuba as opposed to other Caribbean itineraries. If there is a change in the diplomatic relationship between the U.S. and Cuba, or either government issued sanctions or regulations that affect travel to Cuba, it is possible that we will no longer include Cuba in our itineraries. Any limitations on the availability of ports of call, including Cuba, or on the availability of shore excursions and other service providers at such ports could adversely affect our business, financial condition and results of operations.

Our inability to obtain adequate insurance coverage may adversely affect our business, financial condition and results of operations.

There can be no assurance that our risks are fully insured against or that any particular claim will be fully paid by our insurance. Such losses, to the extent they are not adequately covered by contractual remedies or insurance, could affect our financial results. In addition, we have been and continue to 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 coverage for tort liability. Our payment of these calls and increased premiums could result in significant expenses to us. If we, or other members of our protection and indemnity associations, were to sustain significant losses in the future, our ability to obtain insurance coverage at commercially reasonable rates or at all could be materially adversely affected. For example, in the past our protection and indemnity associations have increased certain deductibles and determined not to cover certain categories of claims. Moreover, irrespective of the occurrence of such events, there can still be no assurance that we will be able to obtain adequate insurance coverage at commercially reasonable rates or at all.

Evolving requirements and regulations regarding data privacy and protection and any actual or perceived compliance failures by us could increase our liability and costs and otherwise materially adversely affect our business operations.

We process and store sensitive information relating to our guests, employees, business partners and others and we are subject to requirements and regulations regarding data privacy and protection in multiple jurisdictions. Government regulators, privacy advocates and individuals are increasingly scrutinizing how companies collect, process, store, share and transmit personal data. New laws governing data privacy and protection, such as the European Union's General Data Protection Regulation ("GDPR") have been enacted and more are being considered worldwide. The GDPR contains stringent data privacy and protection requirements and enables regulators to impose significant penalties for non-compliance. The regulatory framework for data privacy and protection is uncertain for the foreseeable future, and it is possible that legal and regulatory obligations may continue to increase and may be interpreted and applied in a manner that is inconsistent or possibly conflicting from one jurisdiction to another.

Any actual or perceived failure by us or our business partners to comply with posted privacy policies, federal, state or international data privacy and protection laws and regulations, or privacy commitments contained in our contracts could result in proceedings against us by governmental entities or others and significant fines, which could have a material adverse effect on our business and operating results and harm our reputation. Additionally, if third parties we work with, such as vendors, violate applicable laws or regulations or our policies, such violations may also result in increased liability for us and have an adverse effect on our business.

Existing and future legal and regulatory restrictions on our ability to collect and use data could also negatively affect our ability to market our business, result in increased compliance costs, and otherwise affect our business processes, all of which could have an adverse effect on our financial results.

Our indebtedness, and the agreements governing our indebtedness, may limit our flexibility in operating our business and a significant portion of our assets, including many of our ships, are collateral under our debt agreements.

A substantial portion of our cash flow from operations is dedicated to the repayment of our indebtedness, which may limit our available funds for other business functions and strategic opportunities and may make us more vulnerable to downturns in our business, the economy and the industry in which we operate. We may not be able to generate sufficient cash to service our indebtedness, and may be forced to take other actions to satisfy our obligations under our indebtedness, including refinancing our indebtedness, which may not be successful. Any refinancing of our debt could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations.

In addition, the agreements governing our indebtedness contain, and any instruments governing future indebtedness of ours may contain, covenants that impose significant operating and financial restrictions on us, including restrictions or prohibitions on our ability to, among other things: incur or guarantee additional debt or issue certain preference shares; pay dividends on or make distributions in respect of our share capital or make other restricted payments, including the ability of NCLH's subsidiaries, including NCLC, to pay dividends or make distributions to NCLH; repurchase or redeem capital stock or subordinated indebtedness; make certain investments or acquisitions; transfer, sell or create liens on certain assets; and consolidate or merge with, or sell or otherwise dispose of all or substantially all of our assets to other companies. As a result of these covenants, we are limited in the manner in which we conduct our business, and we may be unable to engage in favorable business activities or finance future operations or capital needs.

Our existing debt agreements also require us, and any instruments governing future indebtedness of ours may require us, to maintain minimum level of liquidity, as well as limit our net funded debt-to-capital ratio and maintain certain other financial ratios. Our ability to meet those financial ratios can be affected by events beyond our control, and there can be no assurance that we will meet those ratios. A failure to comply with the covenants contained in our debt agreements could result in an event of default under such agreements, which, if not cured or waived, could have a material adverse effect on our business, financial condition and results of operations. In the event of any default under our debt agreements, the holders of our indebtedness thereunder:

- could elect to declare all indebtedness outstanding, together with accrued and unpaid interest and fees, to be due and payable and terminate all commitments to extend further credit, if applicable; and/or
- could require us to apply all of our available cash to repay such indebtedness.

Such actions by the holders of our indebtedness could cause cross defaults under our other indebtedness, and there is no assurance that we would have sufficient current assets to repay such indebtedness in full. If we were unable to repay those amounts, the holders of our secured indebtedness could proceed against the collateral granted to them to secure that indebtedness, which includes a significant portion of our assets including many of our ships. Any such action would have an adverse impact on our business, financial condition and results of operations.

The impact of volatility and disruptions in the global credit and financial markets may adversely affect our ability to borrow and could increase our counterparty credit risks, including those under our credit facilities, derivatives, contingent obligations, insurance contracts and new ship progress payment guarantees.

There can be no assurance that we will be able to borrow additional money on terms as favorable as our current debt, on commercially acceptable terms, or at all. Economic downturns, including failures of financial institutions and any related liquidity crisis, can disrupt the capital and credit markets. Such disruptions could cause counterparties under our credit facilities, derivatives, contingent obligations, insurance contracts and new ship progress payment guarantees to be unable to perform their obligations or to breach their obligations to us under our contracts with them, which could include failures of financial institutions to fund required borrowings under our loan agreements and to pay us amounts that may become due under our derivative contracts and other agreements. Also, we may be limited in obtaining funds to pay amounts due to our counterparties under our derivative contracts and to pay amounts that may become due under other agreements. If we were to elect to replace any counterparty for their failure to perform their obligations under such instruments, we would likely incur significant costs to replace the counterparty. Any failure to replace any counterparties under these circumstances may result in additional costs to us or an ineffective instrument.

Certain of our debt agreements use LIBOR as a reference rate for interest rate calculations. In July 2017, the U.K.'s Financial Conduct Authority, which regulates LIBOR, announced that it intends to phase out LIBOR by the end of 2021. The U.S. Federal Reserve has begun publishing a Secured Overnight Funding Rate, which is intended to replace U.S. dollar LIBOR. Plans for alternative reference rates for other currencies have also been announced. At this time, we cannot predict how markets will respond to these proposed alternative rates or the effect of any changes to LIBOR or the discontinuation of LIBOR. If LIBOR is no longer available or if our lenders have increased costs due to changes in LIBOR, we may experience potential increases in interest rates on our variable rate debt, which could adversely impact our results of operations.

Our inability to recruit or retain qualified personnel or the loss of key personnel may materially adversely affect our business, financial condition and results of operations.

Our success is dependent upon our personnel and our ability to recruit and retain high quality employees. We must continue to recruit, retain and motivate management and other employees in order to maintain our current business and support our projected growth. We need to hire and train a considerable number of qualified crew members to staff the ships that will be joining our fleet in the coming years. This may require significant efforts on the part of our management team, and our inability to hire a sufficient number of qualified crew members would adversely affect our business.

Our executive officers and other members of senior management have substantial experience and expertise in our business and have made significant contributions to our growth and success. The unexpected loss of services of one or more of these individuals could materially adversely affect us.

Delays in our shipbuilding program and ship repairs, maintenance and refurbishments could adversely affect our results of operations and financial condition.

The new construction, refurbishment, repair and maintenance of our ships are complex processes and involve risks similar to those encountered in other large and sophisticated equipment construction, refurbishment and repair projects. Our ships are subject to the risk of mechanical failure or accident, which we have occasionally experienced and have had to repair. For example, in the past we have had to delay or cancel cruises due to mechanical issues on our ships. There can be no assurance that we will not experience similar events in the future. If there is a mechanical failure or accident in the future, we may be unable to procure spare parts when needed or make repairs without incurring material expense or suspension of service, especially if a problem affects certain specialized maritime equipment, such as the radar, a pod propulsion unit, the electrical/power management system, the steering gear or the gyro system.

In addition, availability, work stoppages, insolvency or financial problems in the shipyards' construction, refurbishment or repair of our ships, or other "force majeure" events that are beyond our control and the control of shipyards or subcontractors, could also delay or prevent the newbuild delivery, refurbishment and repair and maintenance of our ships. Any termination or breach of contract following such an event may result in, among other things, the forfeiture of prior deposits or payments made by us, potential claims and impairment of losses. A significant delay in the delivery of a new ship, or a significant performance deficiency or mechanical failure of a new ship could also have an adverse effect on our business. The consolidation of the control of certain European cruise shipyards could result in higher prices for the construction of new ships and refurbishments and could limit the availability of qualified shipyards to construct new ships. Also, the lack of qualified shipyard repair facilities could result in the inability to repair and maintain our ships on a timely basis. These potential events and the associated losses, to the extent that they are not adequately covered by contractual remedies or insurance, could adversely affect our results of operations and financial condition.

We rely on third parties to provide hotel management services for certain ships and certain other services, and we are exposed to risks facing such providers. In certain circumstances, we may not be able to replace such third parties or we may be forced to replace them at an increased cost to us.

We rely on external third parties to provide hotel management services for certain ships and certain other services that are vital to our business. If these service providers suffer financial hardship or are otherwise unable to continue providing such services, we cannot guarantee that we will be able to replace such service providers in a timely manner, which may cause an interruption in our operations. To the extent that we are able to replace such service providers, we may be forced to pay an increased cost for equivalent services. Both the interruption of operations and the replacement of the third-party service providers at an increased cost could adversely impact our financial condition and results of operations.

We rely on scheduled commercial airline services for passenger and crew connections. Increases in the price of, or major changes or reduction in, commercial airline services could undermine our customer base or disrupt our operations.

A number of our passengers and crew depend on scheduled commercial airline services to transport them to ports of embarkation for our cruises. Increases in the price of airfare due to increases in fuel prices, fuel surcharges, changes in commercial airline services as a result of strikes, weather or other events, or the lack of availability due to schedule changes or a high level of airline bookings could adversely affect our ability to deliver guests and crew to or from our ships and thereby increase our cruise operating expenses which would, in turn, have an adverse effect on our financial condition and results of operations.

Amendments to the collective bargaining agreements for crew members of our fleet and other employee relation issues may materially adversely affect our financial results.

Currently, we are a party to eight collective bargaining agreements. Four of these agreements are in effect through 2020, two through 2021 and two through 2027. Any future amendments to such collective bargaining agreements or inability to satisfactorily renegotiate such agreements may increase our labor costs and have a negative impact on our financial condition. In addition, although our collective bargaining agreements have a no-strike provision, they may not prevent a disruption in work on our ships in the future. Any such disruptions in work could have a material adverse effect on our financial results.

Litigation, enforcement actions, fines or penalties could adversely impact our financial condition or results of operations and damage our reputation.

Our business is subject to various U.S. and international laws and regulations that could lead to enforcement actions, fines, civil or criminal penalties or the assertion of litigation claims and damages. In addition, improper conduct by our employees or agents could damage our reputation and/or lead to litigation or legal proceedings that could result in civil or criminal penalties, including substantial monetary fines. In certain circumstances, it may not be economical to defend against such matters, and a legal strategy may not ultimately result in us prevailing in a matter. Such events could lead to an adverse impact on our financial condition or results of operations.

As a result of any ship-related or other incidents, litigation claims, enforcement actions and regulatory actions and investigations, including, but not limited to, those arising from personal injury, loss of life, loss of or damage to personal property, business interruption losses or environmental damage to any affected coastal waters and the surrounding area, may be asserted or brought against various parties, including us and/or our cruise brands. The time and attention of our management may also be diverted in defending such claims, actions and investigations. Subject to applicable insurance coverage, we may also incur costs both in defending against any claims, actions and investigations and for any judgments, fines, civil or criminal penalties if such claims, actions or investigations are adversely determined.

A failure to keep pace with developments in technology could impair our operations or competitive position.

Our business continues to demand the use of sophisticated systems and technology. These systems and technologies must be refined, updated and replaced with more advanced systems on a regular basis in order for us to meet our customers' demands and expectations. If we are unable to do so on a timely basis or within reasonable cost parameters, or if we are unable to appropriately and timely train our employees to operate any of these new systems, our business could suffer. We also may not achieve the benefits that we anticipate from any new system or technology, such as fuel abatement technologies, and a failure to do so could result in higher than anticipated costs or could impair our operating results.

Our revenue is seasonal, owing to variations in passenger fare rates and occupancy levels at different times of the year. We may not be able to generate revenue that is sufficient to cover our expenses during certain periods of the year.

The demand for our cruises is seasonal, with the greatest demand for cruises generally occurring during the Northern Hemisphere's summer months. This seasonality in demand has resulted in fluctuations in our revenue and results of operations. The seasonality of our results is increased due to ships being taken out of service for Dry-docks, which we typically schedule during off-peak demand periods for such ships. Accordingly, seasonality in demand and Dry-dock periods could adversely affect our ability to generate sufficient revenue to cover the expenses we incur during certain periods of the year.

Risks Related to the Regulatory Environment in Which We Operate

Future changes in applicable tax laws, or our inability to take advantage of favorable tax regimes, could increase the amount of taxes we must pay.

We believe and have taken the position that our income that is considered to be derived from the international operation of ships as well as certain income that is considered to be incidental to such income ("shipping income"), is exempt from U.S. federal income taxes under Section 883, based upon certain assumptions as to shareholdings and other information as more fully described in "Item 1—Business—Taxation." The provisions of Section 883 are subject to change at any time, possibly with retroactive effect.

We believe and have taken the position that substantially all of our income derived from the international operation of ships is properly categorized as shipping income and that we do not have a material amount of non-qualifying income. It is possible, however, that a much larger percentage of our income does not qualify (or will not qualify) as shipping income. Moreover, the exemption for shipping income is only available for years in which NCLH will satisfy complex stock ownership tests or the publicly traded test under Section 883 as described in "Item 1—Business—Taxation—Exemption of International Shipping Income under Section 883 of the Code." There are factual circumstances beyond our control, including changes in the direct and indirect owners of NCLH's ordinary shares, which could cause us or our subsidiaries to lose the benefit of this tax exemption. Finally, any changes in our operations could significantly increase our exposure to either the Net Tax Regime or the 4% Regime (each as defined in "Item 1—Business—Taxation"), and we can give no assurances on this matter.

If we or any of our subsidiaries were not to qualify for the exemption under Section 883, our or such subsidiary's U.S.-source income would be subject to either the Net Tax Regime or the 4% Regime (each as defined in "Item 1—Business—Taxation"). As of the date of this filing, we believe that NCLH and its subsidiaries will satisfy the publicly traded test imposed under Section 883 and therefore believe that NCLH will qualify for the exemption under Section 883. However, as discussed above, there are factual circumstances beyond our control that could cause NCLH to not meet the stock ownership or publicly traded tests. Therefore, we can give no assurances on this matter. We refer you to "Item 1—Business—Taxation."

We may be subject to state, local and non-U.S. income or non-income taxes in various jurisdictions, including those in which we transact business, own property or reside. We may be required to file tax returns in some or all of those jurisdictions. Our state, local or non-U.S. tax treatment may not conform to the U.S. federal income tax treatment discussed above. We may be required to pay non-U.S. taxes on dispositions of foreign property or operations involving foreign property that may give rise to non-U.S. income or other tax liabilities in amounts that could be substantial.

The various tax regimes to which we are currently subject result in a relatively low effective tax rate on our worldwide income. These tax regimes, however, are subject to change, possibly with retroactive effect. For example, legislation has been proposed in the past that would eliminate the benefits of the exemption from U.S. federal income tax under Section 883 and subject all or a portion of our shipping income to taxation in the U.S. Moreover, we may become subject to new tax regimes and may be unable to take advantage of favorable tax provisions afforded by current or future law, including exemption of branch profits and dividend withholding taxes under the U.S. – U.K. Income Tax Treaty on income derived in respect of our U.S.-flagged operation.

We are subject to complex laws and regulations, including environmental laws and regulations, which could adversely affect our operations and any changes in the current laws and regulations could lead to increased costs or decreased revenue.

Increasingly stringent and complex international, federal, state, and local laws and regulations addressing environmental protection and health and safety of workers could affect our operations. The IMO, a United Nations agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships, the Council of the European Union, individual countries, the United States, and individual states have implemented and are considering, new laws and rules to manage cruise ship operations. Many aspects of the cruise industry are subject to international treaties such as SOLAS, an international safety regulation, MARPOL, IMO's requirements governing environmental protection, and STCW, an IMO regulation governing ship manning. In the United States, the Environmental Protection Agency and the U.S. Coast Guard both have regulations addressing cruise ship operations.

The U.S. and various state and foreign government and regulatory agencies have enacted or are considering new environmental regulations and policies aimed at reducing the threat of invasive species in ballast water, requiring the use of low-sulfur fuels, increasing fuel efficiency requirements and further restricting emissions, including those of green-house gases, and improving sewage and greywater-handling capabilities. Compliance with such laws and regulations may entail significant expenses for ship modification and changes in operating procedures which could adversely impact our operations as well as our competitors' operations.

Among the laws impacting cruise ship operations are a 2006 ballot measure approved by Alaskan voters requiring that cruise ships meet Alaska Water Quality Standards ("WQS"). The law was relaxed somewhat in 2013, allowing ship operators to apply for mixing zones in discharge permits, an option that has eased compliance with certain WQS. The International Labor Organization's Maritime Labor Convention, 2006 went into force on August 20, 2013. This Convention regulates many aspects of maritime crew labor and impacts the worldwide sourcing of new crew members. MARPOL regulations have established special Emission Control Areas ("ECAs") with stringent limitations on sulfur and nitrogen oxide emissions from fuel burning aboard ships. Ships operating in designated ECAs (which include the Baltic Sea, the North Sea/English Channel, and many of the waters within 200 nautical miles of the U.S. and Canadian coasts including the Hawaiian Islands and waters surrounding Puerto Rico and the U.S. Virgin Islands) are generally expected to meet the new sulfur oxide emissions limits through the use of low-sulfur fuels or installation of exhaust gas cleaning systems.

These issues are, and we believe will continue to be, areas of focus by the relevant authorities throughout the world. This could result in the enactment of more stringent regulation of cruise ships that would subject us to increasing compliance costs in the future. Some environmental groups continue to lobby for more extensive oversight of cruise ships and have generated negative publicity about the cruise industry and its environmental impact. By virtue of our operations in the U.S., the FMC requires us to maintain a third-party performance guarantee on our behalf in respect of liabilities for non-performance of transportation and other obligations to guests. The FMC has proposed rules that would significantly increase the amount of our required guarantees and accordingly our cost of compliance. There can be no assurance that such an increase in the amount of our guarantees, if required, would be available to us. For additional discussion of the FMC's proposed requirements, we refer you to "Item 1—Business—Regulatory Issues."

In 2007, the state of Alaska implemented taxes, some of which were rolled back in 2010, which have impacted the cruise industry operating in Alaska. It is possible that other states, countries or ports of call that our ships regularly visit may also decide to assess new taxes or fees or change existing taxes or fees specifically applicable to the cruise industry and its employees and/or guests, which could increase our operating costs and/or could decrease the demand for cruises.

Risks Related to NCLH's Ordinary Shares

Shareholders of NCLH may have greater difficulties in protecting their interests than shareholders of a U.S. corporation.

We are a Bermuda exempted company. The Companies Act 1981 of Bermuda (the "Companies Act"), which applies to NCLH, differs in material respects from laws generally applicable to U.S. corporations and their shareholders. Taken together with the provisions of NCLH's bye-laws, some of these differences may result in you having greater difficulties in protecting your interests as a shareholder of NCLH than you would have as a shareholder of a U.S. corporation. This affects, among other things, the circumstances under which transactions involving an interested director are voidable, whether an interested director can be held accountable for any benefit realized in a transaction with our Company, what approvals are required for business combinations by our Company with a large shareholder or a wholly-owned subsidiary, what rights you may have as a shareholder to enforce specified provisions of the Companies Act or NCLH's bye-laws, and the circumstances under which we may indemnify our directors and officers.

NCLH does not currently pay dividends on its ordinary shares.

NCLH does not currently pay dividends to its shareholders and NCLH's Board of Directors may never declare a dividend. Our existing debt agreements restrict, and any of our future debt arrangements may restrict, among other things, the ability of NCLH's subsidiaries, including NCLC, to pay distributions to NCLH and NCLH's ability to pay cash dividends to its shareholders. In addition, any determination to pay dividends in the future will be entirely at the discretion of NCLH's Board of Directors and will depend upon our results of operations, cash requirements, financial condition, business opportunities, contractual restrictions, restrictions imposed by applicable law and other factors that NCLH's Board of Directors deems relevant. We are not legally or contractually required to pay dividends. In addition, NCLH is a holding company and would depend upon its subsidiaries for their ability to pay distributions to NCLH to finance any dividend or pay any other obligations of NCLH. Investors seeking dividends should not purchase NCLH's ordinary shares.

Provisions in NCLH's constitutional documents may prevent or discourage takeovers and business combinations that NCLH's shareholders might consider to be in their best interests.

NCLH's bye-laws contain provisions that may delay, defer, prevent or render more difficult a takeover attempt that its shareholders consider to be in their best interests. As a result, these provisions may prevent NCLH's shareholders from receiving a premium to the market price of NCLH's shares offered by a bidder in a takeover context. Even in the absence of a takeover attempt, the existence of these provisions may adversely affect the prevailing market price of NCLH's shares if they are viewed as discouraging takeover attempts in the future. These provisions include:

- the ability of NCLH's Board of Directors to designate one or more series of preference shares and issue preference shares without shareholder approval;
- a classified board of directors;
- the sole power of a majority of NCLH's Board of Directors to fix the number of directors;
- the power of NCLH's Board of Directors to fill any vacancy on NCLH's Board of Directors in most circumstances, including when such vacancy occurs as a result of an increase in the number of directors or otherwise; and
- advance notice requirements for nominating directors or introducing other business to be conducted at shareholder meetings.

Additionally, NCLH's bye-laws contain provisions that prevent third parties from acquiring beneficial ownership of more than 4.9% of its outstanding shares without the consent of NCLH's Board of Directors and provide for the lapse of rights, and sale, of any shares acquired in excess of that limit. The effect of these provisions may preclude third parties from seeking to acquire a controlling interest in NCLH in transactions that shareholders might consider to be in their best interests and may prevent them from receiving a premium above market price for their shares.

Item 1B. Unresolved Staff Comments

Not applicable.

Item 2. Properties

Information about our cruise ships may be found under "Item 1. Business—Our Fleet" and "Item. 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources."

NCLH's principal executive offices are located in Miami, Florida where we lease approximately 335,900 square feet of facilities. We also have a lease of approximately 77,500 square feet for Prestige's former executive offices in Miami, Florida which we have subleased to a third party. We lease approximately (i) 31,200 square feet of office space over 2 locations in Sunrise, Florida for sales; (ii) 19,200 square feet of office space in Southampton, England for sales, marketing, operations, and other administrative activity in the U.K. and Ireland; (iii) 12,200 square feet of office space in Wiesbaden, Germany for sales and marketing in Europe; (iv) 28,000 square feet of office space in Phoenix, Arizona for a call center; (v) 17,600 square feet in Omaha, Nebraska for a call center; and (vi) 46,000 square feet of warehouse space in Tampa, Florida for entertainment theatrical production.

Additionally, we lease a number of international offices throughout Europe, Asia, South America and Australia to administer our brand operations globally. Norwegian owns a private island in the Bahamas, Great Stirrup Cay, which we utilize as a port-of-call on some of our itineraries. We operate a cruise destination in Belize, Harvest Caye.

We believe that our facilities are adequate for our current needs, and that we are capable of obtaining additional facilities as necessary.

Item 3. Legal Proceedings

On September 21, 2018, a purported class-action lawsuit was filed by Marta and Jerry Phillips and others against NCL Corporation Ltd. in the United States District Court for the Southern District of Florida relating to the marketing and sales of our Booksafe Travel Protection Plan. The plaintiffs purport to represent an alleged class of passengers who purchased Booksafe Travel Protection Plans. The complaint alleges that the Company concealed that it received proceeds on the sale of the travel insurance portion of the plan. The complaint seeks an unspecified amount of damages, fees and costs. We believe we have meritorious defenses to the claim and that any liability which may arise as a result of this action will not have a material impact on our consolidated financial statements.

In the normal course of our business, various claims and lawsuits have been filed or are pending against us. Most of these claims and lawsuits are covered by insurance and, accordingly, the maximum amount of our liability is typically limited to our deductible amount.

Nonetheless, the ultimate outcome of these claims and lawsuits that are not covered by insurance cannot be determined at this time. We have evaluated our overall exposure with respect to all of our threatened and pending litigation and, to the extent required, we have accrued amounts for all estimable probable losses associated with our deemed exposure. We are currently unable to estimate any other potential contingent losses beyond those accrued, as discovery is not complete nor is adequate information available to estimate such range of loss or potential recovery. However, based on our current knowledge, we do not believe that the aggregate amount or range of reasonably possible losses with respect to these matters will be material to our consolidated results of operations, financial condition or cash flows. We intend to vigorously defend our legal position on all claims and, to the extent necessary, seek recovery.

Item 4. Mine Safety Disclosures

None.

PART II**Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities****Market Information**

Since December 19, 2017, NCLH’s ordinary shares have been listed on the NYSE under the symbol “NCLH.” Prior to December 19, 2017, NCLH’s ordinary shares were listed on the Nasdaq Stock Market LLC (Nasdaq Global Select Market) under the symbol “NCLH.”

Holders

As of February 15, 2019, there were 245 record holders of NCLH’s ordinary shares. Since certain of NCLH’s ordinary shares are held by brokers and other institutions on behalf of shareholders, the foregoing number is not representative of the number of beneficial owners.

Dividends

NCLH does not currently pay dividends to its shareholders. Any determination to pay dividends in the future will be at the discretion of our Board of Directors and will depend upon our results of operations, financial condition, restrictions imposed by applicable law and our financing agreements and other factors that our Board of Directors deems relevant.

Purchases of Equity Securities by the Issuer

On April 17, 2018, the Board of Directors of NCLH approved a three-year share repurchase program under which NCLH may purchase up to \$1.0 billion of its ordinary shares (the “Repurchase Program”). Pursuant to the Repurchase Program, NCLH may repurchase its ordinary shares from time to time, in amounts, at prices and at such times as it deems appropriate, subject to market conditions and other considerations. Repurchases under the Repurchase Program may take place in the open market or in privately negotiated transactions, including structured and derivative transactions such as accelerated share repurchase transactions and may be made under a Rule 10b5-1 plan.

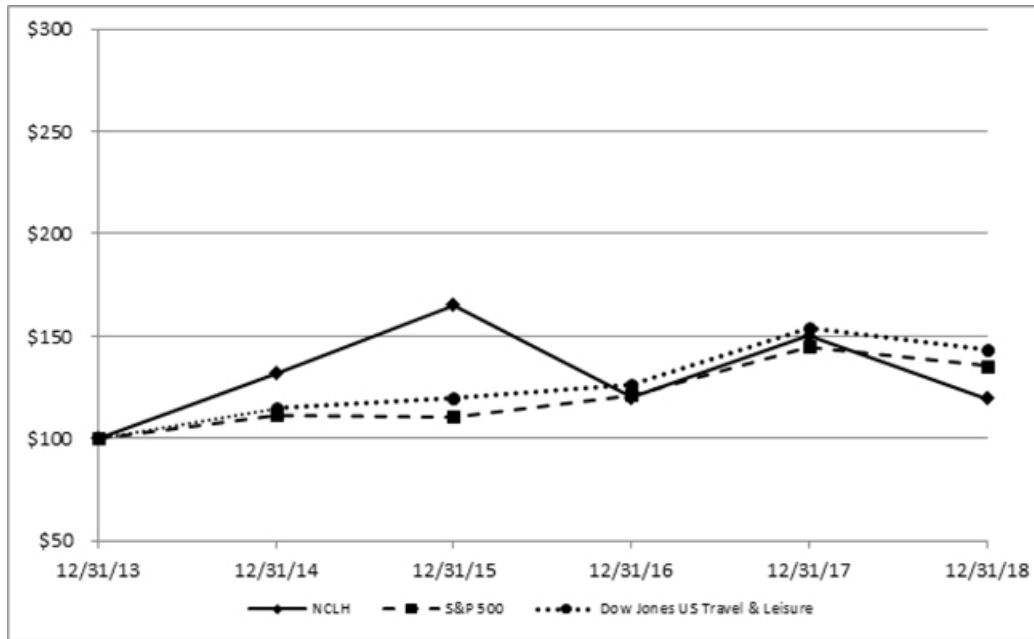
Share repurchase activity during the three months ended December 31, 2018 was as follows:

| Period | Total Number of Shares Purchased as Part of a Publicly Announced Program (in thousands) | Average Price Paid per Share | Approximate Dollar Value of Shares that May Yet be Purchased Under the Program (in thousands) |
|--|--|-------------------------------------|--|
| October 1, 2018 – October 31, 2018 | — | \$ — | \$ 800,000 |
| November 1, 2018 – November 30, 2018 | 2,354 | \$ 49.40 | \$ 683,694 |
| December 1, 2018 – December 31, 2018 | 1,683 | \$ 50.50 | \$ 598,694 |
| Total for the three months ended December 31, 2018 | <u>4,037</u> | \$ 49.86 | \$ 598,694 |

Stock Performance Graph

This performance graph shall not be deemed “soliciting material” or to be “filed” with the SEC for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities under that Section, and shall not be deemed to be incorporated by reference into any filing of NCLH under the Securities Act of 1933, as amended, or the Exchange Act.

The following graph shows a comparison of the cumulative total return for our ordinary shares, the Standard & Poor’s 500 Composite Stock Index and the Dow Jones United States Travel and Leisure index. The Stock Performance Graph assumes that \$100 was invested at the closing price of our ordinary shares on the Nasdaq and in each index on the last trading day of fiscal 2013. Past performance is not necessarily an indicator of future results. The stock prices used were as of the close of business on the respective dates.



Item 6. Selected Financial Data

The following selected financial data should be read in conjunction with the consolidated financial statements and notes thereto and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” appearing elsewhere in this annual report.

The consolidated financial statements as of and for the year ended December 31, 2014 include the financial results of Prestige commencing on November 19, 2014, the date the Acquisition of Prestige was consummated.

| (in thousands, except share data, per share data and operating data) | As of or for the Year Ended December 31, | | | | |
|--|--|---------------|---------------|---------------|---------------|
| | 2018 | 2017 | 2016 | 2015 | 2014 |
| Statement of operations data: | | | | | |
| Total revenue | \$ 6,055,126 | \$ 5,396,175 | \$ 4,874,340 | \$ 4,345,048 | \$ 3,125,881 |
| Operating income | \$ 1,219,061 | \$ 1,048,819 | \$ 925,464 | \$ 702,486 | \$ 502,941 |
| Net income | \$ 954,843 | \$ 759,872 | \$ 633,085 | \$ 427,137 | \$ 342,601 |
| Net income attributable to non-controlling interest | \$ — | \$ — | \$ — | \$ — | \$ 4,249 |
| Net income attributable to Norwegian Cruise Line Holdings Ltd. | \$ 954,843 | \$ 759,872 | \$ 633,085 | \$ 427,137 | \$ 338,352 |
| EPS: | | | | | |
| Basic | \$ 4.28 | \$ 3.33 | \$ 2.79 | \$ 1.89 | \$ 1.64 |
| Diluted | \$ 4.25 | \$ 3.31 | \$ 2.78 | \$ 1.86 | \$ 1.62 |
| Weighted-average shares outstanding: | | | | | |
| Basic | 223,001,739 | 228,040,825 | 227,121,875 | 226,591,437 | 206,524,968 |
| Diluted | 224,419,205 | 229,418,326 | 227,850,286 | 230,040,132 | 212,017,784 |
| Balance sheet data: | | | | | |
| Total assets | \$ 15,205,970 | \$ 14,094,869 | \$ 12,973,911 | \$ 12,264,757 | \$ 11,468,996 |
| Property and equipment, net | \$ 12,119,253 | \$ 11,040,488 | \$ 10,117,689 | \$ 9,458,805 | \$ 8,623,773 |
| Long-term debt, including current portion | \$ 6,492,091 | \$ 6,307,765 | \$ 6,398,687 | \$ 6,397,537 | \$ 6,080,023 |
| Total shareholders’ equity | \$ 5,963,001 | \$ 5,749,766 | \$ 4,537,726 | \$ 3,780,880 | \$ 3,518,813 |
| Operating data: | | | | | |
| Passengers carried | 2,795,101 | 2,519,324 | 2,337,311 | 2,164,404 | 1,933,044 |
| Passenger Cruise Days | 20,276,568 | 18,523,030 | 17,588,707 | 16,027,743 | 13,634,200 |
| Capacity Days | 18,841,678 | 17,363,422 | 16,376,063 | 14,700,990 | 12,512,459 |
| Occupancy Percentage | 107.6% | 106.7% | 107.4% | 109.0% | 109.0% |

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Financial Presentation

The following discussion and analysis contains forward-looking statements within the meaning of the federal securities laws, and should be read in conjunction with the disclosures we make concerning risks and other factors that may affect our business and operating results. You should read this information in conjunction with the consolidated financial statements and the notes thereto included in this annual report. See also "Cautionary Statement Concerning Forward-Looking Statements" immediately prior to Part I, Item 1 in this annual report.

We categorize revenue from our cruise and cruise-related activities as either "passenger ticket" revenue or "onboard and other" revenue. Passenger ticket revenue and onboard and other revenue vary according to product offering, the size of the ship in operation, the length of cruises operated and the markets in which the ship operates. Our revenue is seasonal based on demand for cruises, which has historically been strongest during the Northern Hemisphere's summer months. Passenger ticket revenue primarily consists of revenue for accommodations, meals in certain restaurants on the ship, certain onboard entertainment, and includes revenue for service charges and air and land transportation to and from the ship to the extent guests purchase these items from us. Onboard and other revenue primarily consists of revenue from gaming, beverage sales, shore excursions, specialty dining, retail sales, spa services and photo services. Our onboard revenue is derived from onboard activities we perform directly or that are performed by independent concessionaires, from which we receive a share of their revenue.

Our cruise operating expense is classified as follows:

- Commissions, transportation and other primarily consists of direct costs associated with passenger ticket revenue. These costs include travel agent commissions, air and land transportation expenses, related credit card fees, certain port expenses and the costs associated with shore excursions and hotel accommodations included as part of the overall cruise purchase price.
- Onboard and other primarily consists of direct costs incurred in connection with onboard and other revenue, including casino, beverage sales and shore excursions.
- Payroll and related consists of the cost of wages and benefits for shipboard employees and costs of certain inventory items, including food, for a third party that provides crew and other hotel services for certain ships.
- Fuel includes fuel costs, the impact of certain fuel hedges and fuel delivery costs.
- Food consists of food costs for passengers and crew on certain ships.
- Other consists of repairs and maintenance (including Dry-dock costs), ship insurance and other ship expenses.

Critical Accounting Policies

Our consolidated financial statements have been prepared in accordance with U.S. GAAP. The preparation of these consolidated financial statements requires us to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of our consolidated financial statements and the reported amounts of revenue and expenses during the periods presented. We rely on historical experience and on various other assumptions that we believe to be reasonable under the circumstances to make these estimates and judgments. Actual results could differ materially from these estimates. We believe that the following critical accounting policies reflect the significant estimates and assumptions used in the preparation of our consolidated financial statements. These critical accounting policies, which are presented in detail in our notes to our audited consolidated financial statements, relate to ship accounting, asset impairment and contingencies.

Ship Accounting

Ships represent our most significant assets, and we record them at cost less accumulated depreciation. Depreciation of ships is computed on a straight-line basis over the estimated service lives of primarily 30 years after a 15% reduction for the estimated residual value of the ship. Improvement costs that we believe add value to our ships are capitalized to the ship and depreciated over the shorter of the improvements' estimated useful lives or the remaining useful life of the ship. Repairs and maintenance activities are charged to expense as incurred. We account for Dry-dock costs under the direct expense method which requires us to expense all Dry-dock costs as incurred.

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We determine the useful life of our ships based primarily on our estimates of the average useful life of the ships' major component systems, such as cabins, main diesels, main electric, superstructure and hull. In addition, we consider the impact of anticipated changes in the vacation market and technological conditions and historical useful lives of similarly-built ships. Given the large and complex nature of our ships, our accounting estimates related to ships and determinations of ship improvement costs to be capitalized require considerable judgment and are inherently uncertain. Should certain factors or circumstances cause us to revise our estimate of ship service lives or projected residual values, depreciation expense could be materially lower or higher. If circumstances cause us to change our assumptions in making determinations as to whether ship improvements should be capitalized, the amounts we expense each year as repairs and maintenance costs could increase, partially offset by a decrease in depreciation expense. If we reduced our estimated average 30-year ship service life by one year, depreciation expense for the year ended December 31, 2018 would have increased by \$13.3 million. In addition, if our ships were estimated to have no residual value, depreciation expense for the same period would have increased by \$65.9 million. We believe our estimates for ship accounting are reasonable and our methods are consistently applied. We believe that depreciation expense is based on a rational and systematic method to allocate our ships' costs to the periods that benefit from the ships' usage.

Asset Impairment

We review our long-lived assets, principally ships, for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Assets are grouped and evaluated at the lowest level for which there are identifiable cash flows that are largely independent of the cash flows of other groups of assets. We consider historical performance and future estimated results in our evaluation of potential impairment and then compare the carrying amount of the asset to the estimated future cash flows expected to result from the use of the asset. If the carrying amount of the asset exceeds the estimated expected undiscounted future cash flows, we measure the amount of the impairment by comparing the carrying amount of the asset to its fair value. We estimate fair value based on the best information available utilizing estimates, judgments and projections as necessary. Our estimate of fair value is generally measured by discounting expected future cash flows at discount rates commensurate with the associated risk.

We evaluate goodwill for impairment annually or more frequently when an event occurs or circumstances change that indicates the carrying value of a reporting unit may not be recoverable. For our evaluation of goodwill we use the Step 0 Test which allows us to first assess qualitative factors to determine whether it is more likely than not (i.e., more than 50%) that the fair value of a reporting unit is less than its carrying value. In order to make this evaluation, we consider whether any of the following factors or conditions exist:

- Changes in general macroeconomic conditions such as a deterioration in general economic conditions; limitations on accessing capital; fluctuations in foreign exchange rates; or other developments in equity and credit markets;
- Changes in industry and market conditions such as a deterioration in the environment in which an entity operates; an increased competitive environment; a decline in market-dependent multiples or metrics (in both absolute terms and relative to peers); a change in the market for an entity's products or services; or a regulatory or political development;
- Changes in cost factors that have a negative effect on earnings and cash flows;
- Decline in overall financial performance (for both actual and expected performance);
- Entity and reporting unit specific negative events such as changes in management, key personnel, strategy, or customers; litigation; or a change in the composition or carrying amount of net assets; and
- Decline in share price (in both absolute terms and relative to peers).

We believe our estimates and judgments with respect to our long-lived assets, principally ships, goodwill, tradenames and other indefinite-lived intangible assets are reasonable. Nonetheless, if there was a material change in assumptions used in the determination of such fair values or if there is a material change in the conditions or circumstances that influence such assets, we could be required to record an impairment charge. If a material change occurred, we may conduct a quantitative assessment comparing the fair value of each reporting unit to its carrying value, including goodwill. This is called the Step 1 Test which consists of a combined approach using the expected future cash flows and market multiples to determine the fair value of the reporting units.

For our annual impairment evaluation, we performed a Step 0 Test for the Norwegian, Regent Seven Seas and Oceania Cruises reporting units. As of December 31, 2018, there was \$523.0 million, \$462.1 million and \$403.8 million of goodwill for the Oceania Cruises, Regent Seven Seas and Norwegian reporting units, respectively. As of December 31, 2018, our annual review consisting of the Step 0 Test supports the carrying value of these assets.

Contingencies

Periodically, we assess potential liabilities related to any lawsuits or claims brought against us or any asserted claims, including tax, legal and/or environmental matters. Although it is typically very difficult to determine the timing and ultimate outcome of such actions, we use our best judgment to determine if it is probable that we will incur an expense related to the settlement or final adjudication of such matters and whether a reasonable estimation of such probable loss, if any, can be made. In assessing probable losses, we take into consideration estimates of the amount of insurance recoveries, if any. In accordance with the guidance on accounting for contingencies, we accrue a liability when we believe a loss is probable and the amount of loss can be reasonably estimated. Although we believe that our estimates and judgments are reasonable, due to the inherent uncertainties related to the eventual outcome of litigation and potential insurance recoveries, it is possible that certain matters may be resolved for amounts materially different from any estimated provisions or previous disclosures.

Non-GAAP Financial Measures

We use certain non-GAAP financial measures, such as Net Revenue, Adjusted Net Revenue, Net Yield, Adjusted Net Yield, Net Cruise Cost, Adjusted Net Cruise Cost Excluding Fuel, Adjusted EBITDA, Adjusted Net Income and Adjusted EPS, to enable us to analyze our performance. See “Terms Used in this Annual Report” for the definitions of these and other non-GAAP financial measures. We utilize Net Revenue and Net Yield to manage our business on a day-to-day basis and believe that they are the most relevant measures of our revenue performance because they reflect the revenue earned by us net of significant variable costs. In measuring our ability to control costs in a manner that positively impacts net income, we believe changes in Net Cruise Cost and Adjusted Net Cruise Cost Excluding Fuel to be the most relevant indicators of our performance.

As our business includes the sourcing of passengers and deployment of vessels outside of the U.S., a portion of our revenue and expenses are denominated in foreign currencies, particularly British pound, Canadian dollar, euro and Australian dollar which are subject to fluctuations in currency exchange rates versus our reporting currency, the U.S. dollar. In order to monitor results excluding these fluctuations, we calculate certain non-GAAP measures on a Constant Currency basis, whereby current period revenue and expenses denominated in foreign currencies are converted to U.S. dollars using currency exchange rates of the comparable period. We believe that presenting these non-GAAP measures on both a reported and Constant Currency basis is useful in providing a more comprehensive view of trends in our business.

We believe that Adjusted EBITDA is appropriate as a supplemental financial measure as it is used by management to assess operating performance. We also believe that Adjusted EBITDA is a useful measure in determining our performance as it reflects certain operating drivers of our business, such as sales growth, operating costs, marketing, general and administrative expense and other operating income and expense. Adjusted EBITDA is not a defined term under GAAP nor is it intended to be a measure of liquidity or cash flows from operations or a measure comparable to net income, as it does not take into account certain requirements such as capital expenditures and related depreciation, principal and interest payments and tax payments and it includes other supplemental adjustments.

In addition, Adjusted Net Revenue and Adjusted Net Yield, which exclude certain business combination accounting entries, are non-GAAP financial measures that we believe are useful as supplemental measures in evaluating the performance of our operating business and provide greater transparency into our results of operations. Adjusted Net Income and Adjusted EPS are non-GAAP financial measures that exclude certain amounts and are used to supplement GAAP net income and EPS. We use Adjusted Net Income and Adjusted EPS as key performance measures of our earnings performance. We believe that both management and investors benefit from referring to these non-GAAP financial measures in assessing our performance and when planning, forecasting and analyzing future periods. These non-GAAP financial measures also facilitate management’s internal comparison to our historical performance. In addition, management uses Adjusted EPS as a performance measure for our incentive compensation. The amounts excluded in the presentation of these non-GAAP financial measures may vary from period to period; accordingly, our presentation of Adjusted Net Revenue, Adjusted Net Yield, Adjusted Net Income and Adjusted EPS may not be indicative of future adjustments or results. For example, for the year ended December 31, 2017, we incurred an impairment of \$2.9 million related to assets held for sale. A similar impairment was not incurred in the years ended December 31, 2018 or December 31, 2016. We included this as an adjustment in the reconciliation of Adjusted Net Income since this impairment amount was not representative of our day-to-day operations and we have included similar non-representative adjustments in prior periods.

You are encouraged to evaluate each adjustment used in calculating our non-GAAP financial measures and the reasons we consider our non-GAAP financial measures appropriate for supplemental analysis. In evaluating our non-GAAP financial measures, you should be aware that in the future we may incur expenses similar to the adjustments in our presentation. Our non-GAAP financial measures have limitations as analytical tools, and you should not consider these measures in isolation or as a substitute for analysis of our results as reported under GAAP. Our presentation of our non-GAAP financial measures should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items. Our non-GAAP financial measures may not be comparable to other companies. Please see a historical reconciliation of these measures to the most comparable GAAP measure presented in our consolidated financial statements below in the “Results of Operations” section.

Summary of Significant 2018 Events

In March 2018, we repurchased approximately \$263.5 million of NCLH’s outstanding ordinary shares under our previously authorized three-year, \$500.0 million share repurchase program, exhausting the remaining authorization under the program. In April 2018, the Board of Directors of NCLH approved a new three-year share repurchase program under which NCLH may purchase up to \$1.0 billion of its ordinary shares. We repurchased approximately \$401.3 million of NCLH’s ordinary shares under the Repurchase Program.

In April 2018, Norwegian Bliss was delivered.

In April 2018, we redeemed \$135.0 million principal amount of the \$700.0 million aggregate principal amount of outstanding 4.75% Senior Notes due 2021.

As of December 31, 2018, the Sponsors no longer own any NCLH ordinary shares.

Executive Overview

Total revenue increased 12.2% to \$6.1 billion for the year ended December 31, 2018 compared to \$5.4 billion for the year ended December 31, 2017. Gross Yield increased 3.4%. Net Revenue for the year ended December 31, 2018 increased 12.6% to \$4.7 billion from \$4.2 billion in the same period in 2017 with an improvement in Net Yield of 3.7% and an increase in Capacity Days of 8.5%.

For the year ended December 31, 2018, we had net income and diluted EPS of \$954.8 million and \$4.25, respectively. For the year ended December 31, 2017, we had net income and diluted EPS of \$759.9 million and \$3.31, respectively. Operating income increased 16.2% to \$1.2 billion for the year ended December 31, 2018 from \$1.0 billion for the year ended December 31, 2017.

We had Adjusted Net Income and Adjusted EPS of \$1.1 billion and \$4.92, respectively, for the year ended December 31, 2018, including \$150.1 million of adjustments primarily consisting of expenses related to non-cash share-based compensation, amortization of intangible assets, losses on the extinguishment of debt and certain other adjustments, compared to Adjusted Net Income and Adjusted EPS of \$907.7 million and \$3.96, respectively, for the year ended December 31, 2017. A 14.5% improvement in Adjusted EBITDA was achieved for the same period, primarily due to the increase in net income and EBITDA. We refer you to our “Results of Operations” below for a calculation of Net Revenue, Net Yield, Adjusted Net Income, Adjusted EPS and Adjusted EBITDA.

Results of Operations

We reported total revenue, total cruise operating expense, operating income and net income as follows (in thousands, except per share data):

| | Year Ended December 31, | | |
|--------------------------------|-------------------------|--------------|--------------|
| | 2018 | 2017 | 2016 |
| Total revenue | \$ 6,055,126 | \$ 5,396,175 | \$ 4,874,340 |
| Total cruise operating expense | \$ 3,377,076 | \$ 3,063,644 | \$ 2,850,225 |
| Operating income | \$ 1,219,061 | \$ 1,048,819 | \$ 925,464 |
| Net income | \$ 954,843 | \$ 759,872 | \$ 633,085 |
| EPS: | | | |
| Basic | \$ 4.28 | \$ 3.33 | \$ 2.79 |
| Diluted | \$ 4.25 | \$ 3.31 | \$ 2.78 |

The following table sets forth operating data as a percentage of total revenue:

| | Year Ended December 31, | | |
|---------------------------------------|-------------------------|--------|--------|
| | 2018 | 2017 | 2016 |
| Revenue | | | |
| Passenger ticket | 70.4% | 69.5% | 69.5% |
| Onboard and other | 29.6% | 30.5% | 30.5% |
| Total revenue | 100.0% | 100.0% | 100.0% |
| Cruise operating expense | | | |
| Commissions, transportation and other | 16.5% | 16.6% | 16.7% |
| Onboard and other | 5.8% | 5.9% | 6.1% |
| Payroll and related | 14.6% | 14.9% | 15.3% |
| Fuel | 6.5% | 6.7% | 6.9% |
| Food | 3.5% | 3.7% | 4.1% |
| Other | 8.9% | 9.0% | 9.4% |
| Total cruise operating expense | 55.8% | 56.8% | 58.5% |
| Other operating expense | | | |
| Marketing, general and administrative | 14.8% | 14.3% | 13.7% |
| Depreciation and amortization | 9.3% | 9.5% | 8.9% |
| Total other operating expense | 24.1% | 23.8% | 22.6% |
| Operating income | 20.1% | 19.4% | 18.9% |
| Non-operating income (expense) | | | |
| Interest expense, net | (4.4)% | (4.9)% | (5.7)% |
| Other income (expense), net | 0.3% | (0.2)% | (0.1)% |
| Total non-operating income (expense) | (4.1)% | (5.1)% | (5.8)% |
| Net income before income taxes | 16.0% | 14.3% | 13.1% |
| Income tax expense | (0.2)% | (0.2)% | (0.1)% |
| Net income | 15.8% | 14.1% | 13.0% |

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The following table sets forth selected statistical information:

| | Year Ended December 31, | | |
|-----------------------|-------------------------|------------|------------|
| | 2018 | 2017 | 2016 |
| Passengers carried | 2,795,101 | 2,519,324 | 2,337,311 |
| Passenger Cruise Days | 20,276,568 | 18,523,030 | 17,588,707 |
| Capacity Days | 18,841,678 | 17,363,422 | 16,376,063 |
| Occupancy Percentage | 107.6% | 106.7% | 107.4% |

Net Revenue, Adjusted Net Revenue, Gross Yield, Net Yield and Adjusted Net Yield were calculated as follows (in thousands, except Capacity Days and Yield data):

| | Year Ended December 31, | | | | |
|---|-------------------------|------------------------------|--------------|------------------------------|--------------|
| | 2018 | 2018 Constant Currency | 2017 | 2017 Constant Currency | 2016 |
| Passenger ticket revenue | \$ 4,259,815 | \$ 4,244,494 | \$ 3,750,030 | \$ 3,760,886 | \$ 3,388,954 |
| Onboard and other revenue | 1,795,311 | 1,795,311 | 1,646,145 | 1,646,145 | 1,485,386 |
| Total revenue | 6,055,126 | 6,039,805 | 5,396,175 | 5,407,031 | 4,874,340 |
| Less: | | | | | |
| Commissions, transportation and other expense | 998,948 | 995,097 | 894,406 | 896,985 | 813,559 |
| Onboard and other expense | 348,656 | 348,656 | 319,293 | 319,293 | 298,886 |
| Net Revenue | 4,707,522 | 4,696,052 | 4,182,476 | 4,190,753 | 3,761,895 |
| Non-GAAP Adjustment: | | | | | |
| Deferred revenue (1) | — | — | — | — | 1,057 |
| Adjusted Net Revenue | \$ 4,707,522 | \$ 4,696,052 | \$ 4,182,476 | \$ 4,190,753 | \$ 3,762,952 |
| Capacity Days | 18,841,678 | 18,841,678 | 17,363,422 | 17,363,422 | 16,376,063 |
| Gross Yield | \$ 321.37 | \$ 320.56 | \$ 310.78 | \$ 311.40 | \$ 297.65 |
| Net Yield | \$ 249.85 | \$ 249.24 | \$ 240.88 | \$ 241.36 | \$ 229.72 |
| Adjusted Net Yield | \$ 249.85 | \$ 249.24 | \$ 240.88 | \$ 241.36 | \$ 229.78 |

(1) Reflects deferred revenue fair value adjustments related to the Acquisition of Prestige that were made pursuant to business combination accounting rules.

Gross Cruise Cost, Net Cruise Cost, Net Cruise Cost Excluding Fuel and Adjusted Net Cruise Cost Excluding Fuel were calculated as follows (in thousands, except Capacity Days and per Capacity Day data):

| | Year Ended December 31, | | | | |
|--|-------------------------|------------------------------|--------------|------------------------------|--------------|
| | 2018 | 2018 Constant Currency | 2017 | 2017 Constant Currency | 2016 |
| Total cruise operating expense | \$ 3,377,076 | \$ 3,365,030 | \$ 3,063,644 | \$ 3,064,892 | \$ 2,850,225 |
| Marketing, general and administrative expense | 897,929 | 897,438 | 773,755 | 773,028 | 666,156 |
| Gross Cruise Cost | 4,275,005 | 4,262,468 | 3,837,399 | 3,837,920 | 3,516,381 |
| Less: | | | | | |
| Commissions, transportation and other expense | 998,948 | 995,097 | 894,406 | 896,985 | 813,559 |
| Onboard and other expense | 348,656 | 348,656 | 319,293 | 319,293 | 298,886 |
| Net Cruise Cost | 2,927,401 | 2,918,715 | 2,623,700 | 2,621,642 | 2,403,936 |
| Less: Fuel expense | 392,685 | 392,685 | 361,032 | 361,032 | 335,174 |
| Net Cruise Cost Excluding Fuel | 2,534,716 | 2,526,030 | 2,262,668 | 2,260,610 | 2,068,762 |
| Less Non-GAAP Adjustments: | | | | | |
| Non-cash deferred compensation expenses (1) | 2,167 | 2,167 | 3,292 | 3,292 | 3,167 |
| Non-cash share-based compensation expenses (2) | 115,983 | 115,983 | 87,039 | 87,039 | 66,414 |
| Secondary Equity Offering expenses (3) | 883 | 883 | 949 | 949 | — |
| Severance payments and other fees (4) | — | — | 2,912 | 2,912 | 8,223 |
| Acquisition of Prestige expenses (5) | — | — | 500 | 500 | 6,395 |
| Contract renegotiation and termination expenses (6) | — | — | — | — | 1,000 |
| Other (7) | (1,412) | (1,412) | 3,886 | 3,886 | 217 |
| Adjusted Net Cruise Cost Excluding Fuel | \$ 2,417,095 | \$ 2,408,409 | \$ 2,164,090 | \$ 2,162,032 | \$ 1,983,346 |
| Capacity Days | 18,841,678 | 18,841,678 | 17,363,422 | 17,363,422 | 16,376,063 |
| Gross Cruise Cost per Capacity Day | \$ 226.89 | \$ 226.23 | \$ 221.00 | \$ 221.03 | \$ 214.73 |
| Net Cruise Cost per Capacity Day | \$ 155.37 | \$ 154.91 | \$ 151.11 | \$ 150.99 | \$ 146.80 |
| Net Cruise Cost Excluding Fuel per Capacity Day | \$ 134.53 | \$ 134.07 | \$ 130.31 | \$ 130.19 | \$ 126.33 |
| Adjusted Net Cruise Cost Excluding Fuel per Capacity Day | \$ 128.28 | \$ 127.82 | \$ 124.63 | \$ 124.52 | \$ 121.11 |

(1) Non-cash deferred compensation expenses related to the crew pension plan and other crew expenses, which are included in payroll and related expense.

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- (2) Non-cash share-based compensation expense related to equity awards, which are included in marketing, general and administrative expense and payroll and related expense.
- (3) Secondary Equity Offering expenses are included in marketing, general and administrative expense.
- (4) Severance payments and other fees related to restructuring costs and other severance arrangements are included in marketing, general and administrative expense.
- (5) Acquisition of Prestige expenses are included in marketing, general and administrative expense.
- (6) Contract renegotiation and termination expenses, net related to the Acquisition of Prestige are included in other cruise operating expense and marketing, general and administrative expense.
- (7) Other primarily related to expenses and reimbursements for certain legal costs included in marketing, general and administrative expense.

Adjusted Net Income and Adjusted EPS were calculated as follows (in thousands, except share and per share data):

| | Year Ended December 31, | | |
|--|--------------------------------|--------------------|--------------------|
| | 2018 | 2017 | 2016 |
| Net income | \$ 954,843 | \$ 759,872 | \$ 633,085 |
| Non-GAAP Adjustments: | | | |
| Non-cash deferred compensation expenses (1) | 3,453 | 3,292 | 3,167 |
| Non-cash share-based compensation expenses (2) | 115,983 | 87,039 | 66,414 |
| Secondary Equity Offering expenses (3) | 883 | 949 | — |
| Severance payments and other fees (4) | — | 2,912 | 8,223 |
| Acquisition of Prestige expenses (5) | — | 500 | 6,395 |
| Deferred revenue (6) | — | — | 1,057 |
| Amortization of intangible assets (7) | 24,890 | 30,273 | 21,069 |
| Extinguishment of debt (8) | 6,346 | 23,859 | 27,962 |
| Derivative adjustment (9) | — | — | (1,185) |
| Contract renegotiation and termination expenses (10) | — | — | 2,502 |
| Deferred financing fees and other (11) | — | — | 11,156 |
| Impairment on assets held for sale (12) | — | 2,935 | — |
| Tax benefit (13) | — | (7,802) | (3,594) |
| Other (14) | (1,412) | 3,886 | — |
| Adjusted Net Income | <u>\$ 1,104,986</u> | <u>\$ 907,715</u> | <u>\$ 776,251</u> |
| Diluted weighted-average shares outstanding-Net income and Adjusted Net Income | <u>224,419,205</u> | <u>229,418,326</u> | <u>227,850,286</u> |
| Diluted EPS | <u>\$ 4.25</u> | <u>\$ 3.31</u> | <u>\$ 2.78</u> |
| Adjusted EPS | <u>\$ 4.92</u> | <u>\$ 3.96</u> | <u>\$ 3.41</u> |

- (1) Non-cash deferred compensation expenses related to the crew pension plan and other crew expenses are included in payroll and related expense and other income (expense), net.
- (2) Non-cash share-based compensation expenses related to equity awards are included in marketing, general and administrative expense and payroll and related expense.
- (3) Secondary Equity Offering expenses are included in marketing, general and administrative expense.
- (4) Severance payments and other fees related to restructuring costs and other severance arrangements are included in marketing, general and administrative expense.
- (5) Acquisition of Prestige expenses are included in marketing, general and administrative expense.
- (6) Deferred revenue fair value adjustments related to the Acquisition of Prestige that were made pursuant to business combination accounting rules are primarily included in passenger ticket revenue.
- (7) Amortization of intangible assets related to the Acquisition of Prestige are included in depreciation and amortization expense.
- (8) Losses on extinguishments of debt are included in interest expense, net, and legal expenses related to the extinguishments are included in marketing, general and administrative expense.
- (9) Losses and net gains for the fair value adjustment of a foreign exchange collar, which did not receive hedge accounting treatment and losses due to the dedesignation of certain fuel swaps, are included in other income (expense), net.
- (10) Contract renegotiation and termination expenses, net related to the Acquisition of Prestige are included in other cruise operating expense, marketing, general and administrative expense and depreciation and amortization expense.
- (11) Expenses related to the write-off of deferred financing fees and other fees related to the refinancing of certain credit facilities, including a tax benefit adjustment are included in interest expense, net.
- (12) Impairment charge related to Hawaii land-based operations, which is included in depreciation and amortization expense.
- (13) Tax benefits primarily due to reversal of tax contingency reserves in 2017 and reversal of a valuation allowance in 2016.
- (14) Other primarily related to expense and reimbursements for certain legal costs included in marketing, general and administrative expense.

EBITDA and Adjusted EBITDA were calculated as follows (in thousands):

| | Year Ended December 31, | | |
|---|-------------------------|--------------|--------------|
| | 2018 | 2017 | 2016 |
| Net income | \$ 954,843 | \$ 759,872 | \$ 633,085 |
| Interest expense, net | 270,404 | 267,804 | 276,859 |
| Income tax expense | 14,467 | 10,742 | 7,218 |
| Depreciation and amortization expense | 561,060 | 509,957 | 432,495 |
| EBITDA | 1,800,774 | 1,548,375 | 1,349,657 |
| Other (income) expense, net (1) | (20,653) | 10,401 | 8,302 |
| Non-GAAP Adjustments: | | | |
| Non-cash deferred compensation expenses (2) | 2,167 | 3,292 | 3,167 |
| Non-cash share-based compensation expenses (3) | 115,983 | 87,039 | 66,414 |
| Secondary Equity Offering expenses (4) | 883 | 949 | — |
| Severance payments and other expenses (5) | — | 2,912 | 8,223 |
| Acquisition of Prestige expenses (6) | — | 500 | 6,395 |
| Deferred revenue (7) | — | — | 1,057 |
| Contract renegotiation and termination expenses (8) | — | — | 1,000 |
| Other (9) | (1,412) | 3,886 | 217 |
| Adjusted EBITDA | \$ 1,897,742 | \$ 1,657,354 | \$ 1,444,432 |

- (1) Primarily consists of gains and losses, net for forward currency exchanges.
- (2) Non-cash deferred compensation expenses related to the crew pension plan and other crew expenses are included in payroll and related expense.
- (3) Non-cash share-based compensation expense related to equity awards are included in marketing, general and administrative expense and payroll and related expense.
- (4) Secondary Equity Offering expenses are included in marketing, general and administrative expense.
- (5) Severance payments and other fees related to restructuring costs and other severance arrangements are included in marketing, general and administrative expense.
- (6) Acquisition of Prestige expenses are included in marketing, general and administrative expense.
- (7) Deferred revenue fair value adjustments related to the Acquisition of Prestige that were made pursuant to business combination accounting rules are primarily included in passenger ticket revenue.
- (8) Contract renegotiation and termination expenses, net related to the Acquisition of Prestige are included in other cruise operating expense and marketing, general and administrative expense.
- (9) Other primarily related to expenses and reimbursement for certain legal costs included in marketing, general and administrative expense.

Year Ended December 31, 2018 (“2018”) Compared to Year Ended December 31, 2017 (“2017”)

Revenue

Total revenue increased 12.2% to \$6.1 billion in 2018 compared to \$5.4 billion in 2017 primarily due to an increase in Capacity Days and improved pricing. Gross Yield increased 3.4%. Net Revenue increased 12.6% to \$4.7 billion in 2018, from \$4.2 billion in 2017, due to an increase in Capacity Days of 8.5% and an increase in Net Yield of 3.7%. The increase in Capacity Days was primarily due to Norwegian Joy and Norwegian Bliss joining our fleet in the second quarter of 2017 and 2018, respectively. The increase in Gross Yield and Net Yield was primarily due to an increase in passenger ticket revenue and Occupancy Percentage. On a Constant Currency basis, Net Yield increased 3.5%.

Expense

Total cruise operating expense increased 10.2% in 2018 compared to 2017, primarily due to the increase in Capacity Days. Gross Cruise Cost increased 11.4% in 2018 compared to 2017, due to higher total cruise operating expense and, to a lesser extent, higher marketing, general and administrative expenses. Total other operating expense increased 13.7% in 2018 compared to 2017. Marketing, general and administrative expenses increased primarily due to higher incentive compensation expense and higher advertising expenses. Depreciation and amortization expense increased primarily due to the additions of Norwegian Joy and Norwegian Bliss and ship improvement projects. Net Cruise Cost per Capacity Day increased 2.8% (2.5% on a Constant Currency basis) due to higher marketing, general and administrative expenses, higher commissions and transportation fees, and, to a lesser extent, higher maintenance and repairs, including fuel and Dry-dock expenses. Adjusted Net Cruise Cost Excluding Fuel per Capacity Day increased 2.9% (2.6% on a Constant Currency basis). We refer you to the “Results of Operations” above for a reconciliation of total cruise operating expense to Adjusted Net Cruise Cost Excluding Fuel.

Interest expense, net was \$270.4 million in 2018 compared to \$267.8 million in 2017. The increase in interest expense primarily reflects additional debt incurred in connection with the delivery of Norwegian Joy and Norwegian Bliss in the second quarter of 2017 and 2018, respectively, Project Leonardo financing, and higher interest rates due to an increase in LIBOR. The increase in interest expense was partially offset by the benefit from the October 2017 full redemption of our 4.625% Senior Notes due 2020 and the benefit from the April 2018 partial \$135.0 million redemption of our 4.75% Senior Notes due 2021. 2018 included \$6.3 million of redemption premium and write-off of fees in connection with the partial redemption. 2017 included losses on extinguishment of debt and debt modification costs of \$23.9 million.

Other income (expense), net was income of \$20.7 million in 2018 compared to expense of \$10.4 million in 2017. Other income in 2018 was primarily due to gains on foreign currency exchange. Other expense in 2017 was primarily due to losses on foreign currency exchange.

Income tax expense was \$14.5 million in 2018 compared to \$10.7 million in 2017. The expense in 2017 had benefits of \$7.7 million from the impact on our net deferred tax liabilities of a change in both U.S. and U.K. tax rates due to tax reform and a reversal of prior years' contingency reserves of \$11.6 million.

Year Ended December 31, 2017 ("2017") Compared to Year Ended December 31, 2016 ("2016")

Revenue

Total revenue increased 10.7% to \$5.4 billion in 2017 compared to \$4.9 billion in 2016 primarily due to an increase in Capacity Days and improved pricing. Gross Yield increased 4.4%. Net Revenue in 2017 increased 11.2% to \$4.2 billion from \$3.8 billion in 2016 due to an increase in Capacity Days of 6.0% and an increase in Net Yield of 4.9%. The increase in Capacity Days was primarily due to the delivery of Norwegian Joy in April 2017, the delivery of Seven Seas Explorer in June 2016 and Sirena joining our fleet in April 2016. The increase in Net Yield was primarily due to improved pricing. Adjusted Net Revenue includes a deferred revenue fair value adjustment of \$1.0 million in 2016 related to the Acquisition of Prestige. On a Constant Currency basis, Net Yield and Adjusted Net Yield increased 5.1% and 5.0%, respectively, in 2017 compared to 2016.

Expense

Total cruise operating expense increased 7.5% in 2017 compared to 2016 primarily due to the increase in Capacity Days as discussed above and an increase in marketing, general and administrative expenses. Gross Cruise Cost increased 9.1% in 2017 compared to 2016 due to an increase in marketing, general and administrative expenses and total cruise operating expense. Total other operating expense increased 16.8% in 2017 compared to 2016 primarily due to an increase in depreciation and amortization expense and marketing, general and administrative expenses. Depreciation and amortization expense increased primarily due to the ship additions and ship improvement projects. The increase in marketing, general and administrative expense was primarily due to pay for performance incentive expenses. On a Capacity Day basis, Net Cruise Cost increased 2.9% on an actual and a Constant Currency basis, due to the increases in expenses discussed above. Adjusted Net Cruise Cost Excluding Fuel per Capacity Day increased 2.9% primarily due to the expenses discussed above (2.8% on a Constant Currency basis). We refer you to the "Results of Operations" above for a reconciliation of total cruise operating expense to Adjusted Net Cruise Cost Excluding Fuel.

Interest expense, net was \$267.8 million in 2017 compared to \$276.9 million in 2016. Interest expense for 2017 reflects higher interest rates due to an increase in LIBOR, as well as an increase in average debt balances outstanding primarily associated with the delivery of new ships and newbuild installments. In connection with the redemption of senior notes and refinancing of certain of our credit facilities, interest expense, net included losses on extinguishment of debt and debt modification costs of \$23.9 million in 2017 and \$39.2 million in 2016.

Other income (expense), net was an expense of \$10.4 million in 2017 compared to an expense of \$8.3 million in 2016. In 2017, the expense was primarily related to losses on foreign currency exchange. In 2016, the expense was primarily related to \$16.1 million of unrealized and realized losses on fuel swap derivative hedge contracts partially offset by \$4.5 million of gains on foreign currency exchange and \$3.9 million of gains on foreign currency exchange derivative hedge contracts.

In 2017, we had an income tax expense of \$10.7 million compared to \$7.2 million in 2016. The expense in 2017 had benefits of \$7.7 million from the impact on our net deferred tax liabilities of a change in both U.S. and U.K. tax rates due to tax reform and a reversal of prior years' contingency reserves of \$11.6 million. The expense in 2016 had a benefit due to the reversal of a valuation allowance of \$3.6 million.

Liquidity and Capital Resources

General

As of December 31, 2018, our liquidity was \$908.9 million consisting of \$163.9 million in cash and cash equivalents and \$745.0 million available under our Revolving Loan Facility. Our primary ongoing liquidity requirements are to finance working capital, capital expenditures and debt service.

As of December 31, 2018, we had a working capital deficit of \$2.6 billion. This deficit included \$1.6 billion of advance ticket sales, which represents the total revenue we collect in advance of sailing dates and accordingly are substantially more like deferred revenue balances rather than actual current cash liabilities. Our business model, along with our Revolving Loan Facility, allows us to operate with a working capital deficit and still meet our operating, investing and financing needs.

We evaluate potential sources of additional liquidity, including the capital markets, in the ordinary course of business. We will continue to evaluate opportunities to optimize our capital structure, taking into consideration our current and expected capital requirements, our assessment of prevailing market conditions and expectations regarding future conditions, and the contractual and other restrictions to which we are subject.

Our existing debt agreements restrict, and any of our future debt arrangements may restrict, among other things, the ability of our subsidiaries to make distributions and/or to pay dividends to NCLC and NCLH's ability to pay cash dividends to its shareholders. NCLH is a holding company and depends upon its subsidiaries for their ability to pay distributions to NCLH to finance any dividend or pay any other obligations of NCLH. However, we do not believe that these restrictions have had or are expected to have an impact on our ability to meet any cash obligations.

In January 2019, we (a) reduced the pricing of our existing \$875.0 million Revolving Loan Facility, (b) reduced the pricing and increased the approximately \$1.3 billion principal amount outstanding under the term loan A facility to \$1.6 billion, and (c) extended the maturity dates for our Revolving Loan Facility and our term loan A facility to 2024, subject to certain conditions. We used the proceeds from the increase in our term loan A facility to prepay all of the then outstanding amounts under the term loan B facility.

Sources and Uses of Cash

In this section, references to 2018 refer to the year ended December 31, 2018, references to 2017 refer to the year ended December 31, 2017 and references to 2016 refer to the year ended December 31, 2016.

Net cash provided by operating activities was \$2.1 billion in 2018 compared to \$1.6 billion in 2017 and \$1.3 billion in 2016. The net cash provided by operating activities in 2018 included net income of \$954.8 million, an increase in advance ticket sales of \$262.6 million and timing differences in cash receipts and payments relating to various operating assets and liabilities. Without the adoption of Topic 606, advance ticket sales would have increased by \$250.6 million in 2018. We refer you to Note 3—“Revenue and Expense from Contracts with Customers” in the notes to consolidated financial statements for a discussion of the effects of the adoption of Topic 606. The change in net cash provided by operating activities in 2017 includes net income of \$759.9 million compared to net income of \$633.1 million in 2016, as well as timing differences in cash receipts and payments relating to various operating assets and liabilities, including advance ticket sales of \$154.0 million in 2017 and \$135.0 million in 2016.

Net cash used in investing activities was \$1.5 billion in 2018, primarily related to payments for the delivery of Norwegian Bliss, ships under construction, ship improvement projects, and shoreside projects. Net cash used in investing activities was \$1.4 billion in 2017, primarily related to payments for the delivery of Norwegian Joy, ship improvements, ships under construction and shoreside projects. Net cash used in investing activities was \$1.1 billion in 2016, primarily related to payments for the delivery of Seven Seas Explorer, ship improvements, ships under construction and shoreside projects.

Net cash used in financing activities was \$584.8 million in 2018, reflecting the net repayment of our Revolving Loan Facility, repayments on other loan facilities, the repurchase of NCLH's ordinary shares and deferred financing fees and other, partially offset by the proceeds from borrowings on newbuild loan facilities. Net cash used in financing activities was \$148.5 million in 2017, reflecting the repayment of our 4.625% senior unsecured notes, our net repayment of our Revolving Loan Facility, repayments on other loan facilities and deferred financing fees and other, partially offset by the proceeds from our Breakaway four loan facility. Net cash used in financing activities was \$122.8 million in 2016, reflecting the repayments of our 5.25% senior unsecured notes, net repayments of our then existing revolving loan facility, repayments on other loan facilities, the repurchase of NCLH's ordinary shares and deferred financing fees and other, partially offset by issuance of our \$700.0 million 4.750% senior unsecured notes.

Future Capital Commitments

Future capital commitments consist of contracted commitments, including ship construction contracts, and future expected capital expenditures necessary for operations as well as our ship refurbishment projects. As of December 31, 2018, anticipated capital expenditures were \$1.6 billion, \$1.2 billion and \$0.7 billion for the years ending December 31, 2019, 2020 and 2021, respectively. We have export credit financing in place for the anticipated expenditures related to ship construction contracts of \$0.6 billion, \$0.5 billion and \$0.2 billion for the years ending December 31, 2019, 2020 and 2021, respectively. These future expected capital expenditures will significantly increase our depreciation and amortization expense as we take delivery of the ships.

Project Leonardo will introduce an additional six ships, each approximately 140,000 Gross Tons with approximately 3,300 Berths, with expected delivery dates from 2022 through 2027, subject to certain conditions. We have a Breakaway Plus Class Ship, Norwegian Encore, with approximately 168,000 Gross Tons with 4,000 Berths, on order for delivery in the fall of 2019. For the Regent brand, we have orders for two Explorer Class Ships, Seven Seas Splendor and an additional ship, to be delivered in 2020 and 2023, respectively. Each of the Explorer Class Ships will be approximately 55,000 Gross Tons and 750 Berths. For the Oceania Cruises brand, we have orders for two Allura Class Ships to be delivered in 2022 and 2025. Each of the Allura Class Ships will be approximately 67,000 Gross Tons and 1,200 Berths.

The combined contract prices of the 11 ships on order for delivery was approximately €7.9 billion, or \$9.1 billion based on the euro/U.S. dollar exchange rate as of December 31, 2018. We have obtained export credit financing which is expected to fund approximately 80% of the contract price of each ship, subject to certain conditions. We do not anticipate any contractual breaches or cancellations to occur. However, if any such events were to occur, it could result in, among other things, the forfeiture of prior deposits or payments made by us and potential claims and impairment losses which may materially impact our business, financial condition and results of operations.

Capitalized interest for the years ended December 31, 2018, 2017 and 2016 was \$30.4 million, \$29.0 million and \$33.7 million, respectively, primarily associated with the construction of our newbuild ships.

Off-Balance Sheet Transactions

None.

Contractual Obligations

As of December 31, 2018, our contractual obligations with initial or remaining terms in excess of one year, including interest payments on long-term debt obligations, were as follows (in thousands):

| | Total | Less than 1 year | 1-3 years | 3-5 years | More than 5 years |
|---------------------------------|----------------------|---------------------|---------------------|---------------------|----------------------|
| Long-term debt (1) | \$ 6,609,866 | \$ 681,218 | \$ 3,232,177 | \$ 929,088 | \$ 1,767,383 |
| Operating leases (2) | 128,550 | 16,651 | 31,420 | 27,853 | 52,626 |
| Ship construction contracts (3) | 5,141,441 | 912,858 | 662,687 | 1,976,223 | 1,589,673 |
| Port facilities (4) | 1,738,036 | 62,388 | 151,682 | 157,330 | 1,366,636 |
| Interest (5) | 974,444 | 222,427 | 404,380 | 165,172 | 182,465 |
| Other (6) | 1,381,518 | 248,107 | 433,161 | 354,454 | 345,796 |
| Total (7) | <u>\$ 15,973,855</u> | <u>\$ 2,143,649</u> | <u>\$ 4,915,507</u> | <u>\$ 3,610,120</u> | <u>\$ 5,304,579</u> |

- (1) Long-term debt includes discount and premiums aggregating \$0.4 million and capital leases. Long-term debt excludes deferred financing fees which are a direct deduction from the carrying value of the related debt liability in the consolidated balance sheets.
- (2) Operating leases are primarily for offices, motor vehicles and office equipment.
- (3) Ship construction contracts are for our newbuild ships based on the euro/U.S. dollar exchange rate as of December 31, 2018. Export credit financing is in place from syndicates of banks. The amount does not include the two Project Leonardo ships, one Explorer Class Ship and two Allura Class Ships which were still subject to financing and certain Italian government approvals as of December 31, 2018. We refer you to Note 17—“Subsequent Events” in the notes to consolidated financial statements for details regarding the financing for certain ships.
- (4) Port facilities are for our usage of certain port facilities.
- (5) Interest includes fixed and variable rates with LIBOR held constant as of December 31, 2018.
- (6) Other includes future commitments for service, maintenance and other Business Enhancement Capital Expenditure contracts.
- (7) Total excludes \$0.5 million of unrecognized tax benefits as of December 31, 2018, because an estimate of the timing of future tax settlements cannot be reasonably determined.

Other

Certain service providers may require collateral in the normal course of our business. The amount of collateral may change based on certain terms and conditions.

As a routine part of our business, depending on market conditions, exchange rates, pricing and our strategy for growth, we regularly consider opportunities to enter into contracts for the building of additional ships. We may also consider the sale of ships, potential acquisitions and strategic alliances. If any of these transactions were to occur, they may be financed through the incurrence of additional permitted indebtedness, through cash flows from operations, or through the issuance of debt, equity or equity-related securities.

Funding Sources

Certain of our debt agreements contain covenants that, among other things, require us to maintain a minimum level of liquidity, as well as limit our net funded debt-to-capital ratio, and maintain certain other ratios and restrict our ability to pay dividends. Substantially all of our ships and other property and equipment are pledged as collateral for certain of our debt. We believe we were in compliance with these covenants as of December 31, 2018.

In addition, our existing debt agreements restrict, and any of our future debt arrangements may restrict, among other things, the ability of our subsidiaries, including NCLC, to make distributions and/or pay dividends to NCLH and NCLH's ability to pay cash dividends to its shareholders. NCLH is a holding company and depends upon its subsidiaries for their ability to pay distributions to it to finance any dividend or pay any other obligations of NCLH. However, we do not believe that these restrictions have had or are expected to have an impact on our ability to meet any cash obligations.

The impact of changes in world economies and especially the global credit markets can create a challenging environment and may reduce future consumer demand for cruises and adversely affect our counterparty credit risks. In the event this environment deteriorates, our business, financial condition and results of operations could be adversely impacted.

We believe our cash on hand, expected future operating cash inflows, additional available borrowings under our Revolving Loan Facility and our ability to issue debt securities or additional equity securities, will be sufficient to fund operations, debt payment requirements, capital expenditures and maintain compliance with covenants under our debt agreements over the next 12-month period. There is no assurance that cash flows from operations and additional financings will be available in the future to fund our future obligations.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

General

We are exposed to market risk attributable to changes in interest rates, foreign currency exchange rates and fuel prices. We attempt to minimize these risks through a combination of our normal operating and financing activities and through the use of derivatives. The financial impacts of these derivative instruments are primarily offset by corresponding changes in the underlying exposures being hedged. We achieve this by closely matching the notional, term and conditions of the derivatives with the underlying risk being hedged. We do not hold or issue derivatives for trading or other speculative purposes. Derivative positions are monitored using techniques including market valuations and sensitivity analyses.

Interest Rate Risk

As of December 31, 2018, we had interest rate swap agreements to manage our interest expense by hedging the interest rate risks associated with variable rates on our outstanding borrowings. As of December 31, 2018, 72% of our debt was fixed and 28% was variable, which includes the effects of the interest rate swaps. The notional amount of our outstanding debt associated with the interest rate swap agreements was \$1.0 billion as of December 31, 2018. As of December 31, 2017, 54% of our debt was fixed and 46% was variable, which includes the effects of the interest rate swaps. The notional amount of outstanding debt associated with the interest rate swap agreements was \$218.6 million as of December 31, 2017. The change from December 31, 2017 to December 31, 2018 was due to additional interest rate swaps executed and the repayment of variable rate debt.

Based on our December 31, 2018 outstanding variable rate debt balance, a one percentage point increase in annual LIBOR interest rates would increase our annual interest expense by approximately \$18.4 million excluding the effects of capitalization of interest.

Foreign Currency Exchange Rate Risk

As of December 31, 2018, we had foreign currency derivatives to hedge the exposure to volatility in foreign currency exchange rates related to our ship construction contracts denominated in euros. These derivatives hedge the foreign currency exchange rate risk on a portion of the payments on our ship construction contracts. The payments not hedged aggregate €2.2 billion, or \$2.5 billion based on the euro/U.S. dollar exchange rate as of December 31, 2018. As of December 31, 2017, the payments not hedged aggregated €3.3 billion, or \$4.0 billion, based on the euro/U.S. dollar exchange rate as of December 31, 2017. The change from December 31, 2017 to December 31, 2018 was due to the delivery of a ship in April 2018 and additional foreign exchange derivatives executed. We estimate that a 10% change in the euro as of December 31, 2018 would result in a \$0.3 billion change in the U.S. dollar value of the foreign currency denominated remaining payments.

Fuel Price Risk

Our exposure to market risk for changes in fuel prices relates to the forecasted purchases of fuel on our ships. Fuel expense, as a percentage of our total cruise operating expense, was 11.6% for the year ended December 31, 2018 and 11.8% for each of the years ended December 31, 2017 and 2016. We use fuel derivative agreements to mitigate the financial impact of fluctuations in fuel prices and as of December 31, 2018, we had hedged approximately 57%, 53% and 33% of our 2019, 2020 and 2021 projected metric tons of fuel purchases, respectively. As of December 31, 2017, we had hedged approximately 65%, 48% and 26% of our 2018, 2019 and 2020 projected metric tons of fuel purchases, respectively. The change in fuel price risk from December 31, 2017 to December 31, 2018 was due to additional fuel hedges executed.

We estimate that a 10% increase in our weighted-average fuel price would increase our anticipated 2019 fuel expense by \$40.5 million. This increase would be partially offset by an increase in the fair value of our fuel swap agreements of \$20.1 million. Fair value of our derivative contracts is derived using valuation models that utilize the income valuation approach. These valuation models take into account the contract terms such as maturity, as well as other inputs such as fuel types, fuel curves, creditworthiness of the counterparty and the Company, as well as other data points.

Item 8. Financial Statements and Supplementary Data

Our Consolidated Financial Statements and Quarterly Selected Financial Data are included beginning on page F-1 of this report.

Item 9. Changes In and Disagreements With Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management has evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, the effectiveness of our disclosure controls and procedures, as such term is defined in Exchange Act Rule 13a-15(e), as of December 31, 2018. 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 upon management’s evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2018, to provide reasonable assurance that the information required to be disclosed by us in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC, and that it is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

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 such term is defined in Exchange Act Rule 13a-15(f). Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the 2013 *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO Framework”). Based on this evaluation under the COSO Framework, management concluded that our internal control over financial reporting was effective as of December 31, 2018.

The effectiveness of the Company’s internal control over financial reporting as of December 31, 2018 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report, which is included on page F-1.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting during the quarter ended December 31, 2018 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the Effectiveness of Controls

It should be noted that any system of controls, however well designed and operated, can provide only reasonable, and not absolute, assurance that the objectives of the system will be met. In addition, the design of any control system is based in part upon certain assumptions about the likelihood of future events. Because of these and other inherent limitations of control systems, there is only the reasonable assurance that our controls will succeed in achieving their goals under all potential future conditions.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Except for information concerning executive officers (called for by Item 401(b) of Regulation S-K), which is included in Part I of this Annual Report and except as disclosed below with respect to our Code of Ethical Business Conduct, the information required under Item 10 is incorporated herein by reference to our definitive proxy statement to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2018 in connection with our 2019 Annual General Meeting of Shareholders.

Code of Ethical Business Conduct

We have adopted a Code of Ethical Business Conduct that applies to all of our employees, including our principal executive officer, principal financial officer, principal accounting officer or controller and persons performing similar functions, and our directors. This document is posted on our website at www.nclhldinvestor.com. We intend to disclose waivers from, and amendments to, our Code of Ethical Business Conduct that apply to our directors and executive officers, including our principal executive officer, principal financial officer, principal accounting officers or controller and persons performing similar functions, by posting such information on our website www.nclhldinvestor.com to the extent required by applicable rules of the SEC and the NYSE. None of the websites referenced in this Annual Report or the information contained therein is incorporated herein by reference.

Item 11. Executive Compensation

The information required under Item 11 is incorporated herein by reference to our definitive proxy statement to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2018 in connection with our 2019 Annual General Meeting of Shareholders.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required under Item 12 is incorporated herein by reference to our definitive proxy statement to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2018 in connection with our 2019 Annual General Meeting of Shareholders.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required under Item 13 is incorporated herein by reference to our definitive proxy statement to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2018 in connection with our 2019 Annual General Meeting of Shareholders.

Item 14. Principal Accounting Fees and Services

The information required under Item 14 is incorporated herein by reference to our definitive proxy statement to be filed with the SEC within 120 days after the end of our fiscal year ended December 31, 2018 in connection with our 2019 Annual General Meeting of Shareholders.

PART IV**Item 15. Exhibits, Financial Statement Schedules**

(1) Financial Statements

Our Consolidated Financial Statements have been prepared in accordance with Item 8. Financial Statements and Supplementary Data and are included beginning on page F-1 of this report.

(2) Financial Statement Schedules

Schedule II: Valuation and Qualifying Accounts for the three years ended December 31, 2018 are included on page 61.

(3) Exhibits

The exhibits listed below are filed or incorporated by reference as part of this annual report on Form 10-K.

INDEX TO EXHIBITS

| Exhibit Number | Description of Exhibit |
|-----------------------|---|
| 3.1 | Memorandum of Association of Norwegian Cruise Line Holdings Ltd. (incorporated herein by reference to Exhibit 3.1 to amendment no. 5 to Norwegian Cruise Line Holdings Ltd.'s registration statement on Form S-1 filed on January 8, 2013 (File No. 333-175579)) |
| 3.2 | Amended and Restated Bye-Laws of Norwegian Cruise Line Holdings Ltd., effective as of May 20, 2015 (incorporated herein by reference to Exhibit 3.2 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on May 26, 2015 (File No. 001-35784)) |
| 4.1 | Indenture, dated as of December 14, 2016, between NCL Corporation Ltd. and U.S. Bank National Association, as trustee with respect to \$700.0 million aggregate principal amount of 4.750% senior unsecured notes due 2021 (incorporated herein by reference to Exhibit 4.1 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on December 14, 2016 (File No. 001-35784)) |
| 4.2 | Form of Certificate of Ordinary Shares (incorporated herein by reference to Exhibit 4.7 to amendment no. 5 to Norwegian Cruise Line Holdings Ltd.'s registration statement on Form S-1 filed on January 8, 2013 (File No. 333-175579)) |
| 9.1 | Deed of Trust, dated January 24, 2013, by and between Norwegian Cruise Line Holdings Ltd. and State House Trust Company Limited (incorporated herein by reference to Exhibit 9.1 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on January 30, 2013 (File No. 001-35784)) |
| 10.1 | Sixth Supplemental Deed, dated June 1, 2012, to €662.9 million Norwegian Epic Loan, dated as of September 22, 2006, as amended, by and among F3 Two, Ltd., NCL Corporation Ltd. and a syndicate of international banks and related amended and restated Guarantee by NCL Corporation Ltd. (incorporated herein by reference to Exhibit 10.5 to NCL Corporation Ltd.'s report on Form 6-K/A filed on January 8, 2013 (File No. 333-128780))+† |
| 10.2 | Letter, dated November 27, 2015, amending €662.9 million Norwegian Epic Loan, dated as of September 22, 2006, as amended, by and among Norwegian Epic, Ltd. (formerly F3 Two, Ltd.), NCL Corporation Ltd. and a syndicate of international banks and related amended and restated Guarantee by NCL Corporation Ltd. (incorporated herein by reference to Exhibit 10.5 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 29, 2016 (File No. 001-35784)) |
| 10.3 | Office Lease Agreement, dated as of November 27, 2006, by and between NCL (Bahamas) Ltd. and Hines Reit Airport Corporate Center LLC and related Guarantee by NCL Corporation Ltd., and First Amendment, dated November 27, 2006 (incorporated herein by reference to Exhibit 4.46 to NCL Corporation Ltd.'s annual report on Form 20-F filed on March 6, 2007 (File No. 333-128780))+ |

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|--------------|---|
| <u>10.4</u> | <u>Amendment No. 1, dated December 1, 2006, Amendment No. 2, dated March 20, 2007, Amendment No. 3, dated July 31, 2007, and Amendment No. 4, dated December 10, 2007, to Office Lease Agreement, dated December 1, 2006, as amended, by and between Hines Reit Airport Corporate Center LLC and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 4.64 to NCL Corporation Ltd.'s annual report on Form 20-F filed on March 13, 2008 (File No. 333-128780))+</u> |
| <u>10.5</u> | <u>Amendment No. 5, dated February 2, 2010, to Office Lease Agreement, dated December 1, 2006, as amended, by and between Hines Reit Airport Corporate Center LLC and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.45 to amendment no. 2 to NCL Corporation Ltd.'s registration statement on Form S-1 filed on January 31, 2011 (File No. 333-170141))</u> |
| <u>10.6</u> | <u>Amendment No. 6, dated April 1, 2012, and Amendment No. 7, dated June 19, 2012, to Office Lease Agreement, dated December 1, 2006, as amended, by and between Hines Reit Airport Corporate Center LLC and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.6 to NCL Corporation Ltd.'s report on Form 6-K filed on November 2, 2012 (File No. 333-128780))+</u> |
| <u>10.7</u> | <u>Amendment No. 8, dated January 28, 2015, to Office Lease Agreement, dated December 1, 2006, as amended, by and between SPUS7 Miami ACC, LP and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.3 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 8, 2015 (File No. 001-35784))+</u> |
| <u>10.8</u> | <u>Amendment No. 9, dated June 30, 2015, to Office Lease Agreement, dated December 1, 2006, as amended, by and between SPUS7 Miami ACC, LP and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.2 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 7, 2015 (File No. 001-35784))+</u> |
| <u>10.9</u> | <u>Amendment No. 10, dated March 31, 2016, to Office Lease Agreement, dated December 1, 2006, as amended, by and between SPUS7 Miami ACC, LP and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.5 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2016 (File No. 001-35784))+</u> |
| <u>10.10</u> | <u>Amendment No. 11, dated February 8, 2017, to Office Lease Agreement, dated December 1, 2006, as amended, by and between SPUS7 Miami ACC, LP and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2017 (File No. 001-35784))+</u> |
| <u>10.11</u> | <u>Amendment No. 12, dated August 24, 2017, to Office Lease Agreement, dated December 1, 2006, as amended, by and between SPUS7 Miami ACC, LP and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.3 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on November 9, 2017 (File No. 001-35784))</u> |
| <u>10.12</u> | <u>Amendment No. 13, dated November 30, 2017, to Office Lease Agreement, dated December 1, 2006, as amended, by and between SPUS7 Miami ACC, LP and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.13 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2018 (File No. 001-35784))+</u> |
| <u>10.13</u> | <u>Amendment No. 14, dated January 16, 2018, to Office Lease Agreement, dated December 1, 2006, as amended, by and between SPUS7 Miami ACC, LP and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.14 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2018 (File No. 001-35784))</u> |
| <u>10.14</u> | <u>Amendment No. 15, dated March 1, 2018, to Office Lease Agreement, dated December 1, 2006, as amended, by and between SPUS7 Miami ACC, LP and NCL (Bahamas) Ltd. (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 7, 2018 (File No. 001-35784))+</u> |
| <u>10.15</u> | <u>Shareholders' Agreement, dated January 24, 2013, by and among Norwegian Cruise Line Holdings Ltd., Genting Hong Kong Limited, Star NCLC Holdings Ltd., AAA Guarantor—Co-Invest VI (B), L.P., AIF VI NCL (AIV), L.P., AIF VI NCL (AIV II), L.P., AIF VI NCL (AIV III), L.P., AIF VI NCL (AIV IV), L.P., Apollo Overseas Partners (Delaware) VI, L.P., Apollo Overseas Partners (Delaware 892) VI, L.P., Apollo Overseas Partners VI, L.P., Apollo Overseas Partners (Germany) VI, L.P., TPG Viking, L.P., TPG Viking AIV I, L.P., TPG Viking AIV II, L.P. and TPG Viking AIV III, L.P. (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on January 30, 2013 (File No. 001-35784))</u> |
| <u>10.16</u> | <u>Amendment No. 1 to Amended and Restated Shareholders' Agreement of Norwegian Cruise Line Holdings Ltd., dated as of November 19, 2014, by and among Norwegian Cruise Line Holdings Ltd., Genting Hong Kong Limited, STAR NCLC Holdings Ltd., AAA Guarantor Co-Invest VI (B), L.P., AIF VI NCL (AIV), L.P., AIF VI NCL (AIV II), L.P., AIF VI NCL (AIV III), L.P., AIF VI NCL (AIV IV), L.P., Apollo Overseas Partners (Delaware) VI, L.P., Apollo Overseas Partners (Delaware 892) VI, L.P., Apollo Overseas Partners VI, L.P., Apollo Overseas Partners (Germany) VI, L.P., TPG Viking, L.P., TPG Viking AIV I, L.P., TPG Viking AIV II, L.P., TPG Viking AIV III, L.P., AIF VI Euro Holdings, L.P., AAA Guarantor – Co-Invest VII, L.P., AIF VII Euro Holdings, L.P., Apollo Alternative Assets, L.P., Apollo Management VI, L.P. and Apollo Management VII, L.P. (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on November 20, 2014 (File No. 001-35784))</u> |

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- [10.17**](#) [Termination Agreement, dated as of December 3, 2018, by and among Norwegian Cruise Line Holdings Ltd., Genting Hong Kong Limited, STAR NCLC Holdings Ltd., NCL Athene LLC, AAA Guarantor – Co-Invest VII, L.P., Apollo Alternative Assets, L.P., AIF VI NCL \(AIV\), L.P., AIF VI NCL \(AIV II\), L.P., AIF VI NCL \(AIV III\), L.P., AIF VI NCL \(AIV IV\), L.P., AIF VI Euro Holdings, L.P., AIF VII Euro Holdings, L.P., Apollo Management VI, L.P., Apollo Management VII, L.P., Apollo Overseas Partners VI, L.P., Apollo Overseas Partners \(Delaware 892\) VI, L.P., Apollo Overseas Partners \(Delaware\) VI, L.P., Apollo Overseas Partners \(Germany\) VI, L.P. and AAA Guarantor Co-Invest VI \(B\), L.P.](#)
- [10.18](#) [€529.8 million Breakaway One Credit Agreement, dated November 18, 2010, by and among Breakaway One, Ltd. and a syndicate of international banks and related Guarantee by NCL Corporation Ltd. \(incorporated herein by reference to Exhibit 10.57 to amendment no. 4 to NCL Corporation Ltd.'s registration statement on Form S-1 filed on June 9, 2011 \(File No. 333-170141\)\)+](#)
- [10.19](#) [First Amendment, dated May 31, 2012, to €529.8 million Breakaway One Credit Agreement, dated November 18, 2010, as amended, by and among Breakaway One, Ltd. and a syndicate of international banks \(incorporated herein by reference to Exhibit 10.13 to NCL Corporation Ltd.'s report on Form 6-K filed on November 2, 2012 \(File No. 333-128780\)\)+](#)
- [10.20](#) [€529.8 million Breakaway Two Credit Agreement, dated as of November 18, 2010, by and among Breakaway Two, Ltd. and a syndicate of international banks and related Guarantee by NCL Corporation Ltd. \(incorporated herein by reference to Exhibit 10.58 to amendment no. 4 to NCL Corporation Ltd.'s registration statement on Form S-1 filed on June 9, 2011 \(File No. 333-170141\)\)+](#)
- [10.21](#) [First Amendment, dated December 21, 2010, to €529.8 million Breakaway Two Credit Agreement, dated as of November 18, 2010, by and among Breakaway Two, Ltd. and a syndicate of international banks and a related Guarantee by NCL Corporation Ltd. \(incorporated herein by reference to Exhibit 10.59 to amendment no. 2 to NCL Corporation Ltd.'s registration statement on Form S-1 filed on January 31, 2011 \(File No. 333-170141\)\)](#)
- [10.22](#) [Second Amendment, dated May 31, 2012, to €529.8 million Breakaway Two Credit Agreement, dated as of November 18, 2010, by and among Breakaway Two, Ltd. and a syndicate of international banks \(incorporated herein by reference to Exhibit 10.14 to NCL Corporation Ltd.'s report on Form 6-K filed on November 2, 2012 \(File No. 333-128780\)\)+](#)
- [10.23](#) [€590.5 million Breakaway Three Credit Agreement, dated October 12, 2012, by and among Breakaway Three, Ltd. and various other lenders therein defined and a related Guaranty by NCL Corporation Ltd. \(incorporated herein by reference to Exhibit 10.17 to NCL Corporation Ltd.'s report on Form 6-K/A filed on January 8, 2013 \(File No. 333-128780\)\)+](#)
- [10.24](#) [Supplemental Agreement, dated July 26, 2016, to €590.5 million Breakaway Four Credit Agreement, dated October 12, 2012, by and among Breakaway Four, Ltd., as borrower, NCL Corporation Ltd., as guarantor, NCL International, Ltd., as shareholder and KfW IPEX-Bank GmbH, as facility agent and lender \(incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on November 9, 2016 \(File No. 001-35784\)\)+†](#)
- [10.25**](#) [Fourth Amended and Restated Credit Agreement, dated as of January 2, 2019, by and among NCL Corporation Ltd., as borrower, Voyager Vessel Company, LLC, as co-borrower, JPMorgan Chase Bank, N.A., as administrative agent and as collateral agent and a syndicate of other banks party thereto as joint bookrunners, arrangers, co-documentation agents and lenders#†](#)
- [10.26](#) [Supplemental Agreement, dated December 22, 2015, to €665.9 million Seahawk One Credit Agreement, dated July 14, 2014, by and among Seahawk One, Ltd. and various other lenders therein defined and a related guarantee by NCL Corporation Ltd. \(incorporated herein by reference to Exhibit 10.33 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 29, 2016 \(File No. 001-35784\)\)+†](#)
- [10.27](#) [Supplemental Agreement, dated December 22, 2015, to €665.9 million Seahawk Two Credit Agreement, dated July 14, 2014, by and among Seahawk Two, Ltd. and various other lenders therein defined and a related guarantee by NCL Corporation Ltd. \(incorporated herein by reference to Exhibit 10.35 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 29, 2016 \(File No. 001-35784\)\)+†](#)

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- [10.28](#) [Amendment and Restatement Agreement, dated October 31, 2014, but effective as of November 19, 2014, relating to the loan agreement originally dated July 18, 2008, among Riviera New Build, LLC, as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank and Société Générale, as mandated lead arrangers and Crédit Agricole Corporate and Investment Bank as agent and SACE agent \(incorporated herein by reference to Exhibit 10.72 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2015 \(File No. 001-35784\)\)](#)+†
- [10.29](#) [Guarantee relating to the loan agreement dated July 18, 2008 in respect of the Oceania Riviera, dated October 31, 2014, but effective November 19, 2014, among NCL Corporation Ltd., as guarantor, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank and Société Générale, as mandated lead arrangers and Crédit Agricole Corporate and Investment Bank as agent \(incorporated herein by reference to Exhibit 10.73 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2015 \(File No. 001-35784\)\)](#)+†
- [10.30](#) [Amendment and Restatement Agreement, dated October 31, 2014, but effective as of November 19, 2014, relating to the loan agreement originally dated July 18, 2008, among Marina New Build, LLC, as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank and Société Générale, as mandated lead arrangers and Crédit Agricole Corporate and Investment Bank as agent and SACE agent \(incorporated herein by reference to Exhibit 10.74 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2015 \(File No. 001-35784\)\)](#)+†
- [10.31](#) [Guarantee relating to the loan agreement dated July 18, 2008 in respect of the Oceania Marina, dated October 31, 2014, but effective November 19, 2014, among NCL Corporation Ltd., as guarantor, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank and Société Générale, as mandated lead arrangers and Crédit Agricole Corporate and Investment Bank as agent \(incorporated herein by reference to Exhibit 10.75 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2015 \(File No. 001-35784\)\)](#)+†
- [10.32](#) [Amendment and Restatement Agreement, dated October 31, 2014, but effective as of November 19, 2014, relating to the loan agreement originally dated July 31, 2013, among Explorer New Build, LLC, as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank, Société Générale, HSBC Bank plc, KFW IPEX-Bank GmbH, as joint mandated lead arrangers and Crédit Agricole Corporate and Investment Bank as agent, SACE agent and security trustee \(incorporated herein by reference to Exhibit 10.76 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2015 \(File No. 001-35784\)\)](#)+†
- [10.33](#) [Guarantee relating to the loan agreement dated July 31, 2013 in respect of the Seven Seas Explorer, dated October 31, 2014, but effective November 19, 2014, among NCL Corporation Ltd., as guarantor and Crédit Agricole Corporate and Investment Bank as security trustee \(incorporated herein by reference to Exhibit 10.77 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2015 \(File No. 001-35784\)\)](#)+†
- [10.34](#) [Explorer Class Newbuild Loan Agreement, dated March 30, 2016, among Explorer II New Build, LLC, as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank, Société Générale, HSBC Bank plc, KFW IPEX-Bank GmbH, as joint mandated lead arrangers and Crédit Agricole Corporate and Investment Bank as agent and security trustee \(incorporated herein by reference to Exhibit 10.6 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2016 \(File No. 001-35784\)\)](#)+†
- [10.35](#) [Guarantee relating to the Explorer Class Newbuild Loan Agreement, dated March 30, 2016, among NCL Corporation Ltd., as guarantor, and Crédit Agricole Corporate and Investment Bank as Security Trustee \(incorporated herein by reference to Exhibit 10.7 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2016 \(File No. 001-35784\)\)](#)+†

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- [10.36](#) [Amendment No. 1, dated November 21, 2017, to Leonardo One Loan Agreement, dated April 12, 2017, by and among Leonardo One, Ltd., as borrower, the banks and financial institutions listed in Schedule 1, as lenders, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-Bank GmbH and Cassa Depositi e Prestiti S.p.A., as joint mandated lead arrangers and Crédit Agricole Corporate and Investment Bank as agent and SACE agent \(incorporated herein by reference to Exhibit 10.35 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2018 \(File No. 001-35784\)\)+†](#)
- [10.37](#) [Guarantee relating to the Leonardo One Loan Agreement, dated April 12, 2017, by and among NCL Corporation Ltd., as guarantor and Crédit Agricole Corporate and Investment Bank as security trustee \(incorporated herein by reference to Exhibit 10.4 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2017 \(File No. 001-35784\)\)+](#)
- [10.38](#) [Amendment No. 1, dated November 21, 2017, to Leonardo Two Loan Agreement, dated April 12, 2017, by and among Leonardo Two, Ltd., as borrower, the banks and financial institutions listed in Schedule 1, as lenders, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-Bank GmbH and Cassa Depositi e Prestiti S.p.A., as joint mandated lead arrangers and Crédit Agricole Corporate and Investment Bank as agent and SACE agent \(incorporated herein by reference to Exhibit 10.37 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2018 \(File No. 001-35784\)\)+†](#)
- [10.39](#) [Guarantee relating to the Leonardo Two Loan Agreement, dated April 12, 2017, by and among NCL Corporation Ltd., as guarantor and Crédit Agricole Corporate and Investment Bank as security trustee \(incorporated herein by reference to Exhibit 10.6 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2017 \(File No. 001-35784\)\)+](#)
- [10.40](#) [Amendment No. 1, dated November 21, 2017, to Leonardo Three Loan Agreement, dated April 12, 2017, by and among Leonardo Three, Ltd., as borrower, the banks and financial institutions listed in Schedule 1, as lenders, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-Bank GmbH and Cassa Depositi e Prestiti S.p.A., as joint mandated lead arrangers and BNP Paribas S.A. as agent and SACE agent \(incorporated herein by reference to Exhibit 10.39 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2018 \(File No. 001-35784\)\)+†](#)
- [10.41](#) [Guarantee relating to the Leonardo Three Loan Agreement, dated April 12, 2017, by and among NCL Corporation Ltd., as guarantor and BNP Paribas S.A. as security trustee \(incorporated herein by reference to Exhibit 10.8 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2017 \(File No. 001-35784\)\)+](#)
- [10.42](#) [Amendment No. 1, dated November 21, 2017, to Leonardo Four Loan Agreement, dated April 12, 2017, by and among Leonardo Four, Ltd., as borrower, the banks and financial institutions listed in Schedule 1, as lenders, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-Bank GmbH and Cassa Depositi e Prestiti S.p.A., as joint mandated lead arrangers and BNP Paribas S.A. as agent and SACE agent \(incorporated herein by reference to Exhibit 10.41 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2018 \(File No. 001-35784\)\)+†](#)
- [10.43](#) [Guarantee relating to the Leonardo Four Loan Agreement, dated April 12, 2017, by and among NCL Corporation Ltd., as guarantor and BNP Paribas S.A. as security trustee \(incorporated herein by reference to Exhibit 10.10 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2017 \(File No. 001-35784\)\)+](#)
- [10.44**](#) [Leonardo Five Loan Agreement, dated as of December 19, 2018, but effective as of January 8, 2019, among Leonardo Five, Ltd., as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-Bank GmbH, Cassa Depositi E Prestiti S.P.A., Banco Santander, S.A. and Société Générale, as joint mandated lead arrangers, BNP Paribas as agent and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.45**](#) [Guarantee relating to the Leonardo Five Loan Agreement, dated as of December 19, 2018, but effective as of January 8, 2019, among NCL Corporation Ltd., as guarantor, and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.46**](#) [Leonardo Six Loan Agreement, dated as of December 19, 2018, but effective as of January 8, 2019, among Leonardo Six, Ltd., as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-Bank GmbH, Cassa Depositi E Prestiti S.P.A., Banco Santander, S.A. and Société Générale, as joint mandated lead arrangers, BNP Paribas as agent and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.47**](#) [Guarantee relating to the Leonardo Six Loan Agreement, dated as of December 19, 2018, but effective as of January 8, 2019, among NCL Corporation Ltd., as guarantor, and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)

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- [10.48**](#) [O Class Plus One Loan Agreement, dated as of December 19, 2018, but effective as of January 8, 2019, among O Class Plus One, LLC, as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KFW IPEX-Bank GmbH, Cassa Depositi e Prestiti S.P.A., Banco Santander, S.A. and Société Générale, as joint mandated lead arrangers, BNP Paribas as agent and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.49**](#) [Guarantee relating to the O Class Plus One Loan Agreement, dated as of December 19, 2018, but effective as of January 8, 2019, among NCL Corporation Ltd., as guarantor, and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.50**](#) [O Class Plus Two Loan Agreement, dated as of December 19, 2018, but effective as of January 8, 2019, among O Class Plus Two, LLC, as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KFW IPEX-Bank GmbH, Cassa Depositi e Prestiti S.P.A., Banco Santander, S.A. and Société Générale, as joint mandated lead arrangers, BNP Paribas as agent and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.51**](#) [Guarantee relating to the O Class Plus Two Loan Agreement, dated as of December 19, 2018, but effective as of January 8, 2019, among NCL Corporation Ltd., as guarantor, and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.52**](#) [\\$230 million Credit Agreement, dated January 10, 2019, among NCL Corporation Ltd., as borrower, Nordea Bank ABP, New York Branch, as administrative agent and collateral agent and the other lenders party thereto as joint bookrunners, arrangers, co-documentation agents and lenders#](#)
- [10.53**](#) [Explorer III New Build Loan Agreement, dated as of December 19, 2018, but effective as of January 15, 2019, among Explorer III New Build, LLC, as borrower, the banks and financial institutions listed in Schedule 1 as lenders, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KFW IPEX-Bank GmbH, Cassa Depositi e Prestiti S.P.A., Banco Santander, S.A. and Société Générale, as joint mandated lead arrangers, BNP Paribas as agent and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.54**](#) [Guarantee relating to the Explorer III New Build Loan Agreement, dated as of December 19, 2018, but effective as of January 15, 2019, among NCL Corporation Ltd., as guarantor, and HSBC Corporate Trustee Company \(UK\) Limited as security trustee#](#)
- [10.55](#) [Amended and Restated Regent Trademark License Agreement, dated February 21, 2011, by and between Regent Hospitality Worldwide, LLC and Seven Seas Cruises, S. DE R.L. \(incorporated herein by reference to Exhibit 10.17 to Prestige Cruises International, Inc.'s Amendment No. 1 to Form S-1 filed on March 24, 2014 \(File No. 333-193479\)\)](#)
- [10.56](#) [Employment Agreement by and between NCL \(Bahamas\) Ltd. and Wendy A. Beck, entered into on September 2, 2015 \(incorporated herein by reference to Exhibit 10.4 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on November 4, 2015 \(File No. 001-35784\)\)*](#)
- [10.57](#) [Transition, Release and Consulting Agreement by and between NCL \(Bahamas\) Ltd. and Wendy A. Beck, dated February 2, 2018 \(incorporated herein by reference to Exhibit 10.2 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 7, 2018 \(File No. 001-35784\)\)*](#)
- [10.58](#) [Employment Agreement by and between NCL \(Bahamas\) Ltd. and Andrew Stuart, entered into on September 16, 2016 \(incorporated herein by reference to Exhibit 10.2 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on September 19, 2016 \(File No. 001-35784\)\)*](#)
- [10.59](#) [Employment Agreement by and between NCL \(Bahamas\) Ltd. and T. Robin Lindsay, entered into on October 18, 2015 \(incorporated herein by reference to Exhibit 10.2 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 10, 2017 \(File No. 001-35784\)\)*](#)
- [10.60](#) [Employment Agreement by and between Prestige Cruise Services, LLC and Jason Montague, entered into on September 16, 2016 \(incorporated herein by reference to Exhibit 10.3 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on September 19, 2016 \(File No. 001-35784\)\)*](#)
- [10.61](#) [Amended and Restated Executive Employment Agreement by and between Oceania Cruises, Inc. and Frank J. Del Rio, entered into on June 5, 2014 \(incorporated herein by reference to Exhibit 10.1 to Seven Seas Cruises S. DE R.L.'s Form 8-K filed on June 10, 2014 \(File No. 333-178244\)\)*](#)

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| | |
|----------------|--|
| <u>10.62</u> | <u>Letter Regarding Frank Del Rio's Executive Employment Agreement, dated September 2, 2014 (incorporated herein by reference to Exhibit 10.89 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2015 (File No. 001-35784))*</u> |
| <u>10.63</u> | <u>Letter Regarding Amendment to Frank J. Del Rio's Executive Employment Agreement, dated August 4, 2015 (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on November 4, 2015 (File No. 001-35784))*</u> |
| <u>10.64</u> | <u>Letter Regarding Amendment to Frank J. Del Rio's Executive Employment Agreement, dated August 1, 2017 (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on November 9, 2017 (File No. 001-35784))*</u> |
| <u>10.65</u> | <u>Employment Agreement by and between NCL (Bahamas) Ltd. and Mark Kempa, entered into on September 10, 2018 (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on September 11, 2018 (File No. 001-35784))*</u> |
| <u>10.66</u> | <u>Form of Indemnification Agreement by and between Norwegian Cruise Line Holdings Ltd. and each of its directors, executive officers and certain other officers (incorporated herein by reference to Exhibit 10.89 to amendment no. 5 to Norwegian Cruise Line Holdings Ltd.'s registration statement on Form S-1 filed on January 8, 2013 (File No. 333-175579))</u> |
| <u>10.67</u> | <u>Norwegian Cruise Line Holdings Ltd. Amended and Restated 2013 Performance Incentive Plan (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 8-K filed on May 24, 2016 (File No. 001-35784))*</u> |
| <u>10.68</u> | <u>Form of Notice of Grant of Option and Terms and Conditions of Option (incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on May 8, 2013 (File No. 001-35784))*</u> |
| <u>10.69</u> | <u>Form of Director Restricted Share Award Agreement (incorporated herein by reference to Exhibit 10.2 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on July 30, 2013 (File No. 001-35784))*</u> |
| <u>10.70</u> | <u>Norwegian Cruise Line Holdings Ltd. Employee Stock Purchase Plan (incorporated herein by reference to Exhibit 10.3 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on July 31, 2014 (File No. 001-35784))*</u> |
| <u>10.71**</u> | <u>Directors' Compensation Policy (effective February 11, 2019)*</u> |
| <u>10.72</u> | <u>Form of Director Restricted Share Unit Award Agreement (incorporated herein by reference to Exhibit 10.62 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 29, 2016 (File No. 001-35784))*</u> |
| <u>10.73</u> | <u>Form of Norwegian Cruise Line Holdings Ltd. Time and Performance-based Restricted Share Unit Award Agreement (incorporated herein by reference to Exhibit 10.2 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on November 4, 2015 (File No. 001-35784))*</u> |
| <u>10.74</u> | <u>Form of Notice of Grant of Norwegian Cruise Line Holdings Ltd. Time and Performance-based Option and Terms and Conditions (incorporated herein by reference to Exhibit 10.3 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on November 4, 2015 (File No. 001-35784))*</u> |
| <u>10.75</u> | <u>Form of Norwegian Cruise Line Holdings Ltd. Time-based Restricted Share Unit Award Agreement (2017) (incorporated herein by reference to Exhibit 10.52 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2017 (File No. 001-35784))*</u> |

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|-------------------------|---|
| 10.76 | Form of Norwegian Cruise Line Holdings Ltd. Performance-based Restricted Share Unit Award Agreement (2017) (incorporated herein by reference to Exhibit 10.53 to Norwegian Cruise Line Holdings Ltd.'s Form 10-K filed on February 27, 2017 (File No. 001-35784))* |
| 10.77 | Form of Norwegian Cruise Line Holdings Ltd. Performance-based Restricted Share Unit Award Agreement (August 2017) (incorporated herein by reference to Exhibit 10.2 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on November 9, 2017 (File No. 001-35784))* |
| 21.1** | List of Subsidiaries of Norwegian Cruise Line Holdings Ltd. |
| 23.1** | Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm |
| 24.1** | Power of Attorney (included on Signatures page of this Annual Report on Form 10-K) |
| 31.1** | Certification of the Annual Report Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 by the President and Chief Executive Officer |
| 31.2** | Certification of the Annual Report Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 by the Executive Vice President and Chief Financial Officer |
| 32.1*** | Certification of the Annual Report Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 by the Chief Executive Officer and Chief Financial Officer |
| 101** | The following materials from Norwegian Cruise Line Holdings Ltd.'s Annual Report on Form 10-K formatted in Extensible Business Reporting Language (XBRL), as follows: (i) Consolidated Statements of Operations of NCLH for the years ended December 31, 2018, 2017 and 2016; (ii) Consolidated Statements of Comprehensive Income of NCLH for the years ended December 31, 2018, 2017 and 2016; (iii) Consolidated Balance Sheets of NCLH as of December 31, 2018 and 2017; (iv) Consolidated Statements of Cash Flows of NCLH for the years ended December 31, 2018, 2017 and 2016; (v) Consolidated Statements of Changes in Shareholders' Equity of NCLH for the years ended December 31, 2018, 2017 and 2016; (vi) the Notes to the Consolidated Financial Statements; and (vii) Schedule II Valuation and Qualifying Accounts tagged in summary and detail. |

- + Confidential treatment has been granted with respect to certain portions of this exhibit. Omitted portions have been filed separately with the SEC.
- # Confidential treatment has been requested with respect to certain portions of this exhibit. Omitted portions have been filed separately with the SEC.
- † Agreement restates previous versions of agreement.
- * Management contract or compensatory plan.
- ** Filed herewith.
- *** Furnished herewith.

Item 16. Form 10-K Summary

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this annual report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, in Miami, Florida, on February 27, 2019.

NORWEGIAN CRUISE LINE HOLDINGS LTD.By: /s/ Frank J. Del RioName: **Frank J. Del Rio**Title: **Director, President and Chief Executive Officer****POWER OF ATTORNEY**

Each person whose signature appears below constitutes and appoints Frank J. Del Rio, Mark A. Kempa, Daniel S. Farkas and Faye L. Ashby, and each of them, his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this annual report on Form 10-K, and to file the same, with exhibits thereto and other documents in connection therewith, with the SEC, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents or their substitute or substitutes may lawfully so or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this annual report on Form 10-K has been signed below by the following persons in the capacities and on the date indicated.

| Signature | Title | Date |
|--|---|-------------------|
| <u>/s/ Frank J. Del Rio</u> Frank J. Del Rio | Director, President and Chief Executive Officer (Principal Executive Officer) | February 27, 2019 |
| <u>/s/ Mark A. Kempa</u> Mark A. Kempa | Executive Vice President and Chief Financial Officer (Principal Financial Officer) | February 27, 2019 |
| <u>/s/ Faye L. Ashby</u> Faye L. Ashby | Senior Vice President and Chief Accounting Officer (Principal Accounting Officer) | February 27, 2019 |
| <u>/s/ Adam M. Aron</u> Adam M. Aron | Director | February 27, 2019 |
| <u>/s/ John Chidsey</u> John Chidsey | Director | February 27, 2019 |
| <u>/s/ Chad A. Leat</u> Chad A. Leat | Director | February 27, 2019 |
| <u>/s/ Steve Martinez</u> Steve Martinez | Director | February 27, 2019 |
| <u>/s/ David M. Abrams</u> David M. Abrams | Director | February 27, 2019 |
| <u>/s/ Stella David</u> Stella David | Director | February 27, 2019 |
| <u>/s/ Russell W. Galbut</u> Russell W. Galbut | Director | February 27, 2019 |
| <u>/s/ Pamela Thomas-Graham</u> Pamela Thomas-Graham | Director | February 27, 2019 |
| <u>/s/ Mary E. Landry</u> Mary E. Landry | Director | February 27, 2019 |

Norwegian Cruise Line Holdings Ltd.
Schedule II Valuation and Qualifying Accounts (in thousands)

| <u>Description</u> | <u>Balance</u> <u>12/31/15</u> | <u>Additions</u> | | <u>Deductions (a)</u> | <u>Balance</u> <u>12/31/16</u> |
|--|-----------------------------------|--|--|-----------------------|-----------------------------------|
| | | <u>Charged to</u> <u>costs and</u> <u>expenses</u> | <u>Charged to</u> <u>other accounts</u> | | |
| Valuation allowance on deferred tax assets | \$ 61,437 | \$ — | \$ 9,382 | \$ (6,246) | \$ 64,573 |

| <u>Description</u> | <u>Balance</u> <u>12/31/16</u> | <u>Charged to</u> <u>costs and</u> <u>expenses</u> | <u>Charged to</u> <u>other accounts</u> | <u>Deductions (a)</u> | <u>Balance</u> <u>12/31/17</u> |
|--|-----------------------------------|--|--|-----------------------|-----------------------------------|
| | | | | | |
| Valuation allowance on deferred tax assets | \$ 64,573 | \$ — | \$ — | \$ (22,419) | \$ 42,154 |

| <u>Description</u> | <u>Balance</u> <u>12/31/17</u> | <u>Charged to</u> <u>costs and</u> <u>expenses</u> | <u>Charged to</u> <u>other accounts</u> | <u>Deductions (a)</u> | <u>Balance</u> <u>12/31/18</u> |
|--|-----------------------------------|--|--|-----------------------|-----------------------------------|
| | | | | | |
| Valuation allowance on deferred tax assets | \$ 42,154 | \$ — | \$ 276 | \$ (506) | \$ 41,924 |

(a) Amount relates to (i) utilization of deferred tax assets, (ii) revaluation of deferred tax assets from their functional currency to U.S. dollars and (iii) reversal of valuation allowances.

Index to Consolidated Financial Statements

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| Consolidated Statements of Operations for the years ended December 31, 2018, 2017 and 2016 | F-2 |
| Consolidated Statements of Comprehensive Income for the years ended December 31, 2018, 2017 and 2016 | F-3 |
| Consolidated Balance Sheets as of December 31, 2018 and 2017 | F-4 |
| Consolidated Statements of Cash Flows for the years ended December 31, 2018, 2017 and 2016 | F-5 |
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Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Norwegian Cruise Line Holdings Ltd.

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of Norwegian Cruise Line Holdings Ltd. and its subsidiaries (the “Company”) as of December 31, 2018 and 2017, and the related consolidated statements of operations, comprehensive income, changes in shareholders’ equity, and cash flows for each of the three years in the period ended December 31, 2018, including the related notes and financial statement schedule listed in the index appearing under Item 15(2) (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, included in Management’s Report on Internal Control over Financial Reporting appearing under Item 9A. 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.

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 LLP

Miami, Florida
February 27, 2019

We have served as the Company’s auditor since at least 1988. We have not been able to determine the specific year we began serving as auditor of the Company

Norwegian Cruise Line Holdings Ltd.
Consolidated Statements of Operations
(in thousands, except share and per share data)

| | Year Ended December 31, | | |
|--|--------------------------------|--------------------|--------------------|
| | 2018 | 2017 | 2016 |
| Revenue | | | |
| Passenger ticket | \$ 4,259,815 | \$ 3,750,030 | \$ 3,388,954 |
| Onboard and other | 1,795,311 | 1,646,145 | 1,485,386 |
| Total revenue | <u>6,055,126</u> | <u>5,396,175</u> | <u>4,874,340</u> |
| Cruise operating expense | | | |
| Commissions, transportation and other | 998,948 | 894,406 | 813,559 |
| Onboard and other | 348,656 | 319,293 | 298,886 |
| Payroll and related | 881,606 | 803,632 | 746,142 |
| Fuel | 392,685 | 361,032 | 335,174 |
| Food | 216,031 | 198,357 | 200,071 |
| Other | 539,150 | 486,924 | 456,393 |
| Total cruise operating expense | <u>3,377,076</u> | <u>3,063,644</u> | <u>2,850,225</u> |
| Other operating expense | | | |
| Marketing, general and administrative | 897,929 | 773,755 | 666,156 |
| Depreciation and amortization | 561,060 | 509,957 | 432,495 |
| Total other operating expense | <u>1,458,989</u> | <u>1,283,712</u> | <u>1,098,651</u> |
| Operating income | <u>1,219,061</u> | <u>1,048,819</u> | <u>925,464</u> |
| Non-operating income (expense) | | | |
| Interest expense, net | (270,404) | (267,804) | (276,859) |
| Other income (expense), net | 20,653 | (10,401) | (8,302) |
| Total non-operating income (expense) | <u>(249,751)</u> | <u>(278,205)</u> | <u>(285,161)</u> |
| Net income before income taxes | 969,310 | 770,614 | 640,303 |
| Income tax expense | (14,467) | (10,742) | (7,218) |
| Net income | <u>\$ 954,843</u> | <u>\$ 759,872</u> | <u>\$ 633,085</u> |
| Weighted-average shares outstanding | | | |
| Basic | 223,001,739 | 228,040,825 | 227,121,875 |
| Diluted | <u>224,419,205</u> | <u>229,418,326</u> | <u>227,850,286</u> |
| Earnings per share | | | |
| Basic | <u>\$ 4.28</u> | <u>\$ 3.33</u> | <u>\$ 2.79</u> |
| Diluted | <u>\$ 4.25</u> | <u>\$ 3.31</u> | <u>\$ 2.78</u> |

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

Norwegian Cruise Line Holdings Ltd.
Consolidated Statements of Comprehensive Income
(in thousands)

| | Year Ended December 31, | | |
|--|--------------------------------|---------------------|-------------------|
| | 2018 | 2017 | 2016 |
| Net income | <u>\$ 954,843</u> | <u>\$ 759,872</u> | <u>\$ 633,085</u> |
| Other comprehensive income (loss): | | | |
| Shipboard Retirement Plan | 2,697 | (40) | 497 |
| Cash flow hedges: | | | |
| Net unrealized gain (loss) related to cash flow hedges | (161,214) | 304,684 | 1,711 |
| Amount realized and reclassified into earnings | (30,096) | 36,795 | 95,969 |
| Total other comprehensive income (loss) | <u>(188,613)</u> | <u>341,439</u> | <u>98,177</u> |
| Total comprehensive income | <u>\$ 766,230</u> | <u>\$ 1,101,311</u> | <u>\$ 731,262</u> |

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

Norwegian Cruise Line Holdings Ltd.
Consolidated Balance Sheets
(in thousands, except share data)

| | December 31, | |
|---|----------------------|----------------------|
| | 2018 | 2017 |
| Assets | | |
| Current assets: | | |
| Cash and cash equivalents | \$ 163,851 | \$ 176,190 |
| Accounts receivable, net | 55,249 | 43,961 |
| Inventories | 90,202 | 82,121 |
| Prepaid expenses and other assets | 241,011 | 216,065 |
| Total current assets | <u>550,313</u> | <u>518,337</u> |
| Property and equipment, net | 12,119,253 | 11,040,488 |
| Goodwill | 1,388,931 | 1,388,931 |
| Tradenames | 817,525 | 817,525 |
| Other long-term assets | 329,948 | 329,588 |
| Total assets | <u>\$ 15,205,970</u> | <u>\$ 14,094,869</u> |
| Liabilities and shareholders' equity | | |
| Current liabilities: | | |
| Current portion of long-term debt | \$ 681,218 | \$ 619,373 |
| Accounts payable | 159,564 | 53,433 |
| Accrued expenses and other liabilities | 716,499 | 513,717 |
| Advance ticket sales | 1,593,219 | 1,303,498 |
| Total current liabilities | <u>3,150,500</u> | <u>2,490,021</u> |
| Long-term debt | 5,810,873 | 5,688,392 |
| Other long-term liabilities | 281,596 | 166,690 |
| Total liabilities | <u>9,242,969</u> | <u>8,345,103</u> |
| Commitments and contingencies (Note 12) | | |
| Shareholders' equity: | | |
| Ordinary shares, \$.001 par value; 490,000,000 shares authorized; 235,484,613 shares issued and 217,650,644 shares outstanding at December 31, 2018 and 233,840,523 shares issued and 228,528,562 shares outstanding at December 31, 2017 | 235 | 233 |
| Additional paid-in capital | 4,129,639 | 3,998,694 |
| Accumulated other comprehensive income (loss) | (161,647) | 26,966 |
| Retained earnings | 2,898,840 | 1,963,128 |
| Treasury shares (17,833,969 ordinary shares at December 31, 2018 and 5,311,961 ordinary shares at December 31, 2017 at cost) | <u>(904,066)</u> | <u>(239,255)</u> |
| Total shareholders' equity | <u>5,963,001</u> | <u>5,749,766</u> |
| Total liabilities and shareholders' equity | <u>\$ 15,205,970</u> | <u>\$ 14,094,869</u> |

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

Norwegian Cruise Line Holdings Ltd.
Consolidated Statements of Cash Flows
(in thousands)

| | Year Ended December 31, | | |
|---|--------------------------------|--------------------|--------------------|
| | 2018 | 2017 | 2016 |
| Cash flows from operating activities | | | |
| Net income | \$ 954,843 | \$ 759,872 | \$ 633,085 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | | |
| Depreciation and amortization | 566,972 | 521,484 | 445,635 |
| (Gain) loss on derivatives | — | (103) | 79 |
| Deferred income taxes, net | 1,508 | 9,153 | (2,448) |
| Loss on extinguishment of debt | 6,346 | 22,211 | 38,180 |
| Provision for bad debts and inventory | 5,570 | 2,431 | 3,866 |
| Share-based compensation expense | 115,983 | 87,039 | 66,414 |
| Net foreign currency adjustments | (5,537) | — | — |
| Changes in operating assets and liabilities: | | | |
| Accounts receivable, net | (15,886) | 15,050 | (20,983) |
| Inventories | (9,052) | (17,129) | (9,184) |
| Prepaid expenses and other assets | (29,519) | (22,714) | (13,363) |
| Accounts payable | 106,387 | 14,047 | (5,755) |
| Accrued expenses and other liabilities | 114,953 | 55,894 | (6,410) |
| Advance ticket sales | 262,603 | 154,012 | 134,971 |
| Net cash provided by operating activities | <u>2,075,171</u> | <u>1,601,247</u> | <u>1,264,087</u> |
| Cash flows from investing activities | | | |
| Additions to property and equipment, net | (1,566,796) | (1,372,214) | (1,092,091) |
| Net proceeds from sale of Hawaii land-based operations | — | 499 | — |
| Promissory note receipts | 1,011 | 165 | — |
| Cash received on settlement of derivatives | 64,796 | 2,346 | 131 |
| Cash paid on settlement of derivatives | (1,719) | (35,694) | (36,954) |
| Net cash used in investing activities | <u>(1,502,708)</u> | <u>(1,404,898)</u> | <u>(1,128,914)</u> |
| Cash flows from financing activities | | | |
| Repayments of long-term debt | (1,716,244) | (1,916,885) | (3,744,029) |
| Repayments to Affiliate | — | — | (18,522) |
| Proceeds from long-term debt | 1,904,865 | 1,816,390 | 3,753,928 |
| Proceeds from employee related plans | 28,819 | 30,032 | 9,169 |
| Net share settlement of restricted share units | (13,855) | (6,342) | — |
| Purchases of treasury shares | (664,811) | — | (49,999) |
| Early redemption premium | (5,154) | (15,506) | (19,250) |
| Deferred financing fees and other | (118,422) | (56,195) | (54,060) |
| Net cash used in financing activities | <u>(584,802)</u> | <u>(148,506)</u> | <u>(122,763)</u> |
| Net increase (decrease) in cash and cash equivalents | (12,339) | 47,843 | 12,410 |
| Cash and cash equivalents at beginning of year | 176,190 | 128,347 | 115,937 |
| Cash and cash equivalents at end of year | <u>\$ 163,851</u> | <u>\$ 176,190</u> | <u>\$ 128,347</u> |

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

Norwegian Cruise Line Holdings Ltd.
Consolidated Statements of Changes in Shareholders' Equity
(in thousands)

| | Ordinary Shares | Additional Paid-in Capital | Accumulated Other Comprehensive Income (Loss) | Retained Earnings | Treasury Shares | Total Shareholders' Equity |
|---|--------------------|----------------------------------|--|----------------------|---------------------|----------------------------------|
| Balance, December 31, 2015 | \$ 232 | \$ 3,814,536 | \$ (412,650) | \$ 568,018 | \$ (189,256) | \$ 3,780,880 |
| Share-based compensation | — | 66,414 | — | — | — | 66,414 |
| Issuance of shares under employee related plans | — | 9,169 | — | — | — | 9,169 |
| Treasury shares | — | — | — | — | (49,999) | (49,999) |
| Other comprehensive income, net | — | — | 98,177 | — | — | 98,177 |
| Net income | — | — | — | 633,085 | — | 633,085 |
| Balance, December 31, 2016 | <u>232</u> | <u>3,890,119</u> | <u>(314,473)</u> | <u>1,201,103</u> | <u>(239,255)</u> | <u>4,537,726</u> |
| Share-based compensation | — | 87,039 | — | — | — | 87,039 |
| Issuance of shares under employee related plans | 1 | 30,031 | — | — | — | 30,032 |
| Net share settlement of restricted share units | — | (6,342) | — | — | — | (6,342) |
| Cumulative change in accounting policy | — | (2,153) | — | 2,153 | — | — |
| Other comprehensive income, net | — | — | 341,439 | — | — | 341,439 |
| Net income | — | — | — | 759,872 | — | 759,872 |
| Balance, December 31, 2017 | <u>233</u> | <u>3,998,694</u> | <u>26,966</u> | <u>1,963,128</u> | <u>(239,255)</u> | <u>5,749,766</u> |
| Share-based compensation | — | 115,983 | — | — | — | 115,983 |
| Issuance of shares under employee related plans | 2 | 28,817 | — | — | — | 28,819 |
| Repurchase of shares | — | — | — | — | (664,811) | (664,811) |
| Net share settlement of restricted share units | — | (13,855) | — | — | — | (13,855) |
| Cumulative change in accounting policy | — | — | (12) | (19,131) | — | (19,143) |
| Other comprehensive income, net | — | — | (188,601) | — | — | (188,601) |
| Net income | — | — | — | 954,843 | — | 954,843 |
| Balance, December 31, 2018 | <u>\$ 235</u> | <u>\$ 4,129,639</u> | <u>\$ (161,647)</u> | <u>\$ 2,898,840</u> | <u>\$ (904,066)</u> | <u>\$ 5,963,001</u> |

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

Norwegian Cruise Line Holdings Ltd.
Notes to the Consolidated Financial Statements

1. Description of Business and Organization

We are a leading global cruise company which operates the Norwegian Cruise Line, Oceania Cruises and Regent Seven Seas Cruises brands. As of December 31, 2018, we had 26 ships with approximately 54,400 Berths and had orders for eight additional ships to be delivered through 2027, subject to certain conditions. These eight orders consist of Norwegian Encore, a Breakaway Plus Class Ship, for delivery in the fall of 2019; Seven Seas Splendor, an Explorer Class Ship, for delivery in the winter of 2020; and Project Leonardo, which will introduce an additional six ships with expected delivery dates through 2027. We also plan to introduce three additional ships (we refer you to Note 17—“Subsequent Events”). The addition of these 11 ships to our fleet will increase our total Berths to approximately 82,000.

Norwegian commenced operations from Miami in 1966. In February 2011, NCLH, a Bermuda limited company, was formed with the issuance to the Sponsors of, in aggregate, 10,000 ordinary shares, with a par value of \$.001 per share. In January 2013, NCLH completed its IPO and the ordinary shares of NCLC, all of which were owned by the Sponsors, were exchanged for the ordinary shares of NCLH, and NCLH became the owner of 100% of the ordinary shares and parent company of NCLC (the “Corporate Reorganization”). At the same time, NCLH contributed \$460.0 million to NCLC and the historical financial statements of NCLC became those of NCLH. The Corporate Reorganization was affected solely for the purpose of reorganizing our corporate structure.

In November 2014, we completed the Acquisition of Prestige. We believe that the combination of Norwegian and Prestige creates a cruise operating company with a rich product portfolio and strong market presence.

The Sponsors have completed numerous Secondary Equity Offerings of NCLH’s ordinary shares. As of December 2018, the Sponsors no longer own any NCLH ordinary shares.

2. Summary of Significant Accounting Policies

Basis of Presentation

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America and contain all normal recurring adjustments necessary for a fair presentation of the results for the periods presented. Estimates are required for the preparation of consolidated financial statements in accordance with generally accepted accounting principles and actual results could differ from these estimates. All significant intercompany accounts and transactions are eliminated in consolidation.

Reclassifications

Certain amounts in prior periods have been reclassified to conform to the current period presentation.

In August 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2016-15, *Statement of Cash Flows (Topic 230) Classification of Certain Cash Receipts and Cash Payments*, to eliminate discrepancies in presenting and classifying certain cash receipts and payments in the statement of cash flows. Effective January 1, 2018, the Company adopted the update using a retrospective transition method, which required an adjustment to cash flows from operating activities and financing activities in our consolidated statements of cash flows for the years ended December 31, 2017 and 2016. Cash payments for debt prepayment or debt extinguishment costs, including third-party costs, other fees paid to lenders and premiums paid that are directly related to debt prepayment or debt extinguishment, excluding accrued interest, are required to be classified as cash outflows from financing activities.

The effects of the change on our consolidated statements of cash flows were as follows (in thousands):

| | Year Ended December 31, | | | | | |
|---|-------------------------|---------------------|------------------|--------------|---------------------|------------------|
| | 2017 | | | 2016 | | |
| | As Reported | Previously Reported | Effect of Change | As Reported | Previously Reported | Effect of Change |
| Cash flows from operating activities | | | | | | |
| Adjustments to reconcile net income to net cash provided by operating activities: | | | | | | |
| Loss on extinguishment of debt (previously write-off of financing fees) | \$ 22,211 | \$ 6,705 | \$ 15,506 | \$ 38,180 | \$ 18,930 | \$ 19,250 |
| Changes in operating assets and liabilities: | | | | | | |
| Prepaid expenses and other assets | \$ (22,714) | \$ (22,714) | \$ — | \$ (13,363) | \$ (18,534) | \$ 5,171 |
| Net cash provided by operating activities | \$ 1,601,247 | \$ 1,585,741 | \$ 15,506 | \$ 1,264,087 | \$ 1,239,666 | \$ 24,421 |
| Cash flows from financing activities | | | | | | |
| Early redemption premium | \$ (15,506) | \$ — | \$ (15,506) | \$ (19,250) | \$ — | \$ (19,250) |
| Deferred financing fees and other | \$ (56,195) | \$ (56,195) | \$ — | \$ (54,060) | \$ (48,889) | \$ (5,171) |
| Net cash used in financing activities | \$ (148,506) | \$ (133,000) | \$ (15,506) | \$ (122,763) | \$ (98,342) | \$ (24,421) |

Cash and Cash Equivalents

Cash and cash equivalents are stated at cost and include cash and investments with original maturities of three months or less at acquisition and also include amounts due from credit card processors.

Accounts Receivable, Net

Accounts receivable are shown net of an allowance for doubtful accounts of \$9.6 million and \$5.9 million as of December 31, 2018 and 2017, respectively.

Inventories

Inventories mainly consist of provisions, supplies and fuel and are carried at the lower of cost or net realizable value using the first-in, first-out method of accounting.

Advertising Costs

Advertising costs are expensed as incurred except for those that result in tangible assets, including brochures, which are treated as prepaid expenses and charged to expense as consumed. Advertising costs of \$0.8 million and \$2.4 million as of December 31, 2018 and 2017, respectively, are included in prepaid expenses and other assets. Expenses related to advertising costs totaled \$327.3 million, \$289.1 million and \$270.5 million for the years ended December 31, 2018, 2017 and 2016, respectively.

Earnings Per Share

Basic earnings per share is computed by dividing net income by the basic weighted-average number of shares outstanding during each period. Diluted earnings per share is computed by dividing net income by diluted weighted-average shares outstanding.

A reconciliation between basic and diluted earnings per share was as follows (in thousands, except share and per share data):

| | Year Ended December 31, | | |
|---|-------------------------|-------------|-------------|
| | 2018 | 2017 | 2016 |
| Net income | \$ 954,843 | \$ 759,872 | \$ 633,085 |
| Basic weighted-average shares outstanding | 223,001,739 | 228,040,825 | 227,121,875 |
| Dilutive effect of share awards | 1,417,466 | 1,377,501 | 728,411 |
| Diluted weighted-average shares outstanding | 224,419,205 | 229,418,326 | 227,850,286 |
| Basic earnings per share | \$ 4.28 | \$ 3.33 | \$ 2.79 |
| Diluted earnings per share | \$ 4.25 | \$ 3.31 | \$ 2.78 |

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For the years ended December 31, 2018, 2017 and 2016, a total of 4.7 million, 5.6 million and 7.1 million shares, respectively, have been excluded from diluted weighted-average shares outstanding because the effect of including them would have been anti-dilutive.

Property and Equipment, Net

Property and equipment are recorded at cost. Major renewals and improvements that we believe add value to our ships are capitalized as a cost of the ship while costs of repairs and maintenance, including Dry-dock costs, are charged to expense as incurred. During ship construction, certain interest is capitalized as a cost of the ship. Gains or losses on the sale of property and equipment are recorded as a component of operating income (expense) in our consolidated statements of operations.

Depreciation is computed on a straight-line basis over the estimated useful lives of the assets, after a 15% reduction for the estimated residual values of ships as follows:

| | <u>Useful Life</u> |
|--------------------------------|---|
| Ships | 30 years |
| Computer hardware and software | 3-10 years |
| Other property and equipment | 3-40 years |
| Leasehold improvements | Shorter of lease term or asset life |
| Ship improvements | Shorter of asset life or life of the ship |

Long-lived assets are reviewed for impairment, based on estimated future undiscounted cash flows, whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Assets are grouped and evaluated at the lowest level for which there are identifiable cash flows that are largely independent of the cash flows of other groups of assets. We consider historical performance and future estimated results in our evaluation of potential impairment and then compare the carrying amount of the asset to the estimated future cash flows expected to result from the use of the asset. If the carrying amount of the asset exceeds estimated expected undiscounted future cash flows, we measure the amount of the impairment by comparing the carrying amount of the asset to its fair value. We estimate fair value based on the best information available utilizing estimates, judgments and projections as necessary. Our estimate of fair value is generally measured by discounting expected future cash flows at discount rates commensurate with the associated risk.

Goodwill and Tradenames

Goodwill represents the excess of cost over the fair value of net assets acquired. Goodwill and other indefinite-lived assets, principally tradenames, are reviewed for impairment on an annual basis or earlier if there is an event or change in circumstances that would indicate that the carrying value of these assets may not be fully recoverable. We use the Step 0 Test which allows us to first assess qualitative factors to determine whether it is more likely than not (i.e., more than 50%) that the fair value of a reporting unit is less than its carrying value. For tradenames we also provide a qualitative assessment to determine if there is any indication of impairment.

In order to make this evaluation, we consider the following circumstances as well as others:

- Changes in general macroeconomic conditions such as a deterioration in general economic conditions; limitations on accessing capital; fluctuations in foreign exchange rates; or other developments in equity and credit markets;
- Changes in industry and market conditions such as a deterioration in the environment in which an entity operates; an increased competitive environment; a decline in market-dependent multiples or metrics (in both absolute terms and relative to peers); a change in the market for an entity's products or services; or a regulatory or political development;
- Changes in cost factors that have a negative effect on earnings and cash flows;
- Decline in overall financial performance (for both actual and expected performance);
- Entity and reporting unit specific events such as changes in management, key personnel, strategy, or customers; litigation; or a change in the composition or carrying amount of net assets; and
- Decline in share price (in both absolute terms and relative to peers).

We have concluded that our business has three reporting units. Each brand, Norwegian, Regent and Oceania Cruises, constitutes a business for which discrete financial information is available and management regularly reviews the operating results and, therefore, each brand is considered an operating segment.

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For our annual impairment evaluation, we performed a Step 0 Test for the Norwegian, Regent Seven Seas and Oceania Cruises reporting units. As of December 31, 2018, there was \$523.0 million, \$462.1 million and \$403.8 million of goodwill for the Oceania Cruises, Regent Seven Seas and Norwegian reporting units, respectively. As of December 31, 2018, our annual review consisting of the Step 0 Test supports the carrying value of these assets.

Revenue and Expense Recognition

Deposits on advance ticket sales are deferred when received and are subsequently recognized as revenue ratably during the voyage sailing days as services are rendered over time on the ship. Cancellation fees are recognized in passenger ticket revenue in the month of the cancellation. Goods and services associated with onboard revenue are generally provided at a point in time and revenue is recognized when the performance obligation is satisfied. A receivable is recognized for onboard goods and services rendered when the voyage is not completed before the end of the period. All associated direct costs of a voyage are recognized as incurred in cruise operating expenses.

Disaggregation of Revenue

Revenue and cash flows are affected by economic factors in various geographical regions.

Revenues by destination consisted of the following (in thousands):

| | Year Ended December 31, | | |
|----------------|-------------------------|---------------------|---------------------|
| | 2018 | 2017 | 2016 |
| North America | \$ 3,543,282 | \$ 3,285,903 | \$ 3,132,208 |
| Europe | 1,462,698 | 1,347,381 | 1,148,403 |
| Asia-Pacific | 721,404 | 394,631 | 196,978 |
| Other | 327,742 | 368,260 | 396,751 |
| Total Revenues | <u>\$ 6,055,126</u> | <u>\$ 5,396,175</u> | <u>\$ 4,874,340</u> |

Segment Reporting

We have concluded that our business has a single reportable segment. Each brand, Norwegian, Oceania Cruises and Regent, constitutes a business for which discrete financial information is available and management regularly reviews the brand level operating results and, therefore, each brand is considered an operating segment. Our operating segments have similar economic and qualitative characteristics, including similar long-term margins and similar products and services; therefore, we aggregate all of the operating segments into one reportable segment.

Although we sell cruises on an international basis, our passenger ticket revenue is primarily attributed to U.S.-sourced guests who make reservations in the U.S. Revenue attributable to U.S.-sourced guests was 77%, 77% and 81% for the years ended December 31, 2018, 2017 and 2016, respectively. No other individual country's revenues exceeded 10% in any of our last three years.

Substantially all of our long-lived assets are located outside of the U.S. and consist primarily of our ships. We had 18 ships with Bahamas registry with a carrying value of \$9.1 billion as of December 31, 2018 and 17 ships with Bahamas registry with a carrying value of \$8.0 billion as of December 31, 2017. We had seven ships with Marshall Island registry with a carrying value of \$1.9 billion as of December 31, 2018 and 2017. We also had one ship with U.S. registry with a carrying value of \$0.3 billion as of December 31, 2018 and 2017.

Debt Issuance Costs

Debt issuance costs related to a recognized debt liability are presented in the consolidated balance sheets as a direct deduction from the carrying amount of that debt liability, consistent with debt discounts. For line of credit arrangements and for those debt facilities not fully drawn we defer and present debt issuance costs as an asset. These deferred issuance costs are amortized over the life of the loan agreement. The amortization of deferred financing fees is included in depreciation and amortization expense in the consolidated statements of cash flows; however, for purposes of the consolidated statements of operations it is included in interest expense, net.

Foreign Currency

The majority of our transactions are settled in U.S. dollars. Gains or losses resulting from transactions denominated in other currencies are recognized in income at each balance sheet date. We recognized (gains) losses of \$(19.8) million, \$14.2 million and \$(4.5) million for the years ended December 31, 2018, 2017 and 2016, respectively.

Derivative Instruments and Hedging Activity

We enter into derivative contracts to reduce our exposure to fluctuations in foreign currency exchange rates, interest rates and fuel prices. The criteria used to determine whether a transaction qualifies for hedge accounting treatment includes the correlation between fluctuations in the fair value of the hedged item and the fair value of the related derivative instrument and its effectiveness as a hedge. As the derivative is marked to fair value, we elected an accounting policy to net the fair value of our derivatives when a master netting arrangement exists with our counterparties.

A derivative instrument that hedges a forecasted transaction or the variability of cash flows related to a recognized asset or liability may be designated as a cash flow hedge. Changes in fair value of derivative instruments that are designated as cash flow hedges are recorded as a component of accumulated other comprehensive income (loss) until the underlying hedged transactions are recognized in earnings. To the extent that an instrument is not effective as a hedge, gains and losses are recognized in other income (expense), net in our consolidated statements of operations. Realized gains and losses related to our effective fuel hedges are recognized in fuel expense. For presentation in our consolidated statements of cash flows, we have elected to classify the cash flows from our cash flow hedges in the same category as the cash flows from the items being hedged.

Concentrations of Credit Risk

We monitor concentrations of credit risk associated with financial and other institutions with which we conduct significant business. Credit risk, including but not limited to counterparty non-performance under derivative instruments, our Revolving Loan Facility and new ship progress payment guarantees, is not considered significant, as we primarily conduct business with large, well-established financial institutions and insurance companies that we have well-established relationships with and that have credit risks acceptable to us or the credit risk is spread out among a large number of creditors. We do not anticipate non-performance by any of our significant counterparties.

Insurance

We use a combination of insurance and self-insurance for a number of risks including claims related to crew and guests, hull and machinery, war risk, workers' compensation, property damage, employee healthcare and general liability. Liabilities associated with certain of these risks, including crew and passenger claims, are estimated actuarially based upon known facts, historical trends and a reasonable estimate of future expenses. While we believe these accruals are adequate, the ultimate losses incurred may differ from those recorded.

Income Taxes

Deferred tax assets and liabilities are calculated in accordance with the liability method. Deferred taxes are recorded using the currently enacted tax rates that apply in the periods that the differences are expected to reverse. Deferred taxes are not discounted.

We provide a valuation allowance on deferred tax assets when it is more likely than not that such assets will not be realized. With respect to acquired deferred tax assets, changes within the measurement period that result from new information about facts and circumstances that existed at the acquisition date shall be recognized through a corresponding adjustment to goodwill. Subsequent to the measurement period, all other changes shall be reported as a reduction or increase to income tax expense in our consolidated statements of operations.

Share-Based Compensation

We recognize expense for our share-based compensation awards using a fair-value-based method. Share-based compensation expense is recognized over the requisite service period for awards that are based on a service period and not contingent upon any future performance. We refer you to Note 10— "Employee Benefits and Share-Based Compensation."

Recently Issued and Adopted Accounting Guidance

In August 2018, the FASB issued ASU No. 2018-15, *Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That is a Service Contract (a consensus of the FAS Emerging Issues Task Force)*, which is designed to align the accounting for costs of implementing a cloud computing service arrangement, regardless of whether the hosting arrangement conveys a license to the hosted software. The update requires that for hosting arrangements considered to be a service contract, the criteria for capitalization of developing or obtaining internal-use software shall be applied. The update is effective for annual periods, including interim periods within those annual periods, beginning after December 15, 2020, with early adoption permitted, including adoption in any interim period. A prospective or retrospective transition approach must be elected. The Company is evaluating the impact of this guidance on the Company’s consolidated financial statements.

On January 1, 2018, the Company adopted ASU No. 2017-12, *Derivatives and Hedging (Topic 815) — Targeted Improvements to Accounting for Hedging Activities*, which simplifies the accounting for derivatives. For derivative instruments that are designated and qualify as cash flow hedges, the gain or loss on the derivative instrument is reported as a component of other comprehensive income (loss), reclassified into earnings in the same period or periods during which the hedged transaction affects earnings and presented in the same income statement line item as the earnings effect of the hedged item. The Company recorded a cumulative effect adjustment to accumulated other comprehensive income (loss) with a corresponding adjustment to the opening balance of retained earnings related to the elimination of the separate measurement of ineffectiveness for its cash flow hedges, upon adoption. The adjustments were not material to the Company’s consolidated financial statements. We refer you to Note 9— “Fair Value Measurements and Derivatives” in these notes to consolidated financial statements.

On January 1, 2018, the Company adopted ASU No. 2016-16, *Income Taxes (Topic 740) — Intra-Entity Transfers of Assets Other Than Inventory*, which requires companies to recognize the income-tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs, rather than when the asset has been sold to an outside party. The Company recorded, upon adoption, a cumulative-effect adjustment to retained earnings of \$19.1 million, which captures the write-off of previously unamortized deferred income tax expense from past intra-entity transfers involving assets other than inventory not previously recognized under accounting principles generally accepted in the U.S.

In December 2017, the Act was enacted, and among other provisions, reduced the U.S. federal corporate income tax rate from 35% to 21%. Also in December 2017, the SEC staff issued Staff Accounting Bulletin (“SAB”) No. 118, which addresses the recognition of provisional amounts when a company does not have the necessary information available, prepared or analyzed (including computations) in reasonable detail to complete its accounting for the effect of the changes by the Act. The measurement period ends when a company has obtained, prepared and analyzed the information necessary to finalize its accounting, but cannot extend beyond one year. The Company completed the accounting for the tax effects of enactment of the Act. There was no material change to the \$7.4 million reduction of the value of net deferred tax liabilities (which represent future tax expenses) recorded in 2017 as a discrete tax benefit resulting from the lower U.S. federal corporate income tax rate under the Act. Other aspects of the Act were either not applicable or did not have a material impact on the Company’s consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles—Goodwill and Other (Topic 350) — Simplifying the Test for Goodwill Impairment*, which simplifies the test for goodwill impairment by eliminating Step 2 from the goodwill impairment test. Step 2 measures a goodwill impairment loss by comparing the implied fair value of a reporting unit’s goodwill with the carrying amount of that goodwill. The guidance is effective for annual or any interim goodwill impairment tests in years beginning after December 15, 2019, with early adoption permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. The Company does not expect to early adopt this guidance. The Company will evaluate, upon adoption of this guidance, the impact of this guidance on the Company’s consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)*, which sets out the principles for the recognition, measurement, presentation and disclosure of leases. The update was issued to increase transparency and comparability among organizations by recognizing rights and obligations resulting from leases as lease assets and liabilities on the balance sheet and disclosing key information about leasing arrangements for leases with a term of 12 months or more. The update modifies lessors’ classification criteria for leases and the accounting for sales-type and direct financing leases. The update requires qualitative and quantitative disclosures designed to give financial statement users additional information on the amount, timing, and uncertainty of cash flows arising from leases. The update is effective for annual reporting periods, and interim periods within those annual periods, beginning after December 15, 2018. The Company has engaged a third party to assist in reviewing the Company’s existing leases and evaluating the Company’s existing contracts to identify those that are considered to be leases under the new guidance. The Company will elect to combine lease and non-lease components as a lessee, to keep leases with an initial term of 12 months or less off the balance sheet, and, if any non-lease component associated with the lease component is the predominant component, the Company will account for the combined component in accordance with FASB ASU No. 2014-09, *Revenue from Contracts with Customers (Topic 606)* (“Topic 606”), as the lessor. The update is to be applied retrospectively with a cumulative-effect adjustment on January 1, 2019. The Company continues to evaluate the effect that the update will have on the Company’s consolidated financial statements. The Company expects the update to have a material effect on the Company’s assets and liabilities, which will result in a balance sheet presentation that is not comparable to the prior period in the first year of adoption. The Company does not expect the update to have a material impact on the Company’s annual results of operations and/or cash flows.

3. Revenue and Expense from Contracts with Customers

On January 1, 2018, we adopted Topic 606, which supersedes the revenue recognition requirements in Accounting Standards Codification 605—Revenue Recognition (*Topic 605*) (“Topic 605”). Using the modified retrospective method, we applied the new requirements to those contracts which were not completed as of January 1, 2018. Results for reporting periods beginning after January 1, 2018 are presented below under “— Financial Statement Presentation” and “— Impacts on Financial Statements,” while prior period amounts are not adjusted and continue to be reported in accordance with our historic accounting under Topic 605.

Nature of Goods and Services

We offer our guests a multitude of cruise fare options when booking a cruise. Our cruise ticket prices generally include cruise fare and a wide variety of onboard activities and amenities, as well as meals and entertainment. In some instances, cruise ticket prices include round-trip airfare to and from the port of embarkation, complimentary beverages, unlimited shore excursions, free internet, pre-cruise hotel packages, and on some of the exotic itineraries, pre- or post-land packages. Prices vary depending on the particular cruise itinerary, stateroom category selected and the time of year that the voyage takes place. Passenger ticket revenue also includes full ship charters as well as port fees and taxes.

During the voyage, we generate onboard and other revenue for additional products and services which are not included in the cruise fare, including casino operations, certain food and beverage, gift shop purchases, spa services, photo services and other similar items. Food and beverage, casino operations and shore excursions are generally managed directly by us while retail shops, spa services, art auctions and internet services may be managed through contracts with third-party concessionaires. These contracts generally entitle us to a fixed percentage of the gross sales derived from these concessions, which is recognized on a net basis. While some onboard goods and services may be prepaid prior to the voyage, we utilize point-of-sale systems for discrete purchases made onboard. Certain of our product offerings are bundled and we allocate the value of the bundled goods and services between passenger ticket revenue and onboard and other revenue based upon the relative standalone selling prices of those goods and services.

Timing of Satisfaction of Performance Obligations and Significant Payment Terms

The payment terms and cancellation policies vary by brand, stateroom category, length of voyage, and country of purchase. A deposit for a future booking is required at or soon after the time of booking. Final payment is generally due between 120 days and 180 days before the voyage. Deposits on advance ticket sales are deferred when received, and include amounts that are refundable. Deferred amounts are subsequently recognized as revenue ratably during the voyage sailing days as services are rendered over time on the ship. Deposits are generally cancellable and refundable prior to sailing, but may be subject to penalties, depending on the timing of cancellation. The inception of substantive cancellation penalties generally coincides with the dates that final payment is due, and penalties generally increase as the voyage sail date approaches. Cancellation fees are recognized in passenger ticket revenue in the month of the cancellation.

Goods and services associated with onboard revenue are generally provided at a point in time and revenue is recognized when the performance obligation is satisfied. Onboard goods and services rendered may be paid at disembarkation. A receivable is recognized for onboard goods and services rendered when the voyage is not completed before the end of the period.

Cruises that are reserved under full ship charter agreements are subject to the payment terms of the specific agreement and may be either cancelable or non-cancelable. Deposits received on charter voyages are deferred when received and included in advance ticket sales. Deferred amounts are subsequently recognized as revenue ratably over the voyage sailing dates.

Contract Balances

Receivables from customers are included within accounts receivables, net. As of December 31, 2018 and January 1, 2018, our receivables from customers were \$17.3 million and \$13.8 million, respectively.

Contract liabilities represent the Company's obligation to transfer goods and services to a customer. A customer deposit held for a future cruise is generally considered a contract liability only when final payment is both due and paid by the customer and is usually recognized in earnings within 180 days of becoming a contract. Other deposits held and included within advance ticket sales or other long-term liabilities are not considered contract liabilities as they are largely cancelable and refundable. Our contract liabilities are included within advance ticket sales. As of December 31, 2018 and January 1, 2018, our contract liabilities were \$1.2 billion and \$1.0 billion, respectively. Of the amounts included within contract liabilities, approximately 50% were refundable in accordance with our cancellation policies. Approximately \$1.0 billion of the January 1, 2018 contract liability balance has been recognized in revenue for the year ended December 31, 2018.

Our revenue is seasonal and based on the demand for cruises. Historically, the seasonality of the North American cruise industry generally results in the greatest demand for cruises during the Northern Hemisphere's summer months. This predictable seasonality in demand has resulted in fluctuations by quarter in our revenue and results of operations. The seasonality of our results is increased due to ships being taken out of service for regularly scheduled Dry-docks, which we typically schedule during non-peak demand periods. This seasonality will result in higher contract liability balances as a result of an increased number of reservations preceding these peak demand periods. The addition of new ships also increases the contract liability balances prior to a new ship's delivery, as staterooms are usually made available for reservation prior to the inaugural cruise. Norwegian Bliss, with approximately 4,000 Berths, was delivered on April 19, 2018 and added 8% capacity to our fleet.

Practical Expedients and Exemptions

We do not disclose information about remaining performance obligations that have original expected durations of one year or less. We recognize revenue in an amount that corresponds directly with the value to the customer of our performance completed to date. Variable consideration, which will be determined based on a future rate and passenger count, is excluded from the disclosure and these amounts are not material. These variable non-disclosed contractual amounts relate to our non-cancelable charter agreements and a leasing arrangement with a certain port, both of which are long-term in nature. Amounts that are fixed in nature due to the application of minimum guarantees are also not material and are not disclosed.

Contract Costs

Management expects that incremental commissions and credit card fees paid as a result of obtaining ticket contracts are recoverable; therefore, we recognize these amounts as assets when they are paid prior to the voyage. Costs of air tickets and port taxes and fees that fulfill future performance obligations are also considered recoverable and are recorded as assets. As of December 31, 2018, \$116.3 million of costs incurred to obtain customers and \$32.5 million of costs to fulfill contracts with customers are recognized as assets within prepaid expenses and other assets. Incremental commissions, credit card fees, air ticket costs, and port taxes and fees are recognized ratably over the voyage sailing dates, concurrent with associated revenue, and are primarily in commissions, transportation and other expense.

Financial Statement Presentation

As of January 1, 2018, in connection with the adoption of Topic 606, we reclassified \$51.6 million of deferred costs associated with obtaining customer contracts to prepaid expenses and other assets from advance ticket sales.

Impacts on Financial Statements

The adoption of Topic 606 does not change the timing, classification or amount of revenue recognized from customers in our consolidated financial statements nor does it change the timing, classification or amount of incremental costs to obtain and fulfill those contracts with customers. Therefore, the adoption had no impact on our consolidated statement of operations or consolidated statement of comprehensive income.

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The following table summarizes the impact of the adoption of Topic 606 on our consolidated balance sheet, which has been adjusted for deferred contract costs that would have been included, net, in advance ticket sales, as of December 31, 2018 (in thousands):

| | As Reported | Adjustments | Balances Without Adoption of Topic 606 |
|--|--------------------|--------------------|---|
| Prepaid expenses and other assets | \$ 241,011 | \$ (63,628) | \$ 177,383 |
| Total assets | \$ 15,205,970 | \$ (63,628) | \$ 15,142,342 |
| Advance ticket sales | \$ 1,593,219 | \$ (63,628) | \$ 1,529,591 |
| Total liabilities and shareholders' equity | \$ 15,205,970 | \$ (63,628) | \$ 15,142,342 |

The following table summarizes the impact of the adoption of Topic 606 on our consolidated statement of cash flows for the year ended December 31, 2018 (in thousands):

| | As Reported | Adjustments | Balances Without Adoption of Topic 606 |
|--|--------------------|--------------------|---|
| Changes in operating assets and liabilities: | | | |
| Prepaid expenses and other assets | \$ (29,519) | \$ 12,029 | \$ (17,490) |
| Advance ticket sales | \$ 262,603 | \$ (12,029) | \$ 250,574 |
| Net cash provided by operating activities | \$ 2,075,171 | \$ — | \$ 2,075,171 |

4. Goodwill and Intangible Assets

Goodwill and tradenames are not subject to amortization. As of December 31, 2018 and 2017, the carrying values were \$1.4 billion for goodwill and \$0.8 billion for tradenames.

The gross carrying amounts of intangible assets included within other long-term assets, the related accumulated amortization, the net carrying amounts and the weighted-average amortization periods of the Company's intangible assets are listed in the following tables (in thousands, except amortization period):

| | December 31, 2018 | | | Weighted-Average Amortization Period (in years) |
|---|------------------------------|---------------------------------|----------------------------|--|
| | Gross Carrying Amount | Accumulated Amortization | Net Carrying Amount | |
| Customer relationship | \$ 120,000 | \$ (91,756) | \$ 28,244 | 6.0 |
| Licenses | 3,368 | (2,874) | 494 | 5.6 |
| Total intangible assets subject to amortization | <u>\$ 123,368</u> | <u>\$ (94,630)</u> | <u>\$ 28,738</u> | |

| | December 31, 2017 | | | Weighted-Average Amortization Period (in years) |
|---|------------------------------|---------------------------------|----------------------------|--|
| | Gross Carrying Amount | Accumulated Amortization | Net Carrying Amount | |
| Customer relationship | \$ 120,000 | \$ (66,866) | \$ 53,134 | 6.0 |
| Licenses | 3,368 | (1,601) | 1,767 | 5.6 |
| Non-compete agreements | 660 | (660) | — | 1.0 |
| Total intangible assets subject to amortization | <u>\$ 124,028</u> | <u>\$ (69,127)</u> | <u>\$ 54,901</u> | |

The aggregate amortization expense is as follows (in thousands):

| | Year Ended December 31, | | |
|----------------------|-------------------------|-----------|-----------|
| | 2018 | 2017 | 2016 |
| Amortization expense | \$ 26,163 | \$ 31,232 | \$ 22,160 |

The following table sets forth the Company's estimated aggregate amortization expense for each of the five years below (in thousands):

| Year Ended December 31, | Amortization Expense |
|-------------------------|----------------------|
| 2019 | \$ 18,489 |
| 2020 | \$ 9,906 |
| 2021 | \$ 75 |
| 2022 | \$ 75 |
| 2023 | \$ 75 |

5. Accumulated Other Comprehensive Income (Loss)

Accumulated other comprehensive income (loss) was as follows (in thousands):

| | Year Ended December 31, 2018 | | |
|---|---|------------------------------------|---|
| | Accumulated Other Comprehensive Income (Loss) | Change Related to Cash Flow Hedges | Change Related to Shipboard Retirement Plan |
| Accumulated other comprehensive income (loss) at beginning of period | \$ 26,966 | \$ 33,861 | \$ (6,895) |
| Current period other comprehensive income (loss) before reclassifications | (158,943) | (161,214) | 2,271 |
| Amounts reclassified into earnings | (29,670) | (30,096)(1) | 426(2) |
| Accumulated other comprehensive income (loss) at end of period | \$ (161,647) | \$ (157,449)(3) | \$ (4,198) |

| | Year Ended December 31, 2017 | | |
|---|---|------------------------------------|---|
| | Accumulated Other Comprehensive Income (Loss) | Change Related to Cash Flow Hedges | Change Related to Shipboard Retirement Plan |
| Accumulated other comprehensive income (loss) at beginning of period | \$ (314,473) | \$ (307,618) | \$ (6,855) |
| Current period other comprehensive income (loss) before reclassifications | 304,226 | 304,684 | (458) |
| Amounts reclassified into earnings | 37,213 | 36,795(1) | 418(4) |
| Accumulated other comprehensive income (loss) at end of period | \$ 26,966 | \$ 33,861 | \$ (6,895) |

| | Year Ended December 31, 2016 | | |
|--|---|------------------------------------|---|
| | Accumulated Other Comprehensive Income (Loss) | Change Related to Cash Flow Hedges | Change Related to Shipboard Retirement Plan |
| Accumulated other comprehensive income (loss) at beginning of period | \$ (412,650) | \$ (405,298) | \$ (7,352) |
| Current period other comprehensive income before reclassifications | 1,776 | 1,711 | 65 |
| Amounts reclassified into earnings | 96,401 | 95,969(1) | 432(4) |
| Accumulated other comprehensive income (loss) at end of period | \$ (314,473) | \$ (307,618) | \$ (6,855) |

(1) We refer you to Note 9—“Fair Value Measurements and Derivatives” in these notes to consolidated financial statements for the affected line items in the consolidated statements of operations.

(2) Amortization of prior-service cost and actuarial loss reclassified to other income (expense), net.

(3) Includes \$21.1 million of loss expected to be reclassified into earnings in the next 12 months.

(4) Amortization of prior-service cost and actuarial loss reclassified to payroll and related expense.

6. Property and Equipment, Net

Property and equipment, net consisted of the following (in thousands):

| | December 31, | |
|--------------------------------|---------------|---------------|
| | 2018 | 2017 |
| Ships | \$ 13,032,555 | \$ 11,814,409 |
| Ships improvements | 1,407,989 | 1,060,049 |
| Ships under construction | 491,632 | 521,597 |
| Land and land improvements | 34,936 | 37,535 |
| Other | 558,052 | 487,921 |
| | 15,525,164 | 13,921,511 |
| Less: accumulated depreciation | (3,405,911) | (2,881,023) |
| Property and equipment, net | \$ 12,119,253 | \$ 11,040,488 |

The increase in ships was primarily due to the addition of Norwegian Bliss. Depreciation expense for the years ended December 31, 2018, 2017 and 2016 was \$534.9 million, \$478.7 million and \$411.4 million, respectively. Repairs and maintenance expenses including Dry-dock expenses were \$199.5 million, \$157.2 million and \$155.4 million for the years ended December 31, 2018, 2017 and 2016, respectively, and were recorded within other cruise operating expense.

Ships under construction include progress payments to the shipyard, planning and design fees and other associated costs. Capitalized interest costs which were primarily associated with the construction or revitalization of ships amounted to \$30.4 million, \$29.0 million and \$33.7 million for the years ended December 31, 2018, 2017 and 2016, respectively.

7. Long-Term Debt

Long-term debt consisted of the following:

| | Interest Rate December 31, | | Maturities Through | Balance December 31, | |
|--|-------------------------------|---------|-----------------------|-------------------------|--------------|
| | 2018 | 2017 | | 2018 | 2017 |
| (in thousands) | | | | | |
| \$875.0 million senior secured revolving credit facility | 3.96% | 3.27% | 2021 | \$ 130,000 | \$ 78,000 |
| Term Loan A | 4.01% | 3.32% | 2021 | 1,256,167 | 1,385,196 |
| \$375.0 million Term Loan B (1) | 4.26% | 3.18% | 2021 | 368,982 | 371,914 |
| \$700.0 million 4.750% senior unsecured notes | 4.75% | 4.75% | 2021 | 561,021 | 693,413 |
| €662.9 million Norwegian Epic term loan (2) | 4.58% | 3.44% | 2022 | 259,394 | 328,646 |
| €308.1 million Pride of Hawai'i loan (2) | — | 2.31% | 2018 | — | 18,438 |
| €529.8 million Breakaway one loan (2) | 4.09% | 2.97% | 2025 | 360,680 | 415,039 |
| €529.8 million Breakaway two loan (2) | 4.50% | 4.50% | 2026 | 426,503 | 482,133 |
| €590.5 million Breakaway three loan (2) | 2.98% | 2.98% | 2027 | 537,223 | 595,494 |
| €729.9 million Breakaway four loan (2) | 2.98% | 2.98% | 2029 | 694,536 | 758,595 |
| €666 million Seahawk 1 term loan (2) | 3.92% | 3.92% | 2030 | 756,061 | 184,837 |
| €666 million Seahawk 2 term loan (2) | 3.92% | 3.92% | 2031 | 187,612 | 90,351 |
| Leonardo newbuild one loan | 2.68% | — | 2034 | 48,009 | — |
| Leonardo newbuild two loan | 2.77% | — | 2035 | 48,009 | — |
| Leonardo newbuild three loan | 1.22% | — | 2036 | 43,667 | — |
| Leonardo newbuild four loan | 1.31% | — | 2037 | 43,667 | — |
| Sirena loan | 2.75% | 2.75% | 2019 | 13,856 | 27,344 |
| Explorer newbuild loan | 3.43% | 3.43% | 2028 | 268,970 | 295,093 |
| Marina newbuild loan (3) | 3.07% | 2.00% | 2023 | 201,007 | 245,706 |
| Riviera newbuild loan (4) | 3.32% | 2.11% | 2024 | 247,203 | 292,183 |
| Capital lease and license obligations | Various | Various | 2028 | 39,524 | 45,383 |
| Total debt | | | | 6,492,091 | 6,307,765 |
| Less: current portion of long-term debt | | | | (681,218) | (619,373) |
| Total long-term debt | | | | \$ 5,810,873 | \$ 5,688,392 |

(1) Includes original issue discount of \$0.7 million and \$0.9 million as of December 31, 2018 and 2017, respectively.

(2) Currently U.S. dollar-denominated.

(3) Includes premium of \$0.1 million and \$0.2 million as of December 31, 2018 and 2017, respectively.

(4) Includes premium of \$0.2 million as of December 31, 2018 and 2017.

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On April 19, 2018, we took delivery of Norwegian Bliss. To finance the payment due upon delivery, we had export financing in place for 80% of the contract price. The associated \$850.0 million term loan bears interest at a fixed rate of 3.92% with a maturity date of April 19, 2030. Principal and interest payments are payable semiannually.

On April 4, 2018, we redeemed \$135.0 million principal amount of the \$700.0 million aggregate principal amount of outstanding 4.75% Senior Notes due 2021 (the "Notes") at a price equal to 100% of the principal amount of the Notes being redeemed and paid the premium of \$5.1 million and accrued interest of \$1.9 million. The redemption also resulted in a write off of \$1.2 million of certain fees. Following the partial redemption, \$565.0 million aggregate principal amount of Notes remained outstanding.

Interest expense, net for the year ended December 31, 2018 was \$270.4 million which included \$31.4 million of amortization of deferred financing fees and a \$6.3 million loss on extinguishment of debt. Interest expense, net for the year ended December 31, 2017 was \$267.8 million which included \$32.5 million of amortization of deferred financing fees and a \$23.9 million loss on extinguishment of debt. Interest expense, net for the year ended December 31, 2016 was \$276.9 million which included \$34.7 million of amortization of deferred financing fees and a \$27.7 million loss on extinguishment of debt.

Certain of our debt agreements contain covenants that, among other things, require us to maintain a minimum level of liquidity, as well as limit our net funded debt-to-capital ratio, and maintain certain other ratios and restrict our ability to pay dividends. Substantially all of our ships and other property and equipment are pledged as collateral for certain of our debt. We believe we were in compliance with our covenants as of December 31, 2018.

The following are scheduled principal repayments on long-term debt including capital lease obligations as of December 31, 2018 for each of the next five years (in thousands):

| <u>Year</u> | <u>Amount</u> |
|-------------|---------------------|
| 2019 | \$ 681,218 |
| 2020 | 682,556 |
| 2021 | 2,549,621 |
| 2022 | 494,186 |
| 2023 | 434,902 |
| Thereafter | 1,767,383 |
| Total | <u>\$ 6,609,866</u> |

We had an accrued interest liability of \$37.2 million and \$31.9 million as of December 31, 2018 and 2017, respectively.

8. Related Party Disclosures

Transactions with Genting HK and Apollo

In December 2018, as part of a public equity offering of NCLH's ordinary shares owned by Apollo and Genting HK, NCLH repurchased 1,683,168 of its ordinary shares sold in the offering for approximately \$85.0 million pursuant to its new Repurchase Program.

In March 2018, as part of a public equity offering of NCLH's ordinary shares owned by Apollo and Genting HK, NCLH repurchased 4,722,312 of its ordinary shares sold in the offering for approximately \$263.5 million pursuant to its then existing share repurchase program.

In June 2012, we exercised our option with Genting HK to purchase Norwegian Sky. We paid the total amount of \$259.3 million to Genting HK in connection with the Norwegian Sky Purchase Agreement as of December 31, 2016 and no further payments are due.

9. Fair Value Measurements and Derivatives

Fair value is defined as the price at which an orderly transaction to sell an asset or to transfer a liability would take place between market participants at the measurement date under current market conditions (that is, an exit price at the measurement date from the perspective of a market participant that holds the asset or owes the liability).

Fair Value Hierarchy

The following hierarchy for inputs used in measuring fair value should maximize the use of observable inputs and minimize the use of unobservable inputs by requiring that the most observable inputs be used when available:

Level 1 — Quoted prices in active markets for identical assets or liabilities that are accessible at the measurement dates.

Level 2 — Significant other observable inputs that are used by market participants in pricing the asset or liability based on market data obtained from independent sources.

Level 3 — Significant unobservable inputs we believe market participants would use in pricing the asset or liability based on the best information available.

Derivatives

We are exposed to market risk attributable to changes in interest rates, foreign currency exchange rates and fuel prices. We attempt to minimize these risks through a combination of our normal operating and financing activities and through the use of derivatives. We assess whether derivatives used in hedging transactions are “highly effective” in offsetting changes in the cash flow of our hedged forecasted transactions. We use regression analysis for this hedge relationship and high effectiveness is achieved when a statistically valid relationship reflects a high degree of offset and correlation between the fair values of the derivative and the hedged forecasted transaction. Cash flows from the derivatives are classified in the same category as the cash flows from the underlying hedged transaction. If it is determined that the hedged forecasted transaction is no longer probable of occurring, then the amount recognized in accumulated other comprehensive income (loss) is released to earnings. There are no amounts excluded from the assessment of hedge effectiveness and there are no credit-risk-related contingent features in our derivative agreements. We monitor concentrations of credit risk associated with financial and other institutions with which we conduct significant business. Credit risk, including but not limited to counterparty non-performance under derivatives, is not considered significant, as we primarily conduct business with large, well-established financial institutions with which we have established relationships, and which have credit risks acceptable to us, or the credit risk is spread out among many creditors. We do not anticipate non-performance by any of our significant counterparties.

As of December 31, 2018, we had fuel swaps, which are used to mitigate the financial impact of volatility of fuel prices pertaining to approximately 1.3 million metric tons of our projected fuel purchases, maturing through December 31, 2021.

As of December 31, 2018, we had foreign currency forward contracts, matured foreign currency options and matured foreign currency collars which are used to mitigate the financial impact of volatility in foreign currency exchange rates related to our ship construction contracts denominated in euros. The notional amount of our foreign currency forward contracts was €2.1 billion, or \$2.4 billion based on the euro/U.S. dollar exchange rate as of December 31, 2018.

As of December 31, 2018, we had interest rate swap agreements which are used to hedge our exposure to interest rate movements and manage our interest expense. The notional amount of our outstanding debt associated with the interest rate swap agreements was \$1.0 billion as of December 31, 2018.

The derivatives measured at fair value and the respective location in the consolidated balance sheets includes the following (in thousands):

| Derivative Contracts Designated as Hedging Instruments | Balance Sheet Location | Assets | | Liabilities | |
|---|--|------------------|-------------------|-------------------|------------------|
| | | December 31, | | December 31, | |
| | | 2018 | 2017 | 2018 | 2017 |
| Fuel contracts | | | | | |
| | Prepaid expenses and other assets | \$ 2,583 | \$ 19,220 | \$ 1 | \$ 2,406 |
| | Other long-term assets | 197 | 19,854 | 29 | 3,469 |
| | Accrued expenses and other liabilities | 1,173 | — | 19,547 | 3,348 |
| | Other long-term liabilities | 933 | 576 | 51,184 | 2,148 |
| Foreign currency contracts | | | | | |
| | Prepaid expenses and other assets | 5,285 | 52,300 | 1,497 | 730 |
| | Other long-term assets | 3,514 | 85,081 | — | — |
| | Accrued expenses and other liabilities | 112 | — | 5,145 | — |
| | Other long-term liabilities | 2,874 | — | 40,476 | — |
| Interest rate contracts | | | | | |
| | Prepaid expenses and other assets | 519 | — | — | — |
| | Other long-term assets | 27 | — | — | — |
| | Accrued expenses and other liabilities | — | — | — | 1,020 |
| Total derivative contracts designated as hedging instruments | | \$ 17,217 | \$ 177,031 | \$ 117,879 | \$ 13,121 |

The fair values of swap and forward contracts are determined based on inputs that are readily available in public markets or can be derived from information available in publicly quoted markets. The Company determines the value of options and collars utilizing an option pricing model based on inputs that are either readily available in public markets or can be derived from information available in publicly quoted markets. The option pricing model used by the Company is an industry standard model for valuing options and is used by the broker/dealer community. The inputs to this option pricing model are the option strike price, underlying price, risk-free rate of interest, time to expiration, and volatility. The fair value of option contracts considers both the intrinsic value and any remaining time value associated with those derivatives that have not yet settled. The Company also considers counterparty credit risk and its own credit risk in its determination of all estimated fair values.

Our derivatives and financial instruments were categorized as Level 2 in the fair value hierarchy, and we had no derivatives or financial instruments categorized as Level 1 or Level 3. Our derivative contracts include rights of offset with our counterparties. We have elected to net certain assets and liabilities within counterparties when the rights of offset exist. We are not required to post cash collateral related to our derivative instruments.

The gross and net amounts recognized within assets and liabilities include the following (in thousands):

| | Gross Amounts | Gross Amounts Offset | Total Net Amounts | Gross Amounts Not Offset | Net Amounts |
|--------------------------|---------------|----------------------|-------------------|--------------------------|-------------|
| December 31, 2018 | | | | | |
| Assets | \$ 12,125 | \$ (1,527) | \$ 10,598 | \$ (6,872) | \$ 3,726 |
| Liabilities | \$ 116,352 | \$ (5,092) | \$ 111,260 | \$ (35,718) | \$ 75,542 |
| December 31, 2017 | | | | | |
| Assets | \$ 176,455 | \$ (6,605) | \$ 169,850 | \$ (127,924) | \$ 41,926 |
| Liabilities | \$ 6,516 | \$ (576) | \$ 5,940 | \$ (1,020) | \$ 4,920 |

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The effects of cash flow hedge accounting on accumulated other comprehensive income (loss) include the following (in thousands):

| Derivatives | Amount of Gain (Loss) Recognized in Other Comprehensive Income | | | Location of Gain (Loss) Reclassified from Accumulated Other Comprehensive Income (Loss) into Income | Amount of Gain (Loss) Reclassified from Accumulated Other Comprehensive Income (Loss) into Income | | |
|--|--|-------------------|-----------------|---|---|--------------------|--------------------|
| | Year Ended December 31, | | | | Year Ended December 31, | | |
| | 2018 | 2017 | 2016 | | 2018 | 2017 | 2016 |
| Fuel contracts | \$ (52,949) | \$ 50,263 | \$ 127,470 | Fuel | \$ 34,410 | \$ (29,721) | \$ (88,442) |
| Foreign currency contracts | (108,911) | 254,070 | (124,058) | Depreciation and amortization | (3,463) | (4,077) | (3,581) |
| Interest rate contracts | 646 | 351 | (1,701) | Interest expense, net | (851) | (2,997) | (3,946) |
| Total gain (loss) recognized in other comprehensive income | <u>\$ (161,214)</u> | <u>\$ 304,684</u> | <u>\$ 1,711</u> | | <u>\$ 30,096</u> | <u>\$ (36,795)</u> | <u>\$ (95,969)</u> |

The effects of cash flow hedge accounting on the consolidated statements of operations include the following (in thousands):

| | Year Ended December 31, 2018 | | | Year Ended December 31, 2017 | | |
|---|------------------------------|-------------------------------|-----------------------|------------------------------|-------------------------------|-----------------------|
| | Fuel | Depreciation and Amortization | Interest Expense, net | Fuel | Depreciation and Amortization | Interest Expense, net |
| | | | | | | |
| Total amounts of income and expense line items presented in the consolidated statements of operations in which the effects of cash flow hedges are recorded | \$ 392,685 | \$ 561,060 | \$ 270,404 | \$ 361,032 | \$ 509,957 | \$ 267,804 |
| Amount of gain (loss) reclassified from accumulated other comprehensive income (loss) into income | | | | | | |
| Fuel contracts | \$ 34,410 | \$ — | \$ — | \$ (29,721) | \$ — | \$ — |
| Foreign currency contracts | \$ — | \$ (3,463) | \$ — | \$ — | \$ (4,077) | \$ — |
| Interest rate contracts | \$ — | \$ — | \$ (851) | \$ — | \$ — | \$ (2,997) |

The effects of cash flow hedge accounting on the consolidated statements of operations include the following (in thousands):

| | Year Ended December 31, 2016 | | | |
|---|------------------------------|-------------------------------|-----------------------|-----------------------------|
| | Fuel | Depreciation and Amortization | Interest Expense, net | Other (Income) Expense, net |
| | | | | |
| Total amounts of income and expense line items presented in the consolidated statements of operations in which the effects of cash flow hedges are recorded | \$ 335,174 | \$ 432,495 | \$ 276,859 | \$ 8,302 |
| Amount of loss reclassified from accumulated other comprehensive income (loss) into income | | | | |
| Fuel contracts | \$ (85,448) | \$ — | \$ — | \$ — |
| Foreign currency contracts | \$ — | \$ (3,581) | \$ — | \$ — |
| Interest rate contracts | \$ — | \$ — | \$ (3,946) | \$ — |
| Amount of loss reclassified from accumulated other comprehensive income (loss) into income as a result that a forecasted transaction is no longer probable of occurring | | | | |
| Fuel contracts | \$ — | \$ — | \$ — | \$ (2,994) |

The effects on the consolidated financial statements of the foreign currency contracts which were not designated as hedging instruments were as follows (in thousands):

| | Year Ended December 31, | | |
|--|-------------------------|------|----------|
| | 2018 | 2017 | 2016 |
| Gain recognized in other income (expense), net | \$ — | \$ — | \$ 4,179 |

Other

The carrying amounts reported in the consolidated balance sheets of all other financial assets and liabilities approximate fair value.

Long-Term Debt

As of December 31, 2018 and 2017, the fair value of our long-term debt, including the current portion, was \$6,601.9 million and \$6,448.6 million, respectively, which was \$8.4 million higher and \$23.5 million higher, respectively, than the carrying values. The difference between the fair value and carrying value of our long-term debt is due to our fixed and variable rate debt obligations carrying interest rates that are above or below market rates at the measurement dates. Market risk associated with our long-term variable rate debt is the potential increase in interest expense from an increase in interest rates. The fair value of our long-term debt was calculated based on estimated rates for the same or similar instruments with similar terms and remaining maturities, which represent Level 2 inputs in the fair value hierarchy.

Non-Recurring Measurements of Non-Financial Assets

Goodwill and other indefinite-lived assets, principally tradenames, are reviewed for impairment on an annual basis or earlier if there is an event or change in circumstances that would indicate that the carrying value of these assets may not be fully recoverable.

We believe our estimates and judgments with respect to our long-lived assets, principally ships, and goodwill and other indefinite-lived intangible assets are reasonable. Nonetheless, if there was a material change in assumptions used in the determination of such fair values or if there is a material change in the conditions or circumstances that influence such assets, we could be required to record an impairment charge. We estimate fair value based on the best information available utilizing estimates, judgments and projections as necessary. As of December 31, 2018, our annual review supports the carrying value of these assets.

10. Employee Benefits and Share-Based Compensation

Share-Based Compensation

As a result of NCLH's adoption of ASU No. 2016-09, beginning in the first quarter of 2017, NCLH began accounting for forfeitures as they occur, rather than estimating expected forfeitures. Pursuant to the modified-retrospective application, the net cumulative effect of this change was recognized as a \$2.2 million increase to retained earnings as of January 1, 2017. We refer you to our consolidated statements of changes in shareholders' equity.

Amended and Restated 2013 Performance Incentive Plan

In January 2013, NCLH adopted the 2013 Performance Incentive Plan, which provided for the issuance of up to 15,035,106 of NCLH's ordinary shares pursuant to awards granted under the plan, with no more than 5,000,000 shares being granted to one individual in any calendar year. In May 2016, the plan was amended and restated ("Restated 2013 Plan") pursuant to approval from the Board of Directors and NCLH's shareholders. Among other things, under the Restated 2013 Plan, the number of NCLH's ordinary shares that may be delivered pursuant to all awards granted under the plan was increased by an additional 12,430,000 shares to a new maximum aggregate limit of 27,465,106 shares. Additionally, the expiration date of the Restated 2013 Plan was extended to March 30, 2026. Share options under the plan are granted with an exercise price equal to the closing market price of NCLH shares at the date of grant. The vesting period for time-based options is typically set at three, four or five years with a contractual life ranging from seven to 10 years. The vesting period for time-based and performance-based restricted share units is generally three years. Forfeited awards will be available for subsequent awards under the Restated 2013 Plan.

Share Option Awards

No time-based share option awards were granted for the years ended December 31, 2018 or 2017. The fair value of each time-based option award is estimated on the date of grant using the Black-Scholes option-pricing model. The estimated fair value of the share options is amortized over the vesting period using the straight-line method. The assumptions used within the option-pricing model for the time-based awards are as follows:

| | 2016 |
|---------------------------------|---------------|
| Dividend yield | —% |
| Expected share price volatility | 30.36%-33.01% |
| Risk-free interest rate | 1.20%-1.48% |
| Expected term | 6.00 years |

Expected volatility was determined based on the historical share prices in our industry. The risk-free rate was based on U.S. Treasury zero coupon issues with a remaining term equal to the expected option term at grant date. The expected term was calculated under the simplified method.

The performance-based options awarded to our President and Chief Executive Officer in August 2015 are subject to performance conditions such that the number of awards that ultimately vest depends on the adjusted earnings per share (“Adjusted EPS”) and adjusted return on invested capital (“Adjusted ROIC”) achieved by the Company during the performance period compared to targets established at the award date. Although the terms of the performance-based awards provide the compensation committee with the discretion to make certain adjustments to the performance calculation, it was determined that a mutual understanding of the key terms and conditions of the awards has been ascertained. In 2018, the grant date was therefore established for performance-based awards granted in prior years. The fair value of each performance-based option award is estimated on the date of grant using the Black-Scholes option-pricing model. The estimated fair value of the share options is amortized over the requisite service period using the straight-line method. The assumptions used within the option-pricing model for the performance-based awards are as follows:

| | 2018 | 2017 | 2016 |
|---------------------------------|-----------------|-------------|-----------------|
| Dividend yield | —% | —% | —% |
| Expected share price volatility | 31.50%-32.20% | 25.97% | 25.97%-30.21% |
| Risk-free interest rate | 2.48-2.58% | 1.81% | 1.01%-1.93% |
| Expected term | 3.72-4.22 years | 4.20 years | 4.38-5.13 years |

Expected volatility was determined based on the historical share prices in our industry. The risk-free rate was based on U.S. Treasury zero coupon issues with a remaining term equal to the expected option term at grant date. The expected term was calculated under the simplified method.

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The following table sets forth a summary of option activity under NCLH’s Restated 2013 Plan, including 208,335 previously awarded performance-based share option awards, for which a grant date was established in 2018, for the period presented:

| | Number of Share Option Awards | | | Weighted-Average Exercise Price | | | Weighted-Average Contractual Term (in years) | Aggregate Intrinsic Value (in thousands) |
|--|-------------------------------|--------------------------|---------------------|---------------------------------|--------------------------|---------------------|---|---|
| | Time-Based Awards | Performance-Based Awards | Market-Based Awards | Time-Based Awards | Performance-Based Awards | Market-Based Awards | | |
| Outstanding as of January 1, 2018 | 6,580,898 | 373,969 | 208,333 | \$ 49.18 | \$ 31.39 | \$ 59.43 | 6.99 | \$ 50,021 |
| Granted | — | 208,335 | — | \$ — | \$ 59.43 | \$ — | | |
| Exercised | (674,272) | (115,785) | — | \$ 35.00 | \$ 19.00 | \$ — | | |
| Forfeited and cancelled | (219,833) | (56,020) | — | \$ 54.76 | \$ 56.59 | \$ — | | |
| Outstanding as of December 31, 2018 | <u>5,686,793</u> | <u>410,499</u> | <u>208,333</u> | <u>\$ 50.65</u> | <u>\$ 45.67</u> | <u>\$ 59.43</u> | <u>6.22</u> | <u>\$ 13,946</u> |
| Vested and Expected to vest of December 31, 2018 | <u>5,686,793</u> | <u>254,249</u> | <u>—</u> | <u>\$ 50.65</u> | <u>\$ 37.22</u> | <u>\$ —</u> | <u>6.19</u> | <u>13,946</u> |
| Exercisable as of December 31, 2018 | <u>5,022,818</u> | <u>254,249</u> | <u>—</u> | <u>\$ 50.18</u> | <u>\$ 37.22</u> | <u>\$ —</u> | <u>6.11</u> | <u>13,928</u> |

The weighted-average grant-date fair value of time-based options granted during 2016 was \$17.11. The weighted-average grant-date fair value of performance-based options granted (or where a grant date had not been previously established, the fair value recognized) during the years ended December 31, 2018, 2017 and 2016 was \$15.20, \$8.55 and \$8.67, respectively. The total intrinsic value of share options exercised during 2018, 2017 and 2016 was \$16.7 million, \$18.9 million and \$5.2 million and total cash received by the Company from exercises was \$25.8 million, \$27.4 million and \$7.6 million, respectively. As of December 31, 2018, there was approximately \$2.9 million, \$0 and \$0 of total unrecognized compensation cost, related to time-based, performance-based and market-based options, respectively, granted under our share-based incentive plans which is expected to be recognized over a weighted-average period of 0.4 years, 0 years and 0 years, respectively.

Restricted Ordinary Share Awards

The following is a summary of NCLH’s restricted ordinary share activity for the period presented:

| | Number of Time-Based Awards | Weighted-Average Grant Date Fair Value |
|------------------------------------|-----------------------------|--|
| Non-vested as of January 1, 2018 | 858 | \$ 58.33 |
| Vested | (429) | \$ 58.25 |
| Non-vested as of December 31, 2018 | <u>429</u> | <u>\$ 58.41</u> |

The restricted shares vest in substantially equal installments over four years and are expected to vest on January 1, 2019. The total fair value of shares vested during the years ended December 31, 2017 and 2016 was \$0.1 million and \$1.1 million, respectively.

Restricted Share Unit (“RSU”) Awards

On March 1, 2018, NCLH granted to certain employees 1.6 million time-based RSU awards which vest equally over three years. Also on March 1, 2018, NCLH granted to certain members of our management team 0.5 million performance-based RSU awards, which vest upon the achievement of certain pre-established performance targets and which amount assumes the maximum level of achievement.

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The fair value of the time-based and performance-based RSUs is equal to the closing market price of NCLH shares at the date of grant. The performance-based RSUs awarded to certain members of our management team are subject to performance conditions such that the number of shares that ultimately vest depends on the Adjusted EPS and Adjusted ROIC achieved by the Company during the performance period compared to targets established at the award date. Although the terms of the performance-based RSU awards provide the compensation committee with the discretion to make certain adjustments to the performance calculation, it was determined that a mutual understanding of the key terms and conditions of the awards has been ascertained. In 2018, the grant date was therefore established for performance-based RSU awards granted in prior years. The Company remeasures the probability and the cumulative share-based compensation expense of the awards each reporting period until vesting or forfeiture occurs.

The following table sets forth a summary of RSU activity and includes 0.3 million previously awarded performance-based RSU awards for which the grant date was established in 2018 (the number of RSUs reported assumes the maximum level of achievement), for the period presented:

| | Number of Time-Based Awards | Weighted- Average Grant Date Fair Value | Number of Performance- Based Awards | Weighted- Average Grant Date Fair Value | Number of Market- Based Awards | Weighted- Average Grant Date Fair Value |
|---|--|--|--|--|---|--|
| Non-vested as of January 1, 2018 | 2,555,477 | \$ 50.86 | — | \$ — | 50,000 | \$ 59.43 |
| Granted | 1,613,077 | \$ 56.73 | 843,998 | \$ 56.58 | — | \$ — |
| Vested | (1,032,927) | \$ 50.66 | — | \$ — | — | \$ — |
| Forfeited or expired | (162,595) | \$ 53.40 | (18,384) | \$ 56.43 | — | \$ — |
| Non-vested as of December 31, 2018 | <u>2,973,032</u> | <u>\$ 53.98</u> | <u>825,614</u> | <u>\$ 56.58</u> | <u>50,000</u> | <u>\$ 59.43</u> |
| Non-vested and expected to vest as of December 31, 2018 | <u>2,973,032</u> | <u>\$ 53.98</u> | <u>788,114</u> | <u>\$ 56.59</u> | <u>—</u> | <u>\$ —</u> |

As of December 31, 2018, there was total unrecognized compensation costs related to non-vested time-based, non-vested performance-based and market-based RSUs of \$97.7 million, \$25.8 million and \$0, respectively. The costs are expected to be recognized over a weighted-average period of 1.8 years, 1.9 years and 0 years, respectively, for the time-based, performance-based and market-based RSUs. Taxes paid pursuant to net share settlements in 2018 and 2017 were \$13.9 million and \$6.3 million, respectively.

Employee Stock Purchase Plan (“ESPP”)

In April 2014, NCLH’s shareholders approved the ESPP. The purpose of the ESPP is to provide eligible employees with an opportunity to purchase NCLH’s ordinary shares at a favorable price and upon favorable terms in consideration of the participating employees’ continued services. A maximum of 2,000,000 of NCLH’s ordinary shares may be purchased under the ESPP. To be eligible to participate in an offering period, on the grant date of that period, an individual must be customarily employed by the Company or a participating subsidiary for more than twenty hours per week and for more than five months per calendar year. Participation in the ESPP is also subject to certain limitations. The ESPP is considered to be compensatory based on: a) the 15% purchase price discount and b) the look-back purchase price feature. Since the plan is compensatory, compensation expense must be recorded in the consolidated statements of operations on a straight-line basis over the six-month withholding period. As of December 31, 2018 and 2017, we had a liability for payroll withholdings received of \$1.9 million and \$1.5 million, respectively.

The compensation expense recognized for share-based compensation for the periods presented include the following (in thousands):

| Classification of expense | Share-Based Compensation Expense | | |
|---|---|------------------|------------------|
| | 2018 | 2017 | 2016 |
| Payroll and related (1) | \$ 15,629 | \$ 9,455 | \$ 7,793 |
| Marketing, general and administrative (2) | 100,354 | 77,584 | 58,621 |
| Total share-based compensation expense | <u>\$ 115,983</u> | <u>\$ 87,039</u> | <u>\$ 66,414</u> |

- (1) Amounts relate to equity granted to certain of our shipboard officers.
- (2) Amounts relate to equity granted to certain of our corporate employees.

Employee Benefit Plans

We offer annual incentive bonuses pursuant to our Restated 2013 Plan for our executive officers and other key employees. Bonuses under the plan become earned and payable based on the Company's performance during the applicable performance period and the individual's continued employment. Company performance criteria include the attainment of certain financial targets and other strategic objectives.

Certain employees are employed pursuant to agreements that provide for severance payments. Severance is generally only payable upon an involuntary termination of the employment by us without cause or a termination by the employee for good reason. Severance generally includes a series of cash payments based on the employee's base salary (and in some cases, bonus), and our payment of the employee's continued medical benefits for the applicable severance period.

We maintain a 401(k) Plan for our shoreside employees, including our executive officers. Participants may contribute up to 100% of eligible compensation each pay period, subject to certain limitations. We make matching contributions equal to 100% of the first 3% and 50% of amounts greater than 3% to and including 10% of each participant's contributions subject to certain limitations. In addition, we may make discretionary supplemental contributions to the 401(k) Plan, which shall be allocated pro rata to each eligible participant based on the compensation of the participant relative to the total compensation of all participants. Our matching contributions are vested according to a five-year schedule. The 401(k) Plan is subject to the provisions of ERISA and is intended to be qualified under section 401(a) of the U.S. Internal Revenue Code (the "Code").

Our matching contributions are reduced by amounts forfeited by those employees who leave the 401(k) Plan prior to vesting fully in the matching contributions. Forfeited contributions of \$0.3 million, \$0.3 million and \$0.1 million were utilized in the years ended December 31, 2018, 2017 and 2016, respectively.

We maintained a Supplemental Executive Retirement Plan ("SERP"), which is a legacy unfunded defined contribution plan for certain executives who were employed by the Company in an executive capacity prior to 2008. The SERP was frozen to future participation following that date. The SERP provided for Company contributions on behalf of the participants to compensate them for the benefits that are limited under the 401(k) Plan. We credited participants under the SERP for amounts that would have been contributed by us to the Company's previous Defined Contribution Retirement Plan and the former 401(k) Plan without regard to any limitations imposed by the Code. Participants did not make any elective contributions under this plan. We discontinued this plan following the 2015 contributions and paid the previously deferred contributions to participants in early 2017 following the expiration of the required 12 month waiting period.

We recorded combined total expenses related to the above 401(k) Plan and SERP of \$9.3 million, \$7.3 million and \$6.4 million for the years ended December 31, 2018, 2017 and 2016, respectively.

Effective January 2009, we implemented the Shipboard Retirement Plan which computes benefits based on years of service, subject to eligibility requirements. The Shipboard Retirement Plan is unfunded with no plan assets. The current portion of the projected benefit obligation of \$1.0 million and \$1.1 million was included in accrued expenses and other liabilities as of December 31, 2018 and 2017, respectively, and \$23.3 million and \$23.5 million was included in other long-term liabilities in our consolidated balance sheets as of December 31, 2018 and 2017, respectively.

The amounts related to the Shipboard Retirement Plan were as follows (in thousands):

| | As of or for the Year Ended December 31, | | |
|---|---|-------------------|-------------------|
| | 2018 | 2017 | 2016 |
| Pension expense: | | | |
| Service cost | \$ 2,167 | \$ 1,987 | \$ 1,863 |
| Interest cost | 857 | 887 | 874 |
| Amortization of prior service cost | 378 | 378 | 378 |
| Amortization of actuarial loss | 51 | 40 | 54 |
| Total pension expense | <u>\$ 3,453</u> | <u>\$ 3,292</u> | <u>\$ 3,169</u> |
| Change in projected benefit obligation: | | | |
| Projected benefit obligation at beginning of year | \$ 24,587 | \$ 22,605 | \$ 21,078 |
| Service cost | 2,167 | 1,987 | 1,863 |
| Interest cost | 857 | 887 | 874 |
| Actuarial gain (loss) | (2,271) | 458 | (65) |
| Direct benefit payments | (1,022) | (1,350) | (1,145) |
| Projected benefit obligation at end of year | <u>\$ 24,318</u> | <u>\$ 24,587</u> | <u>\$ 22,605</u> |
| Amounts recognized in the consolidated balance sheets: | | | |
| Projected benefit obligation | <u>\$ 24,318</u> | <u>\$ 24,587</u> | <u>\$ 22,605</u> |
| For the Year Ended December 31, | | | |
| | 2018 | 2017 | 2016 |
| Amounts recognized in accumulated other comprehensive income (loss): | | | |
| Prior service cost | \$ (4,159) | \$ (4,537) | \$ (4,915) |
| Accumulated actuarial loss | (1,105) | (3,426) | (3,008) |
| Accumulated other comprehensive income (loss) | <u>\$ (5,264)</u> | <u>\$ (7,963)</u> | <u>\$ (7,923)</u> |

The discount rates used in the net periodic benefit cost calculation for the years ended December 31, 2018, 2017 and 2016 were 3.6%, 4.0% and 4.3%, respectively, and the actuarial loss is amortized over 18.93 years. The discount rate is used to measure and recognize obligations, including adjustments to other comprehensive income (loss), and to determine expense during the periods. It is determined by using bond indices which reflect yields on a broad maturity and industry universe of high-quality corporate bonds.

On January 1, 2018, NCLH adopted ASU No. 2017-07, *Compensation – Retirement Benefits (Topic 715)*, which requires the components of pension expense not associated with service costs to be recognized separately from the service cost component and outside operating income. For the year ended December 31, 2018, services costs are recognized in payroll and related expense while non-service cost components are recognized in other income (expense), net. For the years ended December 31, 2017 and 2016, services costs and non-service cost components are both recognized in payroll and related expense.

The pension benefits expected to be paid in each of the next five years and in aggregate for the five years thereafter are as follows (in thousands):

| Year | Amount |
|-----------------|---------------|
| 2019 | \$ 986 |
| 2020 | \$ 971 |
| 2021 | \$ 1,076 |
| 2022 | \$ 1,179 |
| 2023 | \$ 1,333 |
| Next five years | \$ 9,810 |

11. Income Taxes

We are incorporated in Bermuda. Under current Bermuda law, we are not subject to tax on income and capital gains. We have received from the Minister of Finance under The Exempted Undertakings Tax Protection Act 1966, as amended, an assurance that, in the event that Bermuda enacts legislation imposing tax computed on profits, income, any capital asset, gain or appreciation, or any tax in the nature of estate duty or inheritance, then the imposition of any such tax shall not be applicable to us or to any of our operations or shares, debentures or other obligations, until March 31, 2035.

The components of net income before income taxes consist of the following (in thousands):

| | Year Ended December 31, | | |
|--------------------------------|-------------------------|------------|------------|
| | 2018 | 2017 | 2016 |
| Bermuda | \$ — | \$ — | \$ — |
| Foreign - Other | 969,310 | 770,614 | 640,303 |
| Net income before income taxes | \$ 969,310 | \$ 770,614 | \$ 640,303 |

The components of the provision for income taxes consisted of the following (expense) benefit (in thousands):

| | Year Ended December 31, | | |
|--------------------|-------------------------|-------------|------------|
| | 2018 | 2017 | 2016 |
| Current: | | | |
| Bermuda | \$ — | \$ — | \$ — |
| United States | (7,409) | 1,828 | (8,736) |
| Foreign - Other | (5,371) | (4,617) | (2,166) |
| Total current: | (12,780) | (2,789) | (10,902) |
| Deferred: | | | |
| Bermuda | — | — | — |
| United States | (1,912) | (8,439) | 3,684 |
| Foreign - Other | 225 | 486 | — |
| Total deferred: | (1,687) | (7,953) | 3,684 |
| Income tax expense | \$ (14,467) | \$ (10,742) | \$ (7,218) |

Our reconciliation of income tax expense computed by applying our Bermuda statutory rate and reported income tax expense was as follows (in thousands):

| | Year Ended December 31, | | |
|---|-------------------------|-------------|------------|
| | 2018 | 2017 | 2016 |
| Tax at Bermuda statutory rate | \$ — | \$ — | \$ — |
| Foreign income taxes at different rates | (17,540) | (28,188) | (10,721) |
| Tax contingencies | (5) | 11,184 | (533) |
| Return to provision adjustments | 2,961 | (1,397) | 418 |
| Benefit from change in tax rate | 117 | 7,659 | 24 |
| Valuation allowance | — | — | 3,594 |
| Income tax expense | \$ (14,467) | \$ (10,742) | \$ (7,218) |

Deferred tax assets and liabilities were as follows (in thousands):

| | As of December 31, | |
|--------------------------------|--------------------|-------------|
| | 2018 | 2017 |
| Deferred tax assets: | | |
| Loss carryforwards | \$ 63,201 | \$ 58,789 |
| Other | 2,535 | 2,106 |
| Valuation allowance | (41,924) | (42,154) |
| Total net deferred assets | 23,812 | 18,741 |
| Deferred tax liabilities: | | |
| Property and equipment | (37,448) | (30,869) |
| Total deferred tax liabilities | (37,448) | (30,869) |
| Net deferred tax liability | \$ (13,636) | \$ (12,128) |

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We have U.S. net operating loss carryforwards of \$278.3 million and \$254.8 million for the years ended December 31, 2018 and 2017, respectively, which begin to expire in 2023. We have state net operating loss carryforwards of \$4.8 million and \$8.9 million for the years ended December 31, 2018 and 2017, respectively, which expire between 2025 through 2035.

Included above are deferred tax assets associated with our operations in Norway for which we have provided a full valuation allowance. We have Norway net operating loss carryforwards of \$13.9 million for the years ended December 31, 2018 and 2017, which can be carried forward indefinitely.

Included above are deferred tax assets associated with our branch operations in the U.K. for which we have provided a full valuation allowance. We have U.K. net operating loss carryforwards of \$7.5 million and \$8.3 million for the years ended December 31, 2018 and 2017, respectively, which can be carried forward indefinitely.

Included above are deferred tax assets associated with Prestige for which we have provided a full valuation allowance. We have U.S. net operating loss carryforwards of \$177.5 million and \$177.8 million for the years ended December 31, 2018 and 2017, respectively, which begin to expire in 2023. Utilization of the Prestige net operating loss carryforwards may be subject to a substantial annual limitation due to ownership change limitations that have occurred previously and/or that could occur in the future, as provided by Section 382 of the Internal Revenue Code of 1986 (“Section 382”). Ownership changes may limit the amount of net operating loss carryforwards that can be utilized to offset future taxable income and tax, respectively. In general, an ownership change, as defined by Section 382, results from transactions increasing the ownership of certain shareholders or public groups in the stock of a corporation by more than 50 percentage points over a three-year period. If we have experienced an ownership change, utilization of Prestige’s net operating loss carryforwards would be subject to an annual limitation under Section 382. Any limitation may result in expiration of a portion of the net operating loss carryforwards before utilization. Subsequent ownership changes could further impact the limitation in future years. During 2018, we implemented certain tax restructuring that created the potential to utilize the net operating loss carryforwards referred to above. We are currently undergoing a Section 382 study to determine the amount of the Prestige net operating loss carryforwards that can be utilized against future taxable income, the result of which could potentially result in the reversal of all or a portion of the valuation allowance. We expect the study to be complete in the first half of 2019.

In December 2017, the Act was enacted, and among other provisions, reduced the U.S. federal corporate income tax rate from 35% to 21%. Also in December 2017, the SEC staff issued SAB No. 118, which addresses the recognition of provisional amounts when a company does not have the necessary information available, prepared or analyzed (including computations) in reasonable detail to complete its accounting for the effect of the changes in the Act. The measurement period ends when a company has obtained, prepared and analyzed the information necessary to finalize its accounting, but cannot extend beyond one year. The Company completed the accounting for the tax effects of enactment of the Act. There is no material change to the \$7.4 million reduction of the value of net deferred tax liabilities (which represents future tax expenses) recorded in 2017 as a discrete tax benefit resulting from the federal corporate income tax rate reduction. Other aspects of the Act were either not applicable or did not have a material impact on the Company’s consolidated financial statements.

The following is a tabular reconciliation of the total amounts of unrecognized tax benefits (in thousands):

| | <u>As of December 31,</u> | |
|---|---------------------------|---------------|
| | <u>2018</u> | <u>2017</u> |
| Unrecognized tax benefits, beginning of the year | \$ 532 | \$ 11,144 |
| Gross increases in tax positions from prior periods | — | 300 |
| Settlement of tax positions | — | (250) |
| Lapse of statute of limitations | — | (10,662) |
| Unrecognized tax benefits, end of year | <u>\$ 532</u> | <u>\$ 532</u> |

In 2017, \$10.7 million of unrecognized tax benefits were reversed due to the expiration of the statute of limitations. If the \$0.5 million of unrecognized tax benefits at December 31, 2018 were recognized, our effective tax rate would be minimally affected. We believe that there will not be a significant increase or decrease to the tax positions within 12 months of the reporting date. We recognize interest and penalties related to unrecognized tax benefits in income tax expense.

We file income tax returns in the U.S. federal jurisdiction, various U.S. state jurisdictions and foreign jurisdictions. We are generally no longer subject to U.S. federal, state and local, or non-U.S. income tax examinations by authorities for years prior to 2015, except for years in which NOLs generated prior to 2015 are utilized.

Due to our international structure as well as the existence of international tax treaties that exempt taxation on certain activities, the repatriation of earnings from our subsidiaries would have no tax impact.

We derive our income from the international operation of ships. We are engaged in a trade or business in the U.S. and receive income from sources within the U.S. Under Section 883, certain foreign corporations are exempt from U. S. federal income or branch profits tax on U.S.-source income derived from or incidental to the international operation of ships. Applicable U.S. treasury regulations provide that a foreign corporation will qualify for the benefits of Section 883 if, in relevant part: (i) the foreign country in which the corporation is organized grants an equivalent exemption for income from the international operation of ships to corporations organized in the U.S., and (ii) the foreign corporation has one or more classes of stock that are “primarily and regularly traded on an established securities market” in the U.S. or another qualifying country. We believe that we qualify for the benefits of Section 883 because we are incorporated in qualifying countries and our ordinary shares are primarily and regularly traded on an established securities market in the U.S.

12. Commitments and Contingencies

Operating Leases

Total expense under non-cancelable operating lease commitments, primarily for offices, motor vehicles and office equipment was \$16.9 million, \$17.0 million and \$15.0 million for the years ended December 31, 2018, 2017 and 2016, respectively. As of December 31, 2018, minimum annual rentals for non-cancelable leases with initial or remaining terms in excess of one year were as follows (in thousands):

| Year | Amount |
|-------------------------------------|-------------------|
| 2019 | \$ 16,651 |
| 2020 | 16,105 |
| 2021 | 15,315 |
| 2022 | 14,391 |
| 2023 | 13,462 |
| Thereafter | 52,626 |
| Total minimum annual rentals | \$ 128,550 |

Rental payments applicable to such operating leases are recognized on a straight-line basis over the term of the lease.

Ship Construction Contracts

Project Leonardo will introduce an additional six ships, each approximately 140,000 Gross Tons with approximately 3,300 Berths, with expected delivery dates from 2022 through 2027, subject to certain conditions. The effectiveness of the contracts to construct two of the ships, expected to be delivered in 2026 and 2027, is contingent upon certain Italian government approvals. We have a Breakaway Plus Class Ship, Norwegian Encore, with approximately 168,000 Gross Tons with 4,000 Berths, on order for delivery in the fall of 2019, and an Explorer Class Ship, Seven Seas Splendor, with approximately 55,000 Gross Tons and 750 Berth, on order for delivery in the winter of 2020. We also plan to introduce three additional ships, one for Regent and two for Oceania Cruises (we refer you to Note 17— “Subsequent Events”).

The combined contract prices of the eight ships on order for delivery was approximately €6.3 billion, or \$7.2 billion based on the euro/U.S. dollar exchange rate as of December 31, 2018.

We have obtained export credit financing for the ships on order which is expected to fund approximately 80% of each contract price, subject to certain conditions. We refer you to Note 17— “Subsequent Events” for details regarding the financing for certain ships. We do not anticipate any contractual breaches or cancellation to occur. However, if any such events were to occur, it could result in, among other things, the forfeiture of prior deposits or payments made by us and potential claims and impairment losses which may materially impact our business, financial condition and results of operations.

As of December 31, 2018, minimum annual payments for non-cancelable ship construction contracts with initial or remaining terms in excess of one year were as follows (in thousands):

| Year | Amount |
|--------------------------------------|---------------------|
| 2019 | \$ 912,858 |
| 2020 | 474,869 |
| 2021 | 187,818 |
| 2022 | 1,029,328 |
| 2023 | 946,895 |
| Thereafter | 1,589,673 |
| Total minimum annual payments | \$ 5,141,441 |

Port Facility Commitments

As of December 31, 2018, future commitments to pay for usage of certain port facilities were as follows (in thousands):

| Year | Amount |
|---|---------------------|
| 2019 | \$ 62,388 |
| 2020 | 73,853 |
| 2021 | 77,829 |
| 2022 | 77,546 |
| 2023 | 79,784 |
| Thereafter | 1,366,636 |
| Total port facility future commitments | \$ 1,738,036 |

Other Commitments

The FMC requires evidence of financial responsibility for those offering transportation on passenger ships operating out of U.S. ports to indemnify passengers in the event of non-performance of the transportation. Accordingly, each of our three brands are required to maintain a \$30.0 million third-party performance guarantee in respect of liabilities for non-performance of transportation and other obligations to passengers. The guarantee requirements are subject to additional consumer price index-based adjustments. Also, each of our brands have a legal requirement to maintain a security guarantee based on cruise business originated from the U.K. As of December 31, 2018, approximately British Pound Sterling 30.5 million was in place to support our security guarantees. We also are required by other jurisdictions to establish financial responsibility to meet liability in the event of non-performance of our obligations to passengers from those jurisdictions.

From time to time, various other regulatory and legislative changes have been or may in the future be proposed that may have an effect on our operations in the U.S. and the cruise industry in general.

Litigation

In the normal course of our business, various claims and lawsuits have been filed or are pending against us. Most of these claims and lawsuits are covered by insurance and, accordingly, the maximum amount of our liability is typically limited to our deductible amount.

Nonetheless, the ultimate outcome of these claims and lawsuits that are not covered by insurance cannot be determined at this time. We have evaluated our overall exposure with respect to all of our threatened and pending litigation and, to the extent required, we have accrued amounts for all estimable probable losses associated with our deemed exposure. We are currently unable to estimate any other potential contingent losses beyond those accrued, as discovery is not complete nor is adequate information available to estimate such range of loss or potential recovery. However, based on our current knowledge, we do not believe that the aggregate amount or range of reasonably possible losses with respect to these matters will be material to our consolidated results of operations, financial condition or cash flows. We intend to vigorously defend our legal position on all claims and, to the extent necessary, seek recovery.

13. Other Income (Expense), Net

Other income (expense), net was a gain of \$20.7 million, loss of \$10.4 million, and loss of \$8.3 million for the years ended December 31, 2018, 2017 and 2016, respectively. In 2018, the income was primarily due to foreign currency exchange gains. In 2017, the expense was primarily due to foreign currency exchange losses. In 2016, the expense was primarily related to \$16.1 million of unrealized and realized losses on fuel swap derivative hedge contracts partially offset by \$4.5 million of gains on foreign currency exchange and \$3.9 million of gains on foreign currency exchange derivative hedge contracts.

14. Concentration Risk

We contract with a single vendor to provide many of our hotel and restaurant services including both food and labor costs. We incurred expenses of \$153.7 million, \$152.3 million and \$137.2 million for the years ended December 31, 2018, 2017 and 2016, respectively, which are recorded in payroll and related in our consolidated statements of operations.

15. Supplemental Cash Flow Information

For the year ended December 31, 2018, we had non-cash investing activities related to property and equipment of \$39.7 million and net foreign currency adjustments of \$5.5 million related to euro-denominated debt related to the financing of two of our Project Leonardo ships. For the year ended December 31, 2018, we paid income taxes of \$10.0 million and interest and related fees, net of capitalized interest, of \$350.4 million.

For the year ended December 31, 2017, we had non-cash investing activities related to property and equipment of \$20.0 million and non-cash investing activities related to capital leases of \$13.3 million. For the year ended December 31, 2017, we paid income taxes of \$11.7 million and interest and related fees, net of capitalized interest, of \$284.9 million.

For the year ended December 31, 2016, we had non-cash investing activities in connection with property and equipment of \$26.7 million. For the year ended December 31, 2016, we paid income taxes of \$8.8 million and interest and related fees, net of capitalized interest, of \$269.5 million.

16. Quarterly Selected Financial Data (Unaudited) (in thousands, except per share data)

| | First Quarter | | Second Quarter | | Third Quarter | | Fourth Quarter | |
|---------------------|---------------|--------------|----------------|--------------|---------------|--------------|----------------|--------------|
| | 2018 | 2017 | 2018 | 2017 | 2018 | 2017 | 2018 | 2017 |
| Total revenue | \$ 1,293,403 | \$ 1,150,781 | \$ 1,522,174 | \$ 1,344,103 | \$ 1,858,356 | \$ 1,651,738 | \$ 1,381,193 | \$ 1,249,553 |
| Operating income | \$ 167,053 | \$ 119,734 | \$ 292,152 | \$ 275,071 | \$ 550,276 | \$ 476,820 | \$ 209,580 | \$ 177,194 |
| Net income | \$ 103,155 | \$ 61,910 | \$ 226,676 | \$ 198,473 | \$ 470,378 | \$ 400,692 | \$ 154,634 | \$ 98,797 |
| Earnings per share: | | | | | | | | |
| Basic | \$ 0.45 | \$ 0.27 | \$ 1.02 | \$ 0.87 | \$ 2.12 | \$ 1.76 | \$ 0.70 | \$ 0.43 |
| Diluted | \$ 0.45 | \$ 0.27 | \$ 1.01 | \$ 0.87 | \$ 2.11 | \$ 1.74 | \$ 0.70 | \$ 0.43 |

The seasonality of the North American cruise industry generally results in the greatest demand for cruises during the Northern Hemisphere's summer months. This predictable seasonality in demand has resulted in fluctuations in our revenue and results of operations. The seasonality of our results is increased due to ships being taken out of service for regularly scheduled Dry-docks, which we typically scheduled during non-peak demand periods.

17. Subsequent Events

In January 2019, we (a) reduced the pricing of our existing \$875.0 million Revolving Loan Facility, (b) reduced the pricing and increased the approximately \$1.3 billion principal amount outstanding under the term loan A facility to \$1.6 billion, and (c) extended the maturity dates for our Revolving Loan Facility and our term loan A facility to 2024, subject to certain conditions. The applicable margin under the Revolving Loan Facility and term loan A facility and was reduced by 25 basis points from the prior facility. We used the proceeds from the increase in our term loan A facility to prepay all of the then outstanding amounts under the term loan B facility.

In January 2019, we obtained financing for five additional ships with expected delivery dates through 2027, subject to certain Italian government approvals. Two of such ships are Project Leonardo ships which were ordered for delivery in 2026 and 2027 and each have a contract price which is approximately €800.0 million, or \$917.4 million based on the exchange rate as of December 31, 2018. We have ordered an additional Explorer Class Ship to be delivered in 2023. The contract price for this ship is approximately €473.5 million, or \$543.0 million based on the exchange rate as of December 31, 2018. We also have ordered two Allura Class Ships to be delivered in 2022 and 2025. The contract price for each of these ships is approximately €578.7 million, or \$663.6 million based on the exchange rate as of December 31, 2018. We have obtained export credit financing which is expected to fund approximately 80% of the contract price of each ship expected to be delivered through 2027, subject to certain conditions.

TERMINATION AGREEMENT
(this "Agreement")

December 3, 2018

Reference is made to the Amended and Restated Shareholders' Agreement, dated as of January 24, 2013, as amended on November 19, 2014 (as further amended, supplemented or otherwise modified, the "Shareholders' Agreement"), by and among Genting Hong Kong Limited ("Genting"), Star NCLC Holdings Ltd. (together with Genting, "GHK"), AIF VI NCL (AIV), L.P., AIF VI NCL (AIV II), L.P., AIF VI NCL (AIV III), L.P., AIF VI NCL (AIV IV), L.P., AAA Guarantor — Co-Invest VI (B), L.P., Apollo Overseas Partners (Delaware) VI, L.P., Apollo Overseas Partners (Delaware 892) VI, L.P., Apollo Overseas Partners VI, L.P., Apollo Overseas Partners (Germany) VI, L.P., AAA Guarantor — Co-Invest VII, L.P., AIF VI Euro Holdings, L.P., AIF VII Euro Holdings, L.P., Apollo Alternative Assets, L.P., Apollo Management VI, L.P., Apollo Management VII, L.P. and NCL Athene LLC (collectively, the "Apollo Entities," and, together with GHK, the "Shareholders"), TPG Viking, L.P., TPG Viking AIV I, L.P., TPG Viking AIV II, L.P. and TPG Viking AIV III, L.P. and Norwegian Cruise Line Holdings Ltd. (the "Company").

RECITALS:

WHEREAS, as of December 3, 2018, the Shareholders sold all of their ordinary shares of the Company that they previously held in secondary public offerings and, following such sales, do not beneficially own any ordinary shares of the Company;

WHEREAS, in connection therewith, the Company and Shareholders desire to terminate the Shareholders' Agreement, effective immediately, and any and all of the rights, obligations and provisions thereunder; and

WHEREAS, pursuant to Section 10 of the Shareholders' Agreement, the Shareholders' Agreement shall terminate upon the execution of a written instrument approving the termination of the Shareholders' Agreement signed by the Company and the Shareholders.

AGREEMENT:

NOW, THEREFORE, in consideration of and subject to the mutual agreements, terms and conditions herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Termination. Subject to the terms and conditions set forth herein, the Shareholders' Agreement, and the rights and obligations of the parties thereunder, is hereby terminated, effective immediately, and shall be null and void and no longer of any force or effect; provided, however, that Section 9(j) and Section 9(k) of the Shareholders' Agreement shall survive the termination of the Shareholders' Agreement indefinitely.

Section 2. Representations and Warranties. Each party to this agreement hereby represents and warrants to the other parties that: (a) it has full power, authority and capacity, as applicable, to enter into this Agreement and to perform its obligations hereunder in accordance with its provisions, (b) this Agreement has been duly authorized, executed and delivered by such party, and (c) this Agreement constitutes a legal, valid and binding obligation of such party, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity.

Section 3. Further Assurances. Each party to this Agreement will, at any time and from time to time after the date hereof, execute and deliver, or cause to be executed and delivered, such further consents, approvals, conveyances, and other documents and instruments, and take, or cause to be taken, such other actions, as the other party may reasonably request in order to carry out or confirm any of the terms and provisions of, or the intent and purpose of, this Agreement.

Section 4. Miscellaneous.

4.1. **Governing Law; Jurisdiction and Venue.** This Agreement and any matters related hereto shall be governed by and construed in accordance with the laws of the State of New York. Each party hereto agrees that any suit or proceeding arising in respect of this Agreement will be tried exclusively in the U.S. District Court for the Southern District of New York or, if that court does not have subject matter jurisdiction, in any state court located in The City and County of New York and each party hereto agrees to submit to the jurisdiction of, and to venue in, such courts. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or any matters related hereto.

4.2. **Binding on Successors.** This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

4.3. **Mutually Drafted.** The parties hereto acknowledge that the drafting of this Agreement is a mutual effort among the parties and their counsel and that this Agreement is not to be construed against any party or group of parties as the drafter.

4.4. **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

4.5. **Severability.** If any provision, including any phrase, sentence, clause, section or subsection, of this Agreement is invalid, inoperative or unenforceable for any reason, such circumstances shall not have the effect of rendering such provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision herein contained invalid, inoperative, or unenforceable to any extent whatsoever.

4.6. Counterparts. This Agreement may be executed and delivered in counterparts (including by a PDF or a facsimile transmission), each of which will be deemed an original.

4.7. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement as of the date first set forth above.

GENTING HONG KONG LIMITED

By: /s/Blondel So King Tak
Name: Blondel So King Tak
Title: Director

STAR NCLC HOLDINGS LTD

By: /s/Blondel So King Tak
Name: Blondel So King Tak
Title: Director

[Signature Page to Termination Agreement]

NCL ATHENE LLC

By: Athene Annuity and Life Company,
its Class A member

By: Athene Asset Management, LLC,
its investment adviser

By: /s/ James M. Hassett
Name: James M. Hassett
Title: Executive Vice President

AAA GUARANTOR CO-INVEST VII, L.P.

By: AAA Investments (Co-Invest VII), L.P.,
its general partner

By: Apollo Alternative Assets, L.P.,
its service provider

By: Apollo International Management, L.P.,
its managing general partner

By: Apollo International Management GP, LLC,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

APOLLO ALTERNATIVE ASSETS, L.P.

By: Apollo International Management, L.P.,
its managing general partner

By: Apollo International Management, GP, LLC,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

[Signature Page to Termination Agreement]

AIF VI NCL (AIV), L.P.

By: Apollo Advisors VI (EH), L.P.,
its general partner

By: Apollo Advisors VI (EH-GP), Ltd.,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

AIF VI NCL (AIV II), L.P.

By: Apollo Advisors VI (EH), L.P.,
its general partner

By: Apollo Advisors VI (EH-GP), Ltd.,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

AIF VI NCL (AIV III), L.P.

By: Apollo Advisors VI (EH), L.P.,
its general partner

By: Apollo Advisors VI (EH-GP), Ltd.,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

[Signature Page to Termination Agreement]

AIF VI NCL (AIV IV), L.P.

By: Apollo Advisors VI (EH), L.P.,
its general partner

By: Apollo Advisors VI (EH-GP), Ltd.,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

AIF VI EURO HOLDINGS, L.P.

By: Apollo Advisors VI (EH), L.P.,
its general partner

By: Apollo Advisors VI (EH-GP), Ltd.,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

AIF VII EURO HOLDINGS, L.P.

By: Apollo Advisors VII (EH), L.P.,
its general partner

By: Apollo Advisors VII (EH-GP), Ltd.,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

[Signature Page to Termination Agreement]

APOLLO MANAGEMENT VI, L.P.

By: AIF VI Management, LLC,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

APOLLO MANAGEMENT VII, L.P.

By: AIF VII Management, LLC,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

APOLLO OVERSEAS PARTNERS VI, L.P.

By: Apollo Advisors VI, L.P.,
its managing general partner

By: Apollo Capital Management VI, LLC
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

[Signature Page to Termination Agreement]

APOLLO OVERSEAS PARTNERS (DELAWARE 892) VI, L.P.

By: Apollo Advisors VI, L.P.,
its general partner

By: Apollo Capital Management VI, LLC
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

APOLLO OVERSEAS PARTNERS
(DELAWARE) VI, L.P.

By: Apollo Advisors VI, L.P.,
its general partner

By: Apollo Capital Management VI, LLC
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

APOLLO OVERSEAS PARTNERS (GERMANY) VI, L.P.

By: Apollo Advisors VI, L.P.,
its managing general partner

By: Apollo Capital Management VI, LLC
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

[Signature Page to Termination Agreement]

AAA GUARANTOR — CO-INVEST VI (B), L.P.

By: AAA MIP Limited,
its general partner

By: Apollo Alternative Assets, L.P.,
its service provider

By: Apollo International Management, L.P.,
its managing general partner

By: Apollo International Management GP, LLC,
its general partner

By: /s/ Laurie Medley
Name: Laurie Medley
Title: Vice President

[Signature Page to Termination Agreement]

NORWEGIAN CRUISE LINE HOLDINGS LTD.

By: /s/Daniel S. Farkas

Name: Daniel S. Farkas

Title: Senior Vice President, General Counsel and Assistant Secretary

[Signature Page to Termination Agreement]

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

EXECUTION VERSION

FOURTH AMENDED AND RESTATED CREDIT AGREEMENT

dated as of January 2, 2019,

among

NCL CORPORATION LTD.,
as Company,

VOYAGER VESSEL COMPANY, LLC,
as Co-Borrower,

THE LENDERS PARTY HERETO,

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent and as Collateral Agent

JPMORGAN CHASE BANK, N.A.,
MIZUHO BANK, LTD.,
BRANCH BANKING & TRUST COMPANY
DNB MARKETS, INC.,
FIFTH THIRD BANK,
HSBC BANK PLC,
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
NORDEA BANK ABP, NEW YORK BRANCH,
and
SKANDINAVISKA ENSKILDA BANKEN AB (PUBL)
as Joint Bookrunners and Arrangers

and

BNP PARIBAS,
CITIBANK, N.A.,
CITIZENS BANK, N.A.,
COMMERZBANK AG, NEW YORK BRANCH,
CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK,
MUFG BANK, LTD.,
PNC BANK, NATIONAL ASSOCIATION,
and
SUNTRUST BANK
as Co-Documentation Agents

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FOURTH AMENDED AND RESTATED CREDIT AGREEMENT dated as of January 2, 2019 (this "Agreement"), among NCL CORPORATION LTD., a Bermuda company ("NCL" or the "Company"), Voyager Vessel Company, LLC, a Delaware limited liability company (the "Co-Borrower" and, together with the Company, the "Borrowers"), the Subsidiary Guarantors party hereto (with respect to Section 1.04 only), the LENDERS party hereto from time to time, and JPMORGAN CHASE BANK, N.A., as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent") and as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Company, the Lenders and the Administrative Agent are party to a credit agreement dated as of May 24, 2013, as amended and restated by the Amended and Restated Credit Agreement dated as of October 31, 2014, as further amended and restated by the Second Amended and Restated Credit Agreement dated as of June 6, 2016, and as further amended and restated by the Third Amended and Restated Credit Agreement dated as of October 10, 2017 (as further amended, restated, supplemented or otherwise modified prior to the date hereof, the "Original Credit Agreement"). The parties hereto have agreed to amend and restate in its entirety the Original Credit Agreement and replace it in its entirety with this Agreement;

NOW, THEREFORE, the Lenders are willing to extend such credit to the Borrowers on the terms and subject to the conditions set forth herein.

Accordingly, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Defined Terms. As used in this Agreement, the following terms shall have the meanings specified below:

"ABR" shall mean, for any day, a rate *per annum* equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that, the Adjusted LIBO Rate for any day shall be based on the LIBO Rate (after giving effect to any minimum rate set forth therein) at approximately 11:00 a.m. London time on such day. Any change in the ABR due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the ABR is being used as an alternate rate of interest pursuant to Section 2.14 hereof, then the ABR shall be the greater of clause (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the ABR shall be less than 1.00%, such rate shall be deemed to be 1.00% for purposes of this Agreement.

"ABR Borrowing" shall mean a Borrowing comprised of ABR Loans.

"ABR Loan" shall mean any ABR Term Loan or ABR Revolving Loan.

“ABR Revolving Facility Borrowing” shall mean a Borrowing comprised of ABR Revolving Loans.

“ABR Revolving Loan” shall mean any Revolving Facility Loan bearing interest at a rate determined by reference to the ABR in accordance with the provisions of Article II.

“ABR Term Loan” shall mean any Term Loan bearing interest at a rate determined by reference to the ABR in accordance with the provisions of Article II.

“Acquired Company” shall mean the Target, together with its Subsidiaries.

“Acquisition” means the acquisition of the Target by Holdings pursuant to the Acquisition Agreement.

“Acquisition Agreement” shall mean the Agreement and Plan of Merger, dated as of September 2, 2014 (as amended, restated, supplemented or otherwise modified from time to time), by and among Prestige Cruises International, Inc., Holdings, Portland Merger Sub, Inc. and Apollo Management, L.P.

“Acquisition Closing Date” means November 19, 2014.

“Acquisition Loans” shall mean the Term Loans borrowed on the Acquisition Closing Date.

“Acquisition Transactions” shall mean the Acquisition, the Refinancing, the issuance of NCL’s 5.25% senior notes due 2019, the borrowing of the Acquisition Loans, the rollover (or borrowing) of the Prestige Newbuild Debt and the payment of fees and expenses in connection therewith.

“Additional Subsidiary Guarantor” shall mean any Material Subsidiary that the Company has elected to have become a Subsidiary Guarantor; provided that if such Material Subsidiary is organized in any jurisdiction where no existing Subsidiary Guarantor is organized, then such Material Subsidiary shall be reasonably satisfactory to the Administrative Agent (it being understood that the Specified Target Subsidiaries are reasonably satisfactory to the Administrative Agent).

“Additional Subsidiary Guarantor Accession Supplement” shall mean a supplement to the Collateral Agreement substantially in the form attached thereto.

“Adjusted LIBO Rate” shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum equal to (a) the LIBO Rate for the applicable Class of Loans in effect for such Interest Period divided by (b) one minus the Statutory Reserves applicable to such Eurocurrency Borrowing, if any.

“Adjustment Date” shall have the meaning assigned to such term in the definition of “Pricing Grid.”

“Administrative Agent” shall have the meaning assigned to such term in the introductory paragraph of this Agreement; provided that, with respect to periods prior to the First Restatement Effective Date (and the activities of the Former Agent prior to such date), such term shall refer to the Former Agent.

“Administrative Agent Fees” shall have the meaning assigned to such term in Section 2.12(c).

“Administrative Questionnaire” shall mean an Administrative Questionnaire in the form of Exhibit B or such other form supplied by the Administrative Agent.

“Affiliate” shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

“Affiliate Lender” shall have the meaning assigned to such term in Section 10.21(a).

“Agents” shall mean the Administrative Agent, the Collateral Agent and the Mortgage Trustee.

“Agreement” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Agreement Currency” shall have the meaning assigned to such term in Section 10.19.

“All-in Yield” shall mean, as to any Indebtedness, the yield thereon as reasonably determined by the Administrative Agent, whether in the form of interest rate, margin, original issue discount, up-front fees, rate floors or otherwise; provided that original issue discount and up-front fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the life of such Indebtedness); and provided further that “All-in Yield” shall not include arrangement, underwriting, structuring or similar fees paid to arrangers for such Indebtedness and customary consent fees for an amendment paid generally to consenting Lenders.

“Amended Tax Agreements” shall have the meaning assigned to such term in Section 6.06(b).

“AML Laws” means all laws, rules, and regulations of any jurisdiction applicable to any Lender, the Company or the Company’s Subsidiaries from time to time concerning or relating to anti-money laundering.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to bribery or corruption.

“Applicable Commitment Fee” shall mean the Applicable Commitment Fee as determined pursuant to the Pricing Grid or, with respect to the Other Revolving Facility Commitments, Replacement Revolving Facility Commitment, or Incremental Revolving Facility Commitments, the “Applicable Commitment Fee” set forth in the applicable Incremental Assumption Agreement.

“Applicable Margin” shall mean for any day (i) with respect to any Term A Loan or any Revolving Facility Loan the applicable rate determined pursuant to the Pricing Grid, (ii) with respect to any Other Incremental Term Loan or Other Incremental Revolving Loan, the “Applicable Margin” set forth in the Incremental Assumption Agreement relating thereto and (iii) with respect to any Refinancing Term Loan or Other Revolving Loan, the “Applicable Margin” set forth in the Incremental Assumption Agreement relating thereto.

“Applicable Ship Percentage” shall mean the fair market value of the applicable Mortgaged Vessel divided by the fair market value of all the Mortgaged Vessels (in each case based on the most recent Valuation).

“Approved Broker” shall mean Brax Shipping AS; Barry Rogliano Salles S.A., Paris; Clarksons, London; Rocca & Partners S.R.L., Genova; Fearnsale, a division of Astrup Fearnley AS, Oslo; any affiliate of the foregoing; or any other independent sale and purchase ship brokerage firm nominated by the Company and approved by the Administrative Agent (such approval not to be withheld unreasonably).

“Approved Fund” shall have the meaning assigned to such term in Section 10.04(b)(ii).

“Approved Insurance Evaluator” shall mean (a) BankAssure, a division of Aon Corporation, or (b) any other firm of established and reputable independent marine insurance brokers or other professional advisors on insurance matters appointed by the Company and approved by the Administrative Agent (such approval not to be withheld unreasonably), which other firm has not placed or otherwise acted on behalf of any of the Loan Parties in connection with any of the insurances to be covered within any insurance report required under Section 5.12.

“Approved Manager” shall mean NCL (Bahamas) Ltd. d/b/a NCL, a company incorporated in and existing under the laws of Bermuda, or one or more affiliates of the Company, or any other company approved by the Administrative Agent (such approval not to be withheld unreasonably) from time to time as the technical manager of one or more of the Mortgaged Vessels.

“Arranger” shall mean, collectively, (i) with respect to Original Credit Agreement, each entity listed as such on the cover of the Original Credit Agreement and (ii) with respect to this Agreement, each entity listed as such on the cover of this Agreement, in each case in its capacity as such.

“ASC” shall mean the Accounting Standards Codification of the Financial Accounting Standards Board.

“Asset Sale” shall mean any loss, damage, destruction or condemnation of, or any sale, transfer or other disposition (including any sale and lease-back of assets and any mortgage or lease of Real Property) to any person of any asset or assets of the Borrowers or any Subsidiary Guarantor.

“Assignee” shall have the meaning assigned to such term in Section 10.04(b)(i).

“Assignment and Acceptance” shall mean an assignment and acceptance entered into by a Lender and an Assignee, and accepted by the Administrative Agent and the Company (if required by Section 10.04), in the form of Exhibit A or such other form as shall be approved by the Administrative Agent.

“Assignment Taxes” shall have the meaning given such term in the definition of the term “Other Taxes.”

“Assignor” shall have the meaning assigned to such term in Section 10.04(b)(i).

“Availability Period” shall mean, with respect to any Class of Revolving Facility Commitments, the period from and including the Restatement Effective Date (or, if later, the effective date for such Class of Revolving Facility Commitments) to but excluding the earlier of the Revolving Facility Maturity Date for such Class and, in the case of each of the Revolving Facility Loans, Revolving Facility Borrowings and Letters of Credit, the date of termination of the Revolving Facility Commitments of such Class.

“Available Unused Commitment” shall mean, with respect to a Revolving Facility Lender under any Class of Revolving Facility Commitments at any time, an amount equal to the amount by which (a) the applicable Revolving Facility Commitment of such Revolving Facility Lender at such time exceeds (b) the applicable Revolving Facility Credit Exposure of such Revolving Facility Lender at such time.

“Bahamas” shall mean the Commonwealth of The Bahamas.

“Bail-In Action” shall mean the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“Bail-In Legislation” shall mean, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Below Threshold Asset Sale Proceeds” shall have the meaning assigned to such term in the definition of the term “Cumulative Credit.”

“Beneficial Ownership Certification” shall mean a certification regarding beneficial ownership of a Borrower as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” shall mean 31 C.F.R. § 1010.230.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States of America.

“Borrower Materials” shall have the meaning assigned to such term in Section 10.17.

“Borrowers” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Borrowing” shall mean a group of Loans of a single Type under a single Facility, and made on a single date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

“Borrowing Minimum” shall mean \$3,000,000.

“Borrowing Multiple” shall mean \$1,000,000.

“Borrowing Request” shall mean a request by the Company, in accordance with the terms of Section 2.03 and substantially in the form of Exhibit D-1.

“Budget” shall have the meaning assigned to such term in Section 5.04(e).

“Business Day” shall mean any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, Oslo and Frankfurt are authorized or required by law to remain closed; provided, that when used in connection with a Eurocurrency Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in Dollars in the London interbank market.

“Capital Lease Obligations” of any person shall mean the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such person under GAAP and, for purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP; provided that obligations of the Company or its Subsidiaries, or of a special purpose or other entity not consolidated with the Company and its Subsidiaries, either existing on December 31, 2018 or created thereafter that (a) initially were not included on the consolidated balance sheet of the Company as capital or finance lease obligations and were subsequently recharacterized as capital or finance lease obligations or, in the case of such a special purpose or other entity becoming consolidated with the Company and its Subsidiaries were required to be characterized as capital or finance lease obligations upon such consolidation, in either case, due to a change in accounting treatment or otherwise, or (b) did not exist on December 31, 2018 and were required to be characterized as finance lease obligations but would not have been required to be treated as finance lease obligations on December 31, 2018 had they existed at that time, shall for all purposes not be treated as Capital Lease Obligations or Indebtedness; provided further, for clarification purposes, operating leases recorded as liabilities on the balance sheet due to a change in accounting treatment, or otherwise, shall for all purposes not be treated as Indebtedness or Capital Lease Obligations.

“Cash Collateralize” shall mean to pledge and deposit with or deliver to the Collateral Agent, for the benefit of one or more of the Issuing Banks or Lenders, as collateral for Revolving L/C Exposure or obligations of the Lenders to fund participations in respect of Revolving L/C Exposure, cash or deposit account balances or, if the Collateral Agent and each Issuing Bank shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Collateral Agent and each applicable Issuing Bank. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Interest Expense” shall mean, with respect to the Company and the Subsidiaries on a consolidated basis for any period, Interest Expense for such period, less the sum of, without duplication, (a) pay in kind Interest Expense or other non-cash Interest Expense (including as a result of the effects of purchase accounting), (b) to the extent included in Interest Expense, the amortization of any financing fees paid by, or on behalf of, the Company or any Subsidiary, including such fees paid in connection with the Transactions, (c) the amortization of debt discounts, if any, or fees in respect of Swap Agreements and (d) cash interest income of the Company and the Subsidiaries for such period; provided, that Cash Interest Expense shall exclude any one time financing fees, including those paid in connection with the Transactions, or any amendment of this Agreement.

A “Change in Control” shall be deemed to occur if:

(a) (i) a majority of the seats (other than vacant seats) on the board of directors of the Company shall at any time be occupied by persons who were neither (A) nominated by the board of directors of the Company or a Permitted Holder, (B) appointed or approved by directors so nominated nor (C) appointed by a Permitted Holder or (ii) a “change of control” (or similar event) shall occur under any Permitted Ratio Debt, a Senior Unsecured Notes Indenture or any Permitted Refinancing Indebtedness in respect of any of the foregoing or any Disqualified Stock;

(b) any person or “group” (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act as in effect on the Closing Date), other than any combination of the Permitted Holders or any “group” including any Permitted Holders, shall have acquired beneficial ownership of 35% or more on a fully diluted basis of the voting interest in the Company’s Equity Interests and the Permitted Holders shall own, directly or indirectly, less than such person or “group” on a fully diluted basis of the voting interest in the Company’s Equity Interests; or

(c) a “Change of Control” occurs, as such term is defined under the Senior Unsecured Notes Indentures.

“Change in Law” shall mean (a) the adoption of any law, rule or regulation after the Closing Date, (b) any change in law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender or Issuing Bank (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender’s or Issuing Bank’s holding company, if any) with any written request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“Charges” shall have the meaning assigned to such term in Section 10.08.

“Class” shall mean (a) when used in respect of any Loan or Borrowing, whether such Loan or the Loans comprising such Borrowing are Term A Loans, Refinancing Term Loans, Other Incremental Term Loans, Revolving Facility Loans, Other Revolving Loans or Other Incremental Revolving Loans and (b) when used in respect of any Commitment, whether such Commitment is a Term A Loan Commitment, a Revolving Facility Commitment, a Replacement Revolving Facility Commitment, an Other Revolving Facility Commitment, an Other Incremental Revolving Loan Commitment, or an Incremental Term Loan Commitment.

“Classification Society” shall mean, in respect of any Mortgaged Vessel, Bureau Veritas, the American Bureau of Shipping, Lloyd’s Register of Shipping, Det norske Veritas, or such other classification society that is a member of the International Association of Classification Societies (IACS) as selected by the Company that is reasonably acceptable to the Administrative Agent.

“Closing Date” shall mean May 24, 2013.

“Co-Borrower” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Co-Documentation Agents” shall mean, collectively, (i) with respect to Original Credit Agreement, each entity listed as such on the cover of the Original Credit Agreement and (ii) with respect to this Agreement, each entity listed as such on the cover of this Agreement, in each case in its capacity as such.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Collateral” shall mean all the “Collateral” as defined in any Security Document and shall also include the Mortgaged Vessels and all other property that is subject or purported to be subject to any Lien in favor of the Administrative Agent, the Collateral Agent or any Subagent for the benefit of the Secured Parties pursuant to any Security Documents.

“Collateral Agent” shall mean the Administrative Agent acting as collateral agent for the Secured Parties.

“Collateral Agent Fees” shall have the meaning assigned to such term in Section 2.12(c).

“Collateral Agreement” shall mean the Guarantee and Collateral Agreement, dated as of the Closing Date, as amended, restated, supplemented or otherwise modified from time to time, among the Subsidiary Guarantors and the Collateral Agent.

“Collateral and Guarantee Requirement” shall mean the requirement that:

(a) (i) on the Closing Date, the Collateral Agent shall have received a counterpart of the Collateral Agreement duly executed and delivered on behalf of each of the Subsidiary Guarantors and the Perfection Certificate duly executed and delivered on behalf of each Loan Party, (ii) on the Acquisition Closing Date, the Collateral Agent shall have received a counterpart of an Additional Subsidiary Guarantor Accession Supplement duly executed and delivered on behalf of each of the Specified Target Subsidiaries and a Perfection Certificate duly executed and delivered on behalf of each Specified Target Subsidiary and (iii) on the Third Restatement Effective Date, the Collateral Agent shall have received a counterpart of an Additional Subsidiary Guarantor Accession Supplement duly executed and delivered on behalf of the Specified Additional Subsidiary Guarantor and a Perfection Certificate duly executed and delivered on behalf of the Specified Additional Subsidiary Guarantor;

(b) (i) on the Closing Date, the Collateral Agent shall have received (x) each Subsidiary Guarantor Pledge Agreement duly executed and delivered by each holder of Equity Interests of the applicable Subsidiary Guarantor(s) (and, if required under the applicable governing law, the applicable Subsidiary Guarantor(s)), effecting pledges of all the issued and outstanding Equity Interests of the Subsidiary Guarantors, together with (y) all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer (if applicable under the applicable governing law) with respect thereto endorsed in blank, (ii) on the Acquisition Closing Date, the Collateral Agent shall have received (x) each Subsidiary Guarantor Pledge Agreement duly executed and delivered by each holder of Equity Interests of the applicable Specified Target Subsidiary (and, if required under the applicable governing law, the applicable Specified Target Subsidiary), effecting pledges of all the issued and outstanding Equity Interests of the Specified Target Subsidiaries, together with (y) all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer (if applicable under the applicable governing law) with respect thereto endorsed in blank and (iii) on the Third Restatement Effective Date, the Collateral Agent shall have received (x) the Subsidiary Guarantor Pledge Agreement duly executed and delivered by the holder of Equity Interests of the Specified Additional Subsidiary Guarantor (and, if required under the applicable governing law, the Specified Additional Subsidiary Guarantor), effecting pledges of all the issued and outstanding Equity Interests of the Specified Additional Subsidiary Guarantor, together with (y) all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer (if applicable under the applicable governing law) with respect thereto endorsed in blank;

(c) (i) on the Closing Date, the Collateral Agent shall have received all Instruments (as defined in the Collateral Agreement) that are held by a Loan Party and required to be pledged pursuant to the applicable Security Document, together with instruments of transfer with respect thereto endorsed in blank, and (ii) on the Third Restatement Effective Date, the Collateral Agent shall have received all Instruments (as defined in the Collateral Agreement) that are held by the Specified Additional Subsidiary Guarantor and required to be pledged pursuant to the applicable Security Document, together with instruments of transfer with respect thereto endorsed in blank;

(d) on the Closing Date, except as otherwise contemplated by any Security Document, all documents and instruments, including Uniform Commercial Code financing statements, filings with the United States Patent and Trademark Office and United States Copyright Office and similar filings, instruments and registrations in any applicable jurisdiction, and all other actions required by law or reasonably requested by the Collateral Agent to be taken, filed, registered or recorded to create the Liens intended to be created by the Security Documents (in each case, including any supplements thereto) and perfect such Liens to the extent required by, and with the priority required by, the Security Documents, shall have been taken, filed, registered or recorded or delivered to the Collateral Agent for filing, registration or the recording concurrently with, or promptly following, the execution and delivery of each such Security Document;

(e) except as otherwise contemplated by any Security Document, each Loan Party shall have obtained all consents and approvals required to be obtained by it in connection with (i) the execution and delivery of all Security Documents (or supplements thereto) to which it is a party and the granting by it of the Liens thereunder and (ii) the performance of its obligations thereunder;

(f) (i) on the Closing Date, the Collateral Agent shall have received (x) counterparts of each Vessel Mortgage and Deed of Covenants to be entered into with respect to each Mortgaged Vessel duly executed and delivered by the registered owner of such Mortgaged Vessel and suitable for registration, recording or filing and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Vessel Mortgage, Deed of Covenants or otherwise as the Collateral Agent may reasonably request with respect to any such Vessel Mortgage, Deed of Covenants or Mortgaged Vessel, (ii) on the Acquisition Closing Date, the Collateral Agent shall have received (x) counterparts of each Vessel Mortgage and Deed of Covenants to be entered into with respect to each Specified Target Mortgaged Vessel duly executed and delivered by the registered owner of such Specified Target Mortgaged Vessel and suitable for registration, recording or filing and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Vessel Mortgage, Deed of Covenants or otherwise as the Collateral Agent may reasonably request with respect to any such Vessel Mortgage, Deed of Covenants or Specified Target Mortgaged Vessel and (iii) on the Third Restatement Effective Date (or, to the extent the Collateral Agent shall be reasonably satisfied that it will receive such documents promptly after the funding of Loans on the Third Restatement Effective Date, promptly after the Third Restatement Effective Date), the Collateral Agent shall have received (x) counterparts of each Vessel Mortgage and Deed of Covenants to be entered into with respect to the Specified Additional Vessel duly executed and delivered by the registered owner of such Specified Additional Vessel and suitable for registration, recording or filing and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Vessel Mortgage, Deed of Covenants or otherwise as the Collateral Agent may reasonably request with respect to any such Vessel Mortgage, Deed of Covenants or Specified Additional Vessel;

(g) (i) on the Closing Date, the Collateral Agent shall have received (x) counterparts of each Earnings Assignment to be entered into with respect to each Mortgaged Vessel duly executed and delivered by the applicable Subsidiary Guarantor and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Earnings Assignment or otherwise as the Collateral Agent may reasonably request with respect to any such Earnings Assignment, (ii) on the Acquisition Closing Date, the Collateral Agent shall have received (x) counterparts of each Earnings Assignment to be entered into with respect to each Specified Target Mortgaged Vessel duly executed and delivered by the applicable Specified Target Subsidiary and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Earnings Assignment or otherwise as the Collateral Agent may reasonably request with respect to any such Earnings Assignment and (iii) on the Third Restatement Effective Date (or, to the extent the Collateral Agent shall be reasonably satisfied that it will receive such documents promptly after the funding of Loans on the Third Restatement Effective Date, promptly after the Third Restatement Effective Date), the Collateral Agent shall have received (x) counterparts of the Earnings Assignment to be entered into with respect to the Specified Additional Vessel duly executed and delivered by the Specified Additional Subsidiary Guarantor and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Earnings Assignment or otherwise as the Collateral Agent may reasonably request with respect to such Earnings Assignment;

(h) (i) on the Closing Date, the Collateral Agent shall have received (x) counterparts of (A) each Insurance Assignment to be entered into with respect to each Mortgaged Vessel duly executed and delivered by the applicable Subsidiary Guarantor and (B) the Insurance Assignment to be entered into with respect to all of the Mortgaged Vessels duly executed and delivered by the Company and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Insurance Assignment or otherwise as the Collateral Agent may reasonably request with respect to any such Insurance Assignment, (ii) on the Acquisition Closing Date, the Collateral Agent shall have received (x) counterparts of (A) each Insurance Assignment to be entered into with respect to each Specified Target Mortgaged Vessel duly executed and delivered by the applicable Specified Target Subsidiary and (B) each Insurance Assignment to be entered into with respect to all of the Specified Target Mortgaged Vessels duly executed and delivered by the policy holder thereof and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Insurance Assignment or otherwise as the Collateral Agent may reasonably request with respect to any such Insurance Assignment and (iii) on the Third Restatement Effective Date (or, to the extent the Collateral Agent shall be reasonably satisfied that it will receive such documents promptly after the funding of Loans on the Third Restatement Effective Date, promptly after the Third Restatement Effective Date), the Collateral Agent shall have received (x) counterparts of (A) the Insurance Assignment to be entered into with respect to the Specified Additional Vessel duly executed and delivered by the Specified Additional Subsidiary Guarantor and (B) the Insurance Assignment to be entered into with respect to the Specified Additional Vessel duly executed and delivered by the policy holder thereof and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under such Insurance Assignment or otherwise as the Collateral Agent may reasonably request with respect to such Insurance Assignment;

(i) in the case of any person that becomes an Additional Subsidiary Guarantor after the Closing Date (other than the Specified Target Subsidiaries and the Specified Additional Subsidiary Guarantor, which are addressed in clauses (a) and (b) above), (i) the Administrative Agent and the Collateral Agent shall have received an Additional Subsidiary Guarantor Accession Supplement duly executed on behalf of such Additional Subsidiary Guarantor and the Company and the other documents required by Section 5.10(c), and (ii) all the issued and outstanding Equity Interests of such Additional Subsidiary Guarantor shall have been pledged pursuant to the Collateral Agreement, an existing Subsidiary Guarantor Pledge Agreement or an additional Subsidiary Guarantor Pledge Agreement, as applicable, and the Collateral Agent shall have received all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer (if applicable under the applicable governing law) with respect thereto endorsed in blank;

(j) after the Closing Date (or the Acquisition Closing Date in the case of the Specified Target Subsidiaries or the Third Restatement Effective Date in the case of the Specified Additional Subsidiary Guarantor), (i) all the Equity Interests of each Subsidiary Guarantor issued after the Closing Date (or the Acquisition Closing Date in the case of the Specified Target Subsidiaries or the Third Restatement Effective Date in the case of the Specified Additional Subsidiary Guarantor) shall have been pledged pursuant to the applicable Subsidiary Guarantor Pledge Agreement, and (ii) all other Equity Interests of any other Subsidiary that are acquired by a Subsidiary Guarantor after the Closing Date (or the Acquisition Closing Date in the case of the Specified Target Subsidiaries or the Third Restatement Effective Date in the case of the Specified Additional Subsidiary Guarantor) shall have been pledged pursuant to the Collateral Agreement, and the Collateral Agent shall have received all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer (if applicable under the applicable governing law) with respect thereto endorsed in blank; and

(k) after the Closing Date (or the Acquisition Closing Date in the case of the Specified Target Subsidiaries or the Third Restatement Effective Date in the case of the Specified Additional Subsidiary Guarantor), the Administrative Agent or the Collateral Agent (as applicable) shall have received (i) such other Security Documents as may be required to be delivered pursuant to Section 5.10, and (ii) upon reasonable request by the Administrative Agent or the Collateral Agent (as applicable), evidence of compliance with any other requirements of Section 5.10.

“Commitment Fee” shall have the meaning assigned to such term in Section 2.12(a).

“Commitments” shall mean with respect to any Lender, such Lender’s Revolving Facility Commitment (including any Incremental Revolving Facility Commitment, Replacement Revolving Facility Commitment, and Other Revolving Facility Commitment), Term A Loan Commitment or Incremental Term Loan Commitment.

“Company” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Conduit Lender” shall mean any special purpose corporation organized and administered by any Lender for the purpose of making Loans otherwise required to be made by such Lender and designated by such Lender in a written instrument; provided, that the designation by any Lender of a Conduit Lender shall not relieve the designating Lender of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Lender (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender; provided, further, that no Conduit Lender shall (a) be entitled to receive any greater amount pursuant to Sections 2.15, 2.16, 2.17 or 10.05 than the designating Lender would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender, unless the grant of the Loan to such Conduit Lender is made with the Company’s prior written consent (not to be unreasonably withheld or delayed) or (b) be deemed to have any Commitment.

“Consolidated Debt” at any date shall mean the sum of (without duplication) all Indebtedness (other than letters of credit, to the extent undrawn) consisting of Capital Lease Obligations, Indebtedness for borrowed money and Disqualified Stock of the Company and the Subsidiaries determined on a consolidated basis on such date in accordance with GAAP.

“Consolidated Debt Service” shall mean, with respect to the Company and the Subsidiaries on a consolidated basis for any period, Cash Interest Expense for such period plus scheduled principal amortization of Consolidated Debt for such period (it being understood that scheduled principal amortization does not include balloon payments (for purposes of this definition, “balloon payments” shall not include any scheduled repayment installment of such Indebtedness for borrowed money which forms part of the balloon) or any prepayments).

“Consolidated Net Income” shall mean, with respect to any person for any period, the aggregate of the Net Income of such person and its subsidiaries for such period, on a consolidated basis; provided, however, that, without duplication:

(a) any net after tax extraordinary, nonrecurring or unusual gains or losses or income or expense or charge (less all fees and expenses relating thereto) including, without limitation, any severance, relocation or other restructuring expenses, and fees, expenses or charges related to any offering of Equity Interests, any Investment, acquisition (including the Acquisition) or Indebtedness permitted to be incurred hereunder (in each case, whether or not successful), including any such fees, expenses or charges related to the Transactions, in each case, shall be excluded,

(b) any net after-tax income or loss from discontinued operations and any net after-tax gain or loss on disposal of discontinued operations shall be excluded,

(c) any net after-tax gain or loss (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by the board of directors of the Company) shall be excluded,

(d) any net after-tax income or loss (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness shall be excluded,

(e) (i) the Net Income for such period of any person that is not a subsidiary of such person, or is an Unrestricted Subsidiary or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the referent person or a subsidiary thereof in respect of such period and (ii) the Net Income for such period shall include any ordinary course dividend, distribution or other payment in cash received from any person in excess of the amounts included in clause (i),

- (f) Consolidated Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period,
- (g) any increase in amortization or depreciation or any non-cash charges or increases or reductions in Net Income resulting from purchase accounting in connection with the Transactions or any acquisition (including the Acquisition) that is consummated on or after the Closing Date shall be excluded,
- (h) any non-cash impairment charges resulting from the application of ASC 350 and ASC 360, and the amortization of intangibles and other fair value adjustments arising pursuant to ASC 805, shall be excluded,
- (i) any non-cash expenses realized or resulting from employee benefit plans or post-employment benefit plans, grants of stock appreciation or similar rights, stock options, restricted stock grants or other rights to officers, directors and employees of such person or any of its subsidiaries shall be excluded,
- (j) accruals and reserves that are established within twelve months after the Closing Date and that are so required to be established in accordance with GAAP shall be excluded; provided that to the extent (i) any such accrual or reserve is later reduced or eliminated or (ii) any cash expenditure is later incurred with respect to such accrual or reserve, then in each case a corresponding amount shall be included in Consolidated Net Income in the same period,
- (k) non-cash gains, losses, income and expenses resulting from fair value accounting required by ASC 815 shall be excluded,
- (l) any gain, loss, income, expense or charge resulting from the application of last in first out accounting shall be excluded,
- (m) currency translation gains and losses related to currency re-measurements of Indebtedness, and any net loss or gain resulting from Swap Agreements for currency exchange risk, shall be excluded,
- (n) to the extent covered by insurance and actually reimbursed, or, so long as such person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable carrier in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded; provided that any proceeds of such reimbursement when received shall be excluded from the calculation of Consolidated Net Income to the extent the expense reimbursed was previously excluded pursuant to this clause (n), and

(o) non-cash charges for deferred tax asset valuation allowances shall be excluded.

“Consolidated Total Assets” shall mean, as of any date, the total assets of the Company and the Subsidiaries, determined on a consolidated basis in accordance with GAAP, as set forth on the consolidated balance sheet of the Company as of such date.

“Control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and “Controlling” and “Controlled” shall have meanings correlative thereto.

“Control Agreement” shall have the meaning assigned to such term in the Collateral Agreement.

“Credit Event” shall have the meaning assigned to such term in Article IV.

“Cumulative Credit” shall mean, at any date, an amount, not less than zero in the aggregate, determined on a cumulative basis equal to, without duplication:

(a) \$[*], plus:

(b) an amount (which amount shall not be less than zero) equal to [*]% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from June 30, 2009 to the end of the Company’s most recently ended fiscal quarter for which internal financial statements are available at such date, plus

(c) the aggregate amount of proceeds received after the Closing Date and prior to such time that would have constituted Net Proceeds pursuant to clause (a) of the definition thereof except for the operation of clause (x) or (y) of the second proviso thereof (the “Below Threshold Asset Sale Proceeds”), plus

(d) the cumulative amount of proceeds (including cash and the fair market value of property other than cash) from the sale of Equity Interests of a Parent Entity after the Closing Date and on or prior to such time (including upon exercise of warrants or options) which proceeds have been contributed as common equity to the capital of the Company and common Equity Interests of the Company issued upon conversion of Indebtedness (other than Indebtedness that is contractually subordinated to the Obligations) of the Company or any Subsidiary owed to a person other than the Company or a Subsidiary not previously applied for a purpose other than use in the Cumulative Credit; provided, that this clause (d) shall exclude Permitted Cure Securities and the proceeds thereof, sales of Equity Interests financed as contemplated by Section 6.04(d) and any amounts used to finance the payments or distributions in respect of any Junior Financing pursuant to Section 6.09(b), plus

(e) [*]% of the aggregate amount of contributions to the common capital of the Company received in cash (and the fair market value of property other than cash) after the Closing Date (subject to the same exclusions as are applicable to clause (d) above); plus

(f) the principal amount of any Indebtedness (including the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock) of the Company or any Subsidiary thereof issued after the Closing Date (other than Indebtedness issued to a Subsidiary), which has been converted into or exchanged for Equity Interests (other than Disqualified Stock) in any Parent Entity, plus

(g) [*]% of the aggregate amount received by the Company or any Subsidiary in cash (and the fair market value of property other than cash received by the Company or any Subsidiary) after the Closing Date from:

(A) the sale (other than to the Company or any Subsidiary) of the Equity Interests of an Unrestricted Subsidiary, or

(B) any dividend or other distribution by an Unrestricted Subsidiary, plus

(h) in the event any Unrestricted Subsidiary has been redesignated as a Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into, the Company or any Subsidiary, the fair market value of the Investments of the Company or any Subsidiary in such Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable), plus

(i) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received by the Company or any Subsidiary in respect of any Investments made pursuant to Section 6.04(i), minus

(j) any amounts thereof used to make Investments pursuant to Section 6.04(a)(y) after the Closing Date prior to such time, minus

(k) any amounts thereof used to make Investments pursuant to Section 6.04(i)(2) after the Closing Date prior to such time, minus

(l) the cumulative amount of dividends paid and distributions made pursuant to Section 6.06(e) after the Closing Date prior to such time, minus

(m) payments or distributions in respect of Junior Financings pursuant to Section 6.09(b)(i) (other than payments made with proceeds from the issuance of Equity Interests that were excluded from the calculation of the Cumulative Credit pursuant to clause (d) above);

provided, however, for purposes of Section 6.06(e), the calculation of the Cumulative Credit shall not include any Below Threshold Asset Sale Proceeds except to the extent they are used as contemplated in clauses (j) and (k) above.

“Cure Amount” shall have the meaning assigned to such term in Section 8.02(c).

“Cure Collateral Fair Market Value” shall mean, when determining the value to be ascribed to any property added as Collateral pursuant to Section 8.02(a), (a) for any cash or Permitted Investments added as Collateral pursuant to Section 8.02(a), the Dollar Equivalent thereof as of any date of determination or (b) for any other property added as Collateral pursuant to Section 8.02(a), the Administrative Agent’s determination (in its reasonable judgment) of the price at which a willing buyer would purchase, were it to purchase, such other property in an arm’s-length transaction for all cash consideration on the date such property is added as Collateral pursuant to Section 8.02(a).

“Cure Right” shall have the meaning assigned to such term in Section 8.02(c).

“Debtor Relief Laws” shall mean the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

“Declined Proceeds” shall have the meaning assigned to such term in Section 2.10(c)(ii).

“Declining Lender” shall have the meaning assigned to such term in Section 2.10(c)(ii).

“Deed of Covenants” shall mean each deed of covenants collateral to a Vessel Mortgage, each substantially in the form of Exhibit G-1 or Exhibit G-2 or otherwise reasonably satisfactory to the Administrative Agent.

“Default” shall mean any event or condition that upon notice, lapse of time or both would constitute an Event of Default.

“Defaulting Lender” shall mean, subject to Section 2.22, any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Company in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two Business Days of the date when due, (b) has notified the Company, the Administrative Agent or any Issuing Bank in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Company, to confirm in writing to the Administrative Agent and the Company that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Company) or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) becomes the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.22) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Company, each Issuing Bank, and each Lender promptly following such determination.

“Delaware Divided LLC” shall mean any limited liability company which has been formed upon the consummation of a Delaware LLC Division.

“Delaware LLC Division” shall mean the statutory division of any limited liability company into two or more limited liability companies pursuant to Section 18-217 of the Delaware Limited Liability Company Act or a comparable provision of any other Requirement of Law.

“Designated Non-Cash Consideration” shall mean the fair market value (as determined in good faith by the Company) of non-cash consideration received by the Company or one of its Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Company, setting forth such valuation, less the amount of cash or cash equivalents received in connection with a subsequent disposition of such Designated Non-Cash Consideration.

“Disqualified Stock” shall mean, with respect to any person, any Equity Interest of such person that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends in cash or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Stock, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date; provided, however, that only the portion of the Equity Interests that so mature or are mandatorily redeemable, are so convertible or exchangeable or are so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; provided, further, however, that if such Equity Interest is issued to any employee or to any plan for the benefit of employees of the Company or the Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Stock solely because they may be required to be repurchased by the Company or any Subsidiary in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability; provided further, however, that, with respect to clause (d) above, Equity Interests constituting Qualified Equity Interests when issued shall not cease to constitute Qualified Equity Interests as a result of the subsequent extension of the Latest Maturity Date.

“Dollar Equivalent” shall mean, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent at such time on the basis of the Spot Rate (determined in respect of the applicable date of determination) for the purchase of Dollars with such currency.

“Dollars” or “\$” shall mean the lawful currency of the United States of America.

“Earnings Assignments” shall mean, collectively, each of the first priority collateral assignments of earnings entered into by each Subsidiary Guarantor in favor of the Collateral Agent in respect of a Mortgaged Vessel, each in substantially the form of Exhibit H or otherwise reasonably satisfactory to the Administrative Agent.

“EBITDA” shall mean, with respect to Company and the Subsidiaries on a consolidated basis for any period, the Consolidated Net Income of the Company and the Subsidiaries for such period plus (a) the sum of (in each case without duplication and to the extent the respective amounts described in subclauses (i) through (vi) of this clause (a) reduced such Consolidated Net Income (and were not excluded therefrom) for the respective period for which EBITDA is being determined):

- (i) provision for Taxes (including without duplication, Tax distributions) based on income, profits or capital of the Company and the Subsidiaries for such period, including, without limitation, state, franchise and similar taxes,
- (ii) Interest Expense (and to the extent not included in Interest Expense, (x) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock or Disqualified Stock and (y) costs of surety bonds in connection with financing activities) of the Company and the Subsidiaries for such period (net of interest income of the Company and the Subsidiaries for such period),
- (iii) depreciation and amortization expenses of the Company and the Subsidiaries for such period,
- (iv) business optimization expenses and other restructuring charges (which, for the avoidance of doubt, shall include, without limitation, the effect of optimization programs, facility closures, retention, severance, systems establishment costs and excess pension charges); provided that with respect to each business optimization expense or other restructuring charge, the Company shall have delivered to the Administrative Agent an officers’ certificate specifying and quantifying such expense or charge,

(v) any other non-cash charges; provided that, for purposes of this subclause (v) of this clause (a), any non-cash charges or losses shall be treated as cash charges or losses in any subsequent period during which cash disbursements attributable thereto are made,

(vi) the amount of management, consulting, monitoring, transaction and advisory fees and related expenses paid to any Affiliate (or any accruals related to such fees and related expenses) during such period not in contravention of this Agreement, and

minus (b) the sum of (without duplication and to the extent the amounts described in this clause (b) increased such Consolidated Net Income for the respective period for which EBITDA is being determined) non-cash items increasing Consolidated Net Income of the Company and the Subsidiaries for such period (but excluding any such items (i) in respect of which cash was received in a prior period or will be received in a future period or (ii) which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period).

“EEA Financial Institution” shall mean (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

“EEA Member Country” shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“environment” shall mean ambient and indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, natural resources such as flora and fauna, the workplace or as otherwise defined in any Environmental Law.

“Environmental Claim” shall mean any and all actions, suits, orders, demands, directives, claims, liens, request for information, investigations, proceedings or notices of noncompliance or violation by or from any person alleging liability of whatever kind or nature arising out of, based on or resulting from (i) the presence or Release of, or exposure to, any Hazardous Materials at any location; or (ii) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law (including any matters related to compliance with OPA 90).

“Environmental Law” shall mean any applicable law, regulation, rule or ordinance, order, decree, judgment, injunction, or other legally binding requirement or agreement issued, promulgated or entered into by any Governmental Authority, relating to pollution or protection of the environment, or health and safety, including laws relating to Releases or threatened Releases of Hazardous Materials into the environment or otherwise relating to Hazardous Materials.

“Environmental Liability” shall mean any loss or liability (including any liability for damages, costs of remediation, fines, penalties or indemnities), of any Loan Party directly or indirectly resulting from or based on: (a) any actual or alleged violation of any Environmental Law; (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Material; (c) exposure to any Hazardous Material; (d) any actual or alleged Release or threatened Release of any Hazardous Material; or (e) any Environmental Claim that relates to or is based upon the operation of any Mortgaged Vessel, including Environmental Claims based on indemnities or other contractual undertakings.

“Environmental Permits” shall have the meaning assigned to such term in Section 3.16.

“Equity Interests” of any person shall mean any and all shares, interests, rights to purchase or otherwise acquire, warrants, options, participations or other equivalents of or interests in (however designated) equity or ownership of such person, including any preferred stock, any limited or general partnership interest and any limited liability company membership interest, and any securities or other rights or interests convertible into or exchangeable for any of the foregoing.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended from time to time, and any final regulations promulgated and the rulings issued thereunder.

“ERISA Affiliate” shall mean any trade or business (whether or not incorporated) that, together with any Loan Party or a Subsidiary, is treated as a single employer under Section 414(b) or (c) of the Code, or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” shall mean (a) any Reportable Event or the requirements of Section 4043(b) of ERISA apply with respect to a Plan; (b) with respect to any Plan, the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or the failure to make any required contribution to a Multiemployer Plan; (d) the incurrence by the Company, any Subsidiary or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan or Multiemployer Plan; (e) the receipt by the Company, a Subsidiary or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or to appoint a trustee to administer any Plan under Section 4042 of ERISA; (f) the incurrence by the Company, a Subsidiary or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; (g) the receipt by the Company, a Subsidiary or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Company, a Subsidiary or any ERISA Affiliate of any notice, concerning the impending imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA, or in “endangered” or “critical” status, within the meaning of Section 432 of the Code or Section 305 of ERISA; (h) the conditions for imposition of a lien under ERISA shall have been met with respect to any Plan; (i) with respect to a Plan, the provision of security pursuant to Section 206(g) of ERISA; (j) a determination that any Plan is, or is expected to be, in “at-risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); or (k) the withdrawal of the Company, any Subsidiary or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA.

“EU Bail-In Legislation Schedule” shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Eurocurrency Borrowing” shall mean a Borrowing comprised of Eurocurrency Loans.

“Eurocurrency Loan” shall mean any Eurocurrency Term Loan or Eurocurrency Revolving Loan.

“Eurocurrency Revolving Facility Borrowing” shall mean a Borrowing comprised of Eurocurrency Revolving Loans.

“Eurocurrency Revolving Loan” shall mean any Revolving Facility Loan bearing interest at a rate determined by reference to the Adjusted LIBO Rate in accordance with the provisions of Article II.

“Eurocurrency Term Loan” shall mean any Term Loan bearing interest at a rate determined by reference to the Adjusted LIBO Rate in accordance with the provisions of Article II.

“European Union” shall mean the political and economic community of twenty-seven member states as of January 1, 2007 (and all additional member states that accede thereto thereafter in accordance with applicable laws of the European Union) with supranational and intergovernmental features, located in Europe.

“Event of Default” shall have the meaning assigned to such term in Section 8.01.

“Event of Loss” shall mean any of the following events: (a) the actual or constructive total loss or the arranged or compromised total loss of a Mortgaged Vessel or (b) the capture, condemnation, confiscation, requisition, purchase, sale, seizure or forfeiture of, or any taking of title to, a Mortgaged Vessel. An Event of Loss shall be deemed to have occurred (i) in the event of an actual loss of a Mortgaged Vessel, at noon Greenwich Mean Time on the date of such loss, or if that is not known, on the date which such Mortgaged Vessel was last heard from, (ii) in the event of damage which results in a constructive or compromised or arranged total loss of a Mortgaged Vessel, at noon Greenwich Mean Time on the date of the event giving rise to such damage, or (iii) in the case of an event referred to in clause (b) above, at noon Greenwich Mean Time on the date on which such event is expressed to take effect by the person making the same.

“Exchange Act” shall mean the Securities Exchange Act of 1934.

“Excluded Indebtedness” shall mean all Indebtedness permitted to be incurred under Section 6.01 (other than Section 6.01(z)).

“Excluded Taxes” shall mean, with respect to the Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or under any other Loan Document, (a) Taxes imposed on or measured by its overall net income or branch profits (however denominated, and including (for the avoidance of doubt) any backup withholding in respect thereof under Section 3406 of the Code or any similar provision of state, local or foreign law), and franchise (and similar) Taxes imposed on it (in lieu of net income Taxes), in each case by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, or in the case of any Lender, having its applicable lending office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from this Agreement or any other Loan Documents or any transactions contemplated thereunder), (b) U.S. federal withholding Tax imposed on any payment by or on account of any obligation of any Loan Party hereunder or under any other Loan Document that is required to be imposed on amounts payable to a Lender (other than to the extent such Lender is an assignee pursuant to a request by the Company under Section 2.19) pursuant to laws in force at the time such Lender becomes a party hereto (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts or indemnification payments from any Loan Party with respect to such withholding Tax pursuant to Section 2.17, (c) any withholding Tax imposed on any payment by or on account of any obligation of any Loan Party hereunder or under any other Loan Document that is attributable to the Administrative Agent’s, any Lender’s or any other recipient’s failure to comply with Section 2.17(e), or (d) any U.S. federal withholding Tax imposed under FATCA.

“Existing Commitments” means all outstanding “Revolving Facility Commitments” under the Original Credit Agreement immediately prior to the Restatement Effective Date.

“Existing Letters of Credit” means the Letters of Credit outstanding under the Original Credit Agreement immediately prior to the Restatement Effective Date.

“Existing Loans” means all outstanding “Term A Loans”, “Term B Loans” and “Revolving Facility Loans” under and as defined in the Original Credit Agreement immediately prior to the Restatement Effective Date.

“Extended Revolving Facility Commitment” shall have the meaning assigned to such term in Section 2.21(e).

“Extended Term Loan” shall have the meaning assigned to such term in Section 2.21(e).

“Extending Lender” shall have the meaning assigned to such term in Section 2.21(e).

“Extension” shall have the meaning assigned to such term in Section 2.21(e).

“Facility” shall mean the respective facility and commitments utilized in making any Class of Loans and Extensions thereunder.

“EATCA” shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any Treasury regulations promulgated thereunder or official administrative interpretations thereof and any agreements entered into pursuant to current Section 1471(b)(1) of the Code (or any amended or successor version described above) or any intergovernmental agreement (and any related laws or legislation) implementing the foregoing.

“Federal Funds Effective Rate” shall mean, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions, as determined in such manner as the NYFRB shall set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate.

“Fees” shall mean the Commitment Fees, the L/C Participation Fees, the Issuing Bank Fees, the Administrative Agent Fees and the Collateral Agent Fees.

“Financial Officer” of any person shall mean the Chief Financial Officer, principal accounting officer, Treasurer, Assistant Treasurer or Controller of such person.

“First Lien Intercreditor Agreement” shall mean an Intercreditor Agreement between the Administrative Agent, the Collateral Agent and the authorized representative named therein for the Senior Secured Notes, substantially in the form of Exhibit K-2, with such changes that are reasonably satisfactory to the Administrative Agent.

“First Restatement Effective Date” shall mean November 6, 2014.

“First Valuation” shall have the meaning assigned to such term in Section 5.16.

“Fiscal Year” shall mean the fiscal year of the Company and the Subsidiaries ending on December 31st of each calendar year or such other calendar date as notified by the Company to the Administrative Agent.

“Fixed Charge Coverage Ratio” shall mean, with respect to any person for any period, the ratio of EBITDA of such person for such period to the Fixed Charges (other than Fixed Charges in respect of Indebtedness that is non-recourse to the Loan Parties) of such person for such period.

“Fixed Charges” shall mean, with respect to any person for any period, the sum, without duplication, of:

- (a) Interest Expense of such person for such period, and
- (b) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Stock of such person and its Subsidiaries.

“Foreign Lender” shall mean any Lender (a) that is not disregarded as separate from its owner for U.S. federal income tax purposes and that is not a “United States person” as defined by Section 7701(a)(30) of the Code or (b) that is disregarded as separate from its owner for U.S. federal income tax purposes and whose regarded owner is not a “United States person” as defined in Section 7701(a)(30) of the Code.

“Foreign Subsidiary” shall mean any Subsidiary that is incorporated or organized under the laws of any jurisdiction other than the United States of America, any state thereof or the District of Columbia.

“Former Agent” shall mean Deutsche Bank Trust Company Americas, in its capacity as administrative agent and collateral agent under the Original Credit Agreement prior to the First Restatement Effective Date.

“Free Liquidity” shall mean, at any date of determination, the aggregate amount of Unrestricted Cash and any Available Unused Commitments or other amounts available for drawing under other revolving or other credit facilities of the Company, which remain undrawn, could be drawn for general working capital purposes or other general corporate purposes and would not, if drawn, be mandatorily repayable within six months.

“Fronting Exposure” shall mean, at any time there is a Defaulting Lender, with respect to any Issuing Bank, such Defaulting Lender’s Revolving Facility Percentage of Revolving L/C Exposure with respect to Letters of Credit issued by such Issuing Bank other than such Revolving L/C Exposure as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“GAAP” shall mean generally accepted accounting principles in effect from time to time in the United States, applied on a consistent basis, subject to the provisions of Section 1.02; provided that any reference to the application of GAAP in Sections 3.13(b), 3.19, 5.03, 5.04, 5.07 and 6.02(e) to any Subsidiary that is incorporated or organized under the laws of any jurisdiction other than the United States, any state thereof or the District of Columbia (but not as a consolidated Subsidiary of the Company) shall mean generally accepted accounting principles in effect from time to time in the jurisdiction of organization of such non-U.S. Subsidiary.

“Governmental Authority” shall mean the government of the United States of America, or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

“Guarantee” of or by any person (the “guarantor”) shall mean (a) any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep well, to purchase assets, goods, securities or services, to take-or-pay or otherwise) or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, (iv) entered into for the purpose of assuring in any other manner the holders of such Indebtedness or other obligation of the payment thereof or to protect such holders against loss in respect thereof (in whole or in part) or (v) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation, or (b) any Lien on any assets of the guarantor securing any Indebtedness or other obligation (or any existing right, contingent or otherwise, of the holder of Indebtedness or other obligation to be secured by such a Lien) of any other person, whether or not such Indebtedness or other obligation is assumed by the guarantor; provided, however, the term “Guarantee” shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted by this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such person is required to perform thereunder) as determined by such person in good faith.

“guarantor” shall have the meaning assigned to such term in the definition of the term “Guarantee.”

“Hazardous Materials” shall mean all pollutants, contaminants, wastes, chemicals, materials, substances and constituents, including explosive or radioactive substances or petroleum by-products or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls or radon gas, biological waste, toxic mold, infectious materials, potentially infectious materials or disinfecting agents, of any nature subject to regulation or which can give rise to liability under any Environmental Law.

“Holdings” shall mean Norwegian Cruise Line Holdings Ltd., an exempted company incorporated in Bermuda.

“Immaterial Subsidiary” shall mean any Subsidiary that (a) did not, as of the last day of the fiscal quarter of the Company most recently ended, have assets with a value in excess of 5% of the Consolidated Total Assets or revenues representing in excess of 5% of total revenues of the Company and the Subsidiaries on a consolidated basis as of such date, and (b) taken together with all Immaterial Subsidiaries as of the last day of the fiscal quarter of the Company most recently ended, did not have assets with a value in excess of 10% of Consolidated Total Assets or revenues representing in excess of 10% of total revenues of the Company and the Subsidiaries on a consolidated basis as of such date. Each Immaterial Subsidiary shall be set forth in Schedule 1.01(a), and the Company shall update such Schedule from time to time after the Closing Date as necessary to reflect all Immaterial Subsidiaries at such time (the selection of Subsidiaries to be added to or removed from such Schedule to be made as the Company may determine). Notwithstanding the foregoing, no New Vessel Subsidiary, Subsidiary Guarantor or the Co-Borrower shall be an Immaterial Subsidiary.

“Impacted Interest Period” shall have the meaning assigned to it in the definition of “LIBO Rate.”

“Increased Amount” of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms, the accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies.

“Increased Amount Date” shall have the meaning assigned to such term in Section 2.21(a)(ii).

“Incremental Amount” shall mean, at any time, (i) the excess, if any, of (a) \$[*], over (b) the sum of (x) the aggregate amount of all Incremental Term Loan Commitments and Incremental Revolving Facility Commitments, in each case, established after the Restatement Effective Date and prior to such time pursuant to Section 2.21 (other than any Incremental Term Loan Commitments and Incremental Revolving Facility Commitments in respect of Refinancing Term Loans, Extended Term Loans, Extended Revolving Facility Commitments or Replacement Revolving Facility Commitments) and (y) the aggregate principal amount of Indebtedness incurred pursuant to Section 6.01(aa); plus (ii) any additional amounts so long as after giving effect to the issuance or incurrence of such Indebtedness the Loan-to-Value Ratio (assuming, when being tested in connection with any Incremental Revolving Facility Commitments, that such Incremental Revolving Facility Commitments are fully drawn as of such test date) on a Pro Forma Basis is equal to or less than [*] to 1.0.

“Incremental Assumption Agreement” shall mean an Incremental Assumption Agreement in form and substance reasonably satisfactory to the Administrative Agent, among the Borrowers, the Administrative Agent and one or more Incremental Term Lenders and/or Incremental Revolving Facility Lenders.

“Incremental Revolving Facility Commitment” shall mean any increased or incremental Revolving Facility Commitment provided pursuant to Section 2.21.

“Incremental Revolving Facility Lender” shall mean a Lender (including an Incremental Revolving Facility Lender) with a Revolving Facility Commitment or an outstanding Revolving Facility Loan as a result of an Incremental Revolving Facility Commitment.

“Incremental Term Borrowing” shall mean a Borrowing comprised of Incremental Term Loans.

“Incremental Term Facility” shall mean the Incremental Term Loan Commitments of any Class and the Incremental Term Loans made thereunder.

“Incremental Term Lender” shall mean a Lender with an Incremental Term Loan Commitment or an outstanding Incremental Term Loan.

“Incremental Term Loan Commitment” shall mean the commitment of any Lender, established pursuant to Section 2.21, to make Incremental Term Loans to the Borrowers.

“Incremental Term Loan Installment Date” shall have, with respect to any tranche of Incremental Term Loans established pursuant to an Incremental Assumption Agreement, the meaning assigned to such term in Section 2.10(a)(iii).

“Incremental Term Loans” shall mean Term Loans made by one or more Lenders to the Borrowers pursuant to Section 2.01(d). Incremental Term Loans may be made in the form of additional Term A Loans or, to the extent permitted by Section 2.21 and provided for in the relevant Incremental Assumption Agreement, Other Incremental Term Loans.

“Indebtedness” of any person shall mean, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such person under conditional sale or other title retention agreements relating to property or assets purchased by such person, (d) all obligations of such person issued or assumed as the deferred purchase price of property or services, to the extent that the same would be required to be shown as a long term liability on a balance sheet prepared in accordance with GAAP, (e) all Capital Lease Obligations of such person, (f) all payments that such person would have to make in the event of an early termination, on the date Indebtedness of such person is being determined, in respect of outstanding Swap Agreements, (g) the principal component of all obligations, contingent or otherwise, of such person as an account party in respect of letters of credit, (h) the principal component of all obligations of such person in respect of bankers’ acceptances, (i) all Guarantees by such person of Indebtedness described in clauses (a) to (h) above) and (j) the amount of all obligations of such person with respect to the redemption, repayment or other repurchase of any Disqualified Stock (excluding accrued dividends that have not increased the liquidation preference of such Disqualified Stock); provided that Indebtedness shall not include (A) trade payables, accrued expenses and intercompany liabilities arising in the ordinary course of business, (B) prepaid or deferred revenue arising in the ordinary course of business, (C) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase prices of an asset to satisfy unperformed obligations of the seller of such asset or (D) earn-out obligations until such obligations become a liability on the balance sheet of such person in accordance with GAAP. The Indebtedness of any person shall include the Indebtedness of any partnership in which such person is a general partner, other than to the extent that the instrument or agreement evidencing such Indebtedness expressly limits the liability of such person in respect thereof.

“Indemnified Taxes” shall mean all Taxes imposed on or with respect to or measured by any payment by or on account of any obligation of any Loan Party hereunder or under any other Loan Document other than (a) Excluded Taxes and (b) Other Taxes.

“Indemnitee” shall have the meaning assigned to such term in Section 10.05(b).

“Information” shall have the meaning assigned to such term in Section 3.14(a).

“Information Memorandum” shall mean the Confidential Information Memorandum dated April 18, 2013, as modified or supplemented prior to the Closing Date.

“INSIGNIA” shall mean the Vessel Insignia, IMO number 9156462, currently registered in the name of Insignia Vessel Acquisition, LLC under the laws of the Republic of the Marshall Islands with the official number 1663.

“Insurance Assignments” shall mean each of the first priority assignments of insurance made or to be made by (a) a Subsidiary Guarantor in favor of the Collateral Agent in respect of a Mortgaged Vessel and (b) the Company in favor of the Collateral Agent in respect of all of the Mortgaged Vessels, in each case substantially in the form of Exhibit I or otherwise reasonably satisfactory to the Administrative Agent.

“Interest Election Request” shall mean a request by the Company to convert or continue a Term Borrowing or Revolving Facility Borrowing in accordance with Section 2.07.

“Interest Expense” shall mean, with respect to any person for any period, the sum of (a) gross interest expense (including any commitment or utilization fees in respect of available or undrawn amounts under loan, letter of credit or similar facilities) of such person for such period on a consolidated basis, including (i) the amortization of debt discounts, (ii) the amortization of all fees (including fees with respect to Swap Agreements) payable in connection with the incurrence of Indebtedness to the extent included in interest expense and (iii) the portion of any payments or accruals with respect to Capital Lease Obligations allocable to interest expense and (b) capitalized interest of such person. For purposes of the foregoing, gross interest expense shall be determined after giving effect to any net payments made or received and costs incurred by the Company and the Subsidiaries with respect to Swap Agreements.

“Interest Payment Date” shall mean, (a) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months’ duration, each day that would have been an Interest Payment Date had successive Interest Periods of three months’ duration been applicable to such Borrowing and, in addition, the date of any refinancing or conversion of such Borrowing with or to a Borrowing of a different Type and (b) with respect to any ABR Loan, the last day of each calendar quarter, or if any such day is not a Business Day, on the next succeeding Business Day.

“Interest Period” shall mean, as to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing or on the last day of the immediately preceding Interest Period applicable to such Borrowing, as applicable, and ending on the numerically corresponding day (or, if there is no numerically corresponding day, on the last day) in the calendar month that is 1, 2, 3 or 6 months thereafter (or 12 months or a period shorter than one month, if at the time of the relevant Borrowing, all Lenders make interest periods of such length available), as the Company may elect, or the date any Eurocurrency Borrowing is converted to an ABR Borrowing in accordance with Section 2.07 or repaid or prepaid in accordance with Sections 2.09, 2.10 or 2.11; provided, however, that if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period. Notwithstanding the foregoing, the Interest Period for the Term A Loans on the Restatement Effective Date shall be equal to the unexpired portion of the Interest Period for the “Term A Loans” under the Original Credit Agreement immediately prior to the Restatement Effective Date and the LIBO Rate for such Interest Period for the Term A Loans shall be the LIBO Rate in effect for such Interest Period for the “Term A Loans” under the Original Credit Agreement for such Interest Period.

“Interpolated Rate” shall mean, at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate for the longest period for which the LIBO Screen Rate is available that is shorter than the Impacted Interest Period; and (b) the LIBO Screen Rate for the shortest period for which that LIBO Screen Rate is available that exceeds the Impacted Interest Period, in each case, at such time.

“Investment” shall have the meaning assigned to such term in Section 6.04.

“ISM Code” shall mean the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted pursuant to Resolution A.741(18) of the International Maritime Organization and incorporated into the International Convention for the Safety of Life at Sea 1974 (SOLAS), and shall include any amendments or extensions thereto and any regulation issued pursuant thereto.

“ISM Code Documentation” in relation to any Mortgaged Vessel includes: (a) the document of compliance (“DOC”) and safety management certificate (“SMC”) issued pursuant to the ISM Code in relation to such Mortgaged Vessel within the periods specified by the ISM Code, (b) all other documents and data which are relevant to the ISM Safety Management Systems and its implementation and verification which the Administrative Agent may reasonably require and (c) any other documents which are prepared or which are otherwise relevant to establish and maintain such Mortgaged Vessel’s or the relevant Subsidiary Guarantor’s compliance with the ISM Code which the Administrative Agent may reasonably require.

“ISM Safety Management Systems” shall mean the Safety Management System referred to in Clause 1.4 (or any other relevant provision) of the ISM Code.

“ISP” shall mean, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

“ISPS Code” shall mean the International Ship and Port Facility Security Code incorporated into the International Convention for the Safety of Life at Sea 1974 (SOLAS), and shall include any amendments or extensions thereto and any regulation issued pursuant thereto.

“Issuing Bank” shall mean each of JPMCB, Bank of America, N.A., Fifth Third Bank, Mizuho Bank, Ltd., Nordea Bank Abp, New York Branch, HSBC Bank USA, National Association, Barclays Bank PLC and Branch Banking & Trust Company and each other Issuing Bank designated pursuant to Section 2.05(k) that agrees in writing to act as an Issuing Bank, in each case in its capacity as an issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.05(i); provided that Barclays Bank PLC shall have no obligation to issue a Trade Letter of Credit. An Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“Issuing Bank Fees” shall have the meaning assigned to such term in Section 2.12(b).

“Issuing Bank Sublimit” shall mean (i) with respect to any Issuing Bank on the Restatement Effective Date, the amounts set forth beside such Issuing Bank’s name on Schedule 1.01(d) hereto and (ii) with respect to any Issuing Bank that becomes an Issuing Bank following the Restatement Effective Date, such amount as may be agreed among the Company and such additional Issuing Bank (and notified to the Administrative Agent) at the time such additional Issuing Bank becomes an Issuing Bank. The Issuing Bank Sublimit of any Issuing Bank may be increased or decreased as agreed by such Issuing Bank and the Company (each acting in their sole discretion) and notified in a writing executed by such Issuing Bank and the Company.

“Joint Bookrunners” shall mean, collectively, (i) with respect to Original Credit Agreement, each entity listed as such on the cover of the Original Credit Agreement and (ii) with respect to this Agreement, each entity listed as such on the cover of this Agreement, in each case in its capacity as such.

“JPMCB” shall mean JPMorgan Chase Bank, N.A.

“Judgment Currency” shall have the meaning assigned to such term in Section 10.19.

“Junior Financing” shall have the meaning assigned to such term in Section 6.09(b).

“Junior Indebtedness” shall mean Indebtedness of the Company or any of the Subsidiaries that (a) is expressly subordinated to the prior payment in full in cash of the Obligations (and any related Guarantees) on terms reasonably satisfactory to the Administrative Agent, (b) provides that interest in respect of such Indebtedness shall not be payable in cash, (c) has a final maturity date that is not earlier than the Latest Maturity Date and has no scheduled payments of principal thereon (including pursuant to a sinking fund obligation or mandatory redemption obligations (other than pursuant to customary provisions relating to redemption or repurchase upon change of control or sale of assets)) prior to such final maturity date and (d) is not subject to covenants, events of default and remedies that, in the aggregate, are more onerous to the Borrowers, than the terms of this Agreement; provided that such Indebtedness shall not be subject to any financial maintenance covenants; provided, further that Indebtedness constituting Junior Indebtedness when incurred shall not cease to constitute Junior Indebtedness as a result of the subsequent extension of the Latest Maturity Date.

“L/C Disbursement” shall mean a payment or disbursement made by an Issuing Bank pursuant to a Letter of Credit.

“L/C Participation Fee” shall have the meaning assigned such term in Section 2.12(b).

“Latest Maturity Date” shall mean, at any date of determination, the latest of the latest Revolving Facility Maturity Date and the latest Term Facility Maturity Date in each case as extended in accordance with the Agreement from time to time.

“Lender” shall mean each Lender under the Original Credit Agreement immediately prior to the Restatement Effective Date, each financial institution listed on Schedule 2.01, as well as any person that becomes a “Lender” hereunder pursuant to Section 10.04 or Section 2.21 (in each case, other than any such person that has ceased to be a party hereto pursuant to an Assignment and Acceptance in accordance with Section 10.04).

“Lending Office” shall mean, as to any Lender, the applicable branch(es), office(s) or Affiliate(s) of such Lender designated by such Lender in its Administrative Questionnaire or otherwise to make Loans.

“Letter of Credit” shall mean any letter of credit issued pursuant to Section 2.05, including any Trade Letter of Credit or Standby Letter of Credit.

“Letter of Credit Sublimit” shall mean \$200,000,000.

“LIBO Rate” shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other person that takes over the administration of such rate) for Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the “LIBO Screen Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided further that if the LIBO Screen Rate shall not be available at such time for such Interest Period (an “Impacted Interest Period”) then the LIBO Rate shall be the Interpolated Rate; provided that if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“LIBO Screen Rate” shall have the meaning assigned to it in the definition of “LIBO Rate.”

“Lien” shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, charge, assignment, security interest or encumbrance of any kind in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset.

“Loan Component” shall have the meaning assigned to such term in the definition of Loan-to-Value Ratio in this Section 1.01.

“Loan Documents” shall mean this Agreement, any Letter of Credit, the Security Documents, each Incremental Assumption Agreement, any First Lien Intercreditor Agreement, any Second Lien Intercreditor Agreement, any Note issued under Section 2.09(e) and, solely for the purposes of Section 8.01 of this Agreement, any fee letters entered into between the Agents, the Arrangers, the Joint Bookrunners and the Borrowers (including the fee letter relating to the financing commitments for the Acquisition).

“Loan Parties” shall mean the Borrowers and the Subsidiary Guarantors.

“Loans” shall mean the Term Loans, the Incremental Term Loans (if any) and the Revolving Facility Loans.

“Loan-to-Value Ratio” shall mean, as of any date, the ratio of (a) the aggregate principal amount (the “Loan Component”) of all Term Loans outstanding on such day, all Pari Passu Senior Secured Notes outstanding on such date and the aggregate Revolving Facility Credit Exposure on such date to (b) the sum (the “Value Component”) of (i) the aggregate amount of the most recent Valuations (determined in accordance with Section 5.16) for each of the Mortgaged Vessels plus (ii) the Cure Collateral Fair Market Value of all property added as Collateral pursuant to Section 8.02(a) through such date. Each determination of the Loan-to-Value Ratio on any day shall be made (A) first, without giving effect to any cure transaction permitted by Section 8.02(a) or (b) made (or to be made) on such day and (B) then, to determine compliance, with giving effect to any such cure transaction made on such day.

“Local Time” shall mean New York City time.

“Market Capitalization” shall mean an amount equal to (i) the total number of issued and outstanding shares of common (or common equivalent) Equity Interests of Holdings on the date of the declaration of the relevant Restricted Payment multiplied by (ii) the arithmetic mean of the closing prices per share of the common (or common equivalent) Equity Interests for the 30 consecutive trading days immediately preceding the date of declaration of such Restricted Payment.

“Majority Lenders” of any Facility shall mean, at any time, Lenders under such Facility having Loans and unused Commitments representing more than 50% of the sum of all Loans outstanding under such Facility and unused Commitments under such Facility at such time.

“Management Group” shall mean the group consisting of the directors, executive officers and other management personnel of the Company and any subsidiary of the Company, as the case may be, on the Closing Date together with (a) any new directors whose election by such boards of directors or whose nomination for election by the shareholders of Company and its subsidiary, as the case may be, was approved by a vote of a majority of the directors of the Company and the relevant subsidiary, as the case may be, then still in office who were either directors on the Closing Date or whose election or nomination was previously so approved and (b) executive officers and other management personnel of the Company and any subsidiary of the Company, as the case may be, hired at a time when the directors on the Closing Date together with the directors so approved constituted a majority of the directors of the Company and any subsidiary of the Company, as the case may be.

“Margin Stock” shall have the meaning assigned to such term in Regulation U.

“MARINER” shall mean the Vessel Seven Seas Mariner, IMO number 9210139, currently registered in the name of Mariner, LLC under the laws of the Commonwealth of Bahamas with the official number 8001280.

“Material Adverse Effect” shall mean a material adverse effect on (i) the business, property, operations or condition of the Company and the Subsidiaries (taken as a whole), (ii) the validity or enforceability of any of the Loan Documents or the rights and remedies of the Administrative Agent and the Lenders thereunder or (iii) the value of the Collateral.

“Material Indebtedness” shall mean Indebtedness (other than Loans and Letters of Credit) of any one or more of the Company or any Subsidiary in an aggregate principal amount exceeding \$75,000,000.

“Material Subsidiary” shall mean any Subsidiary other than an Immaterial Subsidiary or an Unrestricted Subsidiary.

“Maximum Rate” shall have the meaning assigned to such term in Section 10.08.

“Minimum Collateral Amount” shall mean, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to [%] of the Fronting Exposure of all Issuing Banks with respect to Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by the Administrative Agent and the Issuing Banks in their sole discretion.

“Moody’s” shall mean Moody’s Investors Service, Inc.

“Mortgage Trustee” shall mean JPMCB acting as mortgage trustee for the Secured Parties.

“Mortgaged Vessel” shall mean (i) each of the NORWEGIAN DAWN, the NORWEGIAN GEM, the NORWEGIAN PEARL, the NORWEGIAN SPIRIT, the NORWEGIAN STAR, the NORWEGIAN SUN, and, in each case, all appurtenances thereto, (ii) the Specified Target Mortgaged Vessels, (iii) the Specified Additional Vessel and (iv) any other vessel constituting Collateral.

“Mortgaged Vessel Operations Agreements” shall mean the Assigned Contracts (as such term is defined in the Collateral Agreement).

“Multiemployer Plan” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Company, any Subsidiary or any ERISA Affiliate (other than one considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Code Section 414) is making or accruing an obligation to make contributions, or has within any of the preceding six plan years made or accrued an obligation to make contributions.

“NAUTICA” shall mean the Vessel Nautica, IMO number 9200938, currently registered in the name of Nautica Acquisition, LLC under the laws of the Republic of the Marshall Islands with the official number 1665.

“NAVIGATOR” shall mean the Vessel Seven Seas Navigator, IMO number 9064126, currently registered in the name of Navigator Vessel Company, LLC under the laws of the Commonwealth of Bahamas with the official number 9000380.

“Net Income” shall mean, with respect to any person, the net income (loss) of such person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

“Net Proceeds” shall mean

(a) (x) If the Loan-to-Value Ratio on a Pro Forma Basis will be greater than [*] to 1.0 or if the relevant Asset Sale does not involve a Vessel, [*]% or (y) otherwise, the Applicable Ship Percentage, in each case, of the cash proceeds actually received by any Borrower or any Subsidiary Guarantor (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise and including casualty insurance settlements and condemnation awards, but only as and when received) from any Asset Sale or Event of Loss (other than those pursuant to Section 6.05(a), (b), (c), (d), (e), (f) or (i), excluding any such Asset Sale or Event of Loss of, or related to, a Mortgaged Vessel), net of, without duplication, (i) attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, required debt payments and required payments of other obligations relating to the applicable asset to the extent such debt or obligations are secured by a Lien permitted hereunder (other than pursuant to the Loan Documents and other than debt or obligations secured by Liens ranking pari passu or junior to the Liens securing the Obligations) on such asset, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith, (ii) Taxes paid or payable as a result thereof and (iii) the amount of any reasonable reserve established in accordance with applicable law or GAAP against any adjustment to the sale price or any liabilities (other than any Taxes deducted pursuant to clause (i) or (ii) above) (x) related to any of the applicable assets and (y) retained by the Company or any Subsidiary including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (however, the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Proceeds of such Asset Sale occurring on the date of such reduction)); provided that, if no Default or Event of Default exists and the Company shall deliver a certificate of a Responsible Officer of the Company to the Administrative Agent promptly following receipt of any such proceeds setting forth the Company’s intention to use any portion of such proceeds, to acquire, maintain, develop, construct, improve, upgrade or repair assets useful in the business of the Company and the Subsidiaries or to make investments in Permitted Business Acquisitions, in each case within 18 months of such receipt, such portion of such proceeds shall not constitute Net Proceeds except to the extent not, within 18 months of such receipt, so used or contractually committed to be so used (it being understood that if any portion of such proceeds are not so used within such 18-month period but within such 18-month period are contractually committed to be used, then upon the termination or expiration of such contract, such remaining portion shall constitute Net Proceeds as of the date of such termination or expiration without giving effect to this proviso); provided, further, that (x) no proceeds realized in a single transaction or series of related transactions shall constitute Net Proceeds unless such proceeds shall exceed \$30,000,000 and (y) no proceeds shall constitute Net Proceeds in any fiscal year until the aggregate amount of all such proceeds in such fiscal year shall exceed \$60,000,000; and

(b) [*]% (or, to the extent contemplated by the definition of the term “Senior Secured Notes,” [*]%) of the cash proceeds from the incurrence, issuance or sale by any Borrower or any Subsidiary Guarantor of any Indebtedness (other than Excluded Indebtedness), net of all taxes and fees (including investment banking fees), commissions, costs and other expenses, in each case incurred in connection with such issuance or sale.

For purposes of calculating the amount of Net Proceeds, fees, commissions and other costs and expenses payable to the Company or any Affiliate of the Company shall be disregarded, except for financial advisory fees customary in type and amount paid to any Affiliate not prohibited from being paid hereunder.

“New Vessel Financing” shall mean any financing arrangement entered into by any New Vessel Subsidiary in connection with any acquisition of one or more Vessels.

“New Vessel Subsidiary” shall mean any Wholly Owned Subsidiary of the Company that is formed for the purpose of acquiring one or more Vessels.

“New York Courts” shall have the meaning assigned to such term in Section 10.15(a).

“Non-Bank Tax Certificate” shall have the meaning assigned to such term in Section 2.17(e).

“Non-Consenting Lender” shall have the meaning assigned to such term in Section 2.19(c).

“Non-Defaulting Lender” shall mean, at any time, each Lender that is not a Defaulting Lender at such time.

“NORWEGIAN DAWN” shall mean the Vessel Norwegian Dawn, IMO number 9195169, currently registered in the name of Norwegian Dawn Limited under the laws of the Commonwealth of The Bahamas with the official number 9000046.

“NORWEGIAN GEM” shall mean the Vessel Norwegian Gem, IMO number 9355733, currently registered in the name of Norwegian Gem, Ltd. under the laws of the Commonwealth of The Bahamas with the official number 8001151.

“NORWEGIAN PEARL” shall mean the Vessel Norwegian Pearl, IMO number 9342281, currently registered in the name of Norwegian Pearl, Ltd. under the laws of the Commonwealth of The Bahamas with the official number 8001150.

“NORWEGIAN SKY” shall mean the Vessel Norwegian Sky, IMO number 9128532, currently registered in the name of Norwegian Sky, Ltd. under the laws of the Commonwealth of The Bahamas with the official number 731038.

“NORWEGIAN SPIRIT” shall mean the Vessel Norwegian Spirit, IMO number 9141065, currently registered in the name of Norwegian Spirit, Ltd. under the laws of the Commonwealth of The Bahamas with the official number 8000814.

“NORWEGIAN STAR” shall mean the Vessel Norwegian Star, IMO number 9195157, currently registered in the name of Norwegian Star Limited under the laws of the Commonwealth of The Bahamas with the official number 8000359.

“NORWEGIAN SUN” shall mean the Vessel Norwegian Sun, IMO number 9218131, currently registered in the name of Norwegian Sun Limited under the laws of the Commonwealth of The Bahamas with the official number 8000245.

“Note” shall have the meaning assigned to such term in Section 2.09(e).

“NYFRB” shall mean the Federal Reserve Bank of New York.

“NYFRB Rate” shall mean, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Obligations” shall have the meaning assigned to such term in the Collateral Agreement and shall include, for the avoidance of doubt, the “Obligations” and “Loan Document Obligations” (each as defined therein) of each Borrower under the Collateral Agreement as supplemented by Section 1.04.

“Offering Memorandum” shall mean the confidential Offering Memorandum, dated February 1, 2013, amended or modified from time to time, in respect of the 5.0% Notes.

“OPA 90” shall mean the Oil Pollution Act of 1990, 33 U.S.C. §2701 *et seq.*

“Original Credit Agreement” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Other Incremental Revolving Loans” shall have the meaning assigned to such term in Section 2.21(a).

“Other Incremental Term Loans” shall have the meaning assigned to such term in Section 2.21(a).

“Other Revolving Facility Commitments” shall mean one or more Classes of revolving credit commitments that result from a modification of the Revolving Facility Commitments pursuant to an Incremental Assumption Agreement.

“Other Revolving Loans” shall mean the revolving loans made pursuant to an Other Revolving Facility Commitment.

“Other Taxes” shall mean any and all present or future stamp, registration, documentary, intangible, recording, filing or any other excise, property or similar Taxes (including related reasonable out-of-pocket expenses with regard thereto) arising from any payment made hereunder or made under any other Loan Document or from the execution or delivery of, registration or enforcement of, consummation or administration of, or otherwise with respect to, this Agreement or any other Loan Document; provided that such term shall not include any of the foregoing Taxes (i) that result from an assignment, grant of a participation pursuant to Section 10.04(d) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Loan Document (“Assignment Taxes”) to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Loan Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Company, or (ii) Excluded Taxes.

“Other Term Loan Installment Date” shall have the meaning assigned to such term in Section 2.10(a)(iv).

“Overdraft Line” shall have the meaning assigned to such term in Section 6.01(x).

“Overnight Bank Funding Rate” shall mean, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“parent” shall have the meaning given such term in the definition of the term “subsidiary.”

“Parent Entity” shall mean any direct or indirect parent of the Company.

“Pari Passu Senior Secured Notes” shall mean Senior Secured Notes that are intended to be secured by the Collateral pari passu with the Obligations under the Loan Documents.

“Participant” shall have the meaning assigned to such term in Section 10.04(d)(i).

“Participant Register” shall have the meaning assigned to such term in Section 10.04(d)(i).

“PBGC” shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

“Perfection Certificate” shall mean a certificate in the form of Exhibit M or any other form approved by the Collateral Agent, as the same shall be supplemented from time to time.

“Permitted Additional Debt” shall mean any Indebtedness for borrowed money (a) for which the average life to maturity of such Permitted Additional Debt is greater than or equal to the remaining weighted average life to maturity of the Class of Term Loans then outstanding with the greatest remaining weighted average life to maturity and (b) that does not have a stated maturity prior to the date that is 91 days after the Latest Maturity Date; provided that Indebtedness constituting Permitted Additional Debt when incurred shall not cease to constitute Permitted Additional Debt as a result of the subsequent extension of the Latest Maturity Date.

“Permitted Business Acquisition” shall mean any acquisition of all or substantially all of the assets of, or all or a majority of the common Equity Interests in, a person or division or line of business of a person (or any subsequent investment made in a person, division or line of business previously acquired in a Permitted Business Acquisition), if immediately after giving effect thereto: (i) no Event of Default shall have occurred and be continuing or would result therefrom; (ii) all transactions related thereto shall be consummated in accordance with applicable laws; (iii) with respect to any such acquisition or investment with cash consideration in excess of \$[*], the Company and the Subsidiaries shall be in Pro Forma Compliance after giving effect to such acquisition or investment and any related transactions; (iv) any acquired or newly formed Subsidiary shall not be liable for any Indebtedness except for Indebtedness permitted by Section 6.01; (v) to the extent required by Section 5.10, any person acquired in such acquisition, if acquired by a Borrower or a Subsidiary Guarantor, shall be merged into a Borrower or a Subsidiary Guarantor or become upon consummation of such acquisition a Subsidiary Guarantor; and (vi) unless immediately after giving effect to such acquisition the Company is in Ratio Compliance, the aggregate cash consideration in respect of such acquisitions and investments in assets that are not owned by the Borrowers or a Restricted Subsidiary or in Equity Interests in persons that do not become Restricted Subsidiaries upon consummation of such acquisition shall not exceed the greater of (x) [*]% of Consolidated Total Assets and (y) \$[*]. For the avoidance of doubt, the Acquisition shall constitute a “Permitted Business Acquisition” for all purposes hereunder and shall not be subject to the foregoing criteria.

“Permitted Cure Securities” shall mean any Equity Interests of the Company other than Disqualified Stock, and upon which all dividends or distributions (if any) shall, prior to 91 days after the Latest Maturity Date, be payable solely in additional shares of such Equity Interests; provided that Equity Interests constituting Permitted Cure Securities when issued shall not cease to constitute Permitted Cure Securities as a result of the subsequent extension of the Latest Maturity Date.

“Permitted Flag Jurisdiction” shall mean the Republic of the Marshall Islands, the Bahamas, Panama, Bermuda, the Republic of Cyprus, Isle of Man, Liberia, the United Kingdom, the United States of America, or any other jurisdiction approved by the Administrative Agent (such approval not to be withheld unreasonably).

“Permitted Holder” shall mean, at any time, each of (i) the Sponsors, (ii) the Management Group, (iii) any person that has no material assets other than the Equity Interests of the Company and, directly or indirectly, holds or acquires 100% of the total voting power of the Equity Interests of the Company, and of which no other person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), other than any of the other Permitted Holders specified in clauses (i) and (ii) above and (iv) below, holds more than 50% of the total voting power of the Equity Interests thereof and (iv) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision) the members of which include any of the Permitted Holders specified in clauses (i) and (ii) above and that, directly or indirectly, hold or acquire beneficial ownership of the Equity Interests of the Company (a “Permitted Holder Group”), so long as (1) each member of the Permitted Holder Group has voting rights proportional to the percentage of ownership interests held or acquired by such member and (2) no person or other “group” (other than the Permitted Holders specified in clauses (i) and (ii) above) beneficially owns more than 50% on a fully diluted basis of the Equity Interests held by the Permitted Holder Group.

“Permitted Investments” shall mean:

(a) direct obligations of the United States of America or any member of the European Union or any agency thereof or obligations guaranteed by the United States of America or any member of the European Union or any agency thereof, in each case with maturities not exceeding two years;

(b) time deposit accounts, certificates of deposit and money market deposits maturing within 180 days of the date of acquisition thereof issued by a bank or trust company that is organized under the laws of the United States of America, any state thereof or any foreign country recognized by the United States of America having capital, surplus and undivided profits in excess of \$500,000,000 and whose long-term debt, or whose parent holding company’s long-term debt, is rated A (or such similar equivalent rating or higher by at least one nationally recognized statistical rating organization (registered under Section 15E of the Exchange Act);

(c) repurchase obligations with a term of not more than 180 days for underlying securities of the types described in clause (a) above entered into with a bank meeting the qualifications described in clause (b) above;

(d) commercial paper, maturing not more than one year after the date of acquisition, issued by a corporation (other than the Company or an Affiliate of the Company) organized and in existence under the laws of the United States of America or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of P-1 (or higher) according to Moody’s, or A-1 (or higher) according to S&P;

(e) securities with maturities of two years or less from the date of acquisition issued or fully guaranteed by any State, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least A by S&P or A by Moody’s;

- (f) shares of mutual funds whose investment guidelines restrict 95% of such funds' investments to those satisfying the provisions of clauses (a) through (e) above;
- (g) money market funds that (i) comply with the criteria set forth in Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least \$500,000,000;
- (h) time deposit accounts, certificates of deposit and money market deposits in an aggregate face amount not in excess of 0.5% of the total assets of the Company and the Subsidiaries, on a consolidated basis, as of the end of the Company's most recently completed fiscal year; and
- (i) instruments equivalent to those referred to in clauses (a) through (h) above denominated in any foreign currency comparable in credit quality and tenor to those referred to above and commonly used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by the Company or any Subsidiary organized in such jurisdiction.

"Permitted Liens" shall have the meaning assigned to such term in Section 6.02.

"Permitted Loan Purchase Assignment and Acceptance" shall mean an assignment and acceptance entered into by a Lender as an Assignor and the Company as an Assignee, and accepted by the Administrative Agent, in the form of Exhibit N or such other form as shall be approved by the Administrative Agent and the Company (such approval not to be unreasonably withheld or delayed).

"Permitted Loan Purchases" shall have the meaning assigned to such term in Section 10.04(i).

"Permitted Loan Purchases Amount" shall mean [*]% of the sum of (x) the aggregate principal amount of the Term Loans on the Restatement Effective Date plus (y) the aggregate principal amount of any Incremental Term Loans incurred since the Restatement Effective Date.

"Permitted Ratio Debt" shall mean secured or unsecured debt issued by the Company or its Subsidiaries, (i) if secured by the Collateral, the Liens with respect to which are subordinated to the Liens securing the Obligations pursuant to an intercreditor agreement in form and substance reasonably satisfactory to the Administrative Agent, (ii) the terms of which do not provide for a stated maturity date prior to the date that is 91 days after the Latest Maturity Date and (iii) the covenants, events of default, Subsidiary guarantees and other terms of which (other than interest rate and redemption premiums), taken as a whole, either (x) are not more restrictive to the Company and its Subsidiaries than the terms of the Senior Unsecured Notes Documents, or (y) if more restrictive, the Loan Documents are amended to contain such more restrictive terms (which amendments shall automatically occur); provided that Indebtedness constituting Permitted Ratio Debt when incurred shall not cease to constitute Permitted Ratio Debt as a result of the subsequent extension of the Latest Maturity Date.

“Permitted Refinancing Indebtedness” shall mean any Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund (collectively, to “Refinance”), the Indebtedness being Refinanced (or previous refinancings thereof constituting Permitted Refinancing Indebtedness); provided, that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Refinanced (plus unpaid accrued interest and premium thereon and underwriting discounts, fees, commissions and expenses), (b)(i) the final maturity date of such Permitted Refinancing Indebtedness is on or after the earlier of (x) the final maturity date of the Indebtedness being Refinanced and (y) 91 days after the Latest Maturity Date and (ii) the average life to maturity of such Permitted Refinancing Indebtedness is greater than or equal to the lesser of (i) the weighted average life to maturity of the Indebtedness being Refinanced and (ii) the weighted average life to maturity of the Class of Term Loans then outstanding with the greatest remaining weighted average life to maturity, (c) if the Indebtedness being Refinanced is subordinated in right of payment to the Obligations under this Agreement, such Permitted Refinancing Indebtedness shall be subordinated in right of payment to such Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being Refinanced, (d) no Permitted Refinancing Indebtedness shall have obligors that are not obligated with respect to the Indebtedness so Refinanced, or greater guarantees or security, than the Indebtedness being Refinanced and (e) if the Indebtedness being Refinanced is secured by any collateral (whether equally and ratably with, or junior to, the Secured Parties or otherwise), such Permitted Refinancing Indebtedness may be secured by such collateral (including in respect of working capital facilities of Subsidiaries that are not Subsidiary Guarantors otherwise permitted under this Agreement only, any collateral pursuant to after-acquired property clauses to the extent any such collateral secured the Indebtedness being Refinanced) on terms no less favorable to the Secured Parties than those contained in the documentation governing the Indebtedness being Refinanced; provided further, that with respect to a Refinancing of (x) Permitted Additional Debt that is subordinated, such Permitted Refinancing Indebtedness shall (i) be subordinated to the guarantee by the Subsidiary Guarantors of the Facilities, and (ii) be otherwise on terms (other than interest rate and redemption premiums), taken as a whole, not materially less favorable to the Lenders than those contained in the documentation governing the Indebtedness being refinanced, and (y) Permitted Additional Debt, such Permitted Refinancing Indebtedness shall meet the requirements of the definition of “Permitted Additional Debt”; provided further, that Indebtedness constituting Permitted Refinancing Indebtedness shall not cease to constitute Permitted Refinancing Indebtedness as a result of the subsequent extension of the Latest Maturity Date.

“Permitted Vessel Transfer” shall have the meaning assigned to such term in Section 5.10(g).

“person” shall mean any natural person, corporation, business trust, joint venture, association, company, partnership, limited liability company or government, individual or family trusts, or any agency or political subdivision thereof.

“Plan” shall mean any employee pension benefit plan (other than a Multiemployer Plan) that is (i) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, (ii) sponsored or maintained or contributed to (at the time of determination or at any time within the five years prior thereto) by any Loan Party or ERISA Affiliate, and (iii) in respect of which the Loan Party or ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform” shall have the meaning assigned to such term in Section 10.17.

“Pledged Collateral” shall have the meaning assigned to such term or any equivalent term in any Subsidiary Guarantor Pledge Agreement or in the Collateral Agreement.

“Prestige Newbuild Debt” shall mean Indebtedness under each of (A) that certain Loan Agreement, dated as of July 31, 2013, by and among *inter alios* Explorer New Build, LLC, a Delaware limited liability company, and Credit Agricole Corporate and Investment Bank as agent, (B) that certain Loan Agreement, dated as of July 18, 2008, by and among *inter alios* Marina New Build, LLC, a limited liability company formed in the Marshall Islands, and Credit Agricole Corporate and Investment Bank (formerly known as Calyon) as agent and (C) that certain Loan Agreement, dated as of July 18, 2008, by and among *inter alios* Riviera New Build, LLC, a limited liability company formed in the Marshall Islands, and Credit Agricole Corporate and Investment Bank (formerly known as Calyon) as agent, in each case as amended, restated, amended and restated, extended, refinanced, replaced, supplemented or otherwise modified from time to time.

“Pricing Grid” shall mean:

(a) for purposes of the definition of “Applicable Margin” the table set forth below:

| Pricing Level | Total Leverage Ratio | Applicable Margin for ABR Term A Loans, and Revolving Facility Loans | Applicable Margin for Eurocurrency Term A Loans and Revolving Facility Loans |
|----------------------|---|---|---|
| I | Greater than or equal to [*] to 1.00 | 0.75% | 1.75% |
| II | Greater than or equal to [*] to 1.00, but less than [*] to 1.00 | 0.50% | 1.50% |
| III | Greater than or equal to [*] to 1.00, but less than [*] to 1.00 | 0.25% | 1.25% |
| IV | Less than [*] to 1.00 | 0.00% | 1.00% |

and

(b) for purposes of the definition of “Applicable Commitment Fee” the table set forth below:

| Pricing Level | Total Leverage Ratio | Applicable Commitment Fee |
|----------------------|---|----------------------------------|
| I | Greater than or equal to [*] to 1.00 | 0.30% |
| II | Greater than or equal to [*] to 1.00, but less than [*] to 1.00 | 0.25% |
| III | Greater than or equal to [*] to 1.00, but less than [*] to 1.00 | 0.20% |
| IV | Less than [*] to 1.00 | 0.15% |

For the purposes of the foregoing, changes in the Applicable Margin and Applicable Commitment Fee resulting from changes in the Total Leverage Ratio shall become effective on the date (the “Adjustment Date”) that is three Business Days after the date on which financial statements are delivered to the Lenders pursuant to Section 5.04 and shall remain in effect until the next change to be effected pursuant to this paragraph; provided that, notwithstanding the foregoing, Pricing Level II shall, in the case of the Applicable Margin and the Applicable Commitment Fee, apply until the financial statements are delivered for the fiscal quarter ended June 30, 2019. If any financial statements referred to above are not delivered within the time periods specified in Section 5.04, then, at the option of the Administrative Agent or the Required Lenders, until the date that is three Business Days after the date on which such financial statements are delivered, the pricing level that is one pricing level higher than the pricing level theretofore in effect shall apply as of the first Business Day after the date on which such financial statements were to have been delivered but were not delivered.

“primary obligor” shall have the meaning given such term in the definition of the term “Guarantee.”

“Prime Rate” shall mean the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“Pro Forma Basis” shall mean, as to any person, for any events as described below that occur subsequent to the commencement of a period for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation as will give pro forma effect to such events as if such events occurred on the first day of the four consecutive fiscal quarter period ended on or before the occurrence of such event (the “Reference Period”): (i) in making any determination of EBITDA, (x) effect shall be given to any Asset Sale, any acquisition, Investment, improvement (or any similar transaction or transactions not otherwise permitted under Section 6.04 or 6.05 that require a waiver or consent of the Required Lenders and such waiver or consent has been obtained), any dividend, distribution or other similar payment, any designation of any Subsidiary as an Unrestricted Subsidiary and any Subsidiary Redesignation and any restructurings of the business of the Company or any Subsidiary that are expected to have a continuing impact and are factually supportable, which would include cost savings resulting from head count reduction, closure of facilities and similar operational and other cost savings, which adjustments the Company determines are reasonable as set forth in a certificate of a Financial Officer of the Company (the foregoing, together with any transactions related thereto or in connection therewith, the “relevant transactions”), in each case that occurred during the Reference Period or, in the case of determinations made pursuant to the definition of the term “Permitted Business Acquisition” or pursuant to Article VI, occurring during the Reference Period or thereafter and through and including the date upon which the respective Permitted Business Acquisition or relevant transaction is consummated, and (y) on or following the delivery date of any new Vessel and for so long as such Reference Period includes such delivery date, in the event that the Company or any Subsidiary took delivery of any new Vessel during such Reference Period, EBITDA shall include the projected EBITDA (based on reasonable assumptions) for such Vessel as if such Vessel had been in operation on the first day of such Reference Period (as set forth in reasonable detail on an officer’s certificate prepared in good faith by a Responsible Officer of the Company), and (ii) in making any determination on a Pro Forma Basis, all Indebtedness (including Indebtedness issued, incurred or assumed as a result of, or to finance, any relevant transactions and for which the financial effect is being calculated, whether incurred under this Agreement or otherwise, but excluding normal fluctuations in revolving Indebtedness incurred for working capital purposes, in each case not to finance any acquisition) issued, incurred, assumed or permanently repaid during the Reference Period (or, in the case of determinations made pursuant to the definition of the term, “Permitted Business Acquisition” or pursuant to Article VI, occurring during the Reference Period or thereafter and through and including the date upon which the respective Permitted Business Acquisition or relevant transaction is consummated) shall be deemed to have been issued, incurred, assumed or permanently repaid at the beginning of such period except that any Indebtedness incurred in connection with the financing of a new Vessel shall be deemed to have not been incurred until the relevant delivery date for such Vessel, and (iii) (A) any Subsidiary Redesignation then being designated, effect shall be given to such Subsidiary Redesignation and all other Subsidiary Redesignations after the first day of the relevant Reference Period and on or prior to the date of the respective Subsidiary Redesignation then being designated, collectively, and (B) any designation of a Subsidiary as an Unrestricted Subsidiary, effect shall be given to such designation and all other designations of Subsidiaries as Unrestricted Subsidiaries after the first day of the relevant Reference Period and on or prior to the date of the then applicable designation of a Subsidiary as an Unrestricted Subsidiary, collectively. *Pro forma* calculations made pursuant to the definition of the term “Pro Forma Basis” shall be determined in good faith by a Responsible Officer of the Company and may include adjustments to reflect (1) operating expense reductions and other operating improvements or synergies reasonably expected to result from any relevant pro forma event and (2) all adjustments of the nature used in connection with the calculation of Adjusted EBITDA as set forth in footnote 4 to the “Summary Consolidated Financial Data” in the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such Reference Period. The Company shall deliver to the Administrative Agent a certificate of a Financial Officer of the Company setting forth such demonstrable or additional operating expense reductions, other operating improvements or synergies and adjustments pursuant to clause (2), and information and calculations supporting them in reasonable detail.

“Pro Forma Compliance” shall mean, at any date of determination, that, on a Pro Forma Basis after giving effect to the relevant transactions (including the assumption, the issuance, incurrence and permanent repayment of Indebtedness), the Company would not violate the financial covenants set forth in Sections 6.12, 6.13, 6.14 and 6.15, after recomputing the ratios and amounts measured thereunder as of the last day of the most recently ended fiscal quarter of the Company for which the financial statements and certificates required pursuant to Section 5.04 have been delivered, and the Company shall have delivered to the Administrative Agent a certificate of a Responsible Officer of the Company to such effect, together with all relevant financial information.

“Pro Rata Extension Offer” shall have the meaning assigned to such term in Section 2.21(e).

“Process Agent” shall have the meaning assigned to such term in Section 10.15(c).

“Projections” shall mean the projections of the Company and the Subsidiaries included in the Information Memorandum and any other projections and any forward-looking statements (including statements with respect to booked business) of such entities furnished to the Lenders or the Administrative Agent by or on behalf of the Company or any Subsidiary prior to the Closing Date.

“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Public Lender” shall have the meaning assigned to such term in Section 10.17.

“Qualified Equity Interests” shall mean any Equity Interest other than Disqualified Stock.

“Rate” shall have the meaning assigned to such term in the definition of the term “Type.”

“Ratio Compliance” shall mean, at any date of determination, that (A) the Loan-to-Value Ratio on a Pro Forma Basis is equal to or less than [*] to 1.0, or (B) the Fixed Charge Coverage Ratio on a Pro Forma Basis is at least [*] to 1.0.

“Real Property” shall mean, collectively, all right, title and interest (including any leasehold estate) in and to any and all parcels of or interests in real property owned in fee or leased by any Loan Party, whether by lease, license, or other means, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, incidental to the ownership, lease or operation thereof.

“Reference Period” shall have the meaning assigned to such term in the definition of the term “Pro Forma Basis.”

“Refinance” shall have the meaning assigned to such term in the definition of the term “Permitted Refinancing Indebtedness,” “Refinancing” and “Refinanced” shall have a meaning correlative thereto.

“Refinancing” shall mean the payment in full, satisfaction or discharge, as applicable, of all Indebtedness (and termination of all related commitments) under each of (i) that certain Credit Agreement, dated as of July 2, 2013, by and among, *inter alios* Oceania Cruises, Inc., a corporation organized under the Laws of the Republic of Panama, and OCI Finance Corp., a Delaware corporation, as borrowers, the lenders from time to time party thereto and Deutsche Bank AG New York Branch, as administrative agent and mortgage trustee (as amended, restated, amended and restated, extended, refinanced, replaced, supplemented or otherwise modified from time to time), (ii) that certain Credit Agreement, dated as of August 21, 2012, by and among, *inter alios* Classic Cruises, LLC, a Delaware limited liability company and Classic Cruises II, LLC, a Delaware limited liability company, collectively as Holdings, Regent and SSC Finance Corp., a Delaware corporation, as borrowers, the lenders from time to time party thereto and Deutsche Bank AG New York Branch, as administrative agent and collateral agent (as amended, restated, amended and restated, extended, refinanced, replaced, supplemented or otherwise modified from time to time) and (iii) the outstanding aggregate principal amount of 9.125% Second-Priority Senior Secured Notes due 2019 issued by Seven Seas Cruises S. DE R.L., as issuer, pursuant to an indenture, dated as of May 19, 2011, among Seven Seas Cruises S. DE R.L., the guarantors party thereto and Wilmington Trust FSB, as trustee and collateral agent.

“Refinancing Effective Date” shall have the meaning assigned to such term in Section 2.21(j).

“Refinancing Term Loans” shall have the meaning assigned to such term in Section 2.21(j).

“REGATTA” shall mean the Vessel Regatta, IMO number 9156474, currently registered in the name of Regatta Acquisition, LLC under the laws of the Republic of the Marshall Islands with the official number 1664.

“Register” shall have the meaning assigned to such term in Section 10.04(b)(iv).

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Related Parties” shall mean, with respect to any specified person, such person’s Affiliates and the respective directors, trustees, officers, employees, agents and advisors of such person and such person’s Affiliates.

“Release” shall mean any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, emanating or migrating in, into, onto or through the environment or into or out of any property of Hazardous Materials.

“Remaining Present Value” shall mean, as of any date with respect to any lease, the present value as of such date of the scheduled future lease payments with respect to such lease, determined with a discount rate equal to a market rate of interest for such lease reasonably determined at the time such lease was entered into.

“Replacement Revolving Facility Commitments” shall have the meaning assigned to such term in Section 2.21(l).

“Replacement Revolving Facility Effective Date” shall have the meaning assigned to such term in Section 2.21(l).

“Replacement Revolving Loans” shall have the meaning assigned to such term in Section 2.21(l).

“Reportable Event” shall mean any reportable event as defined in Section 4043(c) of ERISA or the regulations issued thereunder, other than those events as to which the 30 day notice period referred to in Section 4043(c) of ERISA has been waived, with respect to a Plan (other than a Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code).

“Required Lenders” shall mean, at any time, Lenders having (a) Loans outstanding, (b) Revolving L/C Exposure and (c) Term A Loan Commitments and Available Unused Commitments, that taken together, represent more than 50% of the sum of (i) all Loans outstanding, (ii) Revolving L/C Exposure and (iii) the total Term A Loan Commitments and Available Unused Commitments at such time. The Loans, Revolving L/C Exposure, Term A Loan Commitments and Available Unused Commitment of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Required Revolving Facility Lenders” shall mean, at any date, Revolving Facility Lenders having Revolving Facility Exposure that, taken together, represents more than 50% of the aggregate Revolving Facility Exposure at such time. The Revolving Facility Exposure of any Defaulting Lender shall be disregarded in determining Required Revolving Facility Lenders at any time.

“Responsible Officer” of any person shall mean any executive officer or Financial Officer of such person and any other officer or similar official thereof responsible for the administration of the obligations of such person in respect of this Agreement.

“Restatement” shall mean the amendment and restatement of the Original Credit Agreement pursuant to this Agreement.

“Restatement Effective Date” shall mean the date on which each of the conditions set forth in Section 4.02 has been satisfied.

“Restricted Subsidiary” means any Subsidiary that is not an Unrestricted Subsidiary.

“Revolving Facility” shall mean the Revolving Facility Commitments of any Class and the extensions of credit made hereunder by the Revolving Facility Lenders of such Class and, for purposes of Section 10.08(b), shall refer to all such Revolving Facility Commitments as a single Class.

“Revolving Facility Borrowing” shall mean a Borrowing comprised of Revolving Facility Loans of the same Class.

“Revolving Facility Commitment” shall mean, with respect to each Revolving Facility Lender, the commitment of such Revolving Facility Lender to make Revolving Facility Loans pursuant to Section 2.01, expressed as an amount representing the maximum aggregate permitted amount of such Revolving Facility Lender’s Revolving Facility Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.08, (b) reduced or increased from time to time pursuant to assignments by or to such Lender under Section 10.04, and (c) increased as provided under Section 2.21. The amount of each Lender’s Revolving Facility Commitment on the Restatement Effective Date is set forth on Schedule 2.01, or in the Assignment and Acceptance or Incremental Assumption Agreement pursuant to which such Lender shall have assumed its Revolving Facility Commitment (or Incremental Revolving Facility Commitment), as applicable. The aggregate amount of the Lenders’ Revolving Facility Commitments is \$875,000,000 on the Restatement Effective Date. After the Restatement Effective Date additional Classes of Revolving Facility Commitments may be added or created pursuant to Incremental Assumption Agreements.

“Revolving Facility Credit Exposure” shall mean, at any time with respect to any Class of Revolving Facility Commitments, the sum of (a) the aggregate principal amount of the Revolving Facility Loans of such Class outstanding at such time and (b) the Revolving L/C Exposure applicable to such Class at such time minus, for the purpose of Sections 6.12, 6.13, 6.15 and 8.02, the amount of Letters of Credit that have been Cash Collateralized in an amount equal to the Minimum Collateral Amount at such time. The Revolving Facility Credit Exposure of any Revolving Facility Lender at any time shall be the product of (x) such Revolving Facility Lender’s Revolving Facility Percentage of the applicable Class and (y) the aggregate Revolving Facility Credit Exposure of such Class of all Revolving Facility Lenders, collectively, at such time.

“Revolving Facility Lender” shall mean a Lender with a Revolving Facility Commitment or with outstanding Revolving Facility Credit Exposure.

“Revolving Facility Loan” shall mean a Loan made by a Revolving Facility Lender pursuant to Section 2.01. Unless the context otherwise requires, the term “Revolving Facility Loans” shall include the Other Revolving Loans.

“Revolving Facility Maturity Date” shall mean, as the context may require, (a) with respect to the Revolving Facility in effect on the Restatement Effective Date, January 2, 2024; provided that the Revolving Facility Maturity Date shall be the earlier date that is 91 days prior to the final maturity date of the 4.75% Notes if on such date (x) the 4.75% Notes have not been repaid (or refinanced with Indebtedness maturing after the Revolving Facility Maturity Date) by such date and (y) Free Liquidity does not exceed the aggregate principal amount of outstanding 4.75% Notes by at least \$50,000,000 and (b) with respect to any other Classes of Revolving Facility Commitments, the maturity dates specified therefor in the applicable Incremental Assumption Agreement.

“Revolving Facility Percentage” shall mean, with respect to any Revolving Facility Lender of any Class, the percentage of the total Revolving Facility Commitments of such Class represented by such Lender’s Revolving Facility Commitment of such Class. If the Revolving Facility Commitments of such Class have terminated or expired, the Revolving Facility Percentages of such Class shall be determined based upon the Revolving Facility Commitments of such Class most recently in effect, giving effect to any assignments pursuant to Section 10.04.

“Revolving L/C Exposure” of any Class shall mean at any time the sum of (a) the aggregate undrawn amount of all Letters of Credit applicable to such Class outstanding at such time and (b) the aggregate principal amount of all L/C Disbursements applicable to such Class that have not yet been reimbursed at such time. The Revolving L/C Exposure of any Class of any Revolving Facility Lender at any time shall mean its applicable Revolving Facility Percentage of the aggregate Revolving L/C Exposure applicable to such Class at such time. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, that with respect to any Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

“S&P” shall mean Standard & Poor’s Ratings Group, Inc.

“Sale and Lease-Back Transaction” shall have the meaning assigned to such term in Section 6.03.

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of comprehensive Sanctions (at the time of this Agreement, Cuba, Iran, North Korea, Sudan, Syria and Crimea).

“Sanctioned Person” means, at any time, any person with whom dealings are prohibited under Sanctions, including (a) any person listed in any Sanctions-related list of designated persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or by the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or Norway, (b) any person organized or resident in a Sanctioned Country or (c) any person owned or controlled by any such person or persons described in the foregoing clauses (a) or (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State or (b) the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or Norway.

“SEC” shall mean the United States Securities and Exchange Commission or any successor thereto.

“Second Lien Intercreditor Agreement” shall mean an Intercreditor Agreement between the Administrative Agent and the authorized representative named therein for the Senior Secured Notes, substantially in the form of Exhibit K-3, with such changes that are reasonably satisfactory to the Administrative Agent.

“Second Valuation” shall have the meaning assigned to such term in Section 5.16.

“Secured Parties” shall mean the “Secured Parties” as defined in the Collateral Agreement.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Documents” shall mean the Vessel Mortgages, the Deeds of Covenants, the Collateral Agreement, the Subsidiary Guarantor Pledge Agreements, the Earnings Assignments, the Insurance Assignments and each of the security agreements and other instruments and documents executed and delivered pursuant to any of the foregoing or pursuant to Section 5.10.

“Senior Secured Note Obligations” shall mean all obligations defined as “Senior Secured Note Obligations” in the Collateral Agreement and the other Security Documents.

“Senior Secured Notes” shall mean secured or unsecured notes or other debt of the Company issued after the Closing Date, and the Indebtedness represented thereby; provided that (a) the terms of which do not provide for any scheduled repayment, mandatory redemption or sinking fund obligations prior to the Latest Maturity Date (other than customary offers to repurchase upon a change of control, asset sale or event of loss and customary acceleration right after an event of default), (b) (i) [*]% of the Net Proceeds of all Pari Passu Senior Secured Notes and (ii) [*]% of the Net Proceeds of all other Senior Secured Notes shall be applied, on the date of the incurrence thereof, to prepay Term Loans and accrued but unpaid interest, premiums and fees and expenses associated with such prepayment, (c) in respect of any Senior Secured Notes secured by Collateral, no Affiliate of the Company (other than a Loan Party or a temporary escrow issuer) shall be an obligor (including pursuant to a Guarantee) in respect thereof, (d) the covenants, events of default, guarantees, collateral and other terms of which (other than interest rate and redemption premiums), taken as a whole, are not more restrictive to the Company and its Subsidiaries than those in this Agreement (or, if more restrictive, the Loan Documents are amended to contain such more restrictive terms (which amendments shall automatically occur)), (e) in respect of any Senior Secured Notes secured by Collateral, the obligations in respect thereof shall not be secured by any Lien on any asset of the Company, any Subsidiary or any other Affiliate (other than a transitory escrow issuer) of the Company, other than any asset constituting Collateral, (f) if such Senior Secured Notes are intended to be secured by the Collateral on a pari passu basis with the Obligations, then all security therefor shall be granted pursuant to the Security Documents, and the secured parties thereunder, or a trustee or collateral agent on their behalf, shall have become a party to a First Lien Intercreditor Agreement and shall have executed and delivered to the Collateral Agent a joinder agreement to the applicable Security Documents in substantially the form attached thereto or otherwise in form and substance reasonably acceptable to the Collateral Agent, and (g) if such Senior Secured Notes are intended to be secured by the Collateral on a junior basis to the Obligations, then all security therefor shall be granted pursuant to separate security documents in substantially the same form and substance as the Security Documents, and the secured parties thereunder, or a trustee or collateral agent on their behalf, shall have become a party to a Second Lien Intercreditor Agreement; provided further that, with respect to clause (a) above, Indebtedness constituting Senior Secured Notes when issued shall not cease to constitute Senior Secured Notes as a result of the subsequent extension of the Latest Maturity Date.

“Senior Secured Notes Indenture” shall mean any indenture under which any Senior Secured Notes are issued, as the same may be amended, restated, supplemented, substituted, replaced, refinanced, supplemented or otherwise modified from time to time in accordance with Section 6.01(z).

“Senior Unsecured Notes” shall mean NCL’s 4.750% senior notes due 2021 (the “4.75% Notes”), pursuant to an indenture, dated as of December 14, 2016, between NCL and U.S. Bank National Association, as trustee (the “4.75% Notes Indenture”), and/or any notes issued by NCL in exchange for, and as contemplated by, the 4.75% Notes and the related registration rights agreement with substantially identical terms as the 4.75% Notes, in each case as in effect on the Restatement Effective Date and as amended, restated, supplemented or otherwise modified from time to time in accordance with the requirements thereof and of this Agreement.

“Senior Unsecured Notes Documents” shall mean the Senior Unsecured Notes and the Senior Unsecured Notes Indentures.

“Senior Unsecured Notes Indentures” shall mean the 4.75% Notes Indenture, as in effect on the Restatement Effective Date and as amended, restated, supplemented or otherwise modified from time to time in accordance with the requirements thereof and of this Agreement.

“Similar Business” shall mean a business, the majority of whose revenues are derived from the activities of the Company and its Subsidiaries as of the Restatement Effective Date or any business or activity that is reasonably similar or complementary thereto or a reasonable extension, development or expansion thereof or ancillary thereto.

“Specified Additional Subsidiary Guarantor” shall mean Norwegian Sky, Ltd.

“Specified Additional Vessel” shall mean “NORWEGIAN SKY”.

“Specified Target Mortgaged Vessels” shall mean each of the Vessels identified on Schedule 1.01(c).

“Specified Target Subsidiaries” shall mean each of the persons identified on Schedule 1.01(b).

“Sponsors” shall mean (i) Apollo Management, L.P. and any of its respective Affiliates other than any portfolio companies not primarily engaged in the cruise business (collectively, the “Apollo Sponsors”), (ii) TPG Global, LLC, TPG Capital and any of their respective Affiliates other than any portfolio companies (collectively, the “TPG Sponsors”), (iii) Genting Hong Kong Limited, and any of its respective Affiliates (collectively, the “Genting Sponsors”), and (iv) any person that forms a group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision) with any Apollo Sponsors, TPG Sponsors and/or Genting Sponsors; provided that the Apollo Sponsors, TPG Sponsors and/or Genting Sponsors (x) owns a majority of the voting power and (y) controls a majority of the board of directors of such group.

“Spot Rate” for a currency means the rate determined by the Administrative Agent or an Issuing Bank, as applicable, to be the rate quoted by the person acting in such capacity as the spot rate for the purchase by such person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent or such Issuing Bank may obtain such spot rate from another financial institution designated by the Administrative Agent or such Issuing Bank if the person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

“Standby Letter of Credit” shall have the meaning provided in Section 2.05(a).

“Statutory Reserves” shall mean, with respect to any currency, any reserve, liquid asset or similar requirements established by any Governmental Authority of the United States, the United Kingdom or the European Union or of the jurisdiction of such currency or any jurisdiction in which Loans in such currency are made to which banks in such jurisdiction are subject for any category of deposits or liabilities customarily used to fund loans in such currency or by reference to which interest rates applicable to Loans in such currency are determined.

“Subagent” shall have the meaning assigned to such term in Section 9.02.

“subsidiary” shall mean, with respect to any person (herein referred to as the “parent”), any corporation, partnership, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, directly or indirectly, owned, Controlled or held, or (b) that is, at the time any determination is made, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” shall mean, unless the context otherwise requires, a subsidiary of the Company. Notwithstanding the foregoing (and except for purposes of Sections 3.08, 3.09, 3.13, 3.15, 3.16, 5.03, 5.09 and 8.01(k), and the definition of “Unrestricted Subsidiary” contained herein), an Unrestricted Subsidiary shall be deemed not to be a Subsidiary of the Company or any of its Subsidiaries for purposes of this Agreement.

“Subsidiary Guarantor” shall mean (i) each direct and indirect Subsidiary of the Company which directly owns a Mortgaged Vessel (other than the Co-Borrower) and (ii) each Additional Subsidiary Guarantor.

“Subsidiary Guarantor Pledge Agreement” shall mean each of (a) the Bermuda law Share Charge Agreement dated as of the Closing Date between NCL International, Ltd. and the Collateral Agent in respect of the equity of each Subsidiary Guarantor named therein and incorporated in and existing under the laws of Bermuda, (b) the Isle of Man law Pledge Agreement dated as of the Closing Date between NCL International, Ltd. and the Collateral Agent in respect of the equity of each Subsidiary Guarantor incorporated in and existing under the laws of the Isle of Man, (c) the New York law Pledge Agreement dated as of the Acquisition Closing Date between the Oceania Cruises, Inc. and the Collateral Agent in respect of the equity of each Subsidiary Guarantor named therein, (d) the New York law Pledge Agreement dated as of the Acquisition Closing Date between Seven Seas Cruises s. de r.l. and the Collateral Agent in respect of the equity of each Subsidiary Guarantor named therein, (e) the Bermuda law Share Charge Agreement dated as of the Third Restatement Effective Date between NCL International, Ltd. and the Collateral Agent in respect of the equity of the Specified Additional Subsidiary Guarantor incorporated in and existing under the laws of Bermuda and (f) any additional pledge agreement relating to the Equity Interests of any Subsidiary Guarantor.

“Subsidiary Redesignation” shall have the meaning provided in the definition of “Unrestricted Subsidiary.”

“Swap Agreement” shall mean any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Company or any of the Subsidiaries shall be a Swap Agreement.

“Target” shall mean Prestige Cruises International, Inc., a corporation organized under the Laws of the Republic of Panama.

“Tax Agreements” shall have the meaning assigned to such term in Section 6.06(b).

“Taxes” shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings or other similar charges imposed by any Governmental Authority whether computed on a separate, consolidated, unitary, combined or other basis and any interest, fines, penalties or additions to tax with respect to the foregoing.

“Term A Borrowing” shall mean a Borrowing comprised of Term A Loans.

“Term A Facility” shall mean the Term A Loan Commitments and any Term A Loans made hereunder.

“Term A Lender” shall mean a Lender with a Term A Loan Commitment and/or an outstanding Term A Loan.

“Term A Loan Commitment” shall mean with respect to each Term A Lender, the commitment of such Term A Lender to make Term A Loans in Dollars on the Restatement Effective Date as set forth in Section 2.01(a). The initial amount of each Lender’s Term A Loan Commitment is set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender shall have assumed its Term A Loan Commitment, as applicable. The aggregate amount of the Term A Loan Commitments on the Restatement Effective Date is \$1,633,000,000.

“Term A Loan Installment Date” shall have the meaning assigned to such term in Section 2.10(a)(i).

“Term A Loan Maturity Date” shall mean January 2, 2024; provided that the Term A Loan Maturity Date shall be the earlier date that is 91 days prior to the final maturity date of the 4.75% Notes if on such date (x) the 4.75% Notes have not been repaid (or refinanced with Indebtedness maturing after the Term A Loan Maturity Date) by such date and (y) Free Liquidity does not exceed the aggregate principal amount of outstanding 4.75% Notes by at least \$50,000,000.

“Term A Loans” shall mean (a) any term loans made by the Lenders to the Borrowers on the Restatement Effective Date pursuant to Section 2.01(a) and (b) any Incremental Term Loans in the form of Term A Loans made by the Incremental Term Lenders to the Borrowers pursuant to Section 2.01(d).

“Term Borrowing” shall mean any Term A Borrowing, any Incremental Term Borrowing or any other Term Borrowing.

“Term Facility” shall mean the Term A Facility and/or any or all of the Incremental Term Facilities and/or any or all of the Refinancing Term Loans.

“Term Facility Maturity Date” shall mean, as the context may require, (a) with respect to the Term A Facility in effect on the Restatement Effective Date, the Term A Loan Maturity Date and (b) with respect to any other Class of Term Loans, the maturity dates specified therefor in the applicable Incremental Assumption Agreement.

“Term Loan Installment Date” shall mean any Term A Loan Installment Date, any Incremental Term Loan Installment Date or any Other Term Loan Installment Date.

“Term Loans” shall mean the Term A Loans and/or the Incremental Term Loans and/or the Refinancing Term Loans.

“Test Period” shall mean, on any date of determination, the period of four consecutive fiscal quarters of the Company then most recently ended (taken as one accounting period).

“Third Restatement Effective Date” shall mean October 10, 2017.

“Third Valuation” shall have the meaning assigned to such term in Section 5.16.

“Total Capitalization” shall mean, at any date of determination, the Total Net Funded Debt plus the consolidated stockholders’ equity of the Company and its Subsidiaries at such date determined in accordance with GAAP and derived from the then latest unaudited and consolidated financial statements of the Company and its Subsidiaries delivered to the Administrative Agent in the case of the first three quarters of each fiscal year and the then latest audited and consolidated financial statements delivered to the Administrative Agent in the case of each fiscal year; provided it is understood that the effect of any impairment of intangible assets shall be added back to stockholders’ equity and provided further, that Total Capitalization shall be determined on a Pro Forma Basis.

“Total Leverage Ratio” shall mean, on any date, the ratio of (a) (i) the aggregate principal amount of Consolidated Debt of the Company and its Subsidiaries outstanding as of the last day of the Test Period most recently ended as of such date less (ii) without duplication, the Unrestricted Cash and Permitted Investments of the Company and its Subsidiaries as of the last day of such Test Period, to (b) EBITDA for such Test Period, all determined on a consolidated basis in accordance with GAAP; provided, that the Total Leverage Ratio shall be determined for the relevant Test Period on a Pro Forma Basis.

“Total Net Funded Debt” shall mean, as at any relevant date:

- (i) Indebtedness for borrowed money of the Company and its Subsidiaries; and
- (ii) the amount of any Indebtedness for borrowed money of any person other than the Company or its Subsidiaries but which is guaranteed by the Company or any of its Subsidiaries as at such date:

less an amount equal to any Unrestricted Cash as at such date; provided that any unused Commitments and other amounts available for drawing under other revolving or other credit facilities of the Company and its Subsidiaries which remain undrawn shall not be counted as cash or indebtedness for the purposes of Total Net Funded Debt and provided further, that Total Net Funded Debt shall be determined on a Pro Forma Basis.

“Trade Letter of Credit” shall have the meaning provided in Section 2.05(a)(i).

“Transactions” shall mean, collectively, (a) the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party and, in the case of the Borrowers, the making of the Borrowings hereunder, and (b) the payment of related fees and expenses.

“Trust Property” shall mean (a) the security, powers, rights, titles, benefits and interests (both present and future) constituted by and conferred on the Mortgage Trustee under or pursuant to the Vessel Mortgages (including the benefits of all covenants, undertakings, representations, warranties and obligations given, made or undertaken to the Mortgage Trustee in the Vessel Mortgages), (b) all moneys, property and other assets paid or transferred to or vested in the Mortgage Trustee, or any agent of the Mortgage Trustee whether from any Loan Party or any other person, and (c) all money, investments, property and other assets at any time representing or deriving from any of the foregoing, including all interest, income and other sums at any time received or receivable by the Mortgage Trustee or any agent of the Mortgage Trustee in respect of the same (or any part thereof).

“Type” shall mean, when used in respect of any Loan or Borrowing, the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined. For purposes hereof, the term “Rate” shall include the Adjusted LIBO Rate and the ABR.

“Unfunded Pension Liability” shall mean the excess of a Plan’s “accumulated benefit obligations” as defined under Statement of Financial Accounting Standards No. 87, over the current fair market value of that Plan’s assets.

“Uniform Commercial Code” shall mean the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“United Kingdom” and “U.K.” shall mean the United Kingdom of Great Britain and Northern Ireland.

“United States” and “U.S.” shall mean the United States of America.

“Unrestricted Cash” shall mean cash or cash equivalents of the Company or any of its Subsidiaries that would not appear as “restricted” on a consolidated balance sheet of the Company or any of its Subsidiaries.

“Unrestricted Subsidiary” shall mean any Subsidiary of the Company that is acquired or created after the Restatement Effective Date and designated by the Company as an Unrestricted Subsidiary hereunder by written notice to the Administrative Agent; provided, that the Company shall only be permitted to so designate a new Unrestricted Subsidiary after the Restatement Effective Date so long as (a) no Default or Event of Default has occurred and is continuing or would result therefrom, (b) immediately after giving effect to such designation (as well as all other such designations theretofore consummated after the first day of such Reference Period), the Company shall be in Pro Forma Compliance, (c) such Unrestricted Subsidiary shall be capitalized (to the extent capitalized by the Company or any of its Subsidiaries) through Investments as permitted by, and in compliance with, Section 6.04, (d) [reserved]; (e) such Subsidiary shall have been designated an “unrestricted subsidiary” (or otherwise not be subject to the covenants and defaults) under the Senior Unsecured Notes Indentures, all Permitted Additional Debt and all Permitted Refinancing Indebtedness in respect of any of the foregoing and all Disqualified Stock; provided, further, that at the time of the initial Investment by the Company or any of its Subsidiaries in such Subsidiary, the Company shall designate such entity as an Unrestricted Subsidiary in a written notice to the Administrative Agent. The Company may designate any Unrestricted Subsidiary to be a Subsidiary for purposes of this Agreement (each, a “Subsidiary Redesignation”); provided, that (i) such Unrestricted Subsidiary, both before and after giving effect to such designation, shall be a Wholly Owned Subsidiary of the Company, (ii) no Default or Event of Default has occurred and is continuing or would result therefrom, (iii) immediately after giving effect to such Subsidiary Redesignation (as well as all other Subsidiary Redesignations theretofore consummated after the first day of such Reference Period), the Company shall be in Pro Forma Compliance, (iv) all representations and warranties contained herein and in the other Loan Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the date of such Subsidiary Redesignation (both before and after giving effect thereto), unless stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date, and (v) the Company shall have delivered to the Administrative Agent an officer’s certificate executed by a Responsible Officer of the Company, certifying to the best of such officer’s knowledge, compliance with the requirements of preceding clauses (i) through (iv), inclusive, and containing the calculations and information required by the preceding clause (ii).

“USA PATRIOT Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107 56 (signed into law October 26, 2001)).

“Valuation” shall mean, in relation to any Mortgaged Vessel, a valuation of such Mortgaged Vessel made at any relevant time by an Approved Broker with or without physical inspection of such Mortgaged Vessel, on the basis of a sale for prompt delivery for cash at arms’ length on customary commercial terms as between a willing seller and a willing buyer, free of any existing charter or other contracts of employment. If any Approved Broker shall deliver a Valuation indicating a range of values for a Mortgaged Vessel, the Valuation for such Mortgaged Vessel shall be the arithmetic mean of the two endpoints of such range. Further, if any Approved Broker shall deliver a Valuation indicating a value for a Mortgaged Vessel in any currency other than Dollars, the Valuation for such Mortgaged Vessel shall be the Dollar Equivalent thereof. It is agreed that as of the Restatement Effective Date and until a Valuation shall have been obtained pursuant to Section 5.16 for any Mortgaged Vessel, the Valuation for such Mortgaged Vessel shall be as follows: (i) \$[*] for the NORWEGIAN SUN, (ii) \$[*] for the NORWEGIAN DAWN, (iii) \$[*] for the NORWEGIAN STAR, (iv) \$[*] for the NORWEGIAN SPIRIT, (v) \$[*] for the NORWEGIAN PEARL, (vi) \$[*] for the NORWEGIAN GEM, (vii) \$[*] for the INSIGNIA, (viii) \$[*] for the NAUTICA, (ix) \$[*] for the REGATTA, (x) \$[*] for the MARINER, (xi) \$[*] for the NAVIGATOR, (xii) \$[*] for the VOYAGER and (xiii) \$[*] for the NORWEGIAN SKY.

“Value Component” shall have the meaning assigned to such term in the definition of Loan-to-Value Ratio in this Section 1.01.

“Vessel” shall mean a passenger cruise vessel.

“Vessel Mortgages” shall mean each first priority statutory ship mortgage or first preferred ship mortgage (or equivalent) granting a Lien on a Mortgaged Vessel.

“VOYAGER” shall mean the Vessel Seven Seas Voyager, IMO number 9247144, currently registered in the name of Voyager Vessel Company, LLC under the laws of the Commonwealth of Bahamas with the official number 8000610.

“Wholly Owned Subsidiary” of any person shall mean a subsidiary of such person, all of the Equity Interests of which (other than directors’ qualifying shares or nominee or other similar shares required pursuant to applicable law) are owned by such person or another Wholly Owned Subsidiary of such person.

“Withdrawal Liability” shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” shall mean the Loan Parties, the Administrative Agent or any other applicable withholding agent.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.02. Terms Generally. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions set forth or referred to in Section 1.01 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, any reference in this Agreement to any Loan Document shall mean such document as amended, restated, supplemented, replaced or otherwise modified from time to time. All references to a person shall include that person’s permitted successors and assigns (subject to any restrictions on assignment set forth herein). With respect to any Default or Event of Default, the words “exist,” “existence,” “occurred” or “continuing” shall be deemed to refer to a Default or Event of Default that has not been waived in accordance with Section 10.08 or, to the extent applicable, cured in accordance with Section 8.02 or otherwise. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided, that, if the Company notifies the Administrative Agent that the Company requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Company that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including,” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.”

Section 1.03. Exchange Rates: Currency Equivalents Except for purposes of financial statements delivered by Loan Parties hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent or Issuing Bank, as applicable. No Default or Event of Default shall arise as a result of any limitation or threshold set forth in Dollars in Article VI or paragraph (f) or (j) of Section 8.01 being exceeded solely as a result of changes in currency exchange rates from those rates applicable on the first day of the fiscal quarter in which such determination occurs or in respect of which such determination is being made.

Section 1.04. Effect of this Agreement on the Original Credit Agreement and the Other Existing Loan Documents On the Restatement Effective Date, the Loans (as defined in the Original Credit Agreement) shall be repaid with proceeds of the Term A Loans borrowed on the Restatement Effective Date and the Revolving Facility Commitments (as defined in the Original Credit Agreement) shall be amended and restated in their entirety as Revolving Facility Commitments hereunder as set forth on Schedule 2.01. Upon satisfaction of the conditions precedent to the effectiveness of this Agreement set forth in Section 4.02, this Agreement shall be binding on the Borrowers, the Administrative Agent, the Collateral Agent, the Lenders and the other parties hereto and the Original Credit Agreement and the provisions thereof shall be replaced in their entirety by this Agreement and the provisions hereof; provided that for the avoidance of doubt, each Borrower and each other Loan Party hereby reaffirms that (a) the Obligations (as defined in the Original Credit Agreement) of the Borrowers and the other Loan Parties under the Original Credit Agreement and the other Loan Documents that remain unpaid and outstanding as of the date of this Agreement shall continue to exist under and be evidenced by this Agreement and the other Loan Documents, (b) all Letters of Credit under and as defined in the Original Credit Agreement shall continue as Letters of Credit under this Agreement and (c) the Collateral and the Loan Documents shall continue to secure, guarantee, support and otherwise benefit the Obligations on the same terms as prior to the effectiveness hereof. Upon the effectiveness of this Agreement, each Loan Document (other than the Original Credit Agreement) that was in effect immediately prior to the date of this Agreement shall continue to be effective on its terms unless otherwise expressly stated herein. The parties hereto acknowledge and agree that neither the execution and delivery of this Agreement nor the consummation of any other transaction contemplated hereunder is intended to constitute a novation of the Original Credit Agreement or any other Loan Document.

Section 1.05. Interest Rates: LIBOR Notification. The interest rate on Eurocurrency Loans is determined by reference to the LIBO Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the “*IBA*”) for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that commencing in 2022, the London interbank offered rate may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on Eurocurrency Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 2.14(b) of this Agreement, such Section 2.14(b) provides a mechanism for determining an alternative rate of interest. The Administrative Agent will notify the Company, pursuant to Section 2.14, in advance of any change to the reference rate upon which the interest rate on Eurocurrency Loans is based. However, the Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of “LIBO Rate” or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 2.14(b), will be similar to, or produce the same value or economic equivalence of, the LIBO Rate or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

ARTICLE II

THE CREDITS

Section 2.01. Commitments. Subject to the terms and conditions set forth herein:

(a) each Lender with a Term A Loan Commitment on the Restatement Effective Date agrees to make a Term A Loan denominated in Dollars to the Borrowers on the Restatement Effective Date in a principal amount equal to its Term A Loan Commitment;

(b) [reserved];

(c) each Lender agrees to make Revolving Facility Loans denominated in Dollars of a Class to the Borrowers from time to time during the Availability Period in an aggregate principal amount that will not result in (i) such Lender’s Revolving Facility Credit Exposure of such Class exceeding such Lender’s Revolving Facility Commitment of such Class or (ii) the Revolving Facility Credit Exposure of such Class exceeding the total Revolving Facility Commitments of such Class. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow amounts under the Revolving Facility Loans; and

(d) each Lender having an Incremental Term Loan Commitment agrees, subject to the terms and conditions set forth in the applicable Incremental Assumption Agreement, to make Incremental Term Loans denominated in Dollars to the Borrowers, in an aggregate principal amount not to exceed its Incremental Term Loan Commitment.

Section 2.02. Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans under the same Facility and of the same Type made by the Lenders ratably in accordance with their respective Commitments under the applicable Facility; provided, however, that Revolving Facility Loans of any Class shall be made by the Revolving Facility Lenders of such Class ratably in accordance with their respective Revolving Facility Percentages on the date such Loans are made hereunder. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that unless otherwise agreed by all the Lenders, (i) the obligations of a Lender under the Loan Documents are several, (ii) failure by a Lender to perform its obligations does not affect the obligations of any other party under the Loan Documents, (iii) no Lender is responsible for the obligations of any other Lender under the Loan Documents, (iv) the rights of a Lender under the Loan Documents are separate and independent rights, (v) a Lender may, except as otherwise stated in the Loan Documents, separately enforce those rights and (vi) a debt arising under the Loan Documents to a Lender is a separate and independent debt.

(b) Subject to Section 2.02(c) and Section 2.14, each Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the Borrowers may request in accordance herewith. Each Lender at its option may make any ABR Loan or Eurocurrency Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided, that any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan in accordance with the terms of this Agreement and such Lender shall not be entitled to any amounts payable under Section 2.15 or 2.17 solely in respect of increased costs resulting from such exercise and existing at the time of such exercise.

(c) At the commencement of each Interest Period for any Eurocurrency Revolving Facility Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. At the time that each ABR Revolving Facility Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided, that an ABR Revolving Facility Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Revolving Facility Commitments or that is required to finance the reimbursement of an L/C Disbursement as contemplated by Section 2.05(e). Borrowings of more than one Type and under more than one Facility may be outstanding at the same time; provided, that there shall not at any time be more than a total of (1) 10 Eurocurrency Borrowings outstanding under the Term Facilities and (2) 10 Eurocurrency Borrowings outstanding under the Revolving Facility.

(d) Notwithstanding any other provision of this Agreement, the Borrowers shall not be entitled to request, or to elect to convert or continue, any Borrowing of any Class if the Interest Period requested with respect thereto would end after the Revolving Facility Maturity Date or the Term Facility Maturity Date for such Class, as applicable.

Section 2.03. Requests for Borrowings. To request a Revolving Facility Borrowing and/or a Term Borrowing, the applicable Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurocurrency Borrowing, not later than 2:00 p.m., Local Time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing not later than 12:00 noon, Local Time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the applicable Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) whether such Borrowing is to be a Borrowing of Term A Loans, Revolving Facility Loans, Other Incremental Revolving Loans, Other Revolving Loans, Replacement Revolving Loans, Refinancing Term Loans or Other Incremental Term Loans;
- (ii) the aggregate amount of the requested Borrowing;
- (iii) the date of such Borrowing, which shall be a Business Day;
- (iv) subject to Section 2.02(c), whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;
- (v) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (vi) the location and number of the applicable Borrower's account to which funds are to be disbursed.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing, then the Borrowers shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section 2.03, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04. [Reserved].

Section 2.05. Letters of Credit.

(a) General.

(i) Subject to the terms and conditions set forth herein, the Company may request the issuance of (w) trade letters of credit in support of trade obligations of the Loan Parties and their Affiliates incurred in the ordinary course of business (such letters of credit issued for such purposes, "Trade Letters of Credit") and (x) standby letters of credit issued for any other lawful purposes of the Loan Parties and their Affiliates (such letters of credit issued for such purposes, "Standby Letters of Credit"), in each case, for its own account in Dollars and in a form reasonably acceptable to the applicable Issuing Bank, at any time and from time to time during the applicable Availability Period and prior to the date that is five Business Days prior to the applicable Revolving Facility Maturity Date. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrowers to, or entered into by the Borrowers with, an Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. Notwithstanding anything herein to the contrary, no Issuing Bank shall have any obligation hereunder to issue any Letter of Credit the proceeds of which would be made available to any person (i) to fund any activity or business of or with any Sanctioned Person or in any Sanctioned Country, in violation of any Sanctions or (ii) in any manner that would result in a violation of any Sanctions by any party to this Agreement. All Existing Letters of Credit shall be deemed to be "Letters of Credit" issued pursuant to this Agreement on the Restatement Effective Date and from and after the Restatement Effective Date shall be subject to and governed by the terms and conditions hereof and shall no longer be deemed to be outstanding under the Original Credit Agreement.

(ii) No Issuing Bank shall be under any obligation to issue any Letter of Credit if any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit or any requirement of law applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit any restriction or reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect with respect to such Issuing Bank on the Restatement Effective Date, or any unreimbursed loss, cost or expense (including as a result of Basel III) which was not applicable or in effect with respect to such Issuing Bank as of the Restatement Effective Date and which such Issuing Bank reasonably and in good faith deems material to it or if the amount of such Letter of credit, when aggregated with the amount of all other Letters of Credit (and L/C Disbursements in respect thereof) issued by such Issuing Bank would exceed such Issuing Bank's Issuing Bank Sublimit.

(b) Notice of Issuance, Amendment, Renewal, Extension: Certain Conditions To request the issuance of a Letter of Credit (or the amendment, renewal (other than an automatic extension in accordance with paragraph (c) of this Section) or extension of an outstanding Letter of Credit), the Company shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to the applicable Issuing Bank and the Administrative Agent (three Business Days in advance of the requested date of issuance, amendment or extension or such shorter period as the Administrative Agent and the applicable Issuing Bank in their sole discretion may agree) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended or extended, and specifying the date of issuance, amendment or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount and currency of such Letter of Credit, the name and address of the beneficiary thereof, whether such Letter of Credit constitutes a Standby Letter of Credit or a Trade Letter of Credit, and such other information as shall be necessary to issue, amend or extend such Letter of Credit. If requested by the applicable Issuing Bank, the Company also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended or extended only if (and upon issuance, amendment or extension of each Letter of Credit the Company shall be deemed to represent and warrant that), after giving effect to such issuance, amendment or extension (i) the Revolving L/C Exposure shall not exceed the Letter of Credit Sublimit, (ii) the applicable Revolving Facility Credit Exposure shall not exceed the applicable Revolving Facility Commitments.

(c) Expiration Date. Each Standby Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year (unless otherwise agreed upon by the Administrative Agent and the applicable Issuing Bank in their sole discretion) after the date of the issuance of such Standby Letter of Credit (or, in the case of any extension thereof, one year (unless otherwise agreed upon by the Administrative Agent and the applicable Issuing Bank in their sole discretion) after such renewal or extension) and (ii) the date that is five Business Days prior to the applicable Revolving Facility Maturity Date; provided, that any Standby Letter of Credit with a one year tenor may provide for automatic extension thereof for additional one year periods (which, in no event, shall extend beyond the date referred to in clause (ii) of this paragraph (c)) so long as such Standby Letter of Credit permits the applicable Issuing Bank to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Standby Letter of Credit) by giving prior notice to the beneficiary thereof within a time period during such twelve-month period to be agreed upon at the time such Standby Letter of Credit is issued; provided, further, that if the applicable Issuing Bank and the Administrative Agent each consent in their sole discretion, the expiration date on any Standby Letter of Credit may extend beyond the date referred to in clause (ii) above, provided, that if any such Standby Letter of Credit is outstanding or is issued under the Revolving Facility Commitments of any Class after the date that is 30 days prior to such Revolving Facility Maturity Date for such Class the Borrowers shall provide cash collateral pursuant to documentation reasonably satisfactory to the Administrative Agent and the relevant Issuing Bank in an amount equal to [*]% of the face amount of each such Standby Letter of Credit on such date of issuance. Each Trade Letter of Credit shall expire on the earlier of (x) 180 days after such Trade Letter of Credit's date of issuance or (y) the date five Business Days prior to the applicable Revolving Facility Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) under the Revolving Facility Commitments of any Class and without any further action on the part of the applicable Issuing Bank or the Revolving Facility Lenders, such Issuing Bank hereby grants to each Revolving Facility Lender under such Class, and each such Revolving Facility Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Revolving Facility Lender's applicable Revolving Facility Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Facility Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Issuing Bank, such Revolving Facility Lender's Revolving Facility Percentage of each L/C Disbursement made by such Issuing Bank and not reimbursed by the Borrowers on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrowers for any reason, in each case, in Dollars. Each Revolving Facility Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or Event of Default or reduction or termination of the Commitments or the fact that, as a result of changes in currency exchange rates, such Revolving Facility Lender's Revolving Facility Credit Exposure at any time might exceed its Revolving Facility Commitment at such time (in which case Section 2.11(f) would apply), and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. The obligation of the Revolving Facility Lenders to participate in Letters of Credit shall terminate on the Revolving Facility Maturity Date.

(c) Reimbursement. If the applicable Issuing Bank shall make any L/C Disbursement in respect of a Letter of Credit, the Borrowers shall reimburse (or cause the applicable Loan Party or Subsidiary to reimburse) such L/C Disbursement by paying to the Administrative Agent an amount in Dollars equal to such L/C Disbursement not later than 2:00 p.m., Local Time, on the same day (or if such day is not a Business Day, the next following Business Day) the Company receives notice under paragraph (g) of this Section of such L/C Disbursement, together with accrued interest thereon from the date of such L/C Disbursement at the rate applicable to ABR Revolving Facility Loans of the applicable Class; provided, that the Borrowers may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with an ABR Revolving Facility Borrowing of the applicable Class, as applicable, in an equivalent amount and currency and, to the extent so financed, the Borrowers' obligations to make such payment shall be discharged and replaced by the resulting ABR Revolving Facility Borrowing. If the Borrowers fail to reimburse any L/C Disbursement when due, then the Administrative Agent shall promptly notify the applicable Issuing Bank and each other applicable Revolving Facility Lender of the applicable L/C Disbursement, the payment then due from the Borrowers in respect thereof and, in the case of a Revolving Facility Lender, such Lender's Revolving Facility Percentage thereof. Promptly following receipt of such notice, each Revolving Facility Lender with a Revolving Facility Commitment of the applicable Class shall pay to the Administrative Agent in Dollars, its Revolving Facility Percentage (as specified by the Administrative Agent to such Revolving Facility Lender at the time) of the payment then due from the Borrowers in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Revolving Facility Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Revolving Facility Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrowers pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Revolving Facility Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders in Dollars and such Issuing Bank as their interests may appear. Any payment made by a Revolving Facility Lender pursuant to this paragraph to reimburse an Issuing Bank for any L/C Disbursement (other than the funding of an ABR Revolving Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrowers of their obligation to reimburse such L/C Disbursement.

(f) Obligations Absolute. The obligation of the Borrowers to reimburse L/C Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein or herein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the applicable Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrowers' obligations hereunder. Neither the Administrative Agent, the Lenders nor any Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of such Issuing Bank, or any of the circumstances referred to in clauses (i), (ii) or (iii) of the first sentence; provided, that the foregoing shall not be construed to excuse the applicable Issuing Bank from liability to the Borrowers to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrowers to the extent permitted by applicable law) suffered by the Borrowers that are determined by a court of competent jurisdiction to have been caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the applicable Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. The applicable Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. Such Issuing Bank shall promptly notify the Administrative Agent and the Company by telephone (confirmed by electronic means) of any such demand for payment under a Letter of Credit and whether such Issuing Bank has made or will make a L/C Disbursement thereunder; provided, that any failure to give or delay in giving such notice shall not relieve the Borrowers of their obligations to reimburse such Issuing Bank and the Revolving Facility Lenders with respect to any such L/C Disbursement.

(h) Interim Interest. If an Issuing Bank shall make any L/C Disbursement, then, unless the Borrowers shall reimburse such L/C Disbursement in full on the date such L/C Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such L/C Disbursement is made to but excluding the date that the Borrowers reimburse such L/C Disbursement, at the rate per annum then applicable to ABR Revolving Loans of the applicable Class; provided, that, if such L/C Disbursement is not reimbursed by the Borrowers when due pursuant to paragraph (e) of this Section, then Section 2.13(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Revolving Facility Lender pursuant to paragraph (e) of this Section to reimburse such Issuing Bank shall be for the account of such Revolving Facility Lender to the extent of such payment.

(i) Replacement of an Issuing Bank. An Issuing Bank may be replaced at any time by written agreement among the Company, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement shall become effective, the Borrowers shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12. From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the replaced Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of such Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement but shall not be required to issue additional Letters of Credit.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, (i) in the case of an Event of Default described in Section 8.01(h) or (i), on the Business Day or (ii) in the case of any other Event of Default, on the third Business Day, in each case, following the date on which the Company receives notice from the Administrative Agent (or, if the maturity of the Loans has been accelerated, Revolving Facility Lenders with Revolving L/C Exposure representing greater than 50% of the total Revolving L/C Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrowers shall deposit in an account with or at the direction of the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash in Dollars equal to the Revolving L/C Exposure as of such date plus any accrued and unpaid interest thereon; provided, that upon the occurrence of any Event of Default with respect to a Borrower described in clause (h) or (i) of Section 8.01, the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind. Each such deposit pursuant to this paragraph shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrowers under this Agreement. At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent or any Issuing Bank (with a copy to the Administrative Agent) the Borrowers shall Cash Collateralize the Issuing Banks' Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.22(a)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of (i) for so long as an Event of Default shall be continuing, the Administrative Agent and (ii) at any other time, the Company, in each case, in Permitted Investments and at the risk and expense of the Borrowers, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse each Issuing Bank for L/C Disbursements for which such Issuing Bank has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the Revolving L/C Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Revolving Facility Lenders with Revolving L/C Exposure representing greater than 50% of the total Revolving L/C Exposure), be applied to satisfy other obligations of the Borrowers under this Agreement. If the Borrowers are required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default or the existence of a Defaulting Lender, such amount (to the extent not applied as aforesaid) shall be returned to the Borrowers within three Business Days after all Events of Default have been cured or waived or the termination of the Defaulting Lender status, as applicable.

(k) Additional Issuing Banks. From time to time, the Company may by notice to the Administrative Agent designate up to six Lenders (in addition to the Issuing Banks as of the Restatement Effective Date) each of which agrees (in its sole discretion) to act in such capacity and is reasonably satisfactory to the Administrative Agent as an Issuing Bank. Each such additional Issuing Bank shall execute a counterpart of this Agreement upon the approval of the Administrative Agent (which approval shall not be unreasonably withheld) and shall thereafter be an Issuing Bank hereunder for all purposes.

(l) Reporting. Unless otherwise requested by the Administrative Agent, each Issuing Bank shall (i) provide to the Administrative Agent copies of any notice received from the Borrowers pursuant to Section 2.05(b) no later than the next Business Day after receipt thereof and (ii) report in writing to the Administrative Agent (A) on or prior to each Business Day on which such Issuing Bank expects to issue, amend or extend any Letter of Credit, the date of such issuance, amendment or extension, and the aggregate face amount of the Letters of Credit to be issued, amended or extended by it and outstanding after giving effect to such issuance, amendment or extension occurred (and whether the amount thereof changed), and such Issuing Bank shall be permitted to issue, amend or extend such Letter of Credit if the Administrative Agent shall not have advised such Issuing Bank that such issuance, amendment or extension would not be in conformity with the requirements of this Agreement, (B) on each Business Day on which such Issuing Bank makes any L/C Disbursement, the date of such L/C Disbursement and the amount and currency of such L/C Disbursement and (C) on any other Business Day, such other information with respect to the outstanding Letters of Credit issued by such Issuing Bank as the Administrative Agent shall reasonably request.

Section 2.06. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, Local Time (or, if later, two hours after the Borrowing Request has been delivered pursuant to Section 2.03) on the Business Day specified in the applicable Borrowing Request, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that each Lender with a Term A Loan Commitment shall, prior to making any proceeds of its Term A Loans available to the Administrative Agent as provided above, apply an amount of proceeds from the Term A Loans funded by such Lender that is equal to the principal amount, if any, of the "Term A Loans" of such Lender under the Original Credit Agreement immediately prior to the Restatement Effective Date (or, if less, the entire amount of the proceeds of such Lender's Term A Loans to be funded on the Restatement Effective Date) to repay a like principal amount of such Lender's "Term A Loans" that are Existing Loans on the Restatement Effective Date and shall only remit any positive excess proceeds from such Lender's Term A Loans to the Administrative Agent as provided above. The Administrative Agent will make such Loans available to the Borrowers by promptly crediting the amounts so received, in like funds, to an account of the Borrowers designated by the Company in the applicable Borrowing Request; provided, that (i) ABR Revolving Loans made to finance the reimbursement of a L/C Disbursement and reimbursements as provided in Section 2.05(c) shall be remitted by the Administrative Agent to the applicable Issuing Bank and (ii) any proceeds of Term A Loans received by the Administrative Agent on the Restatement Effective Date shall be applied by the Administrative Agent to prepay the "Term A Loans" or "Term B Loans" that are Existing Loans that are not otherwise repaid pursuant to the preceding sentence.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of the Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrowers a corresponding amount. In such event, if a Lender has not in fact made its share of the Borrowing available to the Administrative Agent, then the applicable Lender and the Borrowers severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrowers to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of (A) the NYFRB Rate and (B) a rate as reasonably determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrowers, the interest rate applicable to ABR Loans at such time. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in the Borrowing.

Section 2.07. Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in the Borrowing Request. Thereafter, the Company may elect to convert the Borrowing to a different Type or to continue the Borrowing and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Company may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising the Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Company shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Company were requesting a Borrowing of the Type and in the applicable currency resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Interest Election Request in the form of Exhibit E and signed by the Company.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the Company shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender to which such Interest Election Request relates of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Company fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless the Borrowing is repaid as provided herein, at the end of such Interest Period the Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the written request (including a request through electronic means) of the Required Lenders, so notifies the Company, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.08. Termination and Reduction of Commitments.

(a) Unless previously terminated, the Revolving Facility Commitments of each Class shall terminate on the applicable Revolving Facility Maturity Date for such Class. Unless previously terminated, the Term A Loan Commitments shall terminate on the earliest of (i) the funding of the Term A Loans pursuant to such Term A Loan Commitments on the Restatement Effective Date and (ii) 11:59 p.m., Local Time, on the Restatement Effective Date. All Existing Commitments shall terminate on the Restatement Effective Date.

(b) The Company may at any time terminate, or from time to time reduce, the Commitments of any Class provided, that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 (or, if less, the remaining amount of the Revolving Facility Commitments of such Class) and (ii) the Company shall not terminate or reduce the Revolving Facility Commitments of any Class if, after giving effect to any concurrent prepayment of the Revolving Facility Loans in accordance with Section 2.11, the Revolving Facility Credit Exposure of such Class would exceed the total Revolving Facility Commitments of such Class.

(c) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments of any Class under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided, that a notice of termination of the Revolving Facility Commitments delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

(d) The Borrowers shall repay (including as contemplated by Section 2.06(a)) all outstanding Existing Loans and all accrued interest and fees under the Original Credit Agreement to but excluding the Restatement Effective Date on the Restatement Effective Date.

Section 2.09. Repayment of Loans; Evidence of Debt

(a) Each Borrower hereby jointly and severally unconditionally promises to pay (i) to the Administrative Agent for the account of each Revolving Facility Lender the then unpaid principal amount of each Revolving Facility Loan on the Revolving Facility Maturity Date applicable to such Revolving Facility Loans and (ii) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Term Loan of such Lender as provided in Section 2.10.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Facility and Type thereof and the Interest Period (if any) applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) any amount received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided, that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note (a "Note") in the applicable form set out in Exhibit L. In such event, the Borrowers shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent and reasonably acceptable to the Borrowers. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 10.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.10. Repayment of Term Loans and Revolving Facility Loans

(a) Subject to the other paragraphs of this Section:

(i) the Borrowers shall repay Term A Borrowings on the last day of each March, June, September and December of each year (commencing June 30, 2019) and on the Term A Loan Maturity Date or, if any such date is not a Business Day, on the next succeeding Business Day (each such date being referred to as a "Term A Loan Installment Date"), in an aggregate principal amount of the Term A Loans equal to (A) 1.25% of the aggregate principal amount of Term A Loans outstanding immediately after the Restatement Effective Date, and (B) in the case of such payment due on the Term A Loan Maturity Date, an amount equal to the then unpaid principal amount of the Term A Loans outstanding;

(ii) [reserved];

(iii) in the event that any Incremental Term Loans are made on an Increased Amount Date, the Borrowers shall repay such Incremental Term Loans on the dates and in the amounts set forth in the Incremental Assumption Agreement (each such date being referred to as an "Incremental Term Loan Installment Date");

(iv) in the event that any Refinancing Term Loans are made pursuant to Section 2.21(j), the applicable Borrower (or the relevant obligor) shall repay such Refinancing Term Loans on the dates and in the amounts set forth in the related Incremental Assumption Agreement (each such date being referred to as an "Other Term Loan Installment Date"); and

- (v) to the extent not previously paid, outstanding Term Loans shall be due and payable on the applicable Term Facility Maturity Date.
- (b) To the extent not previously paid, outstanding Revolving Facility Loans of each Class shall be due and payable on the applicable Revolving Facility Maturity Date.
- (c) Prepayment of the Loans from:
- (i) any optional prepayments of the Term Loans pursuant to Section 2.11(a) shall be applied to the remaining installments of the Term Loans under the applicable Class or Classes as the Company may direct; and
- (ii) all Net Proceeds pursuant to Section 2.11(b) shall be allocated among the Term Facilities, with the application thereof (A) to reduce in direct order amounts due on the next twelve succeeding Term Loan Installment Dates under the applicable Term Facilities as provided in paragraph (d) below, and (B) thereafter, to reduce on a pro rata basis (based on the amount of such amortization payments) the remaining scheduled amortization payments under the applicable Term Facilities; provided, that any Lender, at its option, may elect to decline any such prepayment (such declined amounts, the Declined Proceeds) of any Term Loan held by it if it shall give written notice to the Administrative Agent thereof by 11:00 A.M. Local Time at least three Business Days prior to the date of such prepayment (any such Lender, a Declining Lender). Any Declined Proceeds shall be offered to the Lenders not so declining such repayment on a pro rata basis; provided, that any such non-Declining Lender, at its option, may elect to decline any such prepayment with Declined Proceeds at the time and in the manner specified by the Administrative Agent. To the extent such non-declining Lenders elect to decline their pro rata share of such Declined Proceeds, any Declined Proceeds remaining thereafter on the date of any such prepayment shall instead be retained by the Borrowers for application for any purpose not prohibited by this Agreement.
- (d) Any mandatory prepayment of Term Loans pursuant to Section 2.11(b) shall be applied so that the aggregate amount of such prepayment is allocated among the Term A Loans, the Other Incremental Term Loans and the Refinancing Term Loans, if any, pro rata based on the aggregate principal amount of outstanding Term A Loans, Other Incremental Term Loans and Refinancing Term Loans, if any (unless, with respect to Other Incremental Term Loans or Refinancing Term Loans or the Incremental Assumption Agreement relating thereto does not so require). Prior to any repayment of any Loan under any Facility hereunder, the Company shall select the Borrowing or Borrowings under the applicable Facility to be repaid and shall notify the Administrative Agent by telephone (confirmed by electronic means) of such selection not later than 2:00 p.m., Local Time, (i) in the case of an ABR Borrowing, one Business Day before the scheduled date of such repayment and (ii) in the case of a Eurocurrency Borrowing, three Business Days before the scheduled date of such repayment, which notice shall be irrevocable except to the extent conditioned on a refinancing or other event. Each repayment of a Borrowing (x) in the case of the Revolving Facility of any Class, shall be applied to the Revolving Facility Loans included in the repaid Borrowing such that each Revolving Facility Lender receives its ratable share of such repayment (based upon the respective Revolving Facility Credit Exposure of the Revolving Facility Lenders of such Class at the time of such repayment) and (y) in all other cases, shall be applied ratably to the Loans included in the repaid Borrowing. Repayments of Loans (other than repayments of ABR Revolving Facility Borrowings that are not made in connection with the termination or permanent reduction of the applicable Revolving Facility Commitment) shall be accompanied by accrued interest on the amount repaid.

Section 2.11. Prepayment of Loans.

(a) Except as otherwise provided in any Incremental Assumption Agreement with respect to Incremental Term Loans, the Borrowers shall have the right at any time and from time to time to prepay any Loan in whole or in part, without premium or penalty (but subject to Section 2.16), in an aggregate principal amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum or, if less, the amount outstanding, subject to prior notice in accordance with Section 2.10(d).

(b) The Borrowers shall apply all Net Proceeds promptly upon receipt thereof to prepay Term Loans in accordance with paragraphs (c) and (d) of Section 2.10. Notwithstanding the foregoing, the Borrowers may use a portion of such Net Proceeds pursuant to clause (a) of the definition thereof to prepay or repurchase Pari Passu Senior Secured Notes to the extent any applicable Senior Secured Notes Indenture requires the Borrowers to prepay or make an offer to purchase such Pari Passu Senior Secured Notes with the proceeds of such Asset Sale, in each case in an amount not to exceed the product of (x) the amount of such Net Proceeds multiplied by (y) a fraction, the numerator of which is the outstanding principal amount of the Pari Passu Senior Secured Notes and with respect to which such a requirement to prepay or make an offer to purchase exists and the denominator of which is the sum of the outstanding principal amount of such Pari Passu Senior Secured Notes and the outstanding principal amount of Term Loans.

(c) [Reserved].

(d) In the event and on such occasion that the total Revolving Facility Credit Exposure of any Class exceeds the total Revolving Facility Commitments of such Class, the Borrowers shall prepay Revolving Facility Borrowings of such Class (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent pursuant to Section 2.05(j)) in an aggregate amount equal to such excess.

(e) In the event and on such occasion as the Revolving L/C Exposure exceeds the Letter of Credit Sublimit, the Borrowers shall deposit cash collateral in an account with the Administrative Agent pursuant to Section 2.05(j) in an amount equal to such excess.

Section 2.12. Fees.

(a) The Borrowers jointly and severally agree to pay to each Lender (other than any Defaulting Lender), through the Administrative Agent, on the date that is 10 Business Days after the last day of March, June, September and December in each year (commencing June 2013), and on the date on which the Revolving Facility Commitments of all the Lenders shall be terminated as provided herein, a commitment fee (a "Commitment Fee") on the daily amount of the applicable Available Unused Commitment of such Lender during the preceding quarter (or other period commencing with the Closing Date or ending with the date on which the last of the Commitments of such Lender shall be terminated) at a rate equal to the Applicable Commitment Fee. All Commitment Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days. The Commitment Fee due to each Lender shall commence to accrue on the Closing Date and shall cease to accrue on the date on which the last of the Commitments of such Lender shall be terminated as provided herein.

(b) The Borrowers jointly and severally from time to time agree to pay (i) to each Revolving Facility Lender of each Class (other than any Defaulting Lender), through the Administrative Agent, on the last Business Day of March, June, September and December of each year (commencing June 2013) and on the Revolving Facility Maturity Date (or such other date on which the Revolving Facility Commitments of all the Lenders shall be terminated as provided herein), a fee (an "L/C Participation Fee") on such Lender's Revolving Facility Percentage of the daily aggregate Revolving L/C Exposure (excluding the portion thereof attributable to unreimbursed L/C Disbursements) of such Class, during the preceding quarter (or shorter period commencing with the Closing Date or ending with the applicable Revolving Facility Maturity Date or the date on which the Revolving Facility Commitments of such Class shall be terminated) at the rate per annum equal to the Applicable Margin for Eurocurrency Revolving Facility Borrowings of such Class effective for each day in such period, and (ii) to each Issuing Bank, for its own account (x) on the last Business Day of March, June, September and December of each year (commencing June 2013) and on the Revolving Facility Maturity Date (or such other date on which the Revolving Facility Commitments of all the Lenders shall be terminated), a fronting fee in respect of each Letter of Credit issued by such Issuing Bank for the period from and including the date of issuance of such Letter of Credit to and including the termination of such Letter of Credit, computed at a rate equal to 0.125% per annum of the daily average stated amount of such Letter of Credit, plus (y) in connection with the issuance, amendment or transfer of any such Letter of Credit or any L/C Disbursement thereunder, such Issuing Bank's customary documentary and processing fees and charges (collectively, "Issuing Bank Fees"). All L/C Participation Fees and Issuing Bank Fees that are payable on a per annum basis shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

(c) The Borrowers jointly and severally agree to pay to the Administrative Agent, for the accounts of the Administrative Agent and the Collateral Agent, the agency fees set forth in any fee letters entered into between the Agents and any Borrower relating to such fees as such letters may be amended, restated, supplemented or otherwise modified from time to time, at the times specified therein (the fees payable to the Administrative Agent being the "Administrative Agent Fees," and the fees payable to the Collateral Agent being the "Collateral Agent Fees") (it being understood that this Agreement shall constitute the "Credit Agreement" for purposes of the Administrative Agent Fee Letter dated as of November 6, 2014, by and between the Company and the Administrative Agent, notwithstanding the occurrence of the transactions occurring on the Restatement Effective Date).

(d) [Reserved].

(e) [Reserved].

(f) All Fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the Lenders, except that Issuing Bank Fees shall be paid directly to the applicable Issuing Banks. Once paid, none of the Fees shall be refundable under any circumstances.

Section 2.13. Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the ABR plus the Applicable Margin.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any Fees or other amount payable by the Borrowers hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section; provided, that this paragraph (c) shall not apply to any Event of Default that has been waived by the Lenders pursuant to Section 10.08.

(d) Accrued interest on each Loan shall be payable in arrears (i) on each Interest Payment Date for such Loan, (ii) in the case of Revolving Facility Loans, upon termination of the applicable Revolving Facility Commitments and (iii) in the case of the Term Loans, on the applicable Term Facility Maturity Date; provided, that (A) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (B) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (C) in the event of any conversion of any Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the ABR at times when the ABR is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable ABR or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Section 2.14. Alternate Rate of Interest.

(a) If prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable (including, without limitation, because the LIBO Screen Rate is not available or published on a current basis), for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders or the Majority Lenders under the Revolving Facility of any Class that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrowers and the Lenders by telephone or electronic means as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrowers and the Lenders that the circumstances giving rise to such notice no longer exist, (A) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing shall be ineffective and such Borrowing shall be converted to or continued as on the last day of the Interest Period applicable thereto an ABR Borrowing and (B) if any Borrowing Request requests a Eurocurrency Borrowing, such Borrowing shall be made as an ABR Borrowing.

(b) If at any time the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in clause (a)(i) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) have not arisen but either (w) the supervisor for the administrator of the LIBO Screen Rate has made a public statement that the administrator of the LIBO Screen Rate is insolvent (and there is no successor administrator that will continue publication of the LIBO Screen Rate), (x) the administrator of the LIBO Screen Rate has made a public statement identifying a specific date after which the LIBO Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the LIBO Screen Rate), (y) the supervisor for the administrator of the LIBO Screen Rate has made a public statement identifying a specific date after which the LIBO Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the LIBO Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the LIBO Screen Rate shall no longer be published or used for determining interest rates for loans, then (A) if the Administrative Agent and the Borrowers reasonably determine that there exists a then prevailing market convention for determining a reference rate of interest for syndicated loans in the United States as the successor to interest rates based on the LIBO Screen Rate, the Administrative Agent and the Borrowers shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Margin), or (B) if the Administrative Agent and the Borrowers are unable to reasonably determine that a then prevailing market convention for determining a rate of interest for syndicated loans in the United States as the successor to interest rates based on the LIBO Rate does exist, the Administrative Agent and the Borrowers shall enter into an amendment to this Agreement to reflect an alternate rate of interest and such other related changes to this Agreement as may be applicable, in each case that are acceptable to the Borrowers and the Administrative Agent (but for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Margin); provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 10.08, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five Business Days of the date such amendment is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders (acting reasonably) object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause (b) (but, in the case of the circumstances described in clause (ii)(w), clause (ii)(x) or clause (ii)(y) of the first sentence of this Section 2.14(b), only to the extent the LIBO Screen Rate for such Interest Period is not available or published at such time on a current basis), (x) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing shall be ineffective and (y) if any Borrowing Request requests a Eurocurrency Borrowing, such Borrowing shall be made as an ABR Borrowing.

Section 2.15. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or Issuing Bank; or

(ii) impose on any Lender or Issuing Bank or the London interbank market any other condition affecting this Agreement or Eurocurrency Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Lender or Issuing Bank to any Tax with respect to any Loan Document or any Eurocurrency Loan or Letter of Credit thereunder (other than (i) Taxes indemnifiable under Section 2.17, or (ii) Excluded Taxes),

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or Issuing Bank hereunder (whether of principal, interest or otherwise), then the Borrowers will pay to such Lender or Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or Issuing Bank, as applicable, for such additional costs incurred or reduction suffered.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy or liquidity), then from time to time the Borrowers shall pay to such Lender or such Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as applicable, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrowers and shall be conclusive absent manifest error. The Borrowers shall pay such Lender or Issuing Bank, as applicable, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Promptly after any Lender or any Issuing Bank has determined that it will make a request for increased compensation pursuant to this Section 2.15, such Lender or Issuing Bank shall notify the Borrowers thereof. Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section 2.15 shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided, that the Borrowers shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section 2.15 for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or Issuing Bank, as applicable, notifies the Borrowers of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180 day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto or (d) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrowers pursuant to Section 2.19, then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurocurrency Loan, such loss, cost or expense to any Lender shall be deemed to be the amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue a Eurocurrency Loan, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in Dollars of a comparable amount and period from other banks in the Eurocurrency market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.16 shall be delivered to the Borrowers and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.17. Taxes.

(a) Any and all payments made by or on behalf of any Loan Party hereunder or under any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes; provided that if an applicable Withholding Agent shall be required by law to deduct or withhold any Taxes from such payments, then (i) the applicable Withholding Agent shall make such deductions or withholdings as are reasonably determined by the applicable Withholding Agent to be required by any applicable law, (ii) the applicable Withholding Agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority within the time allowed and in accordance with applicable law, and (iii) to the extent withholding or deduction is required to be made on account of Indemnified Taxes or Other Taxes, the sum payable by the Loan Party shall be increased as necessary so that after all required deductions and withholdings have been made (including deductions or withholdings applicable to additional sums payable under this Section 2.17) the applicable Lender (or, in the case of a payment made to the Administrative Agent for its own account, the Administrative Agent) receives an amount equal to the sum it would have received had no such deductions or withholdings been made.

(b) In addition, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Each Loan Party shall indemnify and hold harmless the Administrative Agent and each Lender, within 15 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes imposed on the Administrative Agent or such Lender, as the case may be (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.17), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to the Borrowers by a Lender or the Administrative Agent (as applicable) on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Taxes by a Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Each Lender shall deliver to the Borrowers and the Administrative Agent, at such time or times reasonably requested by the Borrowers or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law and such other reasonably requested information as will permit the Borrowers or the Administrative Agent, as the case may be, to determine (i) whether or not any payments made hereunder or under any other Loan Document are subject to Taxes, (ii) if applicable, the required rate of withholding or deduction, and (iii) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender by any Loan Party pursuant to any Loan Document or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction. In addition, any Lender, if requested by the Borrowers or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrowers or the Administrative Agent as will enable the Borrowers or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of Section 2.17(e), each Foreign Lender with respect to any Loan made to the Borrowers shall, to the extent it is legally eligible to do so:

(1) deliver to the Borrowers and the Administrative Agent, prior to the date on which the first payment to the Foreign Lender is due hereunder, two copies of (A) in the case of a Foreign Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest," United States Internal Revenue Service Form W-8BEN or W-8BEN-E (or any applicable successor form) (together with a certificate substantially in the form of Exhibit O-1 - Exhibit O-4 as appropriate (a "Non-Bank Tax Certificate")), (B) Internal Revenue Service Form W-8BEN, W-8BEN-E, or Form W-8ECI (or any applicable successor form), in each case properly completed and duly executed by such Foreign Lender claiming complete exemption from, or reduced rate of, U.S. federal withholding tax on payments by the Borrowers under this Agreement, (C) Internal Revenue Service Form W-8IMY (or any applicable successor form) and all necessary attachments (including the forms described in clauses (A) and (B) above; provided that if the Foreign Lender is a partnership and not a participating Lender, and one or more of the partners is claiming portfolio interest treatment, the Non-Bank Tax Certificate may be provided by such Foreign Lender on behalf of such partners) or (D) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrowers or Withholding Agent to determine the withholding or deduction required to be made; and

(2) deliver to the Borrowers and the Administrative Agent two further copies of any such form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete or invalid, after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrowers and the Administrative Agent, and from time to time thereafter if reasonably requested by the Borrowers or the Administrative Agent.

Any Foreign Lender that becomes legally ineligible to update any form or certification previously delivered shall promptly notify the Borrowers and the Administrative Agent in writing of such Foreign Lender's inability to do so.

If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrowers and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrowers or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrowers or the Administrative Agent as may be necessary for the Borrowers and the Administrative Agent to comply with their FATCA obligations, to determine whether such Lender has or has not complied with such Lender's FATCA obligations and, if necessary, to determine the amount to deduct and withhold from such payment.

Each person that shall become a Participant pursuant to Section 10.04 or a Lender pursuant to Section 10.04 shall, upon the effectiveness of the related transfer, be required to provide all the forms and statements required pursuant to this Section 2.17(e); provided that in the case of a Participant such Participant shall furnish all such required forms and statements to the person from which the related participation shall have been purchased.

In addition, to the extent it is legally eligible to do so, each Administrative Agent shall deliver to the Borrowers (x)(I) prior to the date on which the first payment by the Borrowers is due hereunder or (II) prior to the first date on or after the date on which such Agent becomes a successor Agent pursuant to Section 9.09 on which payment by the Borrowers is due hereunder, as applicable, two copies of a properly completed and executed an IRS Form W-9 certifying its exemption from U.S. Federal backup withholding or a properly completed and executed applicable IRS Form W-8 certifying its non-U.S. status and its entitlement to any applicable treaty benefits, and (y) on or before the date on which any such previously delivered documentation expires or becomes obsolete or invalid, after the occurrence of any event requiring a change in the most recent documentation previously delivered by it to the Borrowers, and from time to time if reasonably requested by the Borrowers, two further copies of such documentation.

(f) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which such Loan Party has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.17 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender (including any Taxes imposed with respect to such refund) as is determined by the Administrative Agent or Lender in good faith and in its sole discretion, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that such Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay as soon as reasonably practicable the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. In such event, such Lender or Administrative Agent, as the case may be, shall, at the Loan Party's request, provide the Loan Party with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant Governmental Authority (provided that such Lender or Administrative Agent may delete any information therein that it deems confidential). A Lender or Administrative Agent shall claim any refund that it determines is available to it, unless it concludes in its sole discretion that it would be adversely affected by making such a claim. This Section 2.17(f) shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes which it deems, in good faith and in its sole discretion, to be confidential) to the Loan Parties or any other person.

(g) If the Borrowers determine that a reasonable basis exists for contesting an Indemnified Tax or Other Tax for which a Loan Party has paid additional amounts as indemnification payments, each affected Lender or Administrative Agent, as the case may be, shall use reasonable efforts to cooperate with the Borrowers as the Borrowers may reasonably request in challenging such Tax. The Borrowers shall jointly and severally indemnify and hold each Lender and Administrative Agent harmless against any out-of-pocket expenses incurred by such person in connection with any request made by the Borrowers pursuant to this Section 2.17(g). Nothing in this Section 2.17(g) shall obligate any Lender or Administrative Agent to take any action that such person, in its sole judgment, determines may result in a material detriment to such person.

(h) For purposes of this Section 2.17, the term “Lender” includes any Issuing Bank.

(i) Solely for purposes of determining withholding Tax imposed under FATCA, from and after the Restatement Effective Date, the Borrowers and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative Agent to treat) the Loans (including any Loans already outstanding) as not qualifying as “grandfathered obligations” within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

Section 2.18. Payments Generally; Pro Rata Treatment; Sharing of Set offs.

(a) Unless otherwise specified, each Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or, fees or reimbursement of L/C Disbursements, or of amounts payable under Sections 2.15, 2.16 or 2.17, or otherwise) prior to 2:00 p.m., Local Time, on the date when due, in immediately available funds, without condition or deduction for any defense, recoupment, set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated to the Borrowers by the Administrative Agent, except payments to be made directly to the applicable Issuing Bank as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16 or 2.17 and 10.05 shall be made directly to the persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments made under the Loan Documents shall be made in Dollars. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment.

(b) If at any time insufficient funds are received by and available to the Administrative Agent from the Borrowers to pay fully all amounts of principal, unreimbursed L/C Disbursements, interest and fees then due from the Borrowers hereunder, such funds shall be applied (i) *first*, towards payment of interest and fees then due from the Borrowers hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, (ii) *second*, towards payment of unreimbursed L/C Disbursements then due from the Borrowers hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed L/C Disbursements then due to such parties, and (iii) *third*, towards payment of principal then due from the Borrowers hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Term Loans, Revolving Facility Loans or participations in L/C Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Term Loans, Revolving Facility Loans and participations in L/C Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Term Loans, Revolving Facility Loans and participations in L/C Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Term Loans, Revolving Facility Loans and participations in L/C Disbursements; provided, that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph (c) shall not be construed to apply to any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in L/C Disbursements to any assignee or participant, other than to the Company or any Subsidiary thereof (as to which the provisions of this paragraph (c) shall apply unless the assignment is pursuant to a Permitted Loan Purchase). Each Borrower consents to the foregoing and agrees, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrowers prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the applicable Issuing Bank hereunder that the Borrowers will not make such payment, the Administrative Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the applicable Issuing Bank, as applicable, the amount due. In such event, if the Borrowers have not in fact made such payment, then each of the Lenders or the applicable Issuing Bank, as applicable, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to 2.05(d) or (e), 2.06(b) or 2.18(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.19. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as applicable, in the future and (ii) would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.15, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, or if any Lender is a Defaulting Lender, then the Borrowers may, at their sole expense and effort, upon notice from the Borrowers to such Lender and the Administrative Agent, require any such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 10.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrowers shall have received the prior written consent of the Administrative Agent (and, if in respect of any Revolving Facility Commitment or Revolving Facility Loan and the Issuing Banks), which consent, in each case, shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in L/C Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. Nothing in this Section 2.19 shall be deemed to prejudice any rights that the Borrowers may have against any Lender that is a Defaulting Lender.

(c) If any Lender (such Lender, a “Non-Consenting Lender”) has failed to consent to a proposed amendment, waiver, discharge or termination which pursuant to the terms of Section 10.08 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then the Borrowers shall have the right (unless such Non-Consenting Lender grants such consent) at its sole expense (including with respect to the processing and recordation fee referred to in Section 10.04(b)(ii)(B)), to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to (and any such Non-Consenting Lender agrees that it shall, upon the Borrowers’ request) assign its Loans and its Commitments (or, at the Borrowers’ option, the Loans and Commitments under the Facility that is the subject of the proposed amendment, waiver, discharge or termination) hereunder to one or more assignees (except as expressly set forth in the proviso below, in accordance with and subject to the restrictions contained in Section 10.04) reasonably acceptable to (i) the Administrative Agent (unless, in the case of an assignment of Term Loans, such assignee is a Lender, an Affiliate of a Lender or an Approved Fund) and (ii) if in respect of any Revolving Facility Commitment or Revolving Facility Loan, the Issuing Banks; provided that: (a) all Obligations of the Borrowers owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, (b) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon and (c) the replacement Lender shall grant its consent with respect to the applicable proposed amendment, waiver, discharge or termination. In connection with any such assignment the Borrowers, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 10.04; provided, that if such Non-Consenting Lender does not comply with Section 10.04 within three Business Days after Borrowers’ request, compliance with Section 10.04 shall not be required to effect such assignment.

Section 2.20. Illegality. If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for any Lender or its applicable lending office to make or maintain any Eurocurrency Loans, then, on notice thereof by such Lender to the Borrowers through the Administrative Agent, any obligations of such Lender to make or continue Eurocurrency Loans or to convert ABR Borrowings to Eurocurrency Borrowings shall be suspended until such Lender notifies the Administrative Agent and the Borrowers that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrowers shall upon demand from such Lender (with a copy to the Administrative Agent), either prepay or convert all Eurocurrency Borrowings of such Lender to ABR Borrowings, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Borrowings to such day, or immediately, if such Lender may not lawfully continue to maintain such Loans. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted.

Section 2.21. Incremental Commitments.

(a) The Borrowers may, by written notice to the Administrative Agent from time to time after the Restatement Effective Date, request Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments, as applicable, in an amount not to exceed the Incremental Amount from one or more Incremental Term Lenders and/or Incremental Revolving Facility Lenders (which may include any existing Lender) willing to provide such Incremental Term Loans and/or Incremental Revolving Facility Commitments, as the case may be, in their own discretion; provided, that each Incremental Revolving Facility Lender shall be subject to the approval of the Administrative Agent (which approval shall not be unreasonably withheld) unless such Incremental Revolving Facility Lender is a Lender, an Affiliate of a Lender or an Approved Fund. Such notice shall set forth (i) the amount of the Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments being requested (which shall be in minimum increments of \$5,000,000 and a minimum amount of \$25,000,000 or equal to the remaining Incremental Amount), (ii) the date on which such Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments are requested to become effective (the “Increased Amount Date”), (iii) in the case of Incremental Revolving Facility Commitments, whether such Incremental Revolving Facility Commitments are to be commitments to make revolving loans with pricing and amortization terms identical to an existing Class of Revolving Facility Loans (which may be part of such existing Class) or commitments to make revolving loans with pricing and/or amortization terms different from all existing Classes of Revolving Facility Loans (“Other Incremental Revolving Loans”), and (iv) in the case of Incremental Term Loan Commitments, whether such Incremental Term Loan Commitments are to be commitments to make term loans with pricing (other than upfront fees or original issue discount) and amortization terms identical to the Term A Loans (which may be part of the applicable existing Class) or commitments to make term loans with pricing and amortization terms different from the Term A Loans (“Other Incremental Term Loans”).

(b) The Borrowers and each Incremental Term Lender and/or Incremental Revolving Facility Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Term Loan Commitment of such Incremental Term Lender and/or Incremental Revolving Facility Commitment of such Incremental Revolving Facility Lender. Each Incremental Assumption Agreement shall specify the terms of the applicable Incremental Term Loans and/or Incremental Revolving Facility Commitments; provided, that (i) the Other Incremental Term Loans shall rank pari passu or junior in right of payment and of security with each existing Class of Loans, (ii) the final maturity date of any Other Incremental Term Loans shall be no earlier than the date specified in clause (a) of the definition of Term Facility Maturity Date and, except as to pricing, amortization, call premiums, call protection and final maturity date, shall have (x) the same terms as the applicable Class of then outstanding Term Loans; provided that, with the consent of the Borrowers, the Incremental Assumption Agreement with respect to any Other Incremental Term Loans constituting Acquisition Loans may provide for additional mandatory prepayment requirements so long as any such additional mandatory prepayment requirement applies on at least a pro rata basis to all then outstanding Classes of Term Loans or (y) such other terms (including as to guarantees and collateral) as shall be reasonably satisfactory to the Administrative Agent, (iii) the weighted average life to maturity of any Other Incremental Term Loans shall be no shorter than the remaining weighted average life to maturity of the Term A Loans, (iv) the Other Incremental Revolving Loans shall rank pari passu in right of payment and of security with the Revolving Facility Loans, (v) the final maturity date of any Other Incremental Revolving Loans shall be no earlier than the Revolving Facility Maturity Date and, except as to pricing, amortization and final maturity date and the matters addressed by clause (iv) above, shall have (x) the same terms as the Revolving Facility Loans or (y) such other terms (including as to guarantees and collateral) as shall be reasonably satisfactory to the Administrative Agent, (vi) the weighted average life to maturity of any Other Incremental Revolving Loans shall be no shorter than the remaining weighted average life to maturity of any other Class of Revolving Facility Loans and (vii) the Other Incremental Revolving Loans and the Other Incremental Term Loans shall be denominated in Dollars and borrowed by the Borrowers. Each of the parties hereto hereby agrees that, (i) upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments evidenced thereby as provided for Section 10.08(e). Any amendment to this Agreement or any other Loan Document that is necessary to effect the provisions of this Section 2.21 and any such collateral and other documentation shall be deemed “Loan Documents” hereunder and may be memorialized in writing by the Administrative Agent with the Borrowers’ consent (not to be unreasonably withheld) and furnished to the other parties hereto.

(c) Notwithstanding the foregoing, no Incremental Term Loan Commitment or Incremental Revolving Facility Commitment shall become effective under this Section 2.21 unless (i) on the date of such effectiveness, the conditions set forth in paragraphs (b) and (c) of Section 4.01 shall be satisfied and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Responsible Officer of the Company, (ii) the Administrative Agent shall have received customary legal opinions, board resolutions and other customary closing certificates and documentation as required by the relevant Incremental Assumption Agreement and, to the extent required by the Administrative Agent, consistent with those delivered on the Closing Date and such additional customary documents and filings (including amendments to the Vessel Mortgages and other Security Documents) as the Administrative Agent may reasonably require to assure that the Incremental Term Loans and/or Revolving Facility Loans in respect of Incremental Revolving Facility Commitments are secured by the Collateral ratably with (or, to the extent agreed by the applicable Incremental Term Lenders and/or the applicable Incremental Revolving Facility Lenders in the applicable Incremental Assumption Agreement, junior to) one or more Classes of then-existing Term Loans and Revolving Facility Loans and (iii) the Company shall be in Pro Forma Compliance after giving effect to such Incremental Term Loan Commitment and/or Incremental Revolving Facility Commitments and the Loans to be made thereunder and the application of the proceeds therefrom as if made and applied on such date (provided that, to the extent such Incremental Term Loan Commitment or Incremental Revolving Facility Commitment is established to finance any Permitted Business Acquisition or any other acquisition that is permitted by this Agreement, at the Company's election, the date of determination of Pro Forma Compliance shall be deemed to be the date the definitive agreements for such Permitted Business Acquisition or such other acquisition that is permitted by this Agreement are entered into).

(d) Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be reasonably necessary to ensure that (i) all Incremental Term Loans (other than Other Incremental Term Loans), when originally made, are included in each outstanding Borrowing of the applicable Class of Term Loans on a pro rata basis, and (ii) all Revolving Facility Loans in respect of Incremental Revolving Facility Commitments (other than Other Incremental Revolving Loans), when originally made, are included in each outstanding Borrowing of the applicable Class of Revolving Facility Loans on a pro rata basis. The Borrowers agree that Section 2.16 shall apply to any conversion of Eurocurrency Loans to ABR Loans reasonably required by the Administrative Agent to effect the foregoing.

(e) Notwithstanding anything to the contrary in Section 2.18(c) (which provisions shall not be applicable to clauses (e) through (i) of this Section 2.21), pursuant to one or more offers made from time to time by the Borrowers to all Lenders of any Class of Term Loans and/or Revolving Facility Commitments, on a pro rata basis (based, in the case of an offer to the Lenders under any Class of Term Loans, on the aggregate outstanding Term Loans of such Class and, in the case of an offer to the Lenders under any Revolving Facility, on the aggregate outstanding Revolving Facility Commitments under such Revolving Facility, as applicable) and on the same terms (“Pro Rata Extension Offers”), the Borrowers are hereby permitted to consummate transactions with individual Lenders from time to time to extend the maturity date of such Lender’s Loans and/or Commitments of such Class and to otherwise modify the terms of such Lender’s Loans and/or Commitments of such Class pursuant to the terms of the relevant Pro Rata Extension Offer (including without limitation increasing the interest rate or fees payable in respect of such Lender’s Loans and/or Commitments and/or modifying the amortization schedule in respect of such Lender’s Loans). Any such extension (an “Extension”) agreed to between the Borrowers and any such Lender (an “Extending Lender”) will be established under this Agreement by implementing an Incremental Term Loan for such Lender (if such Lender is extending an existing Term Loan (such extended Term Loan, an “Extended Term Loan”)) or an Incremental Revolving Facility Commitment for such Lender (if such Lender is extending an existing Revolving Facility Commitment (such extended Revolving Facility Commitment, an “Extended Revolving Facility Commitment”)).

(f) The Borrowers and each Extending Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Extended Term Loans and/or Extended Revolving Facility Commitments of such Extending Lender. Each Incremental Assumption Agreement shall specify the terms of the applicable Extended Term Loans and/or Extended Revolving Facility Commitments; provided that (i) except as to interest rates, fees, amortization, call premiums, call protection, final maturity date and participation in prepayments (which shall, subject to clauses (ii) through (v) of this proviso, be determined by the Borrowers and set forth in the Pro Rata Extension Offer), the Extended Term Loans shall have (x) the same terms as the Term A Loans, or (y) such other terms as shall be reasonably satisfactory to the Administrative Agent, (ii) the final maturity date of any Extended Term Loans shall be no earlier than the latest Term Facility Maturity Date in effect on the date of incurrence, (iii) the weighted average life to maturity of any Extended Term Loans shall be no shorter than the remaining weighted average life to maturity of the Class of Term Loans to which such offer relates, (iv) except as to interest rates, fees and final maturity and the matters addressed by Section 2.21(b)(iv) (which shall be determined by the Borrowers and set forth in the Pro Rata Extension Offer), any Extended Revolving Facility Commitment shall have (x) the same terms as the existing Revolving Facility Commitments or (y) have such other terms as shall be reasonably satisfactory to the Administrative Agent, and (v) any Extended Term Loans and/or Extended Revolving Facility Commitments may participate on a pro rata basis or a less than pro rata basis (but not greater than a pro rata basis) in any voluntary or mandatory repayments or prepayments hereunder. Upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Extended Term Loans and/or Extended Revolving Facility Commitments evidenced thereby as provided for in Section 10.08(e). Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrowers’ consent (not to be unreasonably withheld) and furnished to the other parties hereto. If provided in any Incremental Assumption Agreement with respect to any Extended Revolving Facility Commitments, and with the consent of each Issuing Bank, participations in Letters of Credit shall be reallocated to lenders holding such Extended Revolving Facility Commitments in the manner specified in such Incremental Assumption Agreement, including upon effectiveness of such Extended Revolving Facility Commitment or upon or prior to the maturity date for any Class of Revolving Facility Commitment.

(g) Upon the effectiveness of any such Extension, the applicable Extending Lender's Term Loan will be automatically designated an Extended Term Loan and/or such Extending Lender's Revolving Facility Commitment will be automatically designated an Extended Revolving Facility Commitment. For purposes of this Agreement and the other Loan Documents, (i) if such Extending Lender is extending a Term Loan, such Extending Lender will be deemed to have an Incremental Term Loan having the terms of such Extended Term Loan and (ii) if such Extending Lender is extending a Revolving Facility Commitment, such Extending Lender will be deemed to have an Incremental Revolving Facility Commitment having the terms of such Extended Revolving Facility Commitment.

(h) Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.21), (i) the aggregate amount of Extended Term Loans and Extended Revolving Facility Commitments will not be included in the calculation of the Incremental Amount, (ii) no Extended Term Loan or Extended Revolving Facility Commitment is required to be in any minimum amount or any minimum increment, (iii) any Extending Lender may extend all or any portion of its Term Loans and/or Revolving Facility Commitments pursuant to one or more Pro Rata Extension Offers (subject to applicable proration in the case of over participation) (including the extension of any Extended Term Loan and/or Extended Revolving Facility Commitment), (iv) there shall be no condition to any Extension of any Loan or Commitment at any time or from time to time other than compliance with Section 2.21(e) through (i) and notice to the Administrative Agent of such Extension and the terms of the Extended Term Loan or Extended Revolving Facility Commitment implemented thereby, (v) all Extended Term Loans, Extended Revolving Facility Commitments and all obligations in respect thereof shall be Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents that are secured by the Collateral on a pari passu basis with all other Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents and (vi) no Issuing Bank shall be obligated to issue Letters of Credit under such Extended Revolving Facility Commitments unless it shall have consented thereto.

(i) Each Extension shall be consummated pursuant to procedures set forth in the associated Pro Rata Extension Offer, provided that the Borrowers shall cooperate with the Administrative Agent prior to making any Pro Rata Extension Offer to establish reasonable procedures with respect to mechanical provisions relating to such Extension, including, without limitation, timing, rounding and other adjustments.

(j) Notwithstanding anything to the contrary in Section 2.18(c) (which provisions shall not be applicable to clause (j) through (o) of this Section 2.21), the Borrowers may by written notice to the Administrative Agent establish one or more additional tranches of term loans under this Agreement (“Refinancing Term Loans”), the Net Proceeds of which are used to repay Term Loans of the same Class. Each such notice shall specify the date (each, a “Refinancing Effective Date”) on which the Borrowers propose that the Refinancing Term Loans shall be made, which shall be a date not less than five Business Days after the date on which such notice is delivered to the Administrative Agent; provided that: (i) before and after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date each of the conditions set forth in Section 4.01 shall be satisfied; (ii) the weighted average life to maturity of such Refinancing Term Loans shall be no shorter than the then-remaining weighted average life to maturity of the refinanced Term Loans; (iii) the aggregate principal amount of the Refinancing Term Loans shall not exceed the outstanding principal amount of the refinanced Term Loans plus amounts used to pay fees and expenses; and (iv) all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, interest rates and final maturity which shall be as agreed between the Borrowers and the Lenders providing such Refinancing Term Loans) shall be substantially similar to, or less favorable to the Lenders providing such Refinancing Term Loans than, those applicable to the refinanced Term Loans except to the extent such covenants and other terms apply solely to any period after the date specified in clause (a) of the definition of the Term Facility Maturity Date. In addition, notwithstanding the foregoing, the Borrowers may establish Refinancing Term Loans to refinance and/or replace all or any portion of a Revolving Facility Commitment (regardless of whether Revolving Facility Loans are outstanding under such Revolving Facility Commitments at the time of incurrence of such Refinancing Term Loans), so long as (i) the aggregate amount of such Refinancing Term Loans does not exceed the aggregate amount of Revolving Facility Commitments terminated at the time of incurrence thereof, (ii) if the Revolving Facility Credit Exposure outstanding on the Refinancing Effective Date would exceed the aggregate amount of Revolving Facility Commitments outstanding in each case after giving effect to the termination of such Revolving Facility Commitments, the Borrowers shall take one or more actions such that such Revolving Facility Credit Exposure does not exceed such aggregate amount of Revolving Facility Commitments in effect on the Refinancing Effective Date after giving effect to the termination of such Revolving Facility Commitments (it being understood that such (x) Refinancing Term Loans may be provided by the Lenders holding the Revolving Facility Commitments being terminated and/or by any other person that would be a permitted Assignee hereunder and (y) the proceeds of such Refinancing Term Loans shall not constitute Net Proceeds hereunder), (iii) before and after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date, each of the conditions set forth in Section 4.01 shall be satisfied, (iv) the weighted average life to maturity of the Refinancing Term Loans shall be no shorter than the remaining life to termination of the terminated Revolving Facility Commitments, (v) the final maturity of the Refinancing Term Loans shall be no earlier than the termination date of the terminated Revolving Facility Commitments and (vi) the other terms applicable to such Refinancing Term Loans (other than provisions relating to upfront fees and interest rates, which shall be as agreed between the Borrowers and the Lenders providing such Refinancing Term Loans), shall be substantially similar to, or less favorable to the Lenders providing such Refinancing Term Loans than, those applicable to the terminated Revolving Facility Commitments except to the extent such covenants and other terms apply solely to any period after the date specified in clause (a) of the definition of Term Facility Maturity Date.

(k) The Borrowers may approach any Lender or any other person that would be a permitted Assignee pursuant to Section 10.04 to provide all or a portion of the Refinancing Term Loans; provided that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans may elect or decline, in its sole discretion, to provide a Refinancing Term Loan. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated an additional Class of Term Loans for all purposes of this Agreement; provided that any Refinancing Term Loans may, to the extent provided in the applicable Incremental Assumption Agreement, be designated as an increase in any previously established Class of Term Loans made to the Borrowers.

(l) Notwithstanding anything to the contrary in Section 2.18(c) (which provisions shall not be applicable to clause (l) through (o) of this Section 2.21), the Borrowers may by written notice to the Administrative Agent establish one or more additional Facilities providing for revolving commitments ("Replacement Revolving Facility Commitments") and the revolving loans thereunder, "Replacement Revolving Loans", which replace in whole or in part any Revolving Facility Commitments under this Agreement. Each such notice shall specify the date (each, a "Replacement Revolving Facility Effective Date") on which the Borrowers propose that the Replacement Revolving Facility Commitments shall become effective, which shall be a date not less than five Business Days after the date on which such notice is delivered to the Administrative Agent; provided that: (i) before and after giving effect to the establishment of such Replacement Revolving Facility Commitments on the Replacement Revolving Facility Effective Date each of the conditions set forth in Section 4.01 shall be satisfied; (ii) after giving effect to the establishment of any Replacement Revolving Facility Commitments and any concurrent reduction in the aggregate amount of any other Revolving Facility Commitments, the aggregate amount of Revolving Facility Commitments shall not exceed the aggregate amount of the Revolving Facility Commitments outstanding immediately prior to the applicable Replacement Revolving Facility Effective Date; (iii) no Replacement Revolving Facility Commitments shall have a final maturity date prior to the latest Revolving Facility Maturity Date in effect at the time of incurrence; (iv) all other terms applicable to such Replacement Revolving Facility Commitments (other than provisions relating to (x) fees and interest rates which shall be as agreed between the Borrowers and the Lenders providing such Replacement Revolving Facility Commitments and (y) the amount of any Letter of Credit Sublimit under such Replacement Revolving Facility Commitments which shall be as agreed between the Borrowers, the Lenders providing such Replacement Revolving Facility Commitments, the Administrative Agent and the replacement Issuing Bank, if any, under such Replacement Revolving Facility Commitments) shall be substantially similar to, or less favorable to the Lenders providing such Replacement Revolving Facility Commitments than, those applicable to the then-outstanding Revolving Facility, except to the extent such covenants and other terms apply solely to any period after the date specified in clause (a) of the definition of the Term Facility Maturity Date. In addition, the Borrowers may establish Replacement Revolving Facility Commitments to refinance and/or replace all or any portion of a Term Loan hereunder (regardless of whether such Term Loan is repaid with the proceeds of Replacement Revolving Loans or otherwise), so long as the aggregate amount of such Revolving Facility Commitments does not exceed the aggregate amount of Term Loans repaid at the time of establishment thereof (it being understood that such Replacement Revolving Facility Commitment may be provided by the Lenders holding the Term Loans being repaid and/or by any other person that would be a permitted Assignee hereunder) so long as (i) before and after giving effect to the establishment such Replacement Revolving Facility Commitments on the Replacement Revolving Facility Effective Date each of the conditions set forth in Section 4.01 shall be satisfied, (ii) the weighted average life to termination of such Replacement Revolving Facility Commitments shall be not shorter than the weighted average life to maturity then applicable to the refinanced Term Loans, (iii) the final termination date of the Replacement Revolving Facility Commitments shall be no earlier than the refinanced Term Loans and (iv) the condition in clause (iv) of the preceding sentence has been satisfied.

(m) The Borrowers may approach any Lender or any other person that would be a permitted Assignee of a Revolving Facility Commitment pursuant to Section 10.04 to provide all or a portion of the Replacement Revolving Facility Commitments; provided that any Lender offered or approached to provide all or a portion of the Replacement Revolving Facility Commitments may elect or decline, in its sole discretion, to provide a Replacement Revolving Facility Commitment. Any Replacement Revolving Facility Commitment made on any Replacement Revolving Facility Effective Date shall be designated an additional Class of Revolving Facility Commitments for all purposes of this Agreement; provided that any Replacement Revolving Facility Commitments may, to the extent provided in the applicable Incremental Assumption Agreement, be designated as an increase in any previously established Class of Revolving Facility Commitments.

(n) On any Replacement Revolving Facility Effective Date, subject to the satisfaction of the foregoing terms and conditions, each of the Lenders with Replacement Revolving Facility Commitments of such Class shall purchase from each of the other Lenders with Replacement Revolving Facility Commitments of such Class, at the principal amount thereof and in the applicable currencies, such interests in the Replacement Revolving Loans and participations in Letters of Credit under such Replacement Revolving Facility Commitments of such Class then outstanding on such Replacement Revolving Facility Effective Date as shall be necessary in order that, after giving effect to all such assignments and purchases, the Replacement Revolving Loans and participations of such Replacement Revolving Facility Commitments of such Class will be held by the Lenders thereunder ratably in accordance with their Replacement Revolving Facility Commitments.

(o) For purposes of this Agreement and the other Loan Documents, (i) if a Lender is providing a Refinancing Term Loan, such Lender will be deemed to have an Incremental Term Loan having the terms of such Refinancing Term Loan and (ii) if a Lender is providing a Replacement Revolving Facility Commitment, such Lender will be deemed to have an Incremental Revolving Facility Commitment having the terms of such Replacement Revolving Facility Commitment. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.21), (i) the aggregate amount of Refinancing Term Loans and Replacement Revolving Facility Commitments will not be included in the calculation of the Incremental Amount, (ii) no Refinancing Term Loan or Replacement Revolving Facility Commitment is required to be in any minimum amount or any minimum increment, (iii) there shall be no condition to any incurrence of any Refinancing Term Loan or Replacement Revolving Facility Commitment at any time or from time to time other than those set forth in clauses (j) or (l) above, as applicable, and (iv) all Refinancing Term Loans, Replacement Revolving Facility Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that are secured by the Collateral on a pari passu basis with all other Obligations under this Agreement and the other Loan Documents.

Section 2.22. Defaulting Lender.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent hereunder for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, following an Event of Default or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.06 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder, second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Bank hereunder, third, to cash collateralize the Issuing Banks' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.05(j), fourth, as the Company may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent, fifth, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Banks' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.05(j), sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Banks against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrowers as a result of any judgment of a court of competent jurisdiction obtained by the Borrowers against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.22 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender.

(B) Each Defaulting Lender shall be entitled to receive L/C Participation Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its pro rata share of the stated amount of Letters of Credit for which it has provided Cash Collateral.

(C) With respect to any Commitment Fee or L/C Participation Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrowers shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letters of Credit that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Bank the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letters of Credit shall be reallocated among the Non-Defaulting Lenders in accordance with their respective pro rata Commitments (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (x) the conditions set forth in Section 4.01 are satisfied at the time of such reallocation (and, unless the Borrowers shall have otherwise notified the Administrative Agent at such time, the Borrowers shall be deemed to have represented and warranted that such conditions are satisfied at such time) and (y) such reallocation does not cause the aggregate Revolving Facility Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Facility Commitment. Subject to Section 10.23, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrowers shall, without prejudice to any right or remedy available to it hereunder or under law, Cash Collateralize the Issuing Banks' Fronting Exposure in accordance with the procedures set forth in Section 2.05(j).

(b) Defaulting Lender Cure. If the Company, the Administrative Agent and each Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Revolving Facility Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held pro rata by the Lenders in accordance with their Revolving Facility Commitments (without giving effect to Section 2.22(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that, no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while that Lender was a Defaulting Lender; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Letters of Credit. So long as any Lender is a Defaulting Lender, the Issuing Banks shall not be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

On the date of each Credit Event as provided in Section 4.01, each Borrower represents and warrants to each of the Lenders that:

Section 3.01. Organization; Powers. Except as set forth on Schedule 3.01, the Company and each Material Subsidiary (a) is a partnership, limited liability company or corporation duly organized (or incorporated), validly existing and in good standing (or, if applicable in a foreign jurisdiction, enjoys the equivalent status under the laws of any jurisdiction of organization outside the United States) under the laws of the jurisdiction of its organization or incorporation, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted, (c) is qualified to do business in each jurisdiction where such qualification is required, except where the failure so to qualify would not reasonably be expected to have a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each of the Loan Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrowers, to borrow and otherwise obtain credit hereunder.

Section 3.02. Authorization. The execution, delivery and performance by the Borrowers and each of the Subsidiary Guarantors of each of the Loan Documents to which they are a party, and the borrowings hereunder and the transactions forming a part of the Transactions (and the borrowing of the Acquisition Loans) (a) have been duly authorized by all corporate, stockholder, partnership or limited liability company action required to be obtained by such Loan Party and (b) will not (i) violate (A) any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents (including any partnership, limited liability company or operating agreements) or by-laws of such Loan Party, (B) any applicable order of any court or any rule, regulation or order of any Governmental Authority or (C) any provision of any indenture, certificate of designation for preferred stock, agreement or other instrument to which such Loan Party is a party or by which any of them or any of their property is or may be bound, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) or to a loss of a material benefit under any such indenture, certificate of designation for preferred stock, agreement or other instrument, where any such conflict, violation, breach or default referred to in clauses (i)(A), (i)(B), (i)(C) or (ii) of this Section 3.02(b), would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Borrowers or any such Subsidiary Guarantor, other than the Liens created by the Loan Documents and Permitted Liens.

Section 3.03. Enforceability. This Agreement has been duly executed and delivered by the Borrowers and constitutes, and each other Loan Document when executed and delivered by each Loan Party that is party thereto will constitute, a legal, valid and binding obligation of such Loan Party enforceable against each such Loan Party in accordance with its terms, subject to (i) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) implied covenants of good faith and fair dealing.

Section 3.04. Governmental Approvals. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required in connection with the Transactions (or the borrowing of the Acquisition Loans), the creation, perfection or maintenance of the Liens created under the Security Documents or the exercise by any Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral, except for (a) the filing of Uniform Commercial Code financing statements or other similar filing or instruments under the laws of any applicable jurisdiction, (b) registration of the Vessel Mortgages, (c) such as have been made or obtained and are in full force and effect, (d) such actions, consents and approvals the failure of which to be obtained or made would not reasonably be expected to have a Material Adverse Effect and (e) filings or other actions listed on Schedule 3.04.

Section 3.05. Financial Statements. The audited consolidated balance sheets of the Company and its consolidated subsidiaries as of December 31, 2010, 2011 and 2012, and the audited consolidated statements of income, stockholders' or other equity holders' equity and cash flows for such fiscal years, reported on by and accompanied by a report from PricewaterhouseCoopers LLP, copies of which have heretofore been made available to each Lender, present fairly in all material respects the consolidated financial position of the Company as of such date and the consolidated results of operations, shareholders' or other equity holders' equity and cash flows of the Company for the years then ended.

Section 3.06. No Material Adverse Effect. Since December 31, 2012, there has been no event or circumstance that, individually or in the aggregate with other events or circumstances, has or would reasonably be expected to have a Material Adverse Effect.

Section 3.07. Title to Properties; Possession Under Leases

(a) Each of the Borrowers, each other Loan Party and each other Material Subsidiary has good record and insurable title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all its Real Properties and has good and marketable title to its personal property and assets (including any Mortgaged Vessel owned by such person), in each case, except for Permitted Liens and except for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes and except where the failure to have such title would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such properties and assets are free and clear of Liens, other than Permitted Liens.

(b) Each Loan Party and each other Material Subsidiary has complied with all material obligations under all leases to which it is a party, except where the failure to comply would not reasonably be expected to have Material Adverse Effect, and all such leases are in full force and effect, except leases in respect of which the failure to be in full force and effect would not reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.07(b), each Loan Party and Material Subsidiary enjoys peaceful and undisturbed possession under all such leases, other than leases in respect of which the failure to enjoy peaceful and undisturbed possession would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) Each Loan Party and each other Material Subsidiary owns or possesses, or is licensed to use, all patents, trademarks, service marks, trade names and copyrights, all applications for any of the foregoing and all licenses and rights with respect to the foregoing necessary for the present conduct of its business, without any conflict (of which the Company has been notified in writing) with the rights of others, and free from any burdensome restrictions on the present conduct of the Company and each Material Subsidiary, as the case may be, except where such conflicts and restrictions would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or except as set forth on Schedule 3.07(c).

Section 3.08. Subsidiaries.

(a) Schedule 3.08(a) sets forth as of the Restatement Effective Date, the name and jurisdiction of incorporation, formation or organization of the Company and each direct and indirect Subsidiary and, in each case, the percentage of each class of Equity Interests owned by the Company or by any such Subsidiary.

(b) As of the Restatement Effective Date, after giving effect to the Transactions, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees or directors (or entities controlled by directors) and shares held by directors (or entities controlled by directors)) relating to any Equity Interests of any Loan Party or Material Subsidiary, except as set forth on Schedule 3.08(b).

Section 3.09. Litigation; Compliance with Laws.

(a) There are no actions, suits or proceedings at law or in equity or in admiralty by or on behalf of any Governmental Authority or third party now pending or in arbitration now pending, or, to the knowledge of any Loan Party, threatened in writing against or affecting such Loan Party or any Material Subsidiary or any business, property or rights of any such person (i) that involve any Loan Document or the Transactions or (ii) that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) No Loan Party, Material Subsidiary or their respective properties or assets is in violation of (nor will the continued operation of their material properties and assets as currently conducted violate) any law, rule or regulation (including the USA PATRIOT Act and any zoning, building, ordinance, code or approval or any building permit, including, as to the Mortgaged Vessels, the ISM Code, the ISPS Code and ICPPS Annex VI and any rule or order of the United States Coast Guard, the Bahamas, the Marshall Islands or any port state control authority, but excluding any Environmental Laws, which are the subject of Section 3.16) or any restriction of record or agreement affecting any Mortgaged Vessel, or is in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) No part of the proceeds of the Loans or any Letter of Credit will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

Section 3.10. Federal Reserve Regulations.

(a) Neither the Company nor any Material Subsidiary is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock.

(b) No part of the proceeds of any Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (i) to purchase or carry Margin Stock or to extend credit to others for the purpose of purchasing or carrying Margin Stock or to refund indebtedness originally incurred for such purpose, or (ii) for any purpose that entails a violation of, or that is inconsistent with, the provisions of the Regulations of the Board, including Regulation U or Regulation X.

Section 3.11. Investment Company Act. None of the Company or any Material Subsidiary is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 3.12. Use of Proceeds.

(a) The Borrowers will use the proceeds of the Acquisition Loans to finance a portion of the Acquisition and the Refinancing and to pay fees and expenses related to any of the foregoing.

(b) The Borrowers will use the proceeds of Revolving Facility Loans borrowed from time to time after the occurrence of the Restatement Effective Date and the Letters of Credit issued from time to time for general corporate or other entity purposes (including without limitation, (i) permitted acquisitions, (ii) refinance the Existing Loans and (iii) to pay fees and expenses related to the transactions to occur on the Restatement Effective Date).

(c) The Borrowers will use the proceeds of the Term A Loans borrowed on the Restatement Effective Date to refinance the Existing Loans and to pay fees and expenses related to the transactions to occur on the Restatement Effective Date.

Section 3.13. Tax Returns. Except where the failure of which would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect, (a) each Loan Party and each Material Subsidiary has filed all federal income Tax returns and all other Tax returns, domestic and foreign, required to be filed by it (including in its capacity as a withholding agent) and has paid all Taxes payable by it that have become due, other than those (i) not yet delinquent or (ii) being contested in good faith by appropriate proceedings and as to which adequate reserves have been provided to the extent required by and in accordance with GAAP (or in the case of a Foreign Subsidiary, the comparable accounting principles in the relevant jurisdiction) and (b) each Loan Party and each Material Subsidiary have provided adequate reserves in accordance with GAAP (or in the case of a Foreign Subsidiary, the comparable accounting principles in the relevant jurisdiction) for all Taxes of each Loan Party and each Material Subsidiary not yet due and payable.

Section 3.14. No Material Misstatements.

(a) All written information (other than the Projections, estimates and information of a general economic nature) (the "Information") concerning the Loan Parties, the Material Subsidiaries, the Transactions and the Acquisition Transactions and any other transactions contemplated hereby included in the Information Memorandum or otherwise prepared by or on behalf of the foregoing or their representatives and made available to any Lenders or the Administrative Agent in connection with the Transactions and the Acquisition Transactions or the other transactions contemplated hereby, when taken as a whole, was true and correct in all material respects, as of the date such Information was furnished to the Lenders and/or the Administrative Agent and as of the Closing Date (or, with respect to the Acquisition Transactions, solely as of the date such Information was furnished to the Lenders and/or the Administrative Agent) and did not, taken as a whole, contain any untrue statement of a material fact as of any such date or omit to state a material fact necessary in order to make the statements contained therein, taken as a whole, not materially misleading in light of the circumstances under which such statements were made.

(b) The Projections, estimates and information of a general economic nature prepared by or on behalf of the Company or any of its representatives and that have been made available to any Lenders or the Administrative Agent in connection with the Transactions and the Acquisition Transactions or the other transactions contemplated hereby have been prepared in good faith based upon assumptions believed by the Company to be reasonable as of the date thereof (it being understood that actual results may vary materially from the Projections), as of the date such Projections and estimates were furnished to the Lenders and/or the Administrative Agent and as of the Closing Date (or, with respect to the Acquisition Transactions, solely as of the date such Projections and estimates were furnished to the Lenders and/or the Administrative Agent).

(c) As of the Restatement Effective Date, to the best knowledge of the Borrowers, the information included in the Beneficial Ownership Certification provided on or prior to the Restatement Effective Date to any Lender in connection with this Agreement is true and correct in all respects.

Section 3.15. Employee Benefit Plans.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) each Plan is in compliance with the applicable provisions of ERISA and the Code; (ii) no Reportable Event has occurred during the past five years as to which any Loan Party, Material Subsidiary or any ERISA Affiliate was required to file a report with the PBGC, other than reports that have been filed; (iii) no Plan has any Unfunded Pension Liability in excess of \$[*]; (iv) no ERISA Event has occurred or is reasonably expected to occur; and (v) no Loan Party, Material Subsidiary or ERISA Affiliate (A) has received any written notification that any Multiemployer Plan is in reorganization or has been terminated within the meaning of Title IV of ERISA, or has knowledge that any Multiemployer Plan is reasonably expected to be in reorganization or to be terminated or (B) has incurred or is reasonably expected to incur any withdrawal liability to any Multiemployer Plan.

(b) Each Loan Party and Subsidiary is in compliance (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other employee benefit plan governed by the laws of a jurisdiction other than the United States and (ii) with the terms of any such plan, except, in each case, for such noncompliance that would not reasonably be expected to have a Material Adverse Effect.

Section 3.16. Environmental Matters. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) no Environmental Claim has been received by any Loan Party or Material Subsidiary, and there are no Environmental Claims pending or, to any Loan Party's knowledge, threatened, in each case relating to any Loan Party or Material Subsidiary or their respective properties or the Mortgaged Vessels, (b) each Loan Party and Material Subsidiary is in compliance with Environmental Laws, (c) each Loan Party and Material Subsidiary has all permits, licenses and other approvals required under Environmental Laws for its operations as currently conducted ("Environmental Permits") and is in compliance with the terms of such Environmental Permits, (d) no Hazardous Material is located at, on or under any property currently or, to any Loan Party's knowledge, formerly owned, operated or leased by any Loan Party or Material Subsidiary or their predecessors that would reasonably be expected to give rise to any Environmental Liability, and no Hazardous Material has been generated, used, treated, stored, handled, controlled, transported to or Released at, on, from, to or under any location or any Mortgaged Vessel in a manner that would reasonably be expected to give rise to any Environmental Liability, (e) there are no agreements in which any Loan Party or Material Subsidiary has expressly assumed or undertaken responsibility for any known or reasonably likely Environmental Liability of any other person, and (f) there has been no written environmental assessment or audit conducted since January 1, 2013 (other than customary assessments not revealing anything that would reasonably be expected to result in a Material Adverse Effect), by or on behalf of any Loan Party or Material Subsidiary of any of the Mortgaged Vessels or properties currently or, to any Loan Party's knowledge, formerly owned or leased by any Loan Party or Material Subsidiary that has not been made available to the Administrative Agent prior to the Restatement Effective Date.

Section 3.17. Security Documents.

(a) Each Vessel Mortgage in favor of the Collateral Agent executed and delivered on the Closing Date, the Acquisition Closing Date or the Third Restatement Effective Date, as applicable, for the benefit of the Secured Parties, is effective to create a legal, valid and enforceable Lien on all the applicable Loan Party's right, title and interest in and to the whole of the Mortgaged Vessel covered thereby and the proceeds thereof, and when the Vessel Mortgages are registered in accordance with (i) the laws of the Bahamas, each Vessel Mortgage shall constitute (x) a first priority "statutory mortgage" on the Mortgaged Vessels covered thereby in favor of the Collateral Agent for the benefit of the Secured Parties in accordance with the Merchant Shipping Act, Chapter 268 of the Statute Laws of The Bahamas and (y) a "preferred mortgage" within the meaning of Title 46 United States Code, Section 31301(6)(B) or (ii) the laws of the Republic of the Marshall Islands, each Vessel Mortgage shall constitute (x) a first "preferred mortgage" on the Mortgaged Vessels covered thereby in favor of Collateral Agent for the ratable benefit of the Secured Parties in accordance with the Chapter 3 of the Marshall Islands Maritime Act, 1990, as amended, and (y) a "preferred mortgage" within the meaning of Title 46 of the United States Code, Section 31301(6)(B).

(b) The Collateral Agreement, each Subsidiary Guarantor Pledge Agreement and each other Security Document specifically listed in the definition of such term is effective to create in favor of the Collateral Agent (for the benefit of the Secured Parties) a legal, valid and enforceable security interest in the Collateral described therein. In the case of any Pledged Collateral, when certificates or instruments, as applicable, representing such Pledged Collateral are delivered to the Collateral Agent (together with stock powers or other instruments of transfer duly executed in blank), and, in the case of the other Collateral described in such Security Documents (other than registered copyright and copyright applications), when Uniform Commercial Code financing statements, other filings or instruments, notices and consents required under the laws of any applicable jurisdiction and described in Schedule 3.17 (as amended from time to time) are filed, delivered or otherwise registered or recorded in the proper offices specified in Schedule 3.17, registries or government agencies (and, specifically (i) in the case of Collateral consisting of rights under insurances, when the applicable underwriters shall have provided consent to the security interests therein created under the Security Documents, and (ii) in the case of Collateral consisting of rights under any management agreement or charter, when the applicable parties thereto (other than any Loan Parties) have provided consent to the Liens thereon created under the applicable Security Documents), the Collateral Agent (for the benefit of the Secured Parties) shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations to the extent security interests in such Collateral can be perfected by delivery of such certificates or notes, as applicable, representing the Pledged Collateral, or the filing of the Uniform Commercial Code financing statements and other filings and instruments required under the laws of the applicable jurisdiction, in each case prior and superior in right to any other person (except, in the case of Collateral other than Pledged Collateral, Permitted Liens and Liens having priority by operation of law).

(c) When the Collateral Agreement or a short form thereof is filed in the United States Patent and Trademark Office and the United States Copyright Office, the Liens created by the Collateral Agreement shall constitute fully perfected Liens on, and security interests in, all right, title and interest of the grantors thereunder in Patents (as defined in the Collateral Agreement) registered or applied for with the United States Patent and Trademark Office or Copyrights (as defined in such Collateral Agreement) registered or applied for with the United States Copyright Office, as the case may be, in each case subject to no Liens other than Permitted Liens.

Section 3.18. Solvency.

(a) Immediately after giving effect to the transactions to occur on the Restatement Effective Date, (i) the fair value of the assets of the Company and the Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, direct, subordinated, contingent or otherwise, of the Company and its Subsidiaries on a consolidated basis, respectively; (ii) the present fair saleable value of the property of the Company and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Company and its Subsidiaries on a consolidated basis, respectively, on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Company and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Company and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Restatement Effective Date.

(b) the Company does not intend to, and does not believe that it or any of its Material Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such subsidiary.

Section 3.19. Labor Matters. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes pending or threatened against the Company or any Material Subsidiary and (b) all payments due from the Company or any Material Subsidiary or for which any claim may be made against the Company or any Material Subsidiary, on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of the Company or such Material Subsidiary to the extent required by GAAP. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, the consummation of the Transactions will not give rise to a right of termination or right of renegotiation on the part of any union under any material collective bargaining agreement to which the Company or any Material Subsidiary (or any predecessor) is a party or by which the Company or any Material Subsidiary (or any predecessor) is bound.

Section 3.20. Insurance. Schedule 3.20 sets forth a true, complete and correct description of all material insurance maintained by or on behalf of each Loan Party and the Material Subsidiaries or otherwise in respect of any Mortgaged Vessel as of the Restatement Effective Date. As of such date, such insurance is in full force and effect in all material respects.

Section 3.21. No Default. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

Section 3.22. No Event of Loss. No Loan Party has received any notice of, nor has any knowledge of, the occurrence or pendency or contemplation of any Event of Loss except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Section 3.23. The Mortgaged Vessels.

(a) Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, each Mortgaged Vessel, on the Restatement Effective Date, is in such condition as is required by the applicable Vessel Mortgage and Deed of Covenants and complies with all of the requirements of both such Security Documents.

(b) Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, the Co-Borrower and each Subsidiary Guarantor will comply with and satisfy all of the provisions of the Merchant Shipping Act, Chapter 268 of the Statute Laws of The Bahamas or Chapter 3 of the Maritime Act, 1990, of the Republic of the Marshall Islands, being Title 47 of the Marshall Islands Revised Code, as at any time amended, as applicable, in order to establish and maintain the Vessel Mortgages as first priority statutory ship mortgages or first preferred ship mortgages, as applicable, thereunder on each of the Mortgaged Vessels and on all renewals, improvements and replacements made in or to the same.

Section 3.24. Anti-Corruption Laws and Sanctions.

The Company has implemented and maintains in effect policies and procedures designed to ensure compliance by the Company, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, applicable AML Laws and applicable Sanctions, and the Company, its Subsidiaries and their respective directors and officers and, to the knowledge of the Company or such Subsidiary, any or their respective employees, agents and Affiliates, are in compliance with Anti-Corruption Laws, AML Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in either of the Borrowers being designated as a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Laws, AML Laws or will result in a violation of any applicable Sanctions by any party hereto. The representations and warranties in this Section shall not be made by the Borrowers to any Lender which is incorporated in the Federal Republic of Germany (and which has so notified the Administrative Agent) to the extent that the enforcement of such provision by a Lender would (a) violate, conflict with or incur liability under EU Regulation (EC) 2271/96 or (b) violate or conflict with section 7 of the German Foreign Trade Regulation (Außenwirtschaftsverordnung) in connection with section 4 paragraph (1)(a)(3) of the Foreign Trade Law (Außenwirtschaftsgesetz) or any similar anti-boycott statute in force in the Federal Republic of Germany.

Section 3.25. EEA Financial Institutions. No Loan Party is an EEA Financial Institution.

ARTICLE IV

CONDITIONS OF LENDING

Section 4.01. All Credit Events. The obligations of (a) the Lenders to make Loans and (b) any Issuing Bank to issue Letters of Credit or increase the stated amounts of Letters of Credit hereunder (each, a "Credit Event") are subject to the satisfaction of the following conditions:

(a) The Administrative Agent shall have received, in the case of a Borrowing, a Borrowing Request as required by Section 2.03 (or a Borrowing Request shall have been deemed given in accordance with the last paragraph of Section 2.03) or, in the case of the issuance of a Letter of Credit, the applicable Issuing Bank and the Administrative Agent shall have received a notice requesting the issuance of such Letter of Credit as required by Section 2.05(b).

(b) The representations and warranties set forth in the Loan Documents shall be true and correct in all material respects as of such date (other than an automatic extension of a Letter of Credit as permitted under Section 2.05(c)), as applicable, with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date.

(c) At the time of and immediately after the Borrowing or issuance, amendment, extension or renewal of a Letter of Credit (other than an amendment, extension or renewal of a Letter of Credit without any increase in the stated amount of such Letter of Credit), as applicable, no Event of Default or Default shall have occurred and be continuing.

(d) Each Borrowing and each issuance, amendment, extension or renewal of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrowers on the date of the Borrowing, issuance, amendment, extension or renewal as applicable, as to the matters specified in paragraphs (b) and (c) of this Section 4.01.

Section 4.02. Restatement Effective Date. The effectiveness of this Agreement is subject to the satisfaction of the following conditions:

(a) The Administrative Agent (or its counsel) shall have received from Lenders constituting the Required Lenders (under and as defined in the Original Credit Agreement), the Administrative Agent, the Borrowers, each Term A Lender, each Revolving Facility Lender and each Issuing Bank either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include by electronic means transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received such copies of amendments to the Loan Documents as may be requested by the Administrative Agent in connection with the transactions contemplated by the Restatement to ensure the continued validity, enforceability and priority of the Loan Documents after giving effect to the Restatement as may have been reasonably requested by the Administrative Agent together with such opinions of counsel, certificates, and other documents as the Administrative Agent may have reasonably requested in connection therewith.

(c) All accrued interest and fees payable hereunder through the Restatement Effective Date shall have been paid.

(d) The Administrative Agent shall have received from the Company an upfront fee payable for the account of each Lender party to this Agreement on the Restatement Effective Date equal to (i) 0.125% of the aggregate principal amount of such Lender's Term A Loan Commitment and Revolving Facility Commitment on the Restatement Effective Date up to the aggregate principal amount of "Term A Loans" and "Revolving Facility Commitments" if any, held by such Lender immediately prior to the Restatement Effective Date and (ii) 0.25% of the aggregate principal amount of such Lender's Term A Loan Commitment and Revolving Facility Commitment on the Restatement Effective Date in excess of the amount described in subclause (i) above.

(e) The Administrative Agent shall have received (or be reasonably satisfied that it will receive promptly after the funding of Loans on the Restatement Effective Date), on behalf of itself, the Lenders and each Issuing Bank, a favorable written opinion of (i) Paul, Weiss, Rifkind, Wharton & Garrison LLP, special counsel for the Loan Parties, (ii) Taylors in association with Walkers, Bermuda counsel for the Loan Parties, (iii) Mayer Brown JSM, Marshall Islands counsel for the Loan Parties, (iv) Graham Thompson, Bahamas counsel for the Loan Parties, and (v) Clyde & Co, maritime counsel for the Loan Parties, in each case (A) dated the Restatement Effective Date, (B) addressed to each Issuing Bank, the Administrative Agent, the Collateral Agent and the Lenders and (C) in form and substance reasonably satisfactory to the Administrative Agent and covering such other matters relating to the Loan Documents as the Administrative Agent shall reasonably request.

(f) The Administrative Agent shall have received a certificate of the Secretary or Assistant Secretary or similar officer of each Loan Party dated the Restatement Effective Date and certifying:

(i) a copy of the certificate or articles of incorporation, certificate of limited partnership, certificate of formation or other equivalent constituent and governing documents, including all amendments thereto, of such Loan Party, (1) if available from an official in such jurisdiction, certified as of a recent date by the Secretary of State (or other similar official) of the jurisdiction of its organization, or (2) otherwise certified by the Secretary or Assistant Secretary of such Loan Party or other person duly authorized by the constituent documents of such Loan Party,

(ii) a certificate as to the good standing (to the extent such concept or a similar concept exists under the laws of such jurisdiction) of such Loan Party as of a recent date from such Secretary of State (or other similar official),

(iii) that attached thereto is a true and complete copy of the by-laws (or partnership agreement, limited liability company agreement or other equivalent constituent and governing documents) of such Loan Party as in effect on the Restatement Effective Date and at all times since a date prior to the date of the resolutions described in clause (iv) below,

(iv) that attached thereto is a true and complete copy of resolutions duly adopted by the board of directors (or equivalent governing body) of such Loan Party (or its managing general partner or managing member) authorizing the execution, delivery and performance of the Loan Documents dated as of the Restatement Effective Date to which such person is a party and, in the case of the Borrowers, the borrowings hereunder, and that such resolutions have not been modified, rescinded or amended and are in full force and effect on the Restatement Effective Date,

(v) as to the incumbency and specimen signature of each officer executing any Loan Document or any other document delivered in connection herewith on behalf of such Loan Party, and

(vi) as to the absence of any pending proceeding for the dissolution or liquidation of such Loan Party or, to the knowledge of such person, threatening the existence of such Loan Party;

(g) The Lenders shall have received a solvency certificate substantially in the form of Exhibit C and signed by a Financial Officer of the Company.

(h) JPMorgan Chase Bank, N.A. shall have received all fees payable thereto or to any Lender on or prior to the Restatement Effective Date and, to the extent invoiced at least three Business Days prior to the Restatement Effective Date, all other amounts due and payable pursuant to the Loan Documents on or prior to the Restatement Effective Date, including, to the extent invoiced at least three Business Days prior to the Restatement Effective Date, reimbursement or payment of all reasonable and documented out-of-pocket expenses (including reasonable and documented fees, charges and disbursements of Cahill Gordon & Reindel LLP, Appleby (Bermuda) Limited, Higgs & Johnson and Watson, Farley & Williams LLP) required to be reimbursed or paid by the Loan Parties hereunder or under any Loan Document.

(i) (i) The Lenders shall have received, at least three Business Days prior to the Restatement Effective Date, all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act that has been requested by the Administrative Agent in writing at least ten Business Days prior to the Restatement Effective Date and (ii) to the extent a Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, at least five days prior to the Restatement Effective Date, any Lender that has requested, in a written notice to the Company at least 10 Business Days prior to the Restatement Effective Date, a Beneficial Ownership Certification in relation to each Borrower shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this clause (ii) shall be deemed to be satisfied).

For purposes of determining compliance with the conditions specified in this Section 4.02, each Lender shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Lenders unless an officer of the Administrative Agent responsible for the transactions contemplated by the Loan Documents shall have received notice from such Lender prior to the Restatement Effective Date specifying its objection thereto and such Lender shall not have made available to the Administrative Agent such Lender's ratable portion of the initial Borrowing.

ARTICLE V

AFFIRMATIVE COVENANTS

The Company covenants and agrees with each Lender that, so long as this Agreement shall remain in effect (other than in respect of contingent indemnification and expense reimbursement obligations for which no claim has been made) and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts payable under any Loan Document shall have been paid in full and all Letters of Credit have been canceled or have expired and all amounts drawn or paid thereunder have been reimbursed in full, unless the Required Lenders shall otherwise consent in writing, the Company will, and will cause each of the Material Subsidiaries to:

Section 5.01. Existence: Business and Properties.

(a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except, in the case of a Subsidiary, where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and except as otherwise expressly permitted under Section 6.05, and except for the liquidation or dissolution of Subsidiaries if the assets of such Subsidiaries to the extent they exceed estimated liabilities are acquired by the Company or a Wholly Owned Subsidiary of the Company in such liquidation or dissolution; provided, that Loan Parties may not be liquidated into Subsidiaries that are not Loan Parties.

(b) Except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, do or cause to be done all things necessary to (i) lawfully obtain, preserve, renew, extend and keep in full force and effect the permits, franchises, authorizations, patents, trademarks, service marks, trade names, copyrights, licenses and rights with respect thereto necessary to the normal conduct of its business, and (ii) at all times maintain, protect and preserve all property necessary to the normal conduct of its business and keep such property in good repair, working order and condition (ordinary wear and tear excepted), from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith, if any, may be properly conducted at all times (in each case except as expressly permitted by this Agreement), and use the standard of care typical in the industry in the operation and maintenance of its properties.

Section 5.02. Insurance.

(a) With respect to the Mortgaged Vessels, and without limiting the requirements for insurance required thereon by the Vessel Mortgages or Deeds of Covenants (which Vessel Mortgage and Deed of Covenants provisions shall be controlling in the event of a conflict), maintain, with financially sound and reputable insurance companies, as of any day, customary marine insurances (including hull, machinery, hull interest/increased value, freight interest/anticipated earnings, war risk, protection and indemnity, war risk protection and indemnity and mortgagee's interest (and such mortgagee's interest insurance shall be procured by the Administrative Agent, and any expenses in connection therewith shall be reimbursed by the Company)) for the higher of the aggregate amount of the Valuations of all Mortgaged Vessels and [*]% of the aggregate amount of all Term Loans outstanding on such day and Revolving Facility Credit Exposure on such day, and maintenance of required surety bonds (if any).

(b) Except as the Administrative Agent on behalf of the Lenders may agree in writing, cause all such property and casualty insurance policies with respect to each Loan Party's assets located in the United States to be endorsed or otherwise amended to (i) name the Collateral Agent, on behalf of the Secured Parties, as an additional insured thereunder as its interests may appear and (ii) in the case of each casualty insurance policy, include a "standard" or "New York" lender's loss payable endorsement, in form and substance reasonably satisfactory to the Administrative Agent, which endorsement shall provide that, from and after the Closing Date, if the insurance carrier shall have received written notice from the Administrative Agent of the occurrence of an Event of Default, the insurance carrier shall pay all proceeds otherwise payable to the Loan Parties under such policies directly to Administrative Agent and/or Collateral Agent; cause all such policies to provide that neither the Loan Parties, the Administrative Agent, the Collateral Agent nor any other party shall be a coinsurer thereunder and to contain a "Replacement Cost Endorsement," without any deduction for depreciation, and such other provisions as the Administrative Agent may reasonably require from time to time to protect their interests; deliver copies of all such policies or certificates of an insurance broker with respect to such policies, in each case together with the endorsements provided for herein; cause each such policy to provide that it shall not be cancelled or not renewed upon less than 30 days' prior written notice thereof by the insurer to the Collateral Agent; deliver to the Administrative Agent and the Collateral Agent, prior to or concurrently with the cancellation or nonrenewal of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Administrative Agent), or insurance certificate with respect thereto, together with evidence satisfactory to the Administrative Agent of payment of the premium therefor, in each case of the foregoing, to the extent customarily maintained, purchased or provided to, or at the request of, lenders by similarly situated companies in connection with credit facilities of this nature.

(c) In connection with the covenants set forth in this Section 5.02, it is understood and agreed that:

(i) none of the Administrative Agent, the Collateral Agent the Lenders, the Issuing Banks, the other Secured Parties and their respective agents or employees shall be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 5.02, it being understood that (A) the Loan Parties shall look solely to their insurance companies or any other parties other than the aforesaid parties for the recovery of such loss or damage and (B) such insurance companies shall have no rights of subrogation against the Administrative Agent, the Collateral Agent, the Lenders, any Issuing Bank, any other Secured Party or their agents or employees. If, however, the insurance policies, as a matter of the internal policy of such insurer, do not provide waiver of subrogation rights against such parties, as required above, then each Loan Party, on behalf of itself and behalf of each of its Subsidiaries, hereby agrees, to the extent permitted by law, to waive, and further agrees to cause each of their Subsidiaries to waive, its right of recovery, if any, against the Administrative Agent, the Collateral Agent, the Lenders, the Issuing Banks, the other Secured Parties and their agents and employees;

(ii) the designation of any form, type or amount of insurance coverage by the Administrative Agent under this Section 5.02 shall in no event be deemed a representation, warranty or advice by the Administrative Agent, Collateral Agent or the Lenders that such insurance is adequate for the purposes of the business of the Loan Parties and the Subsidiaries or the protection of their properties; and

(iii) the insurance policies and coverages thereunder maintained as of the Restatement Effective Date by the Loan Parties and the Material Subsidiaries and listed on Schedule 3.20 satisfy the requirements of paragraph (a) of this Section 5.02 as of the Restatement Effective Date.

Section 5.03. Taxes. Pay its obligations in respect of all Tax liabilities, assessments and governmental charges, before the same shall become delinquent or in default, except where (i) the amount or validity thereof is being contested in good faith by appropriate proceedings and the Company or a Subsidiary thereof has set aside on its books adequate reserves therefor in accordance with GAAP (or in the case of a Foreign Subsidiary, the comparable accounting principles in the relevant jurisdiction) or (ii) the failure to make payment could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.04. Financial Statements, Reports, etc. Furnish to the Administrative Agent (which will promptly furnish such information to the Lenders):

(a) within 90 days (or, if applicable, such shorter period as the SEC shall specify for the filing of annual reports on Form 10-K or on any applicable equivalent form) after the end of each fiscal year a consolidated balance sheet and related statements of operations, cash flows and owners' equity showing the financial position of the Company and its Subsidiaries as of the close of such fiscal year and the consolidated results of their operations during such fiscal year and setting forth in comparative form the corresponding figures for the prior fiscal year, which consolidated balance sheets and related statements of operations, cash flows and owners' equity shall be audited by PricewaterhouseCoopers, LLP or other independent public accountants of recognized national standing and accompanied by an opinion of such accountants (which opinion shall not be qualified as to scope of audit or as to the status of the Company or any Material Subsidiary as a going concern) to the effect that such consolidated financial statements fairly present, in all material respects, the financial position and results of operations of the Company and its Subsidiaries on a consolidated basis in accordance with GAAP (it being understood that the delivery by the Company of annual reports on Form 10-K or the equivalent of the Company and its consolidated Subsidiaries shall satisfy the requirements of this (a) to the extent such annual reports include the information specified herein);

(b) within 45 days (or, if applicable, such shorter period as the SEC shall specify for the filing of quarterly reports on Form 10-Q or on any applicable equivalent form) after the end of each of the first three fiscal quarters of each fiscal year, a consolidated balance sheet and related statements of operations and cash flows showing the financial position of the Company and its Subsidiaries as of the close of such fiscal quarter and the consolidated results of their operations during such fiscal quarter and the then-elapsed portion of the fiscal year and setting forth in comparative form the corresponding figures for the corresponding periods of the prior fiscal year, all of which shall be in reasonable detail and which consolidated balance sheet and related statements of operations and cash flows shall be certified by a Financial Officer of the Company on behalf of the Company, as fairly presenting, in all material respects, the financial position and results of operations of the Company and its Subsidiaries, on a consolidated basis in accordance with GAAP (subject to normal year-end audit adjustments and the absence of footnotes) (it being understood that the delivery by the Company of quarterly reports on Form 10-Q of the Company and its consolidated Subsidiaries shall satisfy the requirements of this (b) to the extent such quarterly reports include the information specified herein);

(c) (x) concurrently with any delivery of financial statements under paragraphs (a) or (b) above, a certificate of a Financial Officer of the Company (i) certifying that no Event of Default or Default has occurred or, if such an Event of Default or Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (ii) setting forth computations in reasonable detail demonstrating compliance with the covenants set forth in Sections 6.12, 6.13, 6.14, and 6.15, (iii) setting forth the calculation and uses of the Cumulative Credit for the fiscal period then ended if the Company shall have used the Cumulative Credit for any purpose during such fiscal period, and (iv) certifying a list of names of all Immaterial Subsidiaries, that each Subsidiary set forth on such list individually qualifies as an Immaterial Subsidiary and that all such Subsidiaries in the aggregate do not exceed the limitation set forth in clause (b) of the definition of the term "Immaterial Subsidiary," and (y) concurrently with any delivery of financial statements under paragraph (a) above, if the accounting firm is not restricted from providing such a certificate by the policies of its applicable office, a certificate of the accounting firm opining on or certifying such statements stating whether they obtained knowledge during the course of their examination of such statements of any Default or Event of Default (which certificate may be limited to accounting matters and disclaim responsibility for legal interpretations);

(d) promptly after the same become publicly available, copies of all periodic and other publicly available reports, proxy statements and, to the extent requested by the Administrative Agent, other materials filed by the Company or any Subsidiary with the SEC, or after an initial public offering, distributed to its stockholders generally, as applicable; provided, however, that such reports, proxy statements, filings and other materials required to be delivered pursuant to this clause (d) or any other clause of this Section 5.04 shall be deemed delivered for purposes of this Agreement when posted to the website of the Company or the SEC;

(e) within 90 days after the beginning of each fiscal year, a reasonably detailed consolidated quarterly budget for such fiscal year (including a projected consolidated balance sheet of the Company and its Subsidiaries as of the end of the following fiscal year, and the related consolidated statements of projected cash flow and projected income), including a description of underlying assumptions with respect thereto (collectively, the "Budget"), which Budget shall in each case be accompanied by the statement of a Financial Officer of the Company to the effect that the Budget is based on assumptions believed by such Financial Officer to be reasonable as of the date of delivery thereof;

(f) promptly, from time to time, such other information (i) regarding the operations, business affairs and financial condition of the Company or any of the Subsidiaries, (ii) regarding compliance with the terms of any Loan Document, (iii) regarding such consolidating financial statements or (iv) required under the USA PATRIOT Act or the Beneficial Ownership Regulation, as in each case the Administrative Agent may reasonably request (for itself or on behalf of any Lender);

(g) in the event that (x) any Parent Entity reports on a consolidated basis then, such consolidated reporting at such Parent Entity's level in a manner consistent with that described in paragraphs (a) and (b) of this Section 5.04 for the Company (together with a reconciliation showing the adjustments necessary to determine compliance by the Company and its Subsidiaries with the covenants set forth in Sections 6.12, 6.13, 6.14, and 6.15 and consolidating information that explains in reasonable detail the differences between the information relating to such direct or indirect parent and its Subsidiaries, on the one hand, and the information relating to the Company and its Subsidiaries, on the other hand) will satisfy the requirements of such paragraphs.

Section 5.05. Litigation and Other Notices. Furnish to the Administrative Agent (which will promptly thereafter furnish to the Lenders) written notice of the following promptly after any Responsible Officer of the Company obtains actual knowledge thereof:

- (a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto;
- (b) the filing or commencement of, or any written threat or notice of intention of any person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority or in arbitration, against any Loan Party or any Subsidiary as to which an adverse determination is reasonably probable and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect;
- (c) any other development specific to any Loan Party or any Subsidiary that is not a matter of general public knowledge and that has had, or would reasonably be expected to have, a Material Adverse Effect;
- (d) the development of any ERISA Event that, together with all other ERISA Events that have developed or occurred, would reasonably be expected to have a Material Adverse Effect; and
- (e) any change in the information provided in the Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification.

Section 5.06. Compliance with Laws.

- (a) Comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect;
- (b) This Section 5.06 shall not apply to Environmental Laws, which are the subject of Section 5.09, or to laws related to Taxes, which are the subject of Section 5.03.

Section 5.07. Maintaining Records: Access to Properties and Inspections. Maintain all financial records in accordance with GAAP and permit any persons designated by the Administrative Agent or, upon the occurrence and during the continuance of an Event of Default, any Lender to visit and inspect the financial records and the properties of the Company or any Material Subsidiary at reasonable times, upon reasonable prior notice to the Company, and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any persons designated by the Administrative Agent or, upon the occurrence and during the continuance of an Event of Default, any Lender upon reasonable prior notice to the Company to discuss the affairs, finances and condition of the Company or any Material Subsidiary with the officers thereof and independent accountants therefor (subject to reasonable requirements of confidentiality, including requirements imposed by law or by contract).

Section 5.08. Use of Proceeds. Use the proceeds of the Loans and the Letters of Credit only as contemplated by Section 3.12. The Borrowers will not request any Borrowing or Letter of Credit, and the Borrowers shall not use, and shall procure that their Subsidiaries and their or their Subsidiaries' respective directors, officers, employees, Affiliates and agents shall not use, directly or indirectly, the proceeds of any Borrowing or Letter of Credit, or lend, contribute or otherwise make available such proceeds to any Subsidiary, other Affiliate, joint venture partner or other person, (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any Anti-Corruption Laws or AML Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or involving any goods originating in or with a Sanctioned Person or Sanctioned Country, in each case except to the extent permissible for a Person required to comply with Sanctions, or (C) in any manner that would result in the violation of any Sanctions by any person (including any person participating in the transactions contemplated hereunder, whether as underwriter, advisor lender, investor or otherwise). The covenants in this Section 5.08 shall not be given by the Borrowers to any Lender which is incorporated in the Federal Republic of Germany (and which has so notified the Administrative Agent) to the extent that the enforcement of such provision by a Lender would (a) violate, conflict with or incur liability under EU Regulation (EC) 2271/96 or (b) violate or conflict with section 7 of the German Foreign Trade Regulation (Außenwirtschaftsverordnung) in connection with section 4 paragraph (1)(a)(3) of the Foreign Trade Law (Außenwirtschaftsgesetz) or any similar anti-boycott statute in force in the Federal Republic of Germany.

Section 5.09. Environmental Matters.

(a) Comply, and make reasonable efforts to cause any Approved Manager and all persons employed on board any Mortgaged Vessel or other property owned or leased by it (and all other persons under contract with any Loan Party or any Approved Manager) to comply, with all Environmental Laws applicable to its operations and properties; and obtain and renew all material Environmental Permits required for its operations and properties, in each case in accordance with Environmental Laws, except, in each case with respect to this Section 5.09, to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(b) Implement any and all investigation, remediation, removal and response actions that are appropriate or necessary to maintain the value and marketability of any Mortgaged Vessels or any other property owned or leased by it or to otherwise comply with Environmental Laws and Environmental Permits pertaining to the presence, generation, treatment, storage, use, disposal, transportation, scrapping or Release of any Hazardous Material on, at, in, under, above, to, from or about any Mortgaged Vessel or other property owned, leased or occupied by it, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect;

(c) Notify the Administrative Agent promptly after it becomes aware that any violation of Environmental Laws or Environmental Permits or any Release on, at, in, under, above, to or from any Mortgaged Vessel or any other property owned, leased or occupied by it, or any other Environmental Claim could reasonably be expected to result in Environmental Liabilities in excess of \$[*] per instance or \$[*] in the aggregate (for all such instances) in any one fiscal year (for any and all such violations, Releases and Environmental Claims and for any and all of the Loan Parties and Material Subsidiaries), in each case whether or not any Governmental Authority has taken or threatened any action in connection with any such violation, Release, Environmental Claim or other matter; and

(d) Promptly forward to the Administrative Agent a copy of any order, notice, request for information or any written communication or report received by it in connection with any such violation or Release or any other matter relating to any Environmental Laws or Environmental Permits described in paragraph (c) of this Section 5.09.

Section 5.10. Further Assurances: Additional Security and Guarantees

(a) Promptly execute, and use commercially reasonable efforts to cause the execution of, any and all further documents, financing statements, agreements and instruments, and take, or use commercially reasonable efforts to cause the taking of, all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, vessel mortgages, deeds of covenants and other documents and recordings of Liens in stock, or any other, registries), that may be required under any applicable law, or that the Collateral Agent may reasonably request, to satisfy the Collateral and Guarantee Requirement and to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Borrowers, and provide to the Collateral Agent from time to time upon reasonable request of the Collateral Agent, evidence reasonably satisfactory to the Collateral Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

(b) [Reserved].

(c) Within 20 Business Days of the date on which any person becomes an Additional Subsidiary Guarantor (or such later date as the Administrative Agent may agree in its sole discretion as a result of delays despite commercially reasonable efforts), (i) the Company shall, and shall cause such Additional Subsidiary Guarantor to, execute and deliver an Additional Subsidiary Guarantor Accession Supplement to the Administrative Agent and the Collateral Agent together with the documents that such Additional Subsidiary Guarantor would have been required to deliver pursuant to Section 4.02(f), (h) (without giving effect to the proviso therein) and (j), mutatis mutandis, had it been a Loan Party on the Closing Date, in each case certified or otherwise in the form required thereunder, (ii) cause the Collateral and Guarantee Requirement to be satisfied with respect to such Subsidiary and with respect to the Equity Interests in or Indebtedness of such Subsidiary owned by a Loan Party and (iii) the Administrative Agent and the Collateral Agent shall have received favorable written opinions from New York counsel and counsel in the jurisdiction in which such Additional Subsidiary Guarantor is formed, in each case reasonably satisfactory to the Administrative Agent and covering such matters relating to (x) such Additional Subsidiary Guarantor, its Additional Subsidiary Guarantor Accession Supplement and its accession to the Loan Documents and (y) the pledge of the Equity Interests in or Indebtedness of such Subsidiary owned by a Loan Party, as the Administrative Agent shall reasonably request.

(d) [Reserved].

(e) As a condition precedent to the occurrence of any transaction permitted under this Agreement effecting a change in the holder of any Equity Interests in a Subsidiary Guarantor, ensure that each resulting new holder of any Equity Interests in such Subsidiary Guarantor shall have executed and delivered to the Administrative Agent and the Collateral Agent a replacement Subsidiary Guarantor Pledge Agreement (or other documentation satisfactory to the Administrative Agent evidencing such new holder's pledge of all Equity Interests in such Subsidiary Guarantor on substantially the same terms as the existing Subsidiary Guarantor Pledge Agreement with respect to such Subsidiary Guarantor) prior to or not later than simultaneously with the occurrence of the relevant transaction, together with (i) to the extent requested by the Administrative Agent, favorable written opinions of counsel covering such matters relating to such replacement Subsidiary Guarantor Pledge Agreement as the Administrative Agent shall reasonably request or other documentation and such other matters as the Administrative Agent may reasonably request and (ii) delivery to the Collateral Agent of the certificates or other instruments, if any, representing all of the Equity Interests of such Subsidiary, together with stock powers or instruments of transfer executed and delivered in blank.

(f) Provide not less than 10 days prior written notice of any Subsidiary Guarantor's or the Co-Borrower's intent to re-register any Mortgaged Vessel under the laws of a Permitted Flag Jurisdiction other than the jurisdiction in which such Mortgaged Vessel was registered on the Closing Date, Acquisition Closing Date or the Third Restatement Effective Date, as applicable (or any subsequent re-registration permitted by this Agreement); and, as conditions precedent to any such re-registration, the Subsidiary Guarantor or the Co-Borrower shall promptly grant to the Collateral Agent a security interest in and deliver an acceptable vessel mortgage governed by the laws of the new Permitted Flag Jurisdiction together with any deed of covenants, mortgage supplement or other customary related supplementary documentation, which vessel mortgage together with any such supplementary documentation shall constitute a valid and enforceable perfected first priority Lien subject only to Permitted Liens. Such vessel mortgage and supplementary documentation shall be duly registered, filed or recorded, as appropriate, in such manner and in such places as are required by law to establish, perfect, preserve and protect the Liens in favor of the Collateral Agent required to be granted pursuant to such vessel mortgage and supplementary documentation and all taxes, fees and other charges payable in connection therewith shall be paid by the Subsidiary Guarantor or Co-Borrower in full. Such Subsidiary Guarantor or the Co-Borrower shall otherwise take such other actions and execute and/or deliver to the Collateral Agent such other documents as the Collateral Agent shall require in its reasonable discretion to confirm the validity, perfection and priority of the Lien of any new vessel mortgage and any related supplementary documentation (including an opinion from local counsel acceptable to the Collateral Agent, which opinion is in form and substance reasonably satisfactory to the Collateral Agent in respect of such vessel mortgage and any related supplementary documentation).

(g) Provide not less than 10 days prior written notice of any Subsidiary Guarantor's or the Co-Borrower's intent to transfer any Mortgaged Vessel to any other Subsidiary Guarantor (a "Permitted Vessel Transfer"); and, as conditions precedent to any Permitted Vessel Transfer, the Subsidiary Guarantor or the Co-Borrower shall promptly grant to the Collateral Agent a security interest in and deliver an acceptable vessel mortgage together with any deed of covenants, vessel mortgage, earnings assignments, insurance assignments, and other customary related supplementary documentation, which vessel mortgage together with any such supplementary documentation shall constitute a valid and enforceable perfected first priority Lien subject only to Permitted Liens. Such vessel mortgage and supplementary documentation shall be duly registered, filed or recorded, as appropriate, in such manner and in such places as are required by law to establish, perfect, preserve and protect the Liens in favor of the Collateral Agent required to be granted pursuant to such vessel mortgage and supplementary documentation and all taxes, fees and other charges payable in connection therewith shall be paid by the Subsidiary Guarantor or the Co-Borrower in full. Such Subsidiary Guarantor or the Co-Borrower shall otherwise take such other actions and execute and/or deliver to the Collateral Agent such other documents as the Collateral Agent shall require in its reasonable discretion to confirm the validity, perfection and priority of the Lien of any new vessel mortgage and any related supplementary documentation (including an opinion from local counsel reasonably acceptable to the Collateral Agent, which opinion is in form and substance reasonably satisfactory to the Collateral Agent in respect of such vessel mortgage and any related supplementary documentation).

(h) (i) Furnish to the Collateral Agent prompt written notice of any change (A) in any Loan Party's or Material Subsidiary's legal name, (B) in any Loan Party's or Material Subsidiary's identity or organizational structure, (C) in any Loan Party's or Material Subsidiary's organizational identification number or (D) in any Loan Party's "location" within the meaning of Section 9-307 of the Uniform Commercial Code; provided that no Loan Party shall effect or permit any such change unless all filings have been made, or will have been made within any statutory period, under the Uniform Commercial Code or other applicable law that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral for the benefit of the Secured Parties with the priority intended under the Collateral and Guarantee Requirement and (ii) promptly notify the Collateral Agent if any material portion of the Collateral is damaged or destroyed.

(i) Subject to this Section 5.10, with respect to any property acquired after the Closing Date by any Loan Party that is intended to be subject to the Lien created by any of the Security Documents but is not so subject, promptly (and in any event within 30 days after the acquisition thereof or such longer period as the Administrative Agent shall agree in its reasonable discretion) (i) execute and deliver to the Administrative Agent and the Collateral Agent such amendments or supplements to the relevant Security Documents or such other documents as the Administrative Agent or the Collateral Agent shall reasonably deem necessary or advisable to grant to the Collateral Agent, for its benefit and for the benefit of the other Secured Parties, a Lien on such property subject to no Liens other than Permitted Liens, and (ii) use commercially reasonable efforts to cause such Lien to be duly perfected to the extent required by such Security Document in accordance with requirements of applicable law, including the filing of financing statements in such jurisdictions as may be reasonably requested by the Administrative Agent. The Borrowers shall otherwise take such actions and execute and/or deliver to the Collateral Agent such documents as the Administrative Agent or the Collateral Agent shall reasonably require to confirm the validity, perfection and priority of the Lien of the Security Documents on such after-acquired properties.

(j) The Collateral and Guarantee Requirement and the other provisions of this Section 5.10 need not be satisfied with respect to (i) any Equity Interests owned or acquired after the Closing Date (other than, in the case of any person which is a Subsidiary of a Subsidiary Guarantor or the Co-Borrower, Equity Interests in such person issued or acquired after such person became a Subsidiary) in accordance with this Agreement if, and to the extent that, and for so long as (A) doing so would violate applicable law or a contractual obligation binding on such Equity Interests and (B) with respect to contractual obligations, such obligation existed at the time of the acquisition thereof and was not created or made binding on such Equity Interests in contemplation of or in connection with the acquisition of such Subsidiary, (ii) any assets acquired after the Closing Date, to the extent that, and for so long as, taking such actions would violate an enforceable contractual obligation binding on such assets that existed at the time of the acquisition thereof and was not created or made binding on such assets in contemplation or in connection with the acquisition of such assets (except in the case of assets acquired with Indebtedness permitted pursuant to Section 6.01(i) or 6.01(r) (if of the type permitted by Section 6.01(i)) that is secured by a Permitted Lien); provided, that, upon the reasonable request of the Collateral Agent, the Company shall, and shall cause any applicable Subsidiary to, use commercially reasonable efforts to have waived or eliminated any contractual obligation of the types described in clauses (i) and (ii) above, or (iii) any Subsidiary or asset with respect to which the Administrative Agent determines in writing in its reasonable discretion that the cost of the satisfaction of the Collateral and Guarantee Requirement or the provisions of this Section 5.10 or of any Security Document with respect thereto is excessive in relation to the value of the security afforded thereby.

(k) Notwithstanding anything to the contrary in this Agreement or any other Loan Document, neither the Borrowers nor any of their Subsidiaries shall be required to enter into any Control Agreement.

Section 5.11. Rating. Exercise commercially reasonable efforts to maintain ratings on the Term Facilities and public corporate ratings for the Company or Holdings from each of Moody's and S&P.

Section 5.12. Annual Insurance Report. On or as of the Acquisition Closing Date and thereafter on such other dates as the Collateral Agent may require (but not more than once per fiscal year of the Company), a written report addressed to the Collateral Agent and the Secured Parties with respect to the insurances carried and maintained on the Mortgaged Vessels signed by an Approved Insurance Evaluator; provided that only the reasonable expenses of such Approved Insurance Evaluator are required to be reimbursed by the Borrowers hereunder.

Section 5.13. Approval and Authorization.

(a) The Lenders hereby approve the forms of the First Lien Intercreditor Agreement, the Second Lien Intercreditor Agreement, each Subsidiary Guarantor Pledge Agreement and the Collateral Agreement and authorize the Administrative Agent and the Collateral Agent (i) to enter into the same on their behalf (in the case of the First Lien Intercreditor Agreement and the Second Lien Intercreditor Agreement, with such changes thereto as may be reasonably acceptable to the Collateral Agent) and (ii) to perform their duties and obligations and to exercise their rights and remedies thereunder. The Lenders acknowledge that the Collateral Agent will be acting as collateral agent for the holders of the Obligations and the Senior Secured Notes Obligations of the Obligations under the Security Documents, on the terms provided for therein and in the First Lien Intercreditor Agreement and/or the Second Lien Intercreditor Agreement.

(b) No later than 90 days following each incurrence of Pari Passu Senior Secured Notes, the Company shall deliver, or cause to be delivered, amendments to each Vessel Mortgage to which a Loan Party is then party (except to the extent the Administrative Agent determines in its sole discretion such amendment is not required) for purposes of providing the benefit of such security interest of such Vessel Mortgage for the benefit of the holders of such Pari Passu Senior Secured Notes on substantially the same basis as is provided under the applicable Vessel Mortgage (and with such other changes as are reasonably acceptable to the Collateral Agent and the Company).

Section 5.14. Concerning the Mortgaged Vessels.

(a) At all times operate each Mortgaged Vessel in compliance in all respects with all applicable governmental rules, regulations and requirements pertaining to such Mortgaged Vessel and in compliance in all respects with all rules, regulations and requirements of the applicable Classification Society and in compliance with all requirements of any applicable Vessel Mortgage and, if applicable, Deed of Covenants, except, in each case with respect to this Section 5.14(a), to the extent the failure to do so would not reasonably be expected to have a Material Adverse Effect. The Company shall cause each Subsidiary Guarantor and the Co-Borrower to keep each Mortgaged Vessel registered under the laws of a Permitted Flag Jurisdiction and furnish to the Administrative Agent copies of all renewals and extensions of such registration.

(b) Maintain each Mortgaged Vessel classed in the highest available class with a Classification Society, free of any overdue recommendations or exceptions of any kind that affect such Mortgaged Vessel's classification and rating by such Classification Society, except, in each case with respect to this Section 5.14(b), to the extent the failure to do so would not reasonably be expected to have a Material Adverse Effect. Upon request (it being understood that the Administrative Agent shall not make more than one such request during any fiscal year of the Company), the Company shall furnish to the Administrative Agent and the Lenders a confirmation of class certificate issued by the respective Classification Society for each of the Mortgaged Vessels.

(c) Maintain a true copy of the relevant Vessel Mortgage, together with a notice thereof, aboard each of the Mortgaged Vessels.

Section 5.15. Compliance with Maritime Conventions. Obtain and maintain all necessary ISM Code Documentation in connection with the Mortgaged Vessels, and be in compliance in all material respects with the ISM Code, except, in each case with respect to this Section 5.15, to the extent the failure to do so would not reasonably be expected to have a Material Adverse Effect.

Section 5.16. Valuations. Ensure that, for each fiscal year beginning with the fiscal year commencing January 1, 2015, the Company shall obtain one or (at the request of the Administrative Agent) more Valuations of each Mortgaged Vessel, in each case at the Company's sole cost and expense (except that, with respect to each Mortgaged Vessel, any Valuation in a calendar year requested by the Administrative Agent, shall be at the Lenders' expense, unless an Event of Default has occurred and is continuing) and from one of the Approved Brokers, as selected by the Company; provided that unless an Event of Default has occurred and is continuing, no more than two Valuations of any Mortgaged Vessel shall be so required to be obtained during any fiscal year of the Company. The Company shall deliver (or cause to be delivered) a copy of any such Valuation (a "First Valuation") to the Administrative Agent (for distribution to the Lenders). Notwithstanding anything to the contrary, the Company, at its own option and without any instruction from the Administrative Agent may obtain a First Valuation from time to time and deliver same to the Administrative Agent (for distribution to the Lenders). In the event the Company is not satisfied with the results of any First Valuation, then the Company will have 30 days after the Company's receipt of such First Valuation during which to obtain, at its option and at its sole cost and expense, an additional Valuation (a "Second Valuation") from one of the Approved Brokers, as selected by the Company. The Company shall deliver (or cause to be delivered) a copy of any such Second Valuation to the Administrative Agent (for distribution to the Lenders) promptly after the Company's receipt thereof. If any such Second Valuation is obtained and the results thereof indicate a value for the subject Mortgaged Vessel of at least 110% of the value indicated in the First Valuation, then the Company will have 30 days after the receipt of such Second Valuation from the relevant Approved Broker during which to obtain, at its option and at its sole cost and expense, a further additional Valuation (a "Third Valuation") from one of the Approved Brokers, as selected by the Company. The average value of any First Valuation, Second Valuation (to the extent obtained as provided above) and Third Valuation (to the extent obtained as provided above) of any Mortgaged Vessel shall constitute the Valuation of such Mortgaged Vessel for all purposes under the Loan Documents until any subsequent Valuation of such Mortgaged Vessel is obtained in accordance with this Section 5.16.

ARTICLE VI
NEGATIVE COVENANTS

The Company covenants and agrees with each Lender that, so long as this Agreement shall remain in effect (other than in respect of contingent indemnification and expense reimbursement obligations for which no claim has been made) and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts payable under any Loan Document have been paid in full and all Letters of Credit have been canceled or have expired and all amounts drawn thereunder have been reimbursed in full, unless the Required Lenders shall otherwise consent in writing, the Company will not, and will not permit any of the Material Subsidiaries to:

Section 6.01. Indebtedness. Incur, create, assume or permit to exist any Indebtedness, except:

(a) Indebtedness of the Company or any Subsidiary existing on the Closing Date (provided that any such Indebtedness in excess of \$10,000,000 shall be set forth on Schedule 6.01) and any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness (other than intercompany indebtedness Refinanced with Indebtedness owed to a person not affiliated with the Company or any Subsidiary);

(b) Indebtedness created hereunder and under the other Loan Documents and any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness;

(c) Indebtedness of the Company or any Subsidiary pursuant to Swap Agreements permitted by Section 6.10;

(d) Indebtedness owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Company or any Subsidiary, pursuant to reimbursement or indemnification obligations to such person, in each case in the ordinary course of business; provided that upon the incurrence of Indebtedness with respect to reimbursement obligations regarding workers' compensation claims, such obligations are reimbursed not later than 30 days following such incurrence;

(e) Indebtedness of the Company to any Subsidiary and of any Subsidiary to the Company or any other Subsidiary; provided that (i) Indebtedness of any Subsidiary that is not a Subsidiary Guarantor or the Co-Borrower owing to the Loan Parties shall be subject to Section 6.04(a) and (ii) Indebtedness of the Company to any Subsidiary and Indebtedness of any Subsidiary Guarantor or the Co-Borrower to any Subsidiary that is not a Subsidiary Guarantor or the Co-Borrower shall be made expressly subject to a note containing subordination provisions reasonably satisfactory to the Company and the Administrative Agent;

(f) (i) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case provided in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business and (ii) ordinary course Guarantees and any related credit support or suretyship arrangements so long as the same do not constitute Indebtedness for borrowed money or a Guarantee thereof;

(g) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services in the ordinary course of business; provided that (i) such Indebtedness (other than credit or purchase cards) is extinguished within ten Business Days of notification to the obligor by such bank or other financial institution of its incurrence and (ii) such Indebtedness in respect of credit or purchase cards is extinguished within 60 days from its incurrence;

(h) (i) Indebtedness of a Subsidiary acquired after the Closing Date or a person merged into or consolidated with the Company or any Subsidiary after the Closing Date and Indebtedness assumed or incurred in connection with such acquisition, merger or consolidation and where such acquisition, merger or consolidation is permitted by this Agreement provided that the aggregate amount of such Indebtedness (together with the aggregate amount of Indebtedness outstanding pursuant to this paragraph (h) and paragraph (i) of this Section 6.01 and the Remaining Present Value of outstanding leases permitted under Section 6.03 would not exceed (x) the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such acquisition, merger or consolidation, such assumption or such incurrence, as applicable for which financial statements have been delivered pursuant to Section 5.04 plus (y) an amount of Indebtedness for which, after giving effect to such issuance, incurrence or assumption, the Company would be in Ratio Compliance; provided, further (A) no Default or Event of Default shall have occurred and be continuing or would result therefrom, (B) immediately after giving effect to such acquisition, merger or consolidation, the assumption and incurrence of any Indebtedness and any related transactions, the Company shall be in Pro Forma Compliance and (C) to the extent such Indebtedness is incurred in contemplation of such acquisition, merger or consolidation, it shall constitute Permitted Additional Debt; and (ii) any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness.

(i) Capital Lease Obligations, mortgage financings and purchase money Indebtedness incurred by the Company or any Subsidiary prior to or within [*] days after the acquisition, lease or improvement of the respective asset permitted under this Agreement in order to finance such acquisition or improvement, and any Permitted Refinancing Indebtedness in respect thereof, in an aggregate principal amount that at the time of, and after giving effect to, the incurrence thereof, of such Indebtedness (together with the aggregate principal amount of Indebtedness outstanding pursuant to this paragraph (i) and paragraph (h) of this Section 6.01 and the Remaining Present Value of outstanding leases permitted under Section 6.03 would not exceed (x) the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04 plus (y) any additional amounts, so long as after giving effect to the issuance or incurrence of such Indebtedness the Company is in Ratio Compliance;

(j) Capital Lease Obligations incurred by the Company or any Subsidiary in respect of any Sale and Lease-Back Transaction that is permitted under Section 6.03;

(k) other Indebtedness of the Company or any Subsidiary, in an aggregate principal amount that at the time of, and after giving effect to, the incurrence thereof, would not exceed the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04;

(l) Indebtedness of the Company pursuant to (i) the Senior Unsecured Notes Documents in an aggregate principal amount not in excess of \$[*], and (ii) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness;

(m) Guarantees (i) by any Subsidiary Guarantor or the Co-Borrower of the Indebtedness of the Company described in paragraph (l) of this Section 6.01, (ii) by any Borrower or any Subsidiary Guarantor of any Indebtedness of any Subsidiary Guarantor or the Co-Borrower permitted to be incurred under this Agreement, (iii) by any Borrower or any Subsidiary Guarantor of Indebtedness otherwise permitted hereunder of any Subsidiary that is not a Subsidiary Guarantor or the Co-Borrower to the extent such Guarantees are permitted by Section 6.04 (other than Section 6.04(v)), (iv) by any Subsidiary that is not a Subsidiary Guarantor or the Co-Borrower of any Indebtedness of any other Subsidiary or any Loan Party permitted to be incurred under this Agreement; provided that Guarantees by any Loan Party or Subsidiary under this Section 6.01(m) of any other Indebtedness of a person that is subordinated to other Indebtedness of such person shall be expressly subordinated to the Obligations to the same extent as such underlying Indebtedness is subordinated;

- (n) Indebtedness arising from agreements of the Company or any Subsidiary providing for indemnification, adjustment of purchase or acquisition price or similar obligations, in each case, incurred or assumed in connection with any Permitted Business Acquisition or the disposition of any business, assets or a Subsidiary not prohibited by this Agreement, other than Guarantees of Indebtedness incurred by any person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition;
- (o) Indebtedness in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support performance obligations (other than obligations in respect of other Indebtedness) in the ordinary course of business;
- (p) Indebtedness supported by a Letter of Credit, in a principal amount not in excess of the stated amount of such Letter of Credit;
- (q) Indebtedness consisting of (i) the financing of insurance premiums, or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;
- (r) Indebtedness consisting of Permitted Ratio Debt and Permitted Refinancing Indebtedness in respect thereof so long as (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom, and (ii) (A) immediately after giving effect to the issuance, incurrence or assumption of such Indebtedness, the Loan-to-Value Ratio on a Pro Forma Basis is equal to or less than [*] to 1.0, or (B) immediately after giving effect to the issuance, incurrence or assumption of such Indebtedness, the Fixed Charge Coverage Ratio on a Pro Forma Basis at least [*] to 1.0;
- (s) Indebtedness of Subsidiaries that are not Subsidiary Guarantors or the Co-Borrower in an aggregate amount not to exceed the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04;
- (t) unsecured Indebtedness in respect of obligations of the Company or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms (which require that all such payments be made within 60 days after the incurrence of the related obligations) in the ordinary course of business and not in connection with the borrowing of money or any Swap Agreements;
- (u) Indebtedness representing deferred compensation to employees of the Company or any Subsidiary incurred in the ordinary course of business;

(v) Indebtedness consisting of Prestige Newbuild Debt;

(w) Indebtedness of any New Vessel Subsidiary under a New Vessel Financing (in an initial aggregate principal amount not to exceed [%] of the purchase price (as adjusted from time to time to give effect to any change orders or other modifications) of the purchased Vessel and [%] of any related export credit insurance premium) and Guarantees thereof by the Company;

(x) Indebtedness of the Company and the Subsidiaries incurred under lines of credit or overdraft facilities (including, but not limited to, intraday, ACH and purchasing card/T&E services) extended by one or more financial institutions reasonably acceptable to the Administrative Agent or one or more of the Lenders and (in each case) established for the Company's and the Subsidiaries' ordinary course of operations (such Indebtedness, the "Overdraft Line"), which Indebtedness may be secured as, but only to the extent, provided in Section 6.02(a) and in the Security Documents (it being understood, however, that for a period of 30 consecutive days during each fiscal year of the Company the outstanding principal amount of Indebtedness under the Overdraft Line shall not exceed the greater of \$[*] and [%] of Consolidated Total Assets);

(y) intercompany Indebtedness in connection with any Permitted Vessel Transfer;

(z) the Senior Secured Notes and Permitted Refinancing Indebtedness in respect thereof (in the case of such Permitted Refinancing Indebtedness, so long as all the requirements of the definition of the term "Senior Secured Notes" other than the requirement in clause (b) thereof are met);

(aa) Indebtedness in the form of notes meeting all the requirements of the definition of the term "Senior Secured Notes," other than clause (b) of the definition of such term, in an aggregate principal amount not to exceed the Incremental Amount, and any Permitted Refinancing Indebtedness in respect thereof;

(bb) Indebtedness incurred on behalf of, or representing Guarantees of Indebtedness of, joint ventures not in excess of the greater of \$[*] and [%] of Consolidated Total Assets as of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04;

(cc) all premium (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in paragraphs (a) through (bb) above.

For purposes of determining compliance with this Section 6.01, (x) the amount of any Indebtedness denominated in any currency other than Dollars shall be calculated based on customary currency exchange rates in effect, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) on or prior to the Closing Date, on the Closing Date and, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) after the Closing Date, on the date that such Indebtedness was incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness); provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a currency other than Dollars (or in a different currency from the Indebtedness being refinanced), and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (i) the outstanding or committed principal amount, as applicable, of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums (including tender premiums), defeasance costs and other costs and expenses incurred in connection with such refinancing and (y) (A) Indebtedness need not be permitted solely by reference to one category of permitted Indebtedness (or any portion thereof) described in Sections 6.01(a) through (cc) (including, for the avoidance of doubt, with respect to the clauses set forth in the definition of "Incremental Amount") but may be permitted in part under any combination thereof, (B) in the event that an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Indebtedness (or any portion thereof) described in Sections 6.01(a) through (cc) (including, for the avoidance of doubt, with respect to the clauses set forth in the definition of "Incremental Amount"), the Company may, in its sole discretion, divide, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such item of Indebtedness (or any portion thereof) in any manner that complies with this Section 6.01 and at the time of incurrence, division, classification or reclassification will be entitled to only include the amount and type of such item of Indebtedness (or any portion thereof) in one of the above clauses (or any portion thereof) and such item of Indebtedness (or any portion thereof) shall be treated as having been incurred or existing pursuant to only such clause or clauses (or any portion thereof); provided, that all Indebtedness under this Agreement that is outstanding on the Restatement Effective Date shall at all times be deemed to have been incurred pursuant to clause (b) of this Section 6.01 and (C) in connection with (1) the incurrence of revolving loan Indebtedness under this Section 6.01 or (2) any commitment relating to the incurrence of Indebtedness under this Section 6.01 and the granting of any Lien to secure such Indebtedness, the Company or applicable Subsidiary may designate the incurrence of such Indebtedness and the granting of such Lien therefor as having occurred on the date of first incurrence of such revolving loan Indebtedness or commitment (such date, the "Deemed Date"), and from and after the Deemed Date such Indebtedness shall be deemed to be outstanding for purposes of this Section 6.01 and 6.02 so long as the commitments with respect to such Indebtedness remain in effect and any related subsequent actual incurrence and the granting of such Lien therefor will be deemed for purposes of this Section 6.01 and Section 6.02 of this Agreement to have been incurred or granted on such Deemed Date.

With respect to any Indebtedness that was permitted to be incurred hereunder on the date of such incurrence, any Increased Amount of such Indebtedness shall also be permitted hereunder after the date of such incurrence.

Section 6.02. Liens. Create, incur, assume or permit to exist any Lien upon any Collateral (other than Liens in favor of a Borrower or a Subsidiary Guarantor), whether now owned or hereafter acquired, except the following (collectively, "Permitted Liens"):

- (a) any Lien created under the Loan Documents or permitted in respect of any Mortgaged Vessel by the terms of the applicable Vessel Mortgage;
- (b) Liens on Collateral existing on the Closing Date and set forth on Schedule 6.02(b) and any modifications, replacements, renewals or extensions thereof;
- (c) Liens ranking junior to the Liens on the Collateral securing the Obligations; provided that (i) the Loan-to-Value Ratio on a Pro Forma Basis will be equal to or less than [*] to 1.0 and (ii) at the time of the incurrence of such Lien and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;
- (d) (1) Liens imposed by law, such as landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, construction or other like Liens and Liens in favor of customs and revenue authorities to secure payment of customs duties in connection with the importation of goods; in each case arising in the ordinary course of business and securing obligations which do not in the aggregate materially detract from the value of the Collateral and do not materially impact the use thereof in the operation of the business of the Company or the applicable Material Subsidiary or that are being contested in good faith by appropriate proceedings; and with respect to the Mortgaged Vessels: (i) Liens fully covered (in excess of deductibles required or permitted by Section 5.02) by valid policies of insurance meeting the requirements of the Deeds of Covenant, (ii) Liens for master's and crew's wages on, if not yet due and payable, and (iii) other maritime liens arising in the ordinary course of business in an amount not to exceed the greater of (x) \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04 and (2) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights;
- (e) (1) Liens for Taxes, assessments or other governmental charges or levies not yet delinquent or that are being contested in compliance with Section 5.03; (2) Liens in respect of Indebtedness permitted by (a) Section 6.01(f) (to the extent such obligations are in respect of trade-related letters of credit and bankers' acceptances and cover the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof), (b) Section 6.01(i) (provided, that in the case of any Lien in respect of Section 6.01(i), (x) that such Liens do not apply to any property or assets other than the property or assets being acquired or improved or (y) that immediately after giving effect to any such Lien and the incurrence of any Indebtedness incurred at the time such Lien is created, incurred or permitted to exist, the Company is in Ratio Compliance and at the time of the incurrence of such Lien and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom) and (c) Section 6.01(z) (provided, for the avoidance of doubt that the Net Proceeds of such Indebtedness (other than Permitted Refinancing Indebtedness), shall be applied to prepay Term Loans as provided in clause (b) of the definition of "Senior Secured Notes") and/or Section 6.01(aa); (3) Liens on not more than the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04 of deposits securing Swap Agreements permitted to be incurred under Section 6.10; and (4) Liens securing judgments that do not constitute an Event of Default under Section 8.01(j); and

(f) (1) deposits and other Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capital Lease Obligations), statutory obligations (other than obligations under ERISA), credit card processing arrangements, surety and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, agreements with utilities, and other obligations of a like nature (including letters of credit in lieu of any such bonds or to support the issuance thereof) incurred in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business; and (2) leases or subleases, licenses or sublicenses, granted to others in the ordinary course of business not interfering in any material respect with the business of the Company and its Subsidiaries, taken as a whole.

Section 6.03. Sale and Lease-Back Transactions. Enter into any arrangement, directly or indirectly, with any person whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred (a "Sale and Lease-Back Transaction"); provided, that a Sale and Lease-Back Transaction shall be permitted if at the time the lease in connection therewith is entered into, and after giving effect to the entering into of such lease, the Remaining Present Value of such lease, together with Indebtedness outstanding pursuant to Section 6.01(h) and (i) and the Remaining Present Value of outstanding leases previously entered into under this Section 6.03, would not exceed the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date the lease was entered into for which financial statements have been delivered pursuant to Section 5.04.

Section 6.04. Investments, Loans and Advances. Purchase, hold or acquire (including pursuant to any merger with a person that is not a Wholly Owned Subsidiary immediately prior to such merger) any Equity Interests, evidences of Indebtedness or other securities of, make or permit to exist any loans or advances to or Guarantees of the obligations of, or make or permit to exist any investment or any other interest in (each, an "Investment"), any other person, except:

(a) (i) Investments by the Company or any Subsidiary in the Equity Interests of the Company or any Subsidiary; (ii) intercompany loans from the Company or any Subsidiary to the Company or any Subsidiary; and (iii) Guarantees by any Borrower or any Subsidiary Guarantor of Indebtedness otherwise expressly permitted hereunder of the Company or any Subsidiary; provided, that the sum of (A) Investments (valued at the time of the making thereof and without giving effect to any write-downs or write-offs thereof) made after the Closing Date by the Loan Parties pursuant to clause (i) in Subsidiaries that are not Loan Parties, plus (B) net intercompany loans made after the Closing Date to Subsidiaries that are not Loan Parties pursuant to clause (ii), plus (C) Guarantees of Indebtedness after the Closing Date of Subsidiaries that are not Loan Parties pursuant to clause (iii), shall not exceed an aggregate net amount equal to (x) the greater of (1) \$[*] and (2) [*]% of Consolidated Total Assets (plus any return of capital actually received by the respective investors in respect of Investments theretofore made by them pursuant to this paragraph (a); plus (y) the portion, if any, of the Cumulative Credit on the date of such election that the Company elects to apply to this Section 6.04(a)(y), such election to be specified in a written notice of a Responsible Officer of the Company calculating in reasonable detail the amount of Cumulative Credit immediately prior to such election and the amount thereof elected to be so applied; provided further, that the limitations in this paragraph shall not apply to any Investment entered into at a time when the Company is in Ratio Compliance; provided, still further, that intercompany current liabilities incurred in the ordinary course of business in connection with the cash management operations of the Company and the Subsidiaries shall not be included in calculating the limitation in this paragraph at any time;

- (b) Permitted Investments and Investments that were Permitted Investments when made;
- (c) Investments arising out of the receipt by the Company or any Subsidiary of non-cash consideration for the sale of assets permitted under Section 6.05;
- (d) loans and advances to current and former officers, directors, employees or consultants of the Company or any Subsidiary (i) in the ordinary course of business not to exceed the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 in the aggregate at any time outstanding (calculated without regard to write-downs or write-offs thereof), (ii) in respect of payroll payments and expenses in the ordinary course of business and (iii) in connection with such person's purchase of Equity Interests of a Parent Entity solely to the extent that the amount of such loans and advances shall be contributed to the Company in cash as common equity;
- (e) accounts receivable, security deposits and prepayments arising and trade credit granted in the ordinary course of business and any assets or securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and any prepayments and other credits to suppliers made in the ordinary course of business;
- (f) Swap Agreements permitted pursuant to Section 6.10;
- (g) Investments existing on, or contractually committed as of, the Closing Date and set forth on Schedule 6.04 and any extensions, renewals or reinvestments thereof, so long as the aggregate amount of all Investments pursuant to this clause (g) is not increased at any time above the amount of such Investment existing on the Closing Date;
- (h) Investments resulting from pledges and deposits under Section 6.02(f);

(i) other Investments by the Company or any Subsidiary in an aggregate amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed (1) the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 plus (2) the portion, if any, of the Cumulative Credit on the date of such election that the Company elects to apply to this Section 6.04(i)(2), such election to be specified in a written notice of a Responsible Officer of the Company calculating in reasonable detail the amount of Cumulative Credit immediately prior to such election and the amount thereof elected to be so applied; provided further, that the limitations in this paragraph shall not apply to any Investment entered into if, immediately after giving effect thereto, on a Pro Forma Basis, (i) either (A) the Loan-to-Value Ratio is equal to or less than [*] to 1.0 or (B) the Fixed Charge Coverage Ratio is at least [*] to 1.0 and (ii) the Company is in Pro Forma Compliance;

(j) Investments constituting Permitted Business Acquisitions;

(k) intercompany loans permitted by Section 6.01(e);

(l) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with or judgments against, customers and suppliers, in each case in the ordinary course of business or Investments acquired by the Company as a result of a foreclosure by the Company or any of the Subsidiaries with respect to any secured Investments or other transfer of title with respect to any secured Investment in default;

(m) Investments of a Subsidiary acquired after the Closing Date or of a person merged into any Loan Party or merged into or consolidated with a Subsidiary after the Closing Date, in each case, (i) to the extent permitted under this Section 6.04, (ii) in the case of any acquisition, merger or consolidation, in accordance with Section 6.05, and (iii) to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(n) acquisitions by the Company or any Subsidiary of obligations of one or more officers or other employees of any Loan Party or any Subsidiary in connection with such officer's or employee's acquisition of Equity Interests of the Company or any Parent Entity, so long as no cash is actually advanced by any Loan Party or any Subsidiary to such officers or employees in connection with the acquisition of any such obligations;

(o) Guarantees by the Company or any Subsidiary of operating leases (other than Capital Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into by the Company or any Subsidiary in the ordinary course of business;

(p) Investments to the extent that payment for such Investments is made with Equity Interests of any Parent Entity;

(q) Investments in the Equity Interests of one or more newly formed persons that are received in consideration of the contribution by the Company or the applicable Subsidiary of assets (including Equity Interests and cash) to such person or persons; provided, that (i) the fair market value of such assets, determined on an arm's-length basis, so contributed pursuant to this paragraph (q) shall not in the aggregate exceed the greater of (x) \$[*] and (y) and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 and (ii) in respect of each such contribution, a Responsible Officer of the Company shall certify, in a form to be agreed upon by the Company and the Administrative Agent (x) after giving effect to such contribution, no Default or Event of Default shall have occurred and be continuing or would result therefrom, (y) the fair market value of the assets so contributed and (z) that the requirements of clause (i) of this proviso remain satisfied;

(r) Investments consisting of the redemption, purchase, repurchase or retirement of any Equity Interests permitted under Section 6.06;

(s) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers consistent with past practices;

(t) Investments in Subsidiaries that are not Loan Parties not to exceed the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 in the aggregate, as valued at the fair market value of such Investment at the time such Investment is made;

(u) Guarantees permitted under Section 6.01 (except to the extent such Guarantee is expressly subject to this Section 6.04);

(v) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Company or such Subsidiary;

(w) Investments by Company and its Subsidiaries, including loans to any direct or indirect parent of the Company, if the Company or any other Subsidiary would otherwise be permitted to make a dividend or distribution in such amount (provided that the amount of any such Investment shall also be deemed to be a distribution under the appropriate clause of Section 6.06 for all purposes of this Agreement);

(x) Investments if after giving effect to such Investments, the Total Leverage Ratio is equal to or less than 3.30 to 1.00;

(y) Investments consisting of the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other persons;

(z) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property in each case in the ordinary course of business;

(aa) Investments received substantially contemporaneously in exchange for Equity Interests of the Company; provided that such Investments are not included in any determination of the Cumulative Credit;

(bb) Investments in joint ventures in an aggregate amount not to exceed the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04;

(cc) Permitted Vessel Transfers;

(dd) Investments in New Vessel Subsidiaries; and

(ee) Investments in a Similar Business in an aggregate amount (valued at the time of making thereof, and without giving effect to any write downs or any write offs thereof) not to exceed (x) the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 (plus any returns of capital actually received by the respective investor in respect of investments theretofore made by it pursuant to this paragraph (ee) plus (y) the Cumulative Credit; provided that if any Investment pursuant to this paragraph (ee) is made in any person that is not a Subsidiary of the Company at the date of the making of such Investment and such person becomes a Subsidiary of the Company after such date, such Investment shall thereafter be deemed to have been made pursuant to paragraph (a) above and shall cease to have been made pursuant to this paragraph (ee) for so long as such person continues to be a Subsidiary of the Company;

The amount of Investments that may be made at any time pursuant to Section 6.04(a) or (j) (such Sections, the Related Sections”) may, at the election of the Company, be increased by the amount of Investments that could be made at such time under the other Related Section; provided that the amount of each such increase in respect of one Related Section shall be treated as having been used under the other Related Section.

Section 6.05. Mergers, Consolidations, Sales of Assets and Acquisitions. Merge into or consolidate with any other person, or permit any other person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions, including effected pursuant to a Delaware LLC Division) all or any part of its assets (whether now owned or hereafter acquired), or issue, sell, transfer or otherwise dispose of any Equity Interests of the Company or any Subsidiary, or purchase, lease or otherwise acquire (in one transaction or a series of transactions) all or any substantial part of the assets of any other person, except that this Section shall not prohibit:

(a) (i) any disposal by the Company or any Subsidiary of an asset or other property in the ordinary course of the Company's or Subsidiary's business, (ii) any acquisition (in one or a series of transactions) by any Loan Party or Subsidiary of all or any substantial part of the assets or other property of any other person, so long as such acquisition is in the ordinary course of such Loan Party's or Subsidiary's business, or (iii) the sale of Permitted Investments by any Loan Party or Subsidiary, so long as such sale is in the ordinary course of such Loan Party's or Subsidiary's business;

(b) if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing or would result therefrom, (i) the merger of any Subsidiary (other than the Co-Borrower) into a Borrower in a transaction in which such Borrower is the survivor, (ii) the merger or consolidation of any Subsidiary (other than the Co-Borrower) into or with any Subsidiary Guarantor in a transaction in which the surviving or resulting entity is a Subsidiary Guarantor, and, in the case of each of clauses (i) and (ii), no person other than a Borrower or a Subsidiary Guarantor receives any consideration, (iii) the merger or consolidation of any Subsidiary (other than the Co-Borrower) that is not a Subsidiary Guarantor into or with any other Subsidiary that is not a Subsidiary Guarantor, (iv) the liquidation or dissolution or change in form of entity of any Subsidiary (other than a Borrower) if the Company determines in good faith that such liquidation, dissolution or change in form is in the best interests of the Company and is not materially disadvantageous to Lenders, (v) any disposition to effect the formation of any Subsidiary that is a Delaware Divided LLC and would otherwise not be prohibited hereunder; provided that any disposition or other allocation of any assets (including any equity interests of such Delaware Divided LLC) in connection therewith is otherwise permitted hereunder or (vi) any Subsidiary (other than the Co-Borrower) may merge with any other person in order to effect an Investment permitted pursuant to Section 6.04 so long as the continuing or surviving person shall be a Subsidiary, which shall be a Loan Party if the merging Subsidiary was a Loan Party and which together with each of their Subsidiaries shall have complied with the requirements of Section 5.10;

(c) sales, transfers, leases or other dispositions to any Loan Party or by any Subsidiary that is not a Subsidiary Guarantor or the Co-Borrower to any other Subsidiary, including without limitation, a Permitted Vessel Transfer;

(d) Sale and Lease-Back Transactions permitted by Section 6.03;

(e) Investments permitted by Section 6.04, Permitted Liens, and dividends, distributions and other payments permitted by Section 6.06;

(f) the sale of defaulted receivables in the ordinary course of business and not as part of an accounts receivables financing transaction;

(g) sales, transfers, leases or other dispositions of assets not otherwise permitted by this Section 6.05 (or required to be included in this clause (g) pursuant to Section 6.05(c)); provided, that the Net Proceeds thereof are applied in accordance with Section 2.11(b);

(h) Permitted Business Acquisitions (including any merger or consolidation in order to effect a Permitted Business Acquisition);provided, that following any such merger or consolidation involving a Borrower, such Borrower is the surviving corporation;

(i) leases, charters or licenses (on a non-exclusive basis with respect to intellectual property), or subleases or sublicenses (on a non-exclusive basis with respect to intellectual property), of any property in the ordinary course of business;

(j) sales, leases or other dispositions of inventory of the Company or any Subsidiary determined by the management of the Company to be no longer useful or necessary in the operation of the business of any Loan Party or Subsidiary; provided that the Net Proceeds thereof are applied in accordance with Section 2.11(b);

(k) acquisitions and purchases made with the proceeds of any Asset Sale pursuant to the first proviso of paragraph (a) of the definition of "Net Proceeds";

(l) [reserved];

(m) any exchange of assets for services and/or other assets of comparable or greater value;provided that (i) at least [%] of the consideration received by the transferor consists of assets that will be used in a business or business activity permitted hereunder, (ii) in the event of an exchange with a fair market value in excess of the greater of (x) \$[*] and (y) [%] of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such exchange for which financial statements have been delivered pursuant to Section 5.04, the Administrative Agent shall have received a certificate from a Responsible Officer of the Company with respect to such fair market value and (iii) in the event of an exchange with a fair market value in excess of the greater of (x) \$[*] and (y) [%] of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such exchange for which financial statements have been delivered pursuant to Section 5.04, such exchange shall have been approved by at least a majority of the board of directors of the Company; provided, further, that (A) the aggregate gross consideration (including exchange assets, other non-cash consideration and cash proceeds) of any or all assets exchanged in reliance upon this paragraph (m) shall not exceed, in any fiscal year of the Company, the greater of \$[*] and [%] of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04, (B) no Default or Event of Default exists or would result therefrom, (C) with respect to any such exchange with aggregate gross consideration in excess of the greater of (x) \$[*] and (y) [%] of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such exchange for which financial statements have been delivered pursuant to Section 5.04, immediately after giving effect thereto, the Company shall be in Pro Forma Compliance, and (D) the Net Proceeds, if any, thereof are applied in accordance with Section 2.11(b);

(n) any disposition of any assets owned by any New Vessel Subsidiary or of any Vessel that is not a Mortgaged Vessel; and

- (o) disposals of cash raised or borrowed for the purposes for which such cash was raised or borrowed.

Notwithstanding anything to the contrary contained in Section 6.05 above, (i) no sale, transfer or other disposition of assets shall be permitted by this Section 6.05 (other than sales, transfers, leases or other dispositions to Loan Parties pursuant to paragraph (c) hereof) unless such disposition is for fair market value, (ii) no sale, transfer or other disposition of assets shall be permitted by paragraph (a) or (d) of this Section 6.05 unless such disposition is for at least 75% cash consideration and (iii) no sale, transfer or other disposition of assets shall be permitted by paragraph (g) of this Section 6.05 unless such disposition is for at least 75% cash consideration; provided that the provisions of clause (ii) or (iii) shall not apply to any individual transaction or series of related transactions involving assets with a fair market value of less than \$[*] or to other transactions involving assets with a fair market value of not more than the greater of \$[*] and [*]% of Consolidated Total Assets in the aggregate for all such transactions during the term of this Agreement; provided, further, that for purposes of clause (iii), (a) the amount of any secured Indebtedness of the Company or any Subsidiary or other Indebtedness of a Subsidiary that is not a Loan Party (as shown on the Company's or such Subsidiary's most recent balance sheet or in the notes thereto) that is assumed by the transferee of any such assets shall be deemed to be cash, (b) any notes or other obligations or other securities or assets received by the Company or such Subsidiary from the transferee that are converted by the Company or such Subsidiary into cash within 180 days after receipt thereof (to the extent of the cash received) shall be deemed to be cash and (c) any Designated Non-Cash Consideration received by the Company or any of its Subsidiaries having an aggregate fair market value (as determined in good faith by the Company), taken together with all other Designated Non-Cash Consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed the greater of \$[*] million and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of receipt of such Designated Non-Cash Consideration for which financial statements have been delivered pursuant to Section 5.04 (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value) shall be deemed to be cash.

Section 6.06. Dividends and Distributions. Declare or pay any dividend or make any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any of its Equity Interests (other than dividends and distributions on Equity Interests payable solely by the issuance of additional Equity Interests (other than Disqualified Stock) of the person paying such dividends or distributions) or directly or indirectly redeem, purchase, retire or otherwise acquire for value (or permit any Subsidiary to purchase or acquire) any of its Equity Interests or set aside any amount for any such purpose (other than through the issuance of additional Equity Interests (other than Disqualified Stock) of the person redeeming, purchasing, retiring or acquiring such equity); provided, however, that:

- (a) any Subsidiary of the Company may declare and pay dividends to, repurchase its Equity Interests from or make other distributions to the Company or to any Wholly Owned Subsidiary of the Company (or, in the case of non-Wholly Owned Subsidiaries, to the Company or any Subsidiary that is a direct or indirect parent of such Subsidiary and to each other owner of Equity Interests of such Subsidiary on a pro rata basis (or more favorable basis from the perspective of the Company or such Subsidiary) based on their relative ownership interests so long as any repurchase of its Equity Interests from a person that is not the Company or a Subsidiary is permitted under Section 6.04);

(b) the Company may declare and pay dividends or make other distributions (directly or indirectly) (i) to any Parent Entity in respect of (A) overhead, legal, accounting, consulting and other professional fees and expenses of any Parent Entity, (B) fees and expenses related to any public offering or private placement of Equity Interests of any Parent Entity whether or not consummated, (C) franchise or similar Taxes and other fees and expenses in connection with the maintenance of its existence and its direct or indirect (or any Parent Entity's direct or indirect) ownership of the Company, (D) payments permitted by Section 6.07(b) (except to the extent expressly subject to this Section 6.06), and (E) customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any Parent Entity, in each case in order to permit any Parent Entity to make such payments; provided that in the case of clauses (A) and (B), the amount of such dividends and distributions shall not exceed the portion of any amounts referred to in such clauses (A) and (B) that are allocable to the Company and its Subsidiaries (which shall be 100% for so long as such Parent Entity, as the case may be, beneficially owns no assets other than the Equity Interests in the Company); (ii) with respect to any taxable period for which the Company is or has been a partnership or disregarded entity for U.S. federal income tax purposes, to any person that (directly or indirectly) held Equity Interests of the Company during such taxable period (a) to the extent such tax distributions are permitted under (I) the Amended and Restated United States Tax Agreement for NCL Corporation Ltd., dated January 24, 2013 or the Amended and Restated Profits Sharing Agreement for NCL Corporation Ltd., dated January 22, 2013, each as in effect on the Closing Date, (collectively, the "Tax Agreements") or (II) any amended version of the Tax Agreements to the extent such amendments are not materially adverse to the Lenders (collectively, the "Amended Tax Agreements") and (b) to the extent not otherwise permitted under clause (a), tax distributions in respect of audit adjustments resulting from audits of the Company and/or its Subsidiaries commencing after the Closing Date, determined in a manner consistent with and subject to the limitations set forth in the Tax Agreements and the Amended Tax Agreements; and (iii) with respect to any taxable period for which the Company and any Parent Entity files an affiliated, consolidated, combined or unitary tax return in any relevant jurisdiction, distributions to such Parent Entity in amount not to exceed the amount of any Taxes in such jurisdiction that the Company and/or its Subsidiaries, as applicable, would have paid for such taxable period had the Company and/or its Subsidiaries, as applicable, been stand-alone taxpayers in such jurisdiction (less any portion of such amounts directly payable by the Company and/or its Subsidiaries); provided, that distributions in respect of an Unrestricted Subsidiary shall be permitted only to the extent that cash distributions were made by such Unrestricted Subsidiary to Company or any of its Restricted Subsidiaries for such purpose.

(c) the Company may declare and pay dividends or make other distributions (directly or indirectly) the proceeds of which are used to purchase or redeem the Equity Interests of any Parent Entity (including related stock appreciation rights or similar securities) held by then present or former directors, consultants, officers or employees of the Company or any of the Subsidiaries or by any Plan upon such person's death, disability, retirement or termination of employment or under the terms of any such Plan or any other agreement under which such shares of stock or related rights were issued; provided, that the aggregate amount of such purchases or redemptions under this paragraph (c) shall not exceed in any fiscal year the greater of \$[*] and [*]% of Consolidated Total Assets (plus the amount of net proceeds contributed to the Company that were (x) received by any Parent Entity during such calendar year from sales of Equity Interests of any Parent Entity to directors, consultants, officers or employees of any Parent Entity, the Company or any Subsidiary in connection with permitted employee compensation and incentive arrangements and (y) of any key man life insurance policies received during such calendar year), which, if not used in any year, may be carried forward to any subsequent calendar year;

(d) any person may make non-cash repurchases of Equity Interests deemed to occur upon exercise of stock options if such Equity Interests represent a portion of the exercise price of such options; and

(e) the Company may pay dividends (directly or indirectly) to its equity holders in an aggregate amount equal to the portion, if any, of the Cumulative Credit on such date that the Company elects to apply to this (e), such election to be specified in a written notice of a Responsible Officer of the Company calculating in reasonable detail the amount of Cumulative Credit immediately prior to such election and the amount thereof elected to be so applied; provided, that no Default or Event of Default has occurred and is continuing or would result therefrom and, after giving effect thereto, that the Company shall be in Pro Forma Compliance;

(f) the Company may pay dividends or distributions to allow any Parent Entity to make payments in cash, in lieu of the issuance of fractional shares, upon the exercise of warrants or upon the conversion or exchange of Equity Interests of any such person;

(g) the Company may pay dividends and make distributions to, or repurchase or redeem shares from, its equity holders in an amount no greater than [%] per annum of Market Capitalization;

(h) the Company may declare and pay dividends or make other distributions (directly or indirectly) to its equity holders if after giving effect to such dividend or distribution, the Total Leverage Ratio is equal to or less than 3.30 to 1.00; and

(i) the Company may declare and pay dividends or make other distributions (directly or indirectly) to its equity holders in an aggregate amount not to exceed the greater of \$[*] and [%] of Consolidated Total Assets.

Section 6.07. Transactions with Affiliates

(a) Sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transaction with, any of its Affiliates, unless such transaction is (i) otherwise permitted (or required) under this Agreement or (ii) upon terms no less favorable to the Company or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate.

(b) The foregoing paragraph (a) shall not prohibit, to the extent otherwise permitted under this Agreement:

- (i) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans approved by the board of directors of the Company,
- (ii) loans or advances to employees or consultants of the Company, any Parent Entity or any of the Subsidiaries in accordance with Section 6.04(d),
- (iii) transactions among the Company or any Subsidiary or any entity that becomes a Subsidiary as a result of such transaction,
- (iv) the payment of fees, reasonable out-of-pocket costs and indemnities to directors, officers, consultants and employees of the Company, any Parent Entity and the Subsidiaries in the ordinary course of business (limited, in the case of any Parent Entity, to the portion of such fees and expenses that are allocable to the Company and its Subsidiaries (which shall be 100% for so long as such Parent Entity beneficially owns no assets other than the Equity Interests in the Company and assets incidental to the ownership of the Company and its Subsidiaries)),
- (v) subject to the limitations set forth in (xiv), if applicable, transactions pursuant to the Loan Documents and permitted agreements in existence on the Closing Date and set forth on Schedule 6.07 or any amendment or replacement thereto to the extent such amendment or replacement is not adverse to the Lenders in any material respect,
- (vi) (A) any employment agreements entered into by the Company or any of the Subsidiaries in the ordinary course of business, (B) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with employees, officers or directors, and (C) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transactions pursuant thereto,
- (vii) dividends, redemptions and repurchases permitted under Section 6.06,
- (viii) [reserved],
- (ix) [reserved],
- (x) payments by the Company or any of the Subsidiaries to any Affiliate made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments are approved by the majority of the board of directors of the Company, or a majority of disinterested members of the board of directors of the Company, in good faith,

(xi) transactions with Wholly Owned Subsidiaries for the purchase or sale of goods, products, parts and services entered into in the ordinary course of business in a manner consistent with past practice,

(xii) any transaction in respect of which the Company delivers to the Administrative Agent (for delivery to the Lenders) a letter addressed to the board of directors of the Company from an accounting, appraisal or investment banking firm, in each case of nationally recognized standing that is (A) in the good faith determination of the Company qualified to render such letter and (B) reasonably satisfactory to the Administrative Agent, which letter states that such transaction is on terms that are no less favorable to the Company or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate,

(xiii) transactions with joint ventures for the purchase or sale of goods, equipment and services entered into in the ordinary course of business,

(xiv) any agreement to pay, and the payment of, monitoring, management, transaction, advisory or similar fees: (A) in an aggregate amount in any fiscal year of the Company not to exceed the sum of (1) the greater of \$[*] and [*]% of EBITDA, *plus* reasonable out of pocket costs and expenses in connection therewith and unpaid amounts accrued for prior periods; *plus* (2) any deferred fees (to the extent such fees were within such amount in clause (A)(1) above originally); and (B) [*]% of the value of transactions with respect to which any Affiliate provides any transaction, advisory or other services,

(xv) the issuance, sale, transfer of Equity Interests of the Company and capital contributions to the Company,

(xvi) [reserved];

(xvii) [reserved];

(xviii) [reserved];

(xix) payments or loans (or cancellation of loans) to employees or consultants that are (i) approved by a majority of the board of directors of the Company in good faith, (ii) made in compliance with applicable law and (iii) otherwise permitted under this Agreement;

(xx) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement that are fair to the Company or the Subsidiaries;

(xxi) transactions between the Company or any of the Subsidiaries and any person, a director of which is also a director of the Company, provided, however, that (A) such director abstains from voting as a director of the Company, on any matter involving such other person and (B) such person is not an Affiliate of the Company for any reason other than such director's acting in such capacity;

(xxii) transactions permitted by, and complying with, the provisions of Section 6.05;

(xxiii) intercompany transactions undertaken in good faith (as certified by a Responsible Officer of the Company) for the purpose of improving the consolidated tax efficiency of the Loan Parties and not for the purpose of circumventing any covenant set forth herein.

Section 6.08. Business of the Loan Parties and the Subsidiaries. Notwithstanding any other provisions of this Agreement, engage at any time in any business or business activity other than any business or business activity conducted by any of them on the Closing Date and any business or business activities incidental or related thereto, or any business or activity that is reasonably similar thereto or a reasonable extension, development or expansion thereof or ancillary thereto.

Section 6.09. Limitation on Modifications of Indebtedness; Modifications of Certificate of Incorporation, By-Laws and Certain Other Agreements; etc

(a) Amend or modify in any manner materially adverse to the Lenders, or grant any waiver or release under or terminate in any manner (if such granting or termination shall be materially adverse to the Lenders), the articles or certificate of formation or incorporation, by-laws, limited liability company operating agreement, partnership agreement or other organizational documents of the Company or any Subsidiary.

(b) (i) Make, or agree or offer to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness subordinated to the Loans permitted hereunder to be incurred or any Permitted Refinancing Indebtedness in respect of any of the foregoing or any preferred Equity Interests or any Disqualified Stock (collectively, "Junior Financing"), or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination in respect of any Junior Financing except for (A) Refinancings permitted by Section 6.01 (l) or (r), (B) payments of regularly scheduled interest, and, to the extent this Agreement is then in effect, principal on the scheduled maturity date for any Junior Financing, (C) payments or distributions in respect of all or any portion of the Junior Financing with the proceeds contributed to the Company (directly or indirectly) by any Parent Entity from the issuance, sale or exchange by any Parent Entity of Equity Interests made within eighteen months prior thereto, (D) the conversion of any Junior Financing to Equity Interests of any Parent Entity or (E) so long as no Default or Event of Default has occurred and is continuing or would result therefrom and after giving effect to such payment or distribution, the Company would be in Pro Forma Compliance, payments or distributions in respect of Junior Financings prior to their scheduled maturity made, in an aggregate amount, not to exceed the sum of (x) the greater of (1) \$[*] and (2) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such payment or distribution for which financial statements have been delivered pursuant to Section 5.04 and (y) the portion, if any, of the Cumulative Credit on the date of such payment or distribution that the Company elects to apply to this Section 6.09(b)(i), such election to be specified in a written notice of a Responsible Officer of the Company calculating in reasonable detail the amount of Cumulative Credit immediately prior to such election and the amount thereof elected to be so applied; or

(ii) Amend or modify, or permit the amendment or modification of, any provision of Junior Financing, or any agreement, document or instrument evidencing or relating thereto, other than amendments or modifications that (A) are not in any manner materially adverse to the Lenders and that do not affect the subordination or payment provisions thereof (if any) in a manner adverse to the Lenders or (B) otherwise comply with the definition of "Permitted Refinancing Indebtedness."

(c) Permit any Restricted Subsidiary to enter into any agreement or instrument that by its terms restricts (i) the payment of dividends or distributions or the making of cash advances to the Company or any Subsidiary that is a direct or indirect parent of such Subsidiary or (ii) the granting of Liens by the Company or such Material Subsidiary pursuant to the Security Documents, in each case other than those arising under any Loan Document, except, in each case, restrictions existing by reason of:

(A) restrictions imposed by applicable law;

(B) contractual encumbrances or restrictions in effect on the Closing Date under Indebtedness existing on the Closing Date and set forth on Schedule 6.09, the Senior Secured Notes (so long as such restrictions are no more restrictive than the analogous provisions of this Agreement), Senior Unsecured Notes Documents, any New Vessel Financings or any agreements related to any Permitted Refinancing Indebtedness in respect of any such Indebtedness that does not expand the scope of any such encumbrance or restriction;

(C) any restriction on a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Equity Interests or assets of such Subsidiary pending the closing of such sale or disposition;

(D) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business;

(E) any restrictions imposed by any agreement relating to secured Indebtedness permitted by this Agreement to the extent that such restrictions apply only to the property or assets securing such Indebtedness;

(F) any restrictions imposed by any agreement relating to Indebtedness incurred pursuant to Section 6.01(aa) or Permitted Refinancing Indebtedness in respect thereof, to the extent such restrictions are not more restrictive, taken as a whole, than the restrictions contained in the Senior Unsecured Notes Documents;

- (G) customary provisions contained in leases or licenses of intellectual property and other similar agreements entered into in the ordinary course of business;
- (H) customary provisions restricting subletting or assignment of any lease governing a leasehold interest;
- (I) customary provisions restricting assignment of any agreement entered into in the ordinary course of business;
- (J) customary restrictions and conditions contained in any agreement relating to the sale, transfer, lease or other disposition of any asset permitted under Section 6.05 pending the consummation of such sale, transfer, lease or other disposition;
- (K) customary net worth provisions contained in Real Property leases entered into by Subsidiaries, so long as the Company has determined in good faith that such net worth provisions would not reasonably be expected to impair the ability of the Company and its Subsidiaries to meet their ongoing obligations;
- (L) customary restrictions and conditions contained in the document relating to any Lien, so long as (1) such Lien is a Permitted Lien and such restrictions or conditions relate only to the specific asset subject to such Lien, and (2) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this Section 6.09;
- (M) any agreement in effect at the time an entity becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such person becoming a Subsidiary, and any agreements of the Acquired Company in effect at the time of the Acquisition;
- (N) restrictions in agreements representing Indebtedness permitted under Section 6.01 of a Subsidiary of the Company that is not a Loan Party;
- (O) customary restrictions contained in leases, subleases, licenses or Equity Interests or asset sale agreements otherwise permitted hereby as long as such restrictions relate to the Equity Interests and assets subject thereto;
- (P) restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business; or
- (Q) any encumbrances or restrictions of the type referred to in Sections 6.09(c)(i) and 6.09(c)(ii) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (A) through (O) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.10. Swap Agreements. Enter into any Swap Agreement, other than (a) Swap Agreements entered into in the ordinary course of business to hedge or mitigate risks to which the Company or any Subsidiary is exposed in the conduct of its business or the management of its liabilities (including raw material, supply costs and currency risks), (b) any Swap Agreement entered into in order to effectively cap, collar or exchange interest rates (from floating to fixed rates, from one floating rate to another floating rate or otherwise) with respect to any interest bearing liability or investment of the Company or any Subsidiary and (c) any Swap Agreement entered into in order to swap currency in connection with funding the business of the Company or any Subsidiary in the ordinary course of business.

Section 6.11. Fiscal Year: Accounting. In the case of the Company, permit its fiscal year to end on any date other than December 31 without prior notice to the Administrative Agent given concurrently with any required notice to the SEC.

Section 6.12. Loan-to-Value Ratio. Permit the Loan-to-Value Ratio to be greater than or equal to 0.70 to 1.0 at any time.

Section 6.13. Free Liquidity. Permit Free Liquidity to be less than \$50,000,000 at any time.

Section 6.14. Total Net Funded Debt to Total Capitalization. Permit the ratio of Total Net Funded Debt to Total Capitalization to be greater than or equal to 0.70 to 1.00 on the last day of any fiscal quarter.

Section 6.15. EBITDA to Consolidated Debt Service. Permit the ratio of EBITDA to Consolidated Debt Service for the Company and its Subsidiaries on a consolidated basis at the end of any fiscal quarter, computed for the period of the four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter, to be less than 1.25 to 1.0, unless Free Liquidity of the Company and its Subsidiaries on a consolidated basis at all times during the period of four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter was equal to or greater than \$100,000,000.

ARTICLE VII

[RESERVED]

ARTICLE VIII

EVENTS OF DEFAULT

Section 8.01. Events of Default. In case of the happening of any of the following events (each, an 'Event of Default'):

(a) any representation or warranty made or deemed made by any Borrower or any other Loan Party herein or in any other Loan Document or any certificate or document delivered pursuant hereto or thereto shall prove to have been false or misleading in any material respect when so made or deemed made;

(b) default shall be made in the payment of any principal of any Loan or the reimbursement with respect to any L/C Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;

(c) default shall be made in the payment of any interest on any Loan or in the payment of any Fee or any other amount (other than an amount referred to in paragraph (b) above) due under any Loan Document, when and as the same shall become due and payable; provided, however, that no Event of Default shall occur for purposes of this Section 8.01 until the expiry of three Business Days following the date on which such payment is due;

(d) default shall be made in the due observance or performance by any Borrower of any covenant, condition or agreement contained in Sections 2.05(c), 5.01(a), 5.05(a) or 5.08 or in Article VI;

(e) default shall be made in the due observance or performance by any Borrower or any other Loan Party of any covenant, condition or agreement contained in any Loan Document (other than those specified in paragraphs (b), (c) and (d) above) and such default shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent to the Company;

(f) (i) any event or condition occurs that (A) results in any Material Indebtedness becoming due prior to its scheduled maturity or (B) enables or permits (with all applicable grace periods having expired) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; or (ii) the Company or any of the Subsidiaries shall fail to pay the principal of any Material Indebtedness at the stated final maturity thereof; provided, that this clause (f) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness;

(g) there shall have occurred a Change in Control;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of the Company or any of the Material Subsidiaries, or of a substantial part of the property or assets of the Company or any Material Subsidiary, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any of the Material Subsidiaries or for a substantial part of the property or assets of the Company or any of the Material Subsidiaries or (iii) the winding-up or liquidation of the Company or any Material Subsidiary (except, in the case of any Material Subsidiary, in a transaction permitted by Section 6.05); and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Company or any Material Subsidiary shall (1) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, (2) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in paragraph (h) above, (3) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any of the Material Subsidiaries or for a substantial part of the property or assets of the Company or any Material Subsidiary, (4) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (5) make a general assignment for the benefit of creditors or (6) become unable or admit in writing its inability or fail generally to pay its debts as they become due;

(j) the failure by the Company or any Material Subsidiary to pay one or more final judgments aggregating in excess of \$[*] (to the extent not covered by insurance), which judgments are not discharged or effectively waived or stayed for a period of 45 consecutive days, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of the Company or any Material Subsidiary to enforce any such judgment;

(k) (i) a Reportable Event or Reportable Events shall have occurred with respect to any Plan or a trustee shall be appointed by a United States district court to administer any Plan, (ii) an ERISA Event or ERISA Events shall have occurred with respect to any Plan or Multiemployer Plan, (iii) the PBGC shall institute proceedings (including giving notice of intent thereof) to terminate any Plan or Plans, (iv) the Company or any Subsidiary or any ERISA Affiliate shall have been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is in reorganization or is being terminated, within the meaning of Title IV of ERISA, (v) the Company or any Subsidiary shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan or (vi) any other similar event or condition shall occur or exist with respect to a Plan; and in each case in clauses (i) through (vi) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to have a Material Adverse Effect;

(l) (i) any Loan Document shall for any reason be asserted in writing by any Borrower or any Subsidiary Guarantor not to be a legal, valid and binding obligation of any party thereto, (ii) any security interest purported to be created by any Security Document and which extends to assets that are not immaterial to the Company and the Subsidiaries on a consolidated basis shall cease to be, or shall be asserted in writing by any Borrower or any other Loan Party not to be, a valid and perfected security interest (perfected as or having the priority required by this Agreement or the relevant Security Document and subject to such limitations and restrictions as are set forth herein and therein) in the securities, assets or properties covered thereby, except to the extent that any such loss of perfection or priority results from the limitations of foreign laws, rules and regulations as they apply to pledges of Equity Interests in Foreign Subsidiaries or the application thereof, or from the failure of the Collateral Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Agreement or to file Uniform Commercial Code continuation statements or take the actions required to be taken by the Collateral Agent as described on Schedule 3.04 and except to the extent that such loss is covered by a lender's title insurance policy and the Collateral Agent shall be reasonably satisfied with the credit of such insurer, or (iii) the Guarantees pursuant to the Security Documents by any Borrower or any other Loan Party of any of the Obligations shall cease to be in full force and effect (other than in accordance with the terms thereof), or shall be asserted in writing by any Borrower or any other Loan Party not to be in effect or not to be legal, valid and binding obligations;

(m) (i) so long as any Pari Passu Senior Secured Notes are outstanding, the First Lien Intercreditor Agreement, and (ii) so long as any other Senior Secured Notes secured on a junior basis to the Liens on the Collateral securing the Obligations are outstanding and are subject to the Second Lien Intercreditor Agreement, the Second Lien Intercreditor Agreement shall, in whole or in part, cease to be effective or cease to be legally valid, binding and enforceable against any party thereto (or against any person on whose behalf any such party makes any covenants or agreements therein), or otherwise not be effective to create the rights and obligations purported to be created thereunder, unless the same results directly from the action or inaction of the Administrative Agent;

then, and in every such event (other than an event with respect to the Borrowers described in paragraph (h) or (i) above), and at any time thereafter during the continuance of such event, the Administrative Agent, at the request of the Required Lenders, shall, by notice to the Company, take any or all of the following actions, at the same or different times: (i) terminate forthwith the Commitments, (ii) declare the Loans then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrowers accrued hereunder and under any other Loan Document, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrowers, anything contained herein or in any other Loan Document to the contrary notwithstanding and (iii) if the Loans have been declared due and payable pursuant to clause (ii) above, demand cash collateral pursuant to Section 2.05(j); and in any event with respect to the Borrowers described in paragraph (h) or (i) above, the Commitments shall automatically terminate, the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrowers accrued hereunder and under any other Loan Document, shall automatically become due and payable and the Administrative Agent shall be deemed to have made a demand for cash collateral to the full extent permitted under Section 2.05(j), without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrowers, anything contained herein or in any other Loan Document to the contrary notwithstanding.

Section 8.02. Right to Cure. Notwithstanding anything to the contrary contained in Section 8.01, in the event that the Company fails (or, but for the operation of this Section 8.02, would fail) to comply with the requirements of Section 6.12, 6.13, 6.14 or 6.15 then, until the expiration of the tenth Business Day subsequent to the date of the certificate calculating such covenant is required to be delivered pursuant to Section 5.04(c), the Company may, at its option, cure such non-compliance by:

(a) In the case of a failure to comply with Section 6.12, delivering additional property over which the Collateral Agent has a perfected, first priority Lien for the benefit of the Lenders and the other Secured Parties, which additional property shall be acceptable to the Required Lenders (it being understood that, in all events, cash shall be acceptable, and separate approval thereof from any Agent or Lender shall not be required) and following such delivery the Cure Collateral Fair Market Value of such additional property shall be added to the Value Component as of the date of measurement; and/or

(b) In the case of a failure to comply with Section 6.12, ratably prepaying (x) outstanding Term Loans (but only to the extent permitted as a voluntary prepayment under Section 2.10(a)) and (y) Revolving Facility Credit Exposure, (which, with respect to any issued but undrawn Letters of Credit, shall mean cash collateralizing such Letters of Credit in the manner provided in Section 2.05(j)), and following such prepayments, the total amount of such prepayments shall be subtracted from the Loan Component, as of the date of measurement; and/or

(c) In the case of a failure to comply with Section 6.13, 6.14 or 6.15, issuing Permitted Cure Securities for cash or otherwise receiving cash contributions to the capital of the Company (the "Cure Right"), and upon the receipt by the Company of such cash (the "Cure Amount") pursuant to the exercise of such Cure Right, (A) in the case of Section 6.13, Free Liquidity shall be increased by the Cure Amount, as of the date of measurement, (B) in the case of Section 6.14, the Total Net Funded Debt shall be decreased by the Cure Amount, as of the date of measurement and (C) in the case of Section 6.15, the ratio of EBITDA to Consolidated Debt, as applicable, shall be recalculated giving effect to a pro forma adjustment by which EBITDA shall be increased with respect to such applicable quarter and any four quarter period that includes such quarter by the Cure Amount; provided, that, for purposes of complying with Section 6.15, (i) in each four-fiscal-quarter period there shall be at least one fiscal quarter in which the Cure Right is not exercised and (ii) the Cure Amount shall be no greater than the amount required for purposes of complying with Section 6.15.

If,

(i) in case of a failure to comply with Section 6.12, after giving effect to the transactions in paragraphs (a) and/or (b) of this Section 8.02, the Company shall then be in compliance with the requirements of Section 6.12; and/or

(ii) in case of a failure to comply with Section 6.13, after giving effect to the transactions in paragraph (c) of this Section 8.02, the Company shall then be in compliance with the requirements of Section 6.13; and/or

(iii) in case of a failure to comply with Section 6.14, after giving effect to the transactions in paragraph (c) of this Section 8.02, the Company shall then be in compliance with the requirements of Section 6.14; and/or

(iv) in case of a failure to comply with Section 6.15, after giving effect to the transactions in paragraph (c) of this Section 8.02, the Company shall then be in compliance with the requirements of Section 6.15,

then in each case, the Company shall be deemed to have satisfied the requirements of the relevant Section(s) as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of such Section(s) that had occurred shall be deemed cured for all purposes of this Agreement.

Section 8.03. Application of Proceeds. The proceeds received by the Administrative Agent or the Collateral Agent in respect of any sale of, collection from or other realization upon all or any part of the Collateral pursuant to the exercise by the Administrative Agent and/or the Collateral Agent of the remedies provided for herein or in any other Loan Document shall be applied, in full or in part, together with any other sums then held by the Administrative Agent or the Collateral Agent pursuant to this Agreement or any other Loan Document, as provided in Section 4.02 of the Collateral Agreement.

ARTICLE IX

THE AGENTS

Section 9.01. Appointment.

(a) Each Lender (in its capacities as a Lender and on behalf of itself and its Affiliates as potential counterparties to Swap Agreements) and each Issuing Bank (in such capacities and on behalf of itself and its Affiliates as potential counterparties to Swap Agreements) hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, including as the Collateral Agent and as the Mortgage Trustee for such Lender and the other Secured Parties under the Security Documents, including the Vessel Mortgages, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents to which it is a party, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent.

(b) In furtherance of the foregoing, each Lender (in its capacities as a Lender and on behalf of itself and its Affiliates as potential counterparties to Swap Agreements) and each Issuing Bank (in such capacities and on behalf of itself and its Affiliates as potential counterparties to Swap Agreements) hereby appoints and authorizes the Collateral Agent and the Mortgage Trustee to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Collateral Agent and the Mortgage Trustee (and any Subagents appointed by the Collateral Agent or the Mortgage Trustee pursuant to Section 9.02 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights or remedies thereunder at the direction of the Collateral Agent or the Mortgage Trustee) shall be entitled to the benefits of this Article IX (including Section 9.07) as though the Collateral Agent and the Mortgage Trustee (and any of their respective Subagents) were an "Agent" under the Loan Documents, as if set forth in full herein with respect thereto.

(c) Each Lender (in its capacities as a Lender and each Issuing Bank (in such capacities and on behalf of itself and its Affiliates as potential counterparties to Swap Agreements)) irrevocably authorizes the Administrative Agent, the Collateral Agent or the Mortgage Trustee, as applicable, at its option and in its discretion, (i) to release any Lien on any property granted to or held by the Administrative Agent, the Collateral Agent or the Mortgage Trustee under any Loan Document (A) upon termination of the Commitments and payment in full of all Obligations (other than contingent indemnification obligations and expense reimbursement claims to the extent no claim therefor has been made) and the termination of all Letters of Credit, (B) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document to a person that is not (and is not required to become) a Loan Party, (C) if approved, authorized or ratified in writing in accordance with Section 10.08 of this Agreement or (D) to the extent excluded from the security interest granted under the Collateral Agreement pursuant to Section 3.01 thereof, (ii) to release any Subsidiary Guarantor from its obligations under the Loan Documents if such person ceases to be a Subsidiary as a result of a transaction permitted hereunder, (iii) to subordinate any Lien on any property granted to or held by the Collateral Agent or Mortgage Trustee under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(e)(2)(b) and (iv) enter into any First Lien Intercreditor Agreement and any Second Lien Intercreditor Agreement, to the extent contemplated by the terms hereof, and acknowledge that any such First Lien Intercreditor Agreement and Second Lien Intercreditor Agreement will be binding upon them. Upon request by an Agent, at any time, the Required Lenders will confirm in writing the Administrative Agent's, the Collateral Agent's or the Mortgage Trustee's, as applicable, authority to release its interest in particular types or items of property, or to release any Subsidiary Guarantor from its obligations under the Loan Documents.

(d) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, (i) the Administrative Agent (irrespective of whether the principal of any Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Loan Party) shall be entitled and empowered, by intervention in such proceeding or otherwise (A) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of any or all of the Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent and any Subagents allowed in such judicial proceeding, and (B) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same, and (ii) any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Bank to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under the Loan Documents. Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

Section 9.02. Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Loan Documents (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) by or through agents, employees or attorneys in fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent may also from time to time, when the Administrative Agent deems it to be necessary or desirable, appoint one or more trustees, co trustees, collateral co agents, collateral subagents or attorneys in fact (each, a "Subagent") with respect to all or any part of the Collateral; provided that no such Subagent shall be authorized to take any action with respect to any Collateral unless and except to the extent expressly authorized in writing by the Administrative Agent. Should any instrument in writing from any Loan Party be required by any Subagent so appointed by the Administrative Agent to more fully or certainly vest in and confirm to such Subagent such rights, powers, privileges and duties, the Borrowers shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. If any Subagent, or successor thereto, shall die, become incapable of acting, resign or be removed, all rights, powers, privileges and duties of such Subagent, to the extent permitted by law, shall automatically vest in and be exercised by the Administrative Agent until the appointment of a new Subagent. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent, attorney in fact or Subagent that it selects in accordance with the foregoing provisions of this Section 9.02 in the absence of the Administrative Agent's gross negligence or willful misconduct.

Section 9.03. Exculpatory Provisions. Neither any Agent or its Affiliates nor any of their respective officers, directors, employees, agents, attorneys in fact or affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such person's own gross negligence or willful misconduct) or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Agents shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing, and (b) the Administrative Agent shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrowers or any of their Affiliates that is communicated to or obtained by the person serving as the Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to such Agent by a Borrower, a Lender or an Issuing Bank. Neither Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 9.04. Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) or conversation believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper person, and shall not incur any liability for relying thereon. The Administrative Agent may conclusively rely on information provided to it by the Former Agent with respect to the Original Credit Agreement. In determining compliance with any condition hereunder to any Credit Event, that by its terms must be fulfilled to the satisfaction of a Lender or any Issuing Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank prior to such Credit Event. The Administrative Agent may consult with legal counsel (including counsel to the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document (including with respect to any matter hereunder or under any other Loan Document that is subject to such Agent's consent or approval) unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all or other Lenders) as it (or, in the case of the Collateral Agent, the Administrative Agent) deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all of the Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

Section 9.05. Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received notice from a Lender, or a Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all or any other portion of the Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

Section 9.06. Non-Reliance on Agents and Other Lenders. Each Lender expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

Section 9.07. Indemnification. The Lenders severally agree to indemnify each Agent and each Issuing Bank in its capacity as such (to the extent not reimbursed by the Borrowers and without limiting the obligation of the Borrowers to do so), in the amount of its pro rata share (based on its aggregate Revolving Facility Credit Exposure, outstanding Term Loans and unused Commitments hereunder; provided, that the aggregate principal amount of L/C Disbursements owing to any Issuing Bank shall be considered to be owed to the Revolving Facility Lenders ratably in accordance with their respective Revolving Facility Credit Exposure), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent or such Issuing Bank in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent or such Issuing Bank under or in connection with any of the foregoing; provided, that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent's or such Issuing Bank's gross negligence or willful misconduct. The failure of any Lender to reimburse any Agent or any Issuing Bank, as the case may be, promptly upon demand for its ratable share of any amount required to be paid by the Lenders to such Agent or such Issuing Bank, as the case may be, as provided herein shall not relieve any other Lender of its obligation hereunder to reimburse such Agent or such Issuing Bank, as the case may be, for its ratable share of such amount, but no Lender shall be responsible for the failure of any other Lender to reimburse such Agent or such Issuing Bank, as the case may be, for such other Lender's ratable share of such amount. The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder, and the resignation or removal of any Agent or any Issuing Bank.

Section 9.08. Agent in Its Individual Capacity. Each Agent and its affiliates may make loans to, accept deposits from, and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it and with respect to any Letter of Credit issued, or Letter of Credit participated in, by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

Section 9.09. Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent upon 10 days' notice to the Lenders and the Borrowers. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8.01(b), (c), (h) or (i) shall have occurred and be continuing) be subject to approval by the Company (which approval shall not be withheld or delayed unreasonably), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" means such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 10 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Article and Section 10.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement and the other Loan Documents. The provisions of this Section 9.09 shall apply mutatis mutandis to the Collateral Agent, provided that the Administrative Agent and the Collateral Agent shall at all times be the same person.

Section 9.10. Withholding Tax. To the extent required by any applicable laws, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding tax ineffective), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any applicable Loan Party and without limiting the obligation of any applicable Loan Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties, additions to Tax and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this Section 9.10. For the avoidance of doubt, the term "Lender" shall include any Issuing Bank.

Section 9.11. Agent and Arrangers. Neither the Joint Bookrunners, the Co-Documentation Agents nor any of the Arrangers shall have any duties or responsibilities hereunder in its capacity as such. Without limiting any other provision of this Article, neither the Joint Bookrunners, the Co-Documentation Agents nor any of the Arrangers in their respective capacities as such shall have or be deemed to have any fiduciary relationship with any Lender (including any Issuing Bank) or any other person by reason of this Agreement or any other Loan Document.

Section 9.12. Ship Mortgage Trust. The Mortgage Trustee agrees and declares, and each of the other Secured Parties acknowledges, that, subject to the terms and conditions of this Section 9.12, the Mortgage Trustee holds the Trust Property in trust for the Secured Parties absolutely. Each of the other Secured Parties agrees that the obligations, rights and benefits vested in the Mortgage Trustee shall be performed and exercised in accordance with this Section 9.12. For the avoidance of doubt, the Mortgage Trustee shall have the benefit of all of the provisions of this Agreement (including exculpatory and indemnification provisions) benefiting it in its capacity as Collateral Agent for the Secured Parties. In addition, the Mortgage Trustee and any attorney, agent or delegate of the Mortgage Trustee may indemnify itself or himself out of the Trust Property against all liabilities, costs, fees, damages, charges, losses and expenses sustained or incurred by it or him in relation to the taking or holding of any of the Trust Property or in connection with the exercise or purported exercise of the rights, trusts, powers and discretions vested in the Mortgage Trustee or any other such person by or pursuant to the Vessel Mortgages or in respect of anything else done or omitted to be done in any way relating to the Vessel Mortgages (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the Mortgage Trustee's gross negligence or willful misconduct).

ARTICLE X

MISCELLANEOUS

Section 10.01. Notices: Communications.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 10.01(b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier or other electronic means as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to any Loan Party, the Administrative Agent, the Collateral Agent or an Issuing Bank to the address, telecopier number, electronic mail address or telephone number specified for such person on Schedule 10.01; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender or any Issuing Bank pursuant to Article II if such Lender or Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrowers may, in their discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by them, provided that approval of such procedures may be limited to particular notices or communications.

(c) Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. Notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in Section 10.01(b) above shall be effective as provided in such Section 10.01(b).

(d) Any party hereto may change its address or telecopier number for notices and other communications hereunder by notice to the other parties hereto.

(e) Documents required to be delivered pursuant to Section 5.04 (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically (including as set forth in Section 10.17) and if so delivered, shall be deemed to have been delivered on the date (i) on which the Loan Parties post such documents, or provides a link thereto on the Loan Parties' website on the Internet at the website address listed on Schedule 10.01, or (ii) on which such documents are posted on the Loan Parties' behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that (A) the Loan Parties shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrowers to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender, and (B) the Loan Parties shall notify the Administrative Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (*i.e.*, soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrowers shall be required to provide paper copies of the certificates required by Section 5.04(c) to the Administrative Agent. Except for such certificates required by Section 5.04(c), the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrowers with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Section 10.02. Survival of Agreement. All covenants, agreements, representations and warranties made by the Loan Parties herein, in the other Loan Documents and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and each Issuing Bank and shall survive the making by the Lenders of the Loans, the execution and delivery of the Loan Documents and the issuance of the Letters of Credit, regardless of any investigation made by such persons or on their behalf, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or L/C Disbursement or any Fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not been terminated. Without prejudice to the survival of any other agreements contained herein, indemnification and reimbursement obligations contained herein (including pursuant to Sections 2.15, 2.17 and 10.05) shall survive the payment in full of the principal and interest hereunder, the expiration of the Letters of Credit and the termination of the Commitments or this Agreement.

Section 10.03. Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrowers and the Administrative Agent and when the Administrative Agent shall have received copies of this Agreement which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the Borrowers, each Issuing Bank, the Administrative Agent and each Lender and their respective permitted successors and assigns.

Section 10.04. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) a Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by such Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 10.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section 10.04), and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender (such Lender, an "Assignor") may assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Company; provided that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below), or, if an Event of Default under Sections 8.01(b), (c), (h) or (i) has occurred and is continuing, any other person;

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender, an Approved Fund or an Affiliate of the Borrowers made in accordance with this Section 10.04(b)(i) or Section 10.21; and

(C) the Issuing Banks; provided that no consent of the Issuing Banks shall be required for an assignment of all or any portion of a Term Loan.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans under any Facility, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than (x) \$1,000,000 in the case of Term Loans and (y) \$1,000,000 in the case of Revolving Facility Loans or Revolving Facility Commitments, unless each of the Company and the Administrative Agent otherwise consent; provided that (1) no such consent of the Company shall be required if an Event of Default under Sections 8.01(b), (c), (h) or (i) has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds (with simultaneous assignments to or by two or more Approved Funds shall be treated as one assignment), if any;

(B) the parties to each assignment shall (1) execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent or (2) if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance, in each case, together with a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the discretion of the Administrative Agent);

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any tax forms; and

(D) the Assignee shall not be a natural person or the Borrowers or any of the Borrowers' Affiliates or Subsidiaries; except in accordance with Section 10.04(b)(i) or Section 10.21.

For the purposes of this Section 10.04, "Approved Fund" means any person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) below, from and after the effective date specified in each Assignment and Acceptance the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 10.05). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section 10.04.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers, shall maintain at one of its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal and interest amounts of the Loans and Revolving L/C Exposure owing to, each Lender pursuant to the terms of this Agreement from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent, the Issuing Banks and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms of this Agreement as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, the Issuing Banks and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an Assignee, the Assignee's completed Administrative Questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section, if applicable, and any written consent to such assignment required by paragraph (b) of this Section and any applicable tax forms, the Administrative Agent shall accept such Assignment and Acceptance and promptly record the information contained therein in the Register. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph (b)(v).

(vi) If the consent of the Company to an assignment or to an Approved Fund is required hereunder (including a consent to an assignment which does not meet the minimum assignment thresholds specified in Section 10.04(b)(ii)(A)), the Company shall be deemed to have given its consent ten Business Days after the date written notice thereof has been delivered by the Assignor (through the Administrative Agent or the electronic settlement system used in connection with any such assignment) unless such consent is expressly refused by the Company prior to such tenth Business Day.

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the Assignee thereunder shall be deemed to confirm to and agree with each other and the other parties hereto as follows: (i) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that its applicable Commitment, and the outstanding balances of its Term Loans and Revolving Facility Loans, in each case without giving effect to assignments thereof which have not become effective, are as set forth in such Assignment and Acceptance, (ii) except as set forth in clause (i) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of the Company or any Subsidiary or the performance or observance by the Company or any Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (iii) the Assignee represents and warrants that it is legally authorized to enter into such Assignment and Acceptance; (iv) the Assignee confirms that it has received a copy of this Agreement, together with copies of the most recent financial statements referred to in Section 3.05 (or delivered pursuant to Section 5.04), and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (v) the Assignee will independently and without reliance upon the Administrative Agent, the Collateral Agent, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (vi) the Assignee appoints and authorizes each the Administrative Agent and the Collateral Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent and the Collateral Agent, as applicable, by the terms of this Agreement, together with such powers as are reasonably incidental thereto; and (vii) the Assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) (i) Any Lender may, without the consent of the Borrowers or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement and the other Loan Documents; provided that (x) such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to Section 10.04(a)(i) or clauses (i), (ii), (iii), (iv), (v) or (vi) of the first proviso to Section 10.08(b) and (2) directly affects such Participant and (y) no other agreement with respect to amendment, modification or waiver may exist between such Lender and such Participant. Subject to paragraph (c)(ii) of this Section 10.04, the Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 2.17 (subject to the limitations and requirements of those Sections and Section 2.19 and it being understood that the documentation required under Section 2.17(e) shall be delivered solely to the participating Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 10.04. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.06 as though it were a Lender, provided that such Participant shall be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) except to the extent that such disclosure is necessary in connection with a Tax audit or other Tax proceeding to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and each party hereto shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(ii) A Participant shall not be entitled to receive any greater payment under 2.14, 2.15, 2.16 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company's prior written consent (which consent shall not be unreasonably withheld or delayed), which consent shall state that it is being given pursuant to this Section 10.04(d)(ii); provided that each potential Participant shall provide such information as is reasonably requested by the Company in order for the Company to determine whether to provide its consent.

(c) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central banking authority and in the case of any Lender that is an Approved Fund, any pledge or assignment to any holders of obligations owed, or securities issued, by such Lender, including to any trustee for, or any other representative of, such holders, and this Section 10.04 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(f) The Borrowers, upon receipt of written notice from any relevant Lender, agree to issue Notes to such Lender requiring Notes to facilitate transactions of the type described in paragraph (e) above.

(g) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrowers or the Administrative Agent. Each Borrower, each Lender and the Administrative Agent hereby confirms that it will not institute against a Conduit Lender or join any other person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto and each Loan Party for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

(h) If the Borrowers wish to replace the Loans or Commitments under any Facility with ones having different terms, they shall have the option, with the consent of the Administrative Agent and subject to at least three Business Days' advance notice to the Lenders under such Facility, instead of prepaying the Loans or reducing or terminating the Commitments to be replaced, to (1) require the Lenders under such Facility to assign such Loans or Commitments to the Administrative Agent or its designees and (2) amend the terms thereof in accordance with Section 10.08 (with such replacement, if applicable, being deemed to have been made pursuant to Section 10.08(d)). Pursuant to any such assignment, all Loans and Commitments to be replaced shall be purchased at par (allocated among the Lenders under such Facility in the same manner as would be required if such Loans were being optionally prepaid or such Commitments were being optionally reduced or terminated by the Borrowers), accompanied by payment of any accrued interest and fees thereon and any amounts owing pursuant to Section 10.05(b). By receiving such purchase price, the Lenders under such Facility shall automatically be deemed to have assigned the Loans or Commitments under such Facility pursuant to the terms of the form of Assignment and Acceptance attached hereto as Exhibit A, and accordingly no other action by such Lenders shall be required in connection therewith. The provisions of this paragraph (h) are intended to facilitate the maintenance of the perfection and priority of existing security interests in the Collateral during any such replacement.

(i) Notwithstanding anything to the contrary in Section 2.18(c) (which provisions shall not be applicable to clauses (i) or (j) of this Section 10.04), the Borrowers may purchase by way of assignment and become Assignees with respect to Term Loans at any time and from time to time from Lenders in accordance with Section 10.04(b) hereof (“Permitted Loan Purchases”); provided that (A) any such purchase occurs pursuant to Dutch auction procedures open to all applicable Lenders on a pro rata basis in accordance with customary procedures to be agreed between the applicable Borrower and the Administrative Agent; provided that the Borrowers shall be entitled to make open market purchases of the Term Loans without complying with such Dutch auction procedures so long as the aggregate principal amount (calculated on the par amount thereof) of all Term Loans purchased in open market purchases from the Closing Date does not exceed the Permitted Loan Purchases Amount, (B) for the avoidance of doubt, no Revolving Facility Commitments or Revolving Facility Loans may be purchased by the Borrowers, (C) no Permitted Loan Purchases shall be made from the proceeds of any Revolving Facility Loans, (D) no Default or Event of Default has occurred and is continuing or would result from the Permitted Loan Purchase, (E) upon consummation of any such Permitted Loan Purchase, the Loans purchased pursuant thereto shall be deemed to be automatically and immediately cancelled and extinguished in accordance with Section 10.04(j) and (F) in connection with any such Permitted Loan Purchase, the applicable Borrower and such Lender that is the Assignor shall execute and deliver to the Administrative Agent a Permitted Loan Purchase Assignment and Acceptance (and for the avoidance of doubt, shall not be required to execute and deliver an Assignment and Acceptance pursuant to Section 10.04(b)(ii)(B)) and shall otherwise comply with the conditions to assignments under this Section 10.04.

(j) Each Permitted Loan Purchase shall, for purposes of this Agreement (including without limitation, Section 2.08(b)) be deemed to be an automatic and immediate cancellation and extinguishment of such Term Loans and the applicable Borrower shall, upon consummation of any Permitted Loan Purchase, notify the Administrative Agent that the Register be updated to record such event as if it were a prepayment of such Loans.

Section 10.05. Expenses; Indemnity.

(a) Costs and Expenses. The Borrowers jointly and severally agree to pay (i) all reasonable and documented out-of-pocket expenses (including Other Taxes) incurred by the Administrative Agent in connection with the preparation of this Agreement and the other Loan Documents, or by the Administrative Agent in connection with the syndication of the Commitments or in the administration of this Agreement (including expenses incurred in connection with due diligence and initial and ongoing Collateral examination to the extent incurred with the reasonable prior approval of the Company and the reasonable fees, disbursements and charges for no more than one counsel in each jurisdiction where Collateral is located) or in connection with the administration of this Agreement and any amendments, modifications or waivers of the provisions of this Agreement or thereof (whether or not the Transactions hereby contemplated shall be consummated), including the reasonable fees, charges and disbursements of Cahill Gordon & Reindel llp, counsel for the Administrative Agent and the Arrangers, and, if necessary, the reasonable fees, charges and documented out-of-pocket expenses and disbursements of one local counsel per jurisdiction, and (ii) all out-of-pocket expenses (including Other Taxes) incurred by the Agents and any Lender in connection with the enforcement or protection of their rights in connection with this Agreement and the other Loan Documents, in connection with the Loans made or the Letters of Credit issued hereunder, including the fees, charges and disbursements of counsel for the Agents or, after any Event of Default under Section 8.01(b), (c), (h) (with respect to the Borrowers) or (i) (with respect to the Borrowers), counsel for the Lenders (in each case including any special and local counsel).

(b) Indemnification by the Borrowers. The Borrowers jointly and severally agree to indemnify the Administrative Agent, the Agents, the Arrangers, the Joint Bookrunners, each Issuing Bank, each Lender, each of their respective Affiliates and each of their respective directors, trustees, officers, employees, agents, trustees and advisors (each such person being called an "Indemnitee") against, and to hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable counsel fees, charges and disbursements (except the allocated costs of in house counsel), incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto and thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated hereby (including the Acquisition Transactions), (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit) or (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto and regardless of whether such matter is initiated by a third party or by the Company or any of its subsidiaries or Affiliates; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee (for purposes of this proviso only, each of the Administrative Agent, any Arranger, any Joint Bookrunner, any Issuing Bank or any Lender shall be treated as several and separate Indemnitees, but each of them together with its respective Related Parties, shall be treated as a single Indemnitee). Subject to and without limiting the generality of the foregoing sentence, the Borrowers jointly and severally agree to indemnify each Indemnitee against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable counsel or consultant fees, charges and disbursements (limited to not more than one counsel, plus, if necessary, one local counsel per jurisdiction) (except the allocated costs of in house counsel), incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of any Environmental Claim or Environmental Liability related in any way to the Company or any of the Subsidiaries or its predecessors; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or any of its Related Parties. None of the Indemnitees (or any of their respective affiliates) shall be responsible or liable to the Company or any of the subsidiaries, Affiliates or stockholders or any other person or entity for any special, indirect, consequential or punitive damages, which may be alleged as a result of the Facilities, the Transactions or the Acquisition Transactions. The provisions of this Section 10.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, any Issuing Bank or any Lender. All amounts due under this Section 10.05 shall be payable on written demand therefor accompanied by reasonable documentation with respect to any reimbursement, indemnification or other amount requested.

(c) Taxes. Except as expressly provided in Section 10.05(a) with respect to Other Taxes, which shall not be duplicative with any amounts paid pursuant to Section 2.17, this Section 10.05 shall not apply to any Taxes (other than Taxes that represent losses, claims, damages, liabilities and related expenses resulting from a non-Tax claim), which shall be governed exclusively by Section 2.17 and, to the extent set forth therein, Section 2.15.

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrowers shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Survival. The agreements in this Section 10.05 shall survive the resignation or removal of either Agent or any Issuing Bank, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations and the termination of this Agreement.

Section 10.06. Right of Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each Issuing Bank is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender or such Issuing Bank to or for the credit or the account of the Borrowers or any Subsidiary against any of and all the obligations of the Borrowers now or hereafter existing under this Agreement or any other Loan Document held by such Lender or such Issuing Bank, irrespective of whether or not such Lender or such Issuing Bank shall have made any demand under this Agreement or such other Loan Document and although the obligations may be unmatured. The rights of each Lender and each Issuing Bank under this Section 10.06 are in addition to other rights and remedies (including other rights of set-off) that such Lender or such Issuing Bank may have. Each Lender and Issuing Bank agrees to notify the Administrative Agent promptly after any such set off and application; provided that the failure to give such notice shall not affect the validity of such set off and application.

Section 10.07. Applicable Law. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN LETTERS OF CREDIT AND AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

Section 10.08. Waivers; Amendment.

(a) No failure or delay of either Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of each Agent, each Issuing Bank and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by any Borrower or any other Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any Borrower or any other Loan Party in any case shall entitle such person to any other or further notice or demand in similar or other circumstances.

(b) Subject to Section 2.14, neither this Agreement nor any other Loan Document nor any provision of this Agreement or thereof may be waived, amended or modified except (x) as provided in Section 2.21, (y) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders and (z) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by each party thereto and the Agent party thereto and consented to by the Required Lenders; provided, however, that no such agreement shall

(i) decrease or forgive the principal amount of, or extend the final maturity of, or decrease the rate of interest on, any Loan or any L/C Disbursement, or extend the stated expiration of any Letter of Credit beyond the applicable Revolving Facility Maturity Date, without the prior written consent of each Lender directly affected thereby, except as provided in Section 2.05(c); provided that any amendment to the financial covenant definitions in this Agreement shall not constitute a reduction in the rate of interest for purposes of this clause (i),

(ii) increase or extend the Commitment of any Lender or decrease the Commitment Fees or L/C Participation Fees or other fees of any Lender without the prior written consent of such Lender (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in the aggregate Commitments shall not constitute an increase of the Commitments of any Lender),

(iii) extend or waive any Term Loan Installment Date or reduce the amount due on any Term Loan Installment Date or extend any date on which payment of interest on any Loan or any L/C Disbursement or any Fees is due, without the prior written consent of each Lender adversely affected thereby,

(iv) amend the provisions of Section 4.02 of the Collateral Agreement, or any analogous provision of any other Security Document, in a manner that would by its terms alter the *pro rata* sharing of payments required thereby, without the prior written consent of each Lender adversely affected thereby,

(v) amend or modify the provisions of this Section 10.08 or the definition of the terms "Required Lenders," "Majority Lenders," or any other provision of this Agreement specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the prior written consent of each Lender adversely affected thereby (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Loans and Commitments are included on the Closing Date),

(vi) release all or substantially all the Collateral or all or substantially all of the Subsidiary Guarantors from their respective Guarantees under the Collateral Agreement, unless, in the case of a Subsidiary Guarantor, all or substantially all the Equity Interests of such Subsidiary Guarantor is sold or otherwise disposed of in a transaction permitted by this Agreement, without the prior written consent of each Lender, or

(vii) effect any waiver, amendment or modification that by its terms adversely affects the rights in respect of payments or collateral of Lenders participating in any Facility differently from those of Lender participating in another Facility, without the consent of the Majority Lenders participating in the adversely affected Facility (it being agreed that the Required Lenders may waive, in whole or in part, any prepayment or Commitment reduction required by Section 2.11 so long as the application of any prepayment or Commitment reduction still required to be made is not changed);

provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of either Agent or an Issuing Bank hereunder without the prior written consent of such Agent or such Issuing Bank acting as such at the effective date of such agreement, as applicable. Each Lender shall be bound by any waiver, amendment or modification authorized by this Section 10.08 and any consent by any Lender pursuant to this Section 10.08 shall bind any Assignee of such Lender.

Notwithstanding the foregoing, only the consent of the Required Revolving Facility Lenders shall be required to (and only the Required Revolving Facility Lenders shall have the ability to) waive, amend or modify the conditions set forth in Section 4.01.

(c) Without the consent of any Arranger or Lender or Issuing Bank, the Loan Parties and the Administrative Agent and/or Collateral Agent, as applicable, may (in their respective sole discretion, or shall, to the extent required by any Loan Document) enter into any amendment, modification or waiver of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, or as required by local law to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable law.

(d) Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrowers (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the Revolving Facility Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(e) Notwithstanding the foregoing, technical and conforming modifications to the Loan Documents may be made with the consent of the Borrowers and the Administrative Agent to the extent necessary to integrate any Incremental Term Loan Commitments or Incremental Revolving Facility Commitments in a manner consistent with Section 2.21, including, with respect to Other Incremental Revolving Loans or Other Incremental Term Loans, as may be necessary to establish such Incremental Term Loan Commitments or Revolving Facility Loans as a separate Class or tranche from the existing Term Loan Commitments or Incremental Revolving Facility Commitments.

Notwithstanding anything herein to the contrary, if at any time the applicable interest rate, together with all fees and charges that are treated as interest under applicable law (collectively, the "Charges"), as provided for herein or in any other document executed in connection herewith, or otherwise contracted for, charged, received, taken or reserved by any Lender or any Issuing Bank, shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by such Lender in accordance with applicable law, the rate of interest payable hereunder, together with all Charges payable to such Lender or such Issuing Bank, shall be limited to the Maximum Rate; provided that such excess amount shall be paid to such Lender or such Issuing Bank on subsequent payment dates to the extent not exceeding the legal limitation.

Section 10.09. Entire Agreement. This Agreement, the other Loan Documents and the agreements regarding certain Fees referred to herein constitute the entire contract between the parties relative to the subject matter of this Agreement. Any previous agreement among or representations from the parties or their Affiliates with respect to the subject matter of this Agreement is superseded by this Agreement and the other Loan Documents. Notwithstanding the foregoing, any fee letters previously entered into between the Agents, the Arrangers and the Joint Bookrunners shall survive the execution and delivery of this Agreement and remain in full force and effect. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any party other than the parties hereto and thereto any rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

Section 10.10. No Liability of the Issuing Bank. The Borrowers assume all risks of the acts or omissions of any beneficiary or transferee of any Letter of Credit with respect to its use of such Letter of Credit. Neither any Issuing Bank nor any of its officers or directors shall be liable or responsible for: (a) the use that may be made of any Letter of Credit or any acts or omissions of any beneficiary or transferee in connection therewith; (b) the validity, sufficiency or genuineness of documents, or of any endorsement thereon, even if such documents should prove to be in any or all respects invalid, insufficient, fraudulent or forged; (c) payment by such Issuing Bank against presentation of documents that do not comply with the terms of a Letter of Credit, including failure of any documents to bear any reference or adequate reference to the Letter of Credit; or (d) any other circumstances whatsoever in making or failing to make payment under any Letter of Credit, except that the Borrowers shall have a claim against such Issuing Bank, and such Issuing Bank shall be liable to the Borrowers, to the extent of any direct, but not consequential, damages suffered by the Borrowers that the Borrowers prove were caused by (i) such Issuing Bank's willful misconduct or gross negligence as determined in a final, non-appealable judgment by a court of competent jurisdiction in determining whether documents presented under any Letter of Credit comply with the terms of the Letter of Credit or (ii) such Issuing Bank's willful failure to make lawful payment under a Letter of Credit after the presentation to it of a draft and certificates strictly complying with the terms and conditions of the Letter of Credit. In furtherance and not in limitation of the foregoing, such Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

Section 10.11. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Section 10.11.

Section 10.12. Severability. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 10.13. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute but one contract, and shall become effective as provided in Section 10.03. Delivery of an executed counterpart to this Agreement by facsimile transmission (or other electronic transmission pursuant to procedures approved by the Administrative Agent) shall be as effective as delivery of a manually signed original.

Section 10.14. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 10.15. Jurisdiction: Consent to Service of Process.

(a) Submission to Jurisdiction. Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any New York State court or federal court of the United States of America sitting in New York City in the borough of Manhattan, and any appellate court from any thereof (collectively, "New York Courts"), in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined in such New York State or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement or any of the other Loan Documents in the courts of any jurisdiction, except that each of the Loan Parties agrees that (a) it will not bring any such action or proceeding in any court other than New York Courts (it being acknowledged and agreed by the parties hereto that any other forum would be inconvenient and inappropriate in view of the fact that more of the Lenders who would be affected by any such action or proceeding have contacts with the State of New York than any other jurisdiction), and (b) in any such action or proceeding brought against any Loan Party in any other court, it will not assert any cross-claim, counterclaim or setoff, or seek any other affirmative relief, except to the extent that the failure to assert the same will preclude such Loan Party from asserting or seeking the same in the New York Courts.

(b) Waiver of Venue. Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in any New York Court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Service of Process. Each Loan Party irrevocably appoints National Registered Agents, Inc. at 875 Avenue of the Americas, Suite 501, New York, New York 10001 as its authorized agent (the "Process Agent") on which any and all legal process may be served in any action, suit or proceeding brought in any New York Court. Each Loan Party agrees that service of process in respect of it upon the Process Agent, together with written notice of such service given to it in the manner provided for notices in Section 10.01, shall be deemed to be effective service of process upon it in any such action, suit or proceeding. Each Loan Party agrees that the failure of the Process Agent to give notice to it of any such service shall not impair or affect the validity of such service or any judgment rendered in any such action, suit or proceeding based thereon. If for any reason the Process Agent named above shall cease to be available to act as such, each Loan Party agrees to irrevocably appoint a replacement process agent in New York City, as its authorized agent for service of process, on the terms and for the purposes specified in this paragraph (c). Nothing in this Agreement or any other Loan Document will affect the right of any party hereto to serve process in any other manner permitted by applicable law or to obtain jurisdiction over any party or bring actions, suits or proceedings against any party in such other jurisdictions, and in such matter, as may be permitted by applicable law.

Section 10.16. Confidentiality. Each of the Lenders, each Issuing Bank and each of the Agents agrees that it shall maintain in confidence any information relating to any Loan Party and any Subsidiary furnished to it by or on behalf of such Loan Party or any Subsidiary (other than information that (a) has become generally available to the public other than as a result of a disclosure by such party, (b) has been independently developed by such Lender, such Issuing Bank or such Agent without violating this Section 10.16 or (c) was available to such Lender, such Issuing Bank or such Agent from a third party having, to such person's knowledge, no obligations of confidentiality to such Loan Party or any other Subsidiary) and shall not reveal the same other than to its Related Parties with a need to know and any numbering, administration or settlement service providers or to any person that approves or administers the Loans on behalf of such Lender (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 10.16), except: (A) to the extent necessary to comply with law or any legal process or the requirements of any Governmental Authority, the National Association of Insurance Commissioners or of any securities exchange on which securities of the disclosing party or any Affiliate of the disclosing party are listed or traded, (B) as part of normal reporting or review procedures to, or examinations by, Governmental Authorities or self-regulatory authorities, including the National Association of Insurance Commissioners or the Financial Industry Regulatory Authority, (C) to its parent companies, Affiliates or auditors (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 10.16), (D) in order to enforce its rights under any Loan Document in a legal proceeding, (E) to any pledgee under Section 10.04(e) or any other prospective assignee of, or prospective Participant in, any of its rights under this Agreement (or any of its Related Parties) (so long as such person shall have been instructed to keep the same confidential in accordance with this Section 10.16), (F) to any direct or indirect contractual counterparty in Swap Agreements or such contractual counterparty's professional advisor (so long as such contractual counterparty or professional advisor to such contractual counterparty agrees to be bound by the provisions of this Section 10.16) and (G) to any credit insurance provider relating to the Borrowers and their obligations (so long as such person shall have been instructed to keep the same confidential in accordance with this Section 10.16). In addition, each Agent, each Issuing Bank and each Lender may disclose the existence of this Agreement and customary information about this Agreement to market data collectors, similar services providers to the lending industry, and service providers to the Agents, the Issuing Banks and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

Section 10.17. Platform: Borrower Materials. The Borrowers hereby acknowledge that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders and the Issuing Banks materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform"), and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrowers or their securities) (each, a "Public Lender"). Each Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (i) all the Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof, (ii) by marking Borrower Materials "PUBLIC," the Borrowers shall be deemed to have authorized the Administrative Agent, the Arranger, the Issuing Banks and the Lenders to treat the Borrower Materials as either publicly available information or not material information (although it may be sensitive and proprietary) with respect to the Borrowers or their securities for purposes of United States Federal and state securities laws, (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor"; and (iv) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

Section 10.18. Release of Liens and Guarantees. In the event that any equity holder conveys, sells, assigns, transfers or otherwise disposes of all or any portion of any of the Equity Interests or assets of any Subsidiary Guarantor to a person that is not thereby required to enter into a Subsidiary Guarantor Pledge Agreement in a transaction not prohibited by Section 6.05 the Collateral Agent, without any recourse to or representation by it, shall promptly (and the Lenders hereby authorize the Collateral Agent to) take such action and execute any such documents as may be reasonably requested by the Borrowers and at the Borrowers' expense to release any Liens created by any Loan Document in respect of such Equity Interests or assets, and, in the case of a disposition of the Equity Interests of any Subsidiary Guarantor in a transaction permitted by Section 6.05 and as a result of which such Subsidiary Guarantor would cease to be a Subsidiary, terminate such Subsidiary Guarantor's obligations under its Guarantee (and, in each case, the Administrative Agent and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry). Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Loan Documents. In addition, the Collateral Agent agrees, without any recourse to or representation by it, to take such actions as are reasonably requested by the Borrowers and at the Borrowers' expense to terminate the Liens and security interests created by the Loan Documents when all the Obligations (other than contingent indemnification obligations and expense reimbursement claims to the extent no claim therefore has been made) are paid in full and all Letters of Credit and Commitments are terminated. Any such release of Obligations shall be deemed subject to the provision that such Obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Borrower or any Subsidiary Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, any Borrower or any Subsidiary Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made. Any representation, warranty or covenant contained in any Loan Document relating to any such Equity Interests, asset or subsidiary of a Borrower shall no longer be deemed to be made once such Equity Interests or asset is so conveyed, sold, leased, assigned, transferred or disposed of.

Section 10.19. Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of any Loan Party in respect of any such sum due from it to any Agent or Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrowers in the Agreement Currency, the Borrowers agree, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrowers (or to any other person who may be entitled thereto under applicable law).

Section 10.20. USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrowers that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act.

Section 10.21. Affiliate Lenders.

(a) Each Lender who is an Affiliate of the Borrowers (each, an "Affiliate Lender"; it being understood that neither the Borrowers, nor any of the Subsidiaries may be Affiliate Lenders), in connection with any (i) consent (or decision not to consent) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document, (ii) other action on any matter related to any Loan Document or (iii) direction to the Administrative Agent, Collateral Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, agrees that, except with respect to any amendment, modification, waiver, consent or other action described in clauses (i), (ii) or (iii) of the first proviso of Section 10.08(b), such Affiliate Lender shall be deemed to have voted its interest as a Lender without discretion in such proportion as the allocation of voting with respect to such matter by Lenders who are not Affiliate Lenders. Subject to clause (c) below, the Borrowers and each Affiliate Lender hereby agree that if a case under Title 11 of the United States Code is commenced against a Borrower, such Borrower shall seek (and each Affiliate Lender shall consent) to designate the vote of any Affiliate Lender and the vote of any Affiliate Lender with respect to any plan of reorganization of such Borrower or any Affiliate of such Borrower shall not be counted. Each Affiliate Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliate Lender's attorney-in-fact, with full authority in the place and stead of such Affiliate Lender and in the name of such Affiliate Lender, from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (a).

(b) Notwithstanding anything to the contrary in this Agreement, no Affiliate Lender shall have any right to (a) attend (including by telephone) any meeting or discussions (or portion thereof) among the Administrative Agent or any Lender to which representatives of the Borrowers are not then present, (b) receive any information or material prepared by Administrative Agent or any Lender or any communication by or among Administrative Agent and/or one or more Lenders, except to the extent such information or materials have been made available to the Borrowers or their representatives, or (c) make or bring (or participate in, other than as a passive participant in or recipient of its pro rata benefits of) any claim, in its capacity as a Lender, against Administrative Agent, the Collateral Agent or any other Lender with respect to any duties or obligations or alleged duties or obligations of such Agent or any other such Lender under the Loan Documents, (d) own more than 25% of the aggregate principal amount of outstanding Term Loans or (e) purchase Revolving Facility Loans or Revolving Facility Commitments. It shall be a condition precedent to each assignment to an Affiliate Lender that such Lender shall have represented in the applicable Assignment and Acceptance, and notified the Administrative Agent (i) that it is (or will be, following the consummation of such assignment) an Affiliate Lender, (ii) that the aggregate amount of Term Loans held by it giving effect to such assignments shall not exceed the amount permitted by clause (d) of the preceding sentence, and (iii) that, as of the date of such purchase and assignment, it is not in possession of material non-public information with respect to the Borrowers, their subsidiaries or their respective securities that (A) has not been disclosed to the assigning Lender prior to such date and (B) could reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to assign Terms Loans to such Affiliate Lender.

Section 10.22. No Advisory or Fiduciary Responsibility. In connection with all aspects of the Transactions contemplated hereby, the Borrowers acknowledge and agree that: (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrowers, the other Loan Parties and their respective Affiliates, on the one hand, and the Agents, the Arrangers and the Lenders, on the other hand, and the Borrowers and the other Loan Parties are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each Agent, each Arranger and each Lender is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrowers, any Loan Party or any of their respective Affiliates, stockholders, creditors or employees or any other person; (iii) none of the Agents, any Arranger or any Lender has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrowers or any other Loan Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any Agent, any Arranger or any Lender has advised or is currently advising the Borrowers or any other Loan Party or their respective Affiliates on other matters) and none of the Agents, any Arranger or any Lender has any obligation to any of the Borrowers, the other Loan Parties or their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Agents, the Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and the other Loan Parties and their respective Affiliates, and none of the Agents, any Arranger or any Lender has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Agents, the Arrangers and the Lenders have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Borrowers and the other Loan Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent they deemed appropriate. Each Borrower hereby agrees that it will not claim that any of the Agents, the Arrangers, the Lenders or their respective affiliates has rendered advisory services of any nature or respect or owes any fiduciary duty to it in connection with any aspect of any transaction contemplated hereby.

Section 10.23. Acknowledgement and Consent to Bail-In of EEA Financial Institutions Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
 - (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

Section 10.24. Borrower Representative. Each Borrower hereby designates and appoints the Company as its representative and agent on its behalf (the "Borrower Representative") for the purposes of issuing Borrowing Requests, Interest Election Requests, and requests for Letters of Credit, delivering certificates, giving instructions with respect to the disbursement of the proceeds of the Loans, selecting interest rate options, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents and taking all other actions (including in respect of compliance with covenants) on behalf of any Borrower or the Borrowers under the Loan Documents. The Borrower Representative hereby accepts such appointment. Each Agent and each Lender may regard any notice or other communication pursuant to any Loan Document from the Borrower Representative as a notice or communication from both Borrowers. Each warranty, covenant, agreement and undertaking made on behalf of a Borrower by the Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower.

Section 10.25. Joint and Several Liability. The obligations of each Borrower hereunder are absolute and unconditional irrespective of the value, genuineness, validity, regularity or enforceability of the obligations of the other Borrower under this Agreement or any other Loan Document, or any substitution, release or exchange of any other guarantee or security for any of the Obligations, and, to the fullest extent permitted by applicable law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 10.25 that the joint and several obligations of the Company and the Co-Borrower hereunder shall be absolute and unconditional under any and all circumstances.

Section 10.26. Certain ERISA Matters.

- (a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arrangers, the Joint Bookrunners and each Co-Documentation Agent and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arrangers, the Joint Bookrunners and the Co-Documentation Agents and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent, any Arranger, any Joint Bookrunner or any Co-Documentation Agent or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

(c) The Administrative Agent, each Arranger, each Joint Bookrunner and each Co-Documentation Agent hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Letters of Credit, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans, the Letters of Credit or the Commitments for an amount less than the amount being paid for an interest in the Loans, the Letters of Credit or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

[Remainder of page left blank intentionally; signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first written above.

NCL CORPORATION LTD.,
as the Company

By: /s/Mark Kempa
Name: Mark Kempa
Title: Chief Financial Officer

VOYAGER VESSEL COMPANY, LLC,
as the Co-Borrower

By: /s/Frank J. Del Rio
Name: Frank J. Del Rio
Title: Manager

With respect to Section 1.04 only:

NORWEGIAN DAWN LIMITED
NORWEGIAN STAR LIMITED,
as Subsidiary Guarantors

By: /s/Frank J. Del Rio
Name: Frank J. Del Rio
Title: Director

NORWEGIAN GEM, LTD.
NORWEGIAN PEARL, LTD.
NORWEGIAN SPIRIT, LTD.
NORWEGIAN SUN LIMITED,
as Subsidiary Guarantors

By: /s/Mark Kempa
Name: Mark Kempa
Title: Chief Financial Officer

MARINER, LLC
NAVIGATOR VESSEL COMPANY, LLC, as Subsidiary Guarantors

By: /s/Frank J. Del Rio
Name: Frank J. Del Rio
Title: Manager

INSIGNIA VESSEL ACQUISITION, LLC
NAUTICA ACQUISITION, LLC
REGATTA ACQUISITION, LLC
NAVIGATOR VESSEL COMPANY, LLC,
as Subsidiary Guarantors

By: /s/Frank J. Del Rio
Name: Frank J. Del Rio
Title: Manager

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent, Collateral Agent and Issuing Bank

By: /s/Chiara Carter
Name: Chiara Carter
Title: Executive Director

FIFTH THIRD BANK,
as an Issuing Bank

By: /s/Brook Miller
Name: Brook Miller
Title: Vice President

NORDEA BANK Abp, New York Branch
as Issuing Bank

By: /s/Henrik M. Steffensen
Name: Henrik M. Steffensen
Title: Executive Vice President

By: /s/Lynn H. Sauro
Name: Lynn Sauro
Title: Director

MIZUHO BANK, LTD.,
as Issuing Bank

By: /s/Donna DeMagistris
Name: Donna DeMagistris
Title: Authorized Signatory

If a second signature block is necessary:

By: _____
Name:
Title:

BANK OF AMERICA,
as Issuing Bank

By: /s/Greg Miller
Name: Greg Miller
Title: SVP

If a second signature block is necessary:

By: _____
Name:
Title:

HSBC BANK USA, NATIONAL ASSOCIATION,
as Issuing Bank

By: /s/Rafael De Paoli
Name: Rafael De Paoli
Title: Director

BARCLAYS BANK PLC,
as Issuing Bank

By: /s/Ritam Bhalla
Name: Ritam Bhalla
Title: Director

BRANCH BANKING & TRUST COMPANY,
as Issuing Bank

By: /s/Kelly Attayek
Name: Kelly Attayek
Title: Assistant Vice President

BRANCH BANKING & TRUST COMPANY,
as a Lender

By: /s/Kelly Attayek
Name: Kelly Attayek
Title: Assistant Vice President

JPMORGAN CHASE BANK, N.A.,
as a Lender

By: /s/Donald Shokrian
Name: Donald Shokrian
Title: Managing Director

MIZUHO BANK, LTD.,
as a Lender

By: /s/Donna DeMagistris
Name: Donna DeMagistris
Title: Authorized Signatory

If a second signature block is necessary:

By: _____
Name:
Title:

DNB Capital, LLC.,
as a Lender

By: /s/Sybille Andaur
Name: Sybille Andaur
Title: First Vice President

If a second signature block is necessary:

By: /s/Jessika Larsson
Name: Jessika Larsson
Title: Vice President

FIFTH THIRD BANK,
as a Lender

By: /s/Brook Miller
Name: Brook Miller
Title: Vice President

NORDEA BANK Abp,
as Issuing Bank

By: /s/Henrik M. Steffensen
Name: Henrik M. Steffensen
Title: Executive Vice President

By: /s/Lynn H. Sauro
Name: Lynn Sauro
Title: Director

BANK OF AMERICA,
as a Lender

By: /s/Greg Miller
Name: Greg Miller
Title: SVP

If a second signature block is necessary:

By: _____
Name:
Title:

HSBC BANK PLC,
as a Lender

By: /s/James Steele
Name: James Steele
Title: Senior Associate

HSBC BANK USA, NATIONAL ASSOCIATION,
as a Lender

By: /s/Rafael De Paoli
Name: Rafael De Paoli
Title: Director

Skandinaviska Enskilda Banken AB (publ),
as a Lender

By: /s/Peder Garmefelt
Name: Peder Garmefelt
Title: Head of Shipping Finance, London

If a second signature block is necessary:

By: /s/Malcolm Stonehouse
Name: Malcolm Stonehouse
Title: Client Executive

BNP Paribas,
as a Lender

By: /s/Melissa Dyki
Name: Melissa Dyki
Title: Director

If a second signature block is necessary:

By: /s/Marie Mulie
Name: Marie Mulie
Title: Director

CITIZENS BANK, N.A.,
as a Lender

By: /s/Karmyn Paul
Name: Karmyn Paul
Title: Vice President

Commerzbank AG, New York Branch,
as a Lender

By: /s/Pedro Bell
Name: Pedro Bell
Title: Managing Director

By: /s/Veli-Matti Ahonen
Name: Veli-Matti Ahonen
Title: Vice President

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK,
as a Lender

By: /s/Jérôme Leblond
Name: Jérôme Leblond
Title: Managing Director

By: /s/Anne-Laure Orange
Name: Anne-Laure Orange
Title: Transaction Manager

MUFG BANK, LTD.
as a Lender

By: /s/George Stoecklein
Name: George Stoecklein
Title: Managing Director

PNC BANK, National Association.
as a Lender

By: /s/Ryan Garr
Name: Ryan Garr
Title: Vice President

If a second signature block is necessary:

By: _____
Name:
Title:

SUNTRUST BANK,
as a Lender

By: /s/Jonathan Hart
Name: Jonathan Hart
Title: Vice President

CITIBANK, N.A.,
as a Lender

By: /s/Simon Taylor
Name: Simon Taylor
Title: Vice President

Deutsche Bank AG New York Branch,
as a Lender

By: /s/Marguerite Sutton
Name: Marguerite Sutton
Title: Vice President

By: /s/Alicia Schug
Name: Alicia Schug
Title: Vice President

Barclays Bank PLC,
as a Lender

By: /s/Ritam Bhalla
Name: Ritam Bhalla
Title: Director

SUMITOMO MITSUI BANKING CORPORATION,
as a Lender

By: /s/Katsuyuki Kubo
Name: Katsuyuki Kubo
Title: Managing Director

UBS AG, Stamford Branch, as a Lender,
as a Lender

By: /s/Darlene Arias
Name: Darlene Arias
Title: Director

By: /s/ Craig Pearson
Name: Craig Pearson
Title: Associate Director

SOCIETE GENERALE,
as a Lender

By: /s/Shelley Yu
Name: Shelley Yu
Title: Director

GOLDMAN SACHS BANK USA,
as a Lender

By: /s/Ryan Durkin
Name: Ryan Durkin
Title: Authorized Signatory

CAPITAL BANK-a division of FIRST TENNESSEE BANK NATIONAL
ASSOCIATION,
as a Lender

By: /s/Dilian Schulz
Name: Dilian Schulz
Title: Senior Vice President

TD BANK, N.A.,
as a Lender

By: /s/Craig Welch
Name: Craig Welch
Title: Senior Vice President

TD BANK USA, N.A.,
as a Lender

By: /s/Anna O'Connor
Name: Anna O'Connor
Title: Chief Administrative Officer, TD Bank USA, N.A.

U.S. BANK NATIONAL ASSOCIATION,
as a Lender

By: /s/Rodney J Winters
Name: Rodney J Winters
Title: Vice President

Banco Santander, S.A., New York Branch
as a Lender

By: /s/Rita Walz-Cuccioli
Name: Rita Walz-Cuccioli
Title: Executive Director

If a second signature block is necessary:

By: /s/Terence Corcoran
Name: Terence Corcoran
Title: Executive Director

BANKUNITED, NA
as a Lender

By: /s/Charles J. Klenk
Name: Charles J. Klenk
Title: Senior Vice President

If a second signature block is necessary:

By: _____
Name:
Title:

Florida Community Bank, N.A.
as a Lender

By: /s/Irene Marshall
Name: Irene Marshall
Title: SVP/C&I Regional Credit Director

If a second signature block is necessary:

By: _____
Name:
Title:

FirstBank Puerto Rico d/b/a FirstBank Florida,
as a Lender

By: /s/Jose M. Lacasa
Name: Jose M. Lacasa
Title: SVP, Corporate Banking

By: /s/Kevin P. Flynn
Name: Kevin Flynn
Title: VP, Corporate Banking

Mega International Commercial Bank Co. Ltd.
New York Branch,
as a Lender

By: /s/Pi Kai Liu
Name: Pi Kai Liu
Title: AVP

ASSOCIATED BANK NATIONAL ASSOCIATION,,
as a Lender

By: /s/Jamie Boney
Name: Jamie Boney
Title: Vice President

If a second signature block is necessary:

By: _____
Name:
Title:

United Bank
as a Lender

By: /s/Tom Wolcott
Name: Tom Wolcott
Title: SVP Commercial Banking

Comerica Bank,
as a Lender

By: /s/Gerald R. Finney Jr.
Name: Gerald R. Finney Jr.
Title: Vice President

Taiwan Business Bank, Los Angeles Branch
as a Lender

By: /s/Shenn Bao Jenn
Name: Shenn Bao Jenn
Title: General Manager

TAIWAN COOPERATIVE BANK,
Los Angeles Branch
as a Lender

By: /s/Tao-Lun, Lin
Name: Tao-Lun, Lin
Title: V.P. & G.M.

Hua Nan Commercial Bank Los Angeles Branch,
as a Lender

By: /s/Gary Hsu
Name: Gary Hsu
Title: VP & General Manager

Chang Hwa Commercial Bank, Ltd.,
New York Branch
as a Lender

By: /s/Jerry C.S. Liu
Name: Jerry C.S. Liu
Title: VP & General Manager

International Finance Bank,
as a Lender

By: /s/Andrew Yanez
Name: Andrew Yanez
Title: Chief Lending Officer

If a second signature block is necessary:

By: _____
Name:
Title:

[FORM OF]
ASSIGNMENT AND ACCEPTANCE

Reference is made to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), among NCL Corporation, Ltd., a Bermuda company ("**NCL**" or the "**Borrower**"), the Lenders party thereto from time to time, JPMorgan Chase Bank, N.A., as administrative agent (together with its successors and assigns in such capacity, the "**Administrative Agent**") and as collateral agent and certain other parties thereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

1. The Assignor hereby sells and assigns, without recourse, to the Assignee, and the Assignee hereby purchases and assumes, without recourse, from the Assignor, effective as of the Effective Date set forth below (the "**Effective Date**") (but not prior to the registration of the information contained herein in the Register pursuant to Section 10.04(b)(iv) of the Credit Agreement), the interests set forth below (the "**Assigned Interest**") in the Assignor's rights and obligations under the Credit Agreement and the other Loan Documents, including, without limitation, the amounts and percentages set forth below of (i) the Commitments of the Assignor on the Effective Date set forth below and (ii) the Loans owing to the Assignor which are outstanding on the Effective Date. Each of the Assignor and the Assignee hereby makes and agrees to be bound by all the representations, warranties and agreements set forth in Section 10.04(c) of the Credit Agreement, a copy of which has been received by each such party. From and after the Effective Date (i) the Assignee shall be a party to and be bound by the provisions of the Credit Agreement and, to the extent of the interests assigned by this Assignment and Acceptance, have the rights and obligations of a Lender thereunder and under the other Loan Documents and (ii) the Assignor shall, to the extent of the interests assigned by this Assignment and Acceptance, relinquish its rights and be released from its obligations under the Credit Agreement.

2. Pursuant to Section 10.04(b)(ii)(B) of the Credit Agreement, this Assignment and Acceptance is being delivered to the Administrative Agent together with (i) if required by Section 10.04(b)(ii)(B) of the Credit Agreement, a processing and recordation fee of \$3,500, (ii) if the Assignee is organized under the laws of a jurisdiction outside the United States, any forms referred to in Section 2.17 of the Credit Agreement, duly completed and executed by such Assignee and (iii) if the Assignee is not already a Lender under the Credit Agreement, a completed Administrative Questionnaire.

3. This Assignment and Acceptance shall be governed by and construed in accordance with the laws of the State of New York.

Date of Assignment: _____
Legal Name of Assignor (“Assignor”): _____
Legal Name of Assignee (“Assignee”): _____
Assignee’s Address for Notices: _____

Effective Date of Assignment: _____

| Facility/Commitment | Principal Amount Assigned¹ | Percentage Assigned of Commitment (set forth, to at least 8 decimals, as a percentage of the Facility and the aggregate commitments of all Lenders thereunder) |
|--------------------------------------|--|---|
| Revolving Facility Loans/Commitments | \$ _____ | _____ % |
| Term A Loans/Commitments | \$ _____ | _____ % |
| Term B Loans/Commitments | \$ _____ | _____ % |

[Signature page follows]

¹ Amount of Commitments and/or Loans assigned is governed by Section 10.04 of the Credit Agreement.

The terms set forth above are hereby agreed to:

_____, as Assignor

By: _____
Name:
Title:

_____, as Assignee

By: _____
Name:
Title:

Accepted

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

[Name of Swingline Lender], as Swingline Lender²

By: _____
Name:
Title:

[Name of Issuing Bank], as Issuing Bank³

By: _____
Name:
Title: 4

NCL CORPORATION LTD., as Borrower⁵

By: _____
Name:
Title:

² Add additional signature blocks as needed.

³ Add additional signature blocks as needed.

⁴ To be completed to the extent consents are required under Section 10.04(b)(i) of the Credit Agreement. Consent of the Administrative Agent shall not be required for an assignment of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund and consent of the Issuing Banks and the Swingline Lender shall not be required for an assignment of all or any portion of a Term Loan.

⁵ Consent of the Borrower shall not be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default under Sections 8.01(b), (c), (h) or (i) has occurred and is continuing.

[FORM OF]
ADMINISTRATIVE QUESTIONNAIRE

NCL CORPORATION LTD.

| | | | |
|----------------|------------------------------|-----------------|---------------------------------|
| Agent Address: | JPMorgan Chase Bank, N.A. | Return form to: | Nathan Parmenter |
| | 500 Stanton-Christiana Road | Telephone: | 302-634-5585 |
| | OPS 2, 3 rd Floor | Facsimile: | (302) 634-4712 |
| | Newark, DE 19713 | E-mail: | nathan.t.parmenter@jpmorgan.com |

It is very important that **all** of the requested information be completed accurately and that this questionnaire be returned promptly. If your institution is sub-allocating its allocation, please fill out an administrative questionnaire for each legal entity.

Legal Name of Lender to appear in Documentation:

Signature Block Information:

| | | | | | |
|---|--------------------------|--------------------------|-----|--------------------------|----|
| · | Signing Credit Agreement | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| · | Coming in via Assignment | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |

Type of Lender: _____

(Bank, Asset Manager, Broker/Dealer, CLO/CDO; Finance Company, Hedge Fund, Insurance, Mutual Fund, Pension Fund, Other Regulated Investment Fund, Special Purpose Vehicle, Other- please specify)

Lender Parent:

| Domestic Address | Eurodollar Address |
|------------------|--------------------|
| | |
| | |
| | |
| | |

Contacts/Notification Methods: Borrowings, Paydowns, Interest, Fees, etc.

Primary Credit Contact

Secondary Credit Contact

Name: _____
Company: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

Primary Operations Contact

Secondary Operations Contact

Name: _____
Company: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

Primary LC Contact

Secondary LC Contact

Name: _____
Company: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail Address: _____

Lender's Domestic Wire Instructions

Bank Name: _____
ABA/Routing No.: _____
Account Name: _____
Account No.: _____
FFC Account Name: _____
FFC Account No.: _____
Attention: _____
Reference: _____

Lender's Foreign Wire Instructions

Currency: _____
Bank Name: _____
Swift/Routing No.: _____
Account Name: _____
Account No.: _____
FFC Account Name: _____
FFC Account No.: _____
Attention: _____
Reference: _____

Agent's Wire Instructions

[The Agent's wire instructions will be disclosed at the time of closing.]

Bank Name: _____
ABA/Routing No.: _____
Account Name: _____
Account No.: _____
FFC Account Name: _____
FFC Account No.: _____
Attention: _____
Reference: _____

Tax Documents

NON-U.S. LENDER INSTITUTIONS:

I. Corporations:

If your institution is incorporated outside of the United States for U.S. federal income tax purposes, and is the beneficial owner of the interest and other income it receives, you must complete one of the following tax forms, as applicable to your institution: **a.) Form W-8BEN** (*Certificate of Foreign Status of Beneficial Owner*) or **b.) Form W-8ECI** (*Income Effectively Connected to a U.S. Trade or Business*)

A U.S. taxpayer identification number is required for any institution submitting Form W-8ECI. It is also required on Form W-8BEN for certain institutions claiming the benefits of a tax treaty with the U.S. Please refer to the instructions when completing the form applicable to your institution. In addition, please be advised that U.S. tax regulations do not permit the acceptance of faxed forms. **An original tax form must be submitted.**

II. Flow-Through Entities:

If your institution is organized outside the U.S., and is classified for U.S. federal income tax purposes as either a Partnership, Trust, Qualified or Non-Qualified Intermediary, or other non- U.S. flow-through entity, an original **Form W-8IMY** (*Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding*) must be completed by the intermediary together with a withholding statement. Flow-through entities other than Qualified Intermediaries are required to include tax forms for each of the underlying beneficial owners.

Please refer to the instructions when completing this form. In addition, please be advised that U.S. tax regulations do not permit the acceptance of faxed forms. **Original tax form(s) must be submitted.**

U.S. LENDER INSTITUTIONS:

If your institution is incorporated or organized within the United States, you must complete and return **Form W-9** (*Request for Taxpayer Identification Number and Certification*). **Please be advised that we request that you submit an original Form W-9.**

Pursuant to the language contained in the tax section of the Credit Agreement, the applicable tax form for your institution must be completed and returned prior to the first payment of income. Failure to provide the proper tax form when requested may subject your institution to U.S. tax withholding.

[FORM OF]
NCL CORPORATION LTD.
SOLVENCY CERTIFICATE

Date: [], 2014

This Solvency Certificate is delivered pursuant to Section 4.03(h) of the Amended and Restated Credit Agreement dated as October 31, 2014 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company ("NCL" or the "Borrower"), the Lenders party thereto from time to time, JPMorgan Chase Bank, N.A., as Administrative Agent and as Collateral Agent and certain other parties thereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The undersigned hereby certifies, solely in his capacity as an officer, as follows:

1. I am the Chief Financial Officer of the Borrower.
2. As of the date hereof, immediately after giving effect to the Acquisition Transactions, on and as of such date, (i) the fair value of the assets of the Borrower and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, subordinated, contingent or otherwise, of the Borrower and its Subsidiaries on a consolidated basis; (ii) the present fair saleable value of the property of the Borrower and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Borrower and its Subsidiaries on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Borrower and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Borrower and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Acquisition Closing Date.
3. As of the date hereof, the Borrower does not intend to, and the Borrower does not believe that it or any of its Material Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such subsidiary.

[Remainder of this page left intentionally blank]

IN WITNESS WHEREOF, the undersigned has executed this Solvency Certificate on the date first written above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

Exhibit D-1

[FORM OF]
BORROWING REQUEST

Date:⁶ _____, _____

To: JPMorgan Chase Bank, N.A., as administrative agent (together with its successors and assigns in such capacity, the “**Administrative Agent**”) under that certain Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among NCL Corporation Ltd., a Bermuda company (“**NCL**” or the “**Borrower**”), the Lenders party thereto from time to time, the Administrative Agent, JPMorgan Chase Bank, N.A., as collateral agent, and certain other parties thereto.

Ladies and Gentlemen:

Reference is made to the above-described Credit Agreement. Terms defined in the Credit Agreement, wherever used herein, unless otherwise defined herein, shall have the same meanings herein as are prescribed by the Credit Agreement. The undersigned hereby [irrevocably]⁷ notifies you of the Borrowing specified below:

1. The Borrowing will be a Borrowing of _____ Loans⁸
2. The Business Day of the requested Borrowing is: _____.
3. The aggregate amount of the requested Borrowing is: _____.

⁶ Notification must be received by the Administrative Agent by telephone (confirmed promptly by hand delivery or electronic means) (a) in the case of a Eurocurrency Borrowing, not later than 12:00 noon, Local Time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 12:00 noon, Local Time, three Business Days before the date of the proposed Borrowing; provided, that any such notice of (i) an ABR Revolving Facility Borrowing to finance the reimbursement of an L/C Disbursement as contemplated by Section 2.05(c) of the Credit Agreement or (ii) a Borrowing of Acquisition Loans that are ABR Loans may be given not later than 10:00 a.m., Local Time, on the date of the proposed Borrowing.

⁷ Except in the case of Acquisition Loans.

⁸ Term A Loans, Term B Loans, Revolving Facility Loans, Other Incremental Revolving Loans, Other Revolving Loans, Replacement Revolving Loans, Refinancing Term Loans or Other Incremental Term Loans.

4. The Borrowing is comprised of _____ of ABR Loans and _____ of the Eurocurrency Loans.
5. The duration of the Interest Period for the Eurocurrency Loans, if any, included in the Borrowing shall be _____ month(s).
6. The location and number of the account to which the proceeds of such Borrowing are to be deposited is _____.

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the requested Borrowing, before and after giving effect thereto and to the application of the proceeds thereof:

(A) [The representations and warranties set forth in the Loan Documents are true and correct in all material respects as of each such date with the same effect as though made on and as of each such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties were true and correct in all material respects as of such earlier date)]; and⁹

(B) [No event has occurred and is continuing or would result from such extension of credit which constitutes a Default or an Event of Default.]¹⁰

⁹ Limited to the Specified Acquisition Agreement Representations and the Specified Representations in the case of a Borrowing of Acquisition Loans.

¹⁰ To be omitted in the case of a Borrowing of Acquisition Loans.

This Borrowing Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date set forth above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

[FORM OF]
INTEREST ELECTION REQUEST

Date:¹¹ _____, _____

To: JPMorgan Chase Bank, N.A., as administrative agent (together with its successors and assigns in such capacity, the “**Administrative Agent**”) under that certain Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among NCL Corporation Ltd., a Bermuda company (“**NCL**” or the “**Borrower**”), the Lenders party thereto from time to time, the Administrative Agent, JPMorgan Chase Bank, N.A., as collateral agent, and certain other parties thereto.

Ladies and Gentlemen:

Reference is made to the above-described Credit Agreement. Terms defined in the Credit Agreement, wherever used herein, unless otherwise defined herein, shall have the same meanings herein as are prescribed by the Credit Agreement. This notice constitutes an Interest Election Request and the Borrower hereby makes an election with respect to Loans under the Credit Agreement, and in that connection the Borrower specifies the following information with respect to such election:

1. Borrowing to which this request applies: _____.¹²
2. Date of election (which shall be a Business Day): _____.
3. Principal amount and Type of Loans subject to election: \$ _____.
4. The Loans are to be [converted into] [continued as] [ABR] [Eurocurrency] Loans.
5. The duration of the Interest Period for the Eurocurrency Loans, if any, included in the election shall be _____ months.

[Signature page follows]

¹¹ The Borrower must notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type and in the applicable currency resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic means of this form to the Administrative Agent.

¹² If different options are being elected with respect to different portions of the Borrowing, the portions thereof must be allocated to each resulting Borrowing (in which case the information to be specified pursuant to Paragraphs 4 and 5 shall be specified for each resulting Borrowing).

This Interest Election Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date set forth above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

[FORM OF] FIRST LIEN DEED OF COVENANTS

relating to the “ []”

between

[]

as Owner

and

JPMORGAN CHASE BANK, N.A.

as Collateral Agent

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THIS DEED OF COVENANTS is dated and effective as of [____], (this "Deed"), and is made between [____], [_____] (the "Owner"), and JPMORGAN CHASE BANK, N.A., as collateral agent (together with its successors and assigns in such capacity, the "Collateral Agent") for the Secured Parties.

WHEREAS, the parties hereto have entered into an Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, restated, supplemented, waived or otherwise modified from time to time, the "Credit Agreement"), among NCL CORPORATION LTD., a Bermuda company ("NCL" or the "Borrower"), the LENDERS party thereto from time to time, JPMORGAN CHASE BANK, N.A., as administrative agent for the Lenders and certain other parties thereto and the Collateral Agent.

WHEREAS, the Collateral Agent (as successor in interest to Deutsche Bank Trust Company Americas) and each Subsidiary Guarantor have also entered into a Guarantee and Collateral Agreement, dated as of May 24, 2013 (as amended, restated, supplemented, waived or otherwise modified from time to time, the "Collateral Agreement").

WHEREAS, the Owner is the sole, absolute and unencumbered, legal and beneficial owner of the Vessel (as defined herein) (save and except the Permitted Liens).

WHEREAS, in order to secure the repayment of the Obligations, the Owner has duly executed in favor of the Collateral Agent a statutory Bahamian mortgage of even date herewith in account current form constituting a first priority mortgage of sixty four sixty fourth (64/64th) shares in the Vessel (the "Mortgage").

WHEREAS, this Deed is supplemental to the Credit Agreement, the Collateral Agreement and the Mortgage over the Vessel and the security thereby created.

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

ARTICLE I.

DEFINITIONS

Section 1.1 In this Deed (including the introductory paragraph and the recitals) unless the context otherwise requires or unless otherwise defined herein, words and expressions defined in the Collateral Agreement or the Credit Agreement shall have the same meanings when used in this Deed and the following terms shall have the following meanings:

"Approved Manager" means any company designated by the Owner from time to time, as the technical manager of the Vessel.

"Collateral Agreement" has the meaning assigned to such term in the recitals.

“Compulsory Acquisition” means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Vessel by any government entity or other competent authority, whether de jure or de facto, but shall exclude requisition for use or hire not involving requisition of title.

“Earnings Assignment” means the First Lien Earnings Assignment, dated as of the date hereof, made by the Owner in favor of the Collateral Agent in respect of the Vessel.

“Insurance Assignment” means the First Lien Insurance Assignment, dated as of the date hereof, made by the Owner in favor of the Collateral Agent in respect of the Vessel.

“Insurances” has the meaning assigned to such term in Section 5.2(a).

“Loss Payable Clause” means the provisions regulating the manner of payment of sums receivable under the Insurances which are to be incorporated in the relevant insurance documents, such Loss Payable Clauses to be in the forms set out in Appendix A and Appendix B of Schedule 1 to the Insurance Assignment, or in such other forms as may from time to time be agreed in writing by the Collateral Agent.

“Mortgaged Property” means:

- (a) the Vessel (including, but not limited to the right of registration in relation thereto);
- (b) the Insurances; and
- (c) any Requisition Compensation.

“Owner” includes the successors in title and assignees of the Owner.

“Receiver” means any receiver and/or manager appointed pursuant to Section 7.2.

“Requisition Compensation” means all sums of money or other compensation from time to time payable during the Security Period by reason of the Compulsory Acquisition of the Vessel.

“Security Period” means the period commencing on the date hereof and terminating on the date on which all the Obligations (other than contingent indemnity or expense reimbursement obligations in respect of which no claim has been made) have been paid in full in cash in immediately available funds.

“Vessel” means the vessel “[_____]” registered as a Bahamian ship at the Port of Nassau under Official Number [_____] and includes, but is not limited to, any share or interest therein and her engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumables or other stores, belongings and appurtenances whether on board or ashore and whether now owned or hereafter acquired and also any and all additions, improvements and replacements hereafter made in or to such vessel or any part thereof or in or to her equipment and appurtenances aforesaid.

Section 1.2 Capitalized terms used in this Agreement and not otherwise defined herein have the respective meanings assigned thereto in the Credit Agreement or the Collateral Agreement, as applicable; provided that "Event of Default" shall have the meaning assigned to that term in the Collateral Agreement. This Deed shall be read together with the Collateral Agreement, the Mortgage and the Credit Agreement but in case of any conflict between this Deed and the Collateral Agreement, the Mortgage or the Credit Agreement, the provisions of the Collateral Agreement, the Mortgage or the Credit Agreement, as applicable, shall prevail.

ARTICLE II.

MORTGAGE, ASSIGNMENT AND COVENANT TO PAY

Section 2.1 The Owner hereby grants a security interest in and mortgage on and pledges and assigns absolutely to and in favor of the Collateral Agent, its successors and permitted assigns, for the benefit of the Secured Parties, all its right, title and interest present and future in and to the Mortgaged Property, in each case whether now owned or hereafter acquired and whether now existing or hereafter coming into existence, for the duration of the Security Period.

Section 2.2 The Owner hereby covenants and undertakes with the Collateral Agent and the Secured Parties that (i) promptly after the date hereof it will give written notice (in such form as the Collateral Agent shall reasonably require including but not limited to the notice of assignment of insurances attached as Schedule 1 to the Insurance Assignment) of the assignment herein contained and all remedies hereunder and the assignment under the Earnings Assignment and Insurance Assignment, to, and use commercially reasonable efforts to obtain consents or acknowledgements from, the persons from whom any part of the Mortgaged Property is or may be due, (ii) where the consent or acknowledgement of any underwriter is required pursuant to any of the Insurances assigned hereby or assigned under the Insurance Assignment, it shall use commercially reasonable efforts to obtain such consent and evidence thereof shall be provided to the Collateral Agent or, in the case of protection and indemnity coverage, use commercially reasonable efforts to cause the Collateral Agent to be provided with a letter of undertaking by the club, association or broker, as applicable, (iii) there shall be duly endorsed upon all slips, cover notes, policies, certificates of entry or other instruments issued or to be issued in connection with the insurances assigned hereby such Loss Payable Clause and other clauses (in such form as the Collateral Agent shall reasonably require).

Section 2.3 The Owner covenants and undertakes with the Collateral Agent and the Secured Parties to do or permit to be done each and every act or thing which the Collateral Agent may from time to time require to be done for the purpose of enforcing the Collateral Agent's and the Secured Parties' rights under this Deed and to allow its name to be used as and when required by the Collateral Agent for that purpose.

Section 2.4 The Owner covenants and undertakes with the Collateral Agent and the Secured Parties to pay, on demand, to the Collateral Agent all monies and discharge all Guaranteed Obligations now or hereafter due, owing or incurred to the Collateral Agent and the Secured Parties under, or in connection with the Credit Agreement, any Senior Secured Note Indenture, any other Loan Document, and/or this Deed when the same become due for payment in accordance with their terms whether by acceleration or otherwise.

Section 2.5 The Owner shall cause to be filed, registered or recorded, and hereby irrevocably authorizes the Collateral Agent, at the Owner's expense, at any time and from time to time to file, register or record this Deed and any amendments hereto and/or any other notices, filing or recording documents or instruments with respect to the Mortgaged Property without the signature of the Owner, in such form and with the appropriate authorities in any jurisdiction as is necessary or advisable to perfect or maintain the perfection of, or to protect, the security interest created hereby. The Owner ratifies its authorization for the Collateral Agent to have filed, recorded or registered in each jurisdiction as is necessary or advisable, this Deed and/or any other notice, filing or recording documents or instruments with respect to the Mortgaged Property if filed prior to the date hereof.

ARTICLE III.

REPRESENTATIONS AND WARRANTIES

Section 3.1 The Owner hereby represents and warrants to the Collateral Agent and the Secured Parties that it is the legal and beneficial owner of and has good right and title, free from any Liens (other than the Liens created pursuant to the Loan Documents and Permitted Liens and Liens not prohibited by any Senior Secured Note Indenture), to the Mortgaged Property which is, or which may at any time after the date of this Deed become, subject to the security constituted by this Deed. The Vessel is duly and validly registered in the name of the Owner under the laws and flag of The Bahamas and shall so remain during the Security Period, except as otherwise not prohibited by the Credit Agreement and any Senior Secured Note Indenture.

Section 3.2 The representation and warranty in Section 3.1 shall be deemed to be repeated by the Owner on and as of each day from the date of this Deed until the end of the Security Period as if made with reference to the facts and circumstances existing on each such date.

Section 3.3 The Owner also hereby represents and warrants to the Collateral Agent and the Secured Parties on the date hereof that each of the Mortgage and this Deed has been validly created and, together, constitutes a valid, legally binding and enforceable mortgage, assignment and first priority Lien on the Mortgaged Property, other than Permitted Liens and Liens not prohibited by any Senior Secured Note Indenture.

ARTICLE IV.

CONTINUING SECURITY AND OTHER MATTERS

Section 4.1 The security created by the Mortgage and this Deed shall:

(a) be held by the Collateral Agent (for the benefit of the Secured Parties) as a continuing security for the payment of the Obligations and the performance and observance of and compliance with all of the covenants, terms and conditions contained in the Credit Agreement and the other Loan Documents and any Senior Secured Note Indenture, express or implied;

(b) not be satisfied by any intermediate payment or satisfaction of any part of the amount hereby and thereby secured (or by any settlement of accounts between the Owner or any other person who may be liable to the Collateral Agent, the Secured Parties or their permitted successors and assigns in respect of the Obligations or any part thereof);

(c) be in addition to, and shall not in any way prejudice or affect, and may be enforced by the Collateral Agent without prior recourse to, the security created by any other Loan Document and any guarantee or indemnity now or hereafter held by the Collateral Agent or the Secured Parties in respect of the Obligations; and

(d) not be in any way prejudiced or affected by the existence of any of the other Loan Documents or any other rights or remedies or by the same becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Collateral Agent or any Secured Party dealing with, exchanging, varying or failing to perfect or enforce any of the same, or giving time for payment or performance or indulgence or compounding with any other person liable.

Section 4.2 All the rights, remedies and powers vested in the Collateral Agent (for the ratable benefit of the Secured Parties) hereunder shall be in addition to and not a limitation of any and every other right, power or remedy vested in the Collateral Agent or the Secured Parties under the Loan Documents or under any other guarantees or indemnity now or hereafter held by the Collateral Agent or the Secured Parties in respect of the Obligations and all the powers so vested in the Collateral Agent or the Secured Parties may be exercised from time to time and as often as the Collateral Agent or the Secured Parties may deem expedient.

Section 4.3 Neither the Collateral Agent nor any Receiver shall be obligated to make any inquiry as to the nature or sufficiency of any payment received by it under the Mortgage and/or this Deed or to make any claim or take any action to collect any moneys hereby assigned or to enforce any rights or benefits hereby assigned to the Collateral Agent or to which the Collateral Agent or any Secured Party may at any time be entitled under the Mortgage and/or this Deed.

Section 4.4 The Owner shall remain liable to perform all the obligations assumed by it in relation to the Mortgaged Property and the Collateral Agent shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever in the event of any failure by the Owner to perform its obligations in respect thereof.

Section 4.5 Notwithstanding that this Deed is expressed to be supplemental to the Collateral Agreement, any Senior Secured Notes Indenture, the Credit Agreement and the Mortgage it shall continue in full force and effect after any discharge of the Collateral Agreement, any Senior Secured Notes Indenture, the Credit Agreement and the Mortgage until the Security Period has terminated.

ARTICLE V.

COVENANTS

Section 5.1 The Owner hereby covenants with the Collateral Agent and the Secured Parties and undertakes throughout the Security Period as follows (at its own cost):

(a) No Sale. The Owner will not sell or otherwise dispose of the Vessel, the Insurances, any other Mortgaged Property or any part thereof or interest therein, except as otherwise not prohibited by the Credit Agreement and any Senior Secured Note Indenture.

(b) Negative Pledge. The Owner will not create any Lien over the Vessel or its Insurances or any other Mortgaged Property or suffer the creation or existence of any such Lien to or in favor of any person, except for Permitted Liens and Liens not prohibited by any Senior Secured Note Indenture.

(c) Maritime Liens. The Owner will pay and discharge or cause to be paid and discharged all debts, damages and liabilities whatsoever which have given or may give rise to maritime or possessory Liens on or claims enforceable against the Vessel, except such debts, damages and liabilities which give rise to maritime or possessory Liens to the extent not otherwise prohibited under Section 6.02 of the Credit Agreement and such corresponding provision under any Senior Secured Note Indenture, and in the event of arrest of the Vessel pursuant to legal process or in the event of her detention in exercise or purported exercise of any such Liens on or claims enforceable against the Vessel as aforesaid, to procure the release of the Vessel from such arrest or detention within twenty one (21) days of receiving notice thereof providing bail or otherwise as the circumstances may require.

(d) Flag or Registration. The Owner shall ensure that the Vessel remains registered as a Bahamian ship in the Bahamas Registry of Shipping and retains the right to fly its flag and the Owner will not make any changes in the registration or the flag of the Vessel, except as otherwise not prohibited by the Credit Agreement and any Senior Secured Note Indenture.

(e) Bareboat Charterparties. The Owner will not permit the Vessel to be engaged on any bareboat charterparty or any sub-bareboat charterparty, unless otherwise approved by the collateral agent under the Collateral Agreement or the administrative agent under the Credit Agreement, or would not reasonably be expected to have a material adverse effect on the rights of the Secured Parties.

(f) Time Charterparties. The Owner will not permit the Vessel to be engaged on any time charterparties or sub-time charterparties other than the Charter Agreements, unless otherwise approved by the collateral agent under the Collateral Agreement or the administrative agent under the Credit Agreement, or would not reasonably be expected to have a materially adverse effect on the rights of the Secured Parties.

(g) Copies of Charterparties. Upon request of the Collateral Agent, the Owner will send to the Collateral Agent a copy of any charterparty for the Vessel and any addenda thereto.

(h) Managers. The Owner will ensure that the Vessel will at all times only be managed by an Approved Manager pursuant to customary technical management agreements assigned to the Collateral Agent (for the ratable benefit of the Secured Parties) under the Collateral Agreement; *provided* that this clause shall not prohibit an Approved Manager from entering into commercial or technical management agreements with other persons for the provision of services to the Vessel. The Owner will not agree to termination of or any material amendments that are adverse to the Secured Parties' interest in, or waive or fail to enforce, any material provisions of such management agreements unless the termination, amendment, waiver or failure to enforce such provisions (1) cannot reasonably be expected to have a material adverse effect on the rights of the Secured Parties or (2) is approved by the Collateral Agent. If any manager or the Owner terminates any of the approved management agreements or any manager commits a default thereunder which entitles the Owner to terminate the relevant approved management agreement, then the Owner shall enter into a new management agreement with an Approved Manager.

(i) Inspection. The Owner will permit the Collateral Agent or its representatives to inspect the Vessel at reasonable times, upon reasonable prior notice to the Owner, and as often as may be reasonably requested by the Collateral Agent and the Owner will not in any way restrict the Collateral Agent's or its representatives' access to the Vessel and to all class and insurance certificates and records whether or not being kept by third parties. As long as no Event of Default has occurred, the inspections shall be conducted without any unreasonable interference with the operation of the Vessel. The Collateral Agent or its representative shall be entitled to perform one inspection of the Vessel per year at the expense of the Owner; *provided* that the Owner shall pay the costs of such additional inspections as the Collateral Agent or its representative or any Secured Party may carry out at any time after an Event of Default has occurred and is continuing.

(j) Class. The Owner will ensure that the Vessel shall maintain the class set out in a confirmation of class certificate issued by a classification society, free of any overdue recommendations, exceptions, qualifications and notations of such classification society, and the Owner will forward a certified copy of the classification certificates to the Collateral Agent upon request.

(k) Surveys. The Owner will submit or procure the Vessel to be submitted regularly to such periodical or other surveys as may be required by applicable law, by insurers or for classification purposes.

(l) ISM Code and ISPS Code. The Owner will arrange for and procure the punctual approval and certification of the management organization on shore and on board the Vessel and ensure that the Vessel is operated in accordance with the ISM Code and ISPS Code in force from time to time. The Owner shall have a valid and current International Ship Security Certificate issued in respect of the Vessel pursuant to the ISPS Code and any other certification that may be required.

(m) Compliance. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Secured Parties, the Owner will ensure that the Vessel will comply with all relevant laws, regulations and requirements (statutory or otherwise) as are applicable to ships (i) registered under the same flag as the Vessel and (ii) engaged in the same or similar service as the Vessel is engaged, including without limitation environmental laws.

(n) No Illegal Trade or Trade Outside Insurance Cover. The Owner will not operate the Vessel or permit it to be operated in any manner, trade or business which is forbidden by international law, or which is unlawful or illicit under the laws of any relevant jurisdiction, or in carrying illicit or prohibited goods, or in any manner whatsoever if the foregoing may render the Vessel liable to condemnation in a prize court, or to destruction, seizure, confiscation, penalty or sanction or, except as otherwise not prohibited under the Credit Agreement and any Senior Secured Note Indenture, in a geographical area outside the scope of any of its insurances or in any way which may jeopardize its insurance coverage, wholly or in part.

(o) Maintenance. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Secured Parties, the Owner will ensure that the Vessel will be maintained and be in a good and efficient state of repair consistent with first class ship-ownership and management practice.

(p) Change of Structure, Type or Speed. The Owner will not change the structure, type or speed of the Vessel in any way which would reasonably be expected to have a material adverse effect on the rights of the Secured Parties, unless otherwise consented to by the Collateral Agent.

(q) Notification of Damage and Claims. The Owners will promptly notify the Collateral Agent of:

(i) any damage to or alteration of the Vessel involving costs in excess of US\$[*] regardless of whether the costs are paid by insurers;

- (ii) any material environmental claims or incidents, to the extent notice thereof has not been publicly filed;
- (iii) any Event of Loss with respect to the Vessel;
- (iv) any requisition of the Vessel;
- (v) any requirement or recommendation made by any insurer or classification society or by any competent authority which is not complied with in accordance with its terms; and
- (vi) any arrest, detention or seizure of the Vessel or any exercise or purported exercise of a Lien on the Vessel or any part thereof which is not lifted forthwith.

(r) Further Information. The Owner will furnish the Collateral Agent without undue delay with all such information as it may from time to time reasonably require regarding the Vessel, its employment, position and engagements, including any particulars of all towages and salvages and documents relating to all charters and other contracts for its employment, or otherwise howsoever concerning the Vessel.

(s) Notice. The Owner undertakes to place and at all times and places to retain a true copy of the Mortgage relating to the Vessel and this Deed (which shall form part of the Vessel's documents) on board the Vessel with her papers and cause such true copy of the Mortgage relating to the Vessel and this Deed to be exhibited to any and all persons having business with the Vessel which might create or imply any commitment or encumbrance whatsoever on or in respect of the Vessel (other than Liens created by this Deed or the other Loan Documents or Permitted Liens and Liens not prohibited by any Senior Secured Note Indenture) and to any representative of the Collateral Agent and to place and keep prominently displayed in the bridge and in the master's cabin of the Vessel a framed printed notice in plain type reading as follows:

NOTICE OF MORTGAGE

This Vessel is subject to a first priority mortgage and deed of covenants in favor of JPMORGAN CHASE BANK, N.A. acting through its office at [] as collateral agent for itself and others. Under the said mortgage and deed of covenants, neither the *Owner* nor any manager nor any charterer nor the master of this Vessel nor any other person has any right, power or authority to create, incur or permit to be imposed upon this Vessel any commitments, encumbrances or liens, whatsoever other than for certain Permitted Liens that are described in the Amended and Restated Credit Agreement, dated October 31, 2014, among JPMORGAN CHASE BANK, N.A., NCL CORPORATION LTD. and certain other parties thereto, all as more fully set forth therein.

(t) Further Assurances. Where the Vessel is (or is to be) sold in exercise of any power contained in this Deed or otherwise conferred on the Collateral Agent, the Owner undertakes to execute, forthwith upon request by the Collateral Agent, such form of conveyance of the Vessel as the Collateral Agent may require.

(u) Environmental Laws. Except to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Secured Parties, the Owner shall comply with, and procure that all employees of the Owner in the course of their employment comply with, all environmental laws including, without limitation, requirements relating to manning and establishment of financial responsibility and to obtain and comply with, and procure that all employees of the Owner in the course of their employment obtain and comply with, all environmental permits.

Section 5.2 Until the Security Period has terminated, the Owner undertakes as follows (at its own cost) unless otherwise consented to by the Collateral Agent:

(a) Insurances. The Owner will take out and maintain in its name or procure to be taken out and maintained in its name during the Security Period customary insurances on the Vessel with financially sound and reputable insurers or underwriters, including without limitation, as follows (jointly the "Insurances");

(i) hull, machinery and equipment insurance (including hull interest/increased value insurance) (covering all fire and usual marine risks including excess risks), freight interest/anticipated earnings insurance and freight demurrage and defense (FD&D) insurance;

(ii) war risk insurance (covering damage to hull and deprivations and blocking and trapping and protection and indemnity risks with a single and separate limit for the same amounts insured under war hull);

(iii) protection and indemnity insurance (including pollution risks); and

(iv) such additional insurances as a prudent shipowner would take out or as the Collateral Agent may reasonably require.

(b) Renewal. The Owner will renew the Insurances before the relevant policies, contracts or entries expire.

(c) Premiums. The Owner will punctually pay all premiums, calls, contributions or other sums in respect of the Insurances and produce all relevant receipts when so required by the Collateral Agent.

(d) Guarantees. The Owner will arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity or war risk association for or for the continuance of the Vessel's entry into such association.

(e) Collection of Claims. The Owner will do all things necessary and provide all documents, evidence and information to enable the Collateral Agent to collect or recover any moneys which shall at any time become payable to the Collateral Agent according to the applicable Loss Payable Clause in respect of the Insurances.

(f) Application of Recoveries. The Owner will apply all sums receivable under the Insurances which are to be paid to the Owner in accordance with the applicable Loss Payable Clause in repairing all damage and/or in discharging the liability in respect of which such sums shall have been received.

(g) Policies and Other Information. Upon request of the Collateral Agent, the Owner will use commercially reasonable efforts to procure that the brokers, underwriters, protection and indemnity and war risks associations shall promptly furnish the Collateral Agent with copies of the policies, insurances certificates, certificates of entry, rule books, cover notes and any changes thereto which may from time to time be issued in respect of the Insurances and the Owner shall promptly furnish the Collateral Agent with all such other information as it may from time to time reasonably require regarding the Insurances.

ARTICLE VI.

DEFAULT

Section 6.1 The Collateral Agent may in its discretion by notice to the Owner declare all or any part of the Obligations to be immediately due and payable on the happening of any of the events set out in this Article VI (each an "Event of Default"). Following such declaration the Obligations, or that part of it to which the declaration relates, shall immediately become due and payable and the security constituted by the Mortgage and this Deed shall immediately become enforceable without any further notice, demand, protest or other requirement, all of which the Owner expressly waives:

(a) if there shall occur an Event of Default which is continuing (as defined in the Collateral Agreement); or

(b) if the registration of the Vessel or the registration, validity or priority of this Deed or the Mortgage shall be contested by any Loan Party or become void or voidable or liable to cancellation or termination; or

(c) if any act or omission of the Owner or any managers or agents of the Vessel shall materially prejudice the security conferred on the Collateral Agent by the Mortgage and this Deed; or

(d) if the Bahamas becomes involved in war (whether or not declared) or civil war or is occupied by any other power and the Collateral Agent in its discretion considers that, as a result, the security conferred on it by the Mortgage and this Deed is materially prejudiced and the Owner does not when required by the Collateral Agent to do so procure that the Vessel is registered under the laws and flag of another country acceptable to the Collateral Agent in its sole and absolute discretion and does not procure that there is executed, delivered and registered in favor of the Collateral Agent (for the ratable benefit of the Secured Parties) a further mortgage on the Vessel (together, if required by the Collateral Agent, with a collateral supplement to mortgage) on materially the same terms as the Mortgage and this Deed.

ARTICLE VII.

POWERS OF COLLATERAL AGENT ON EVENT OF DEFAULT

Section 7.1 Upon the occurrence of any default described in Article VI which is continuing and the Collateral Agent (for the benefit of the Secured Parties) shall make demand for all or any part of the Obligations, the amount of the Obligations to which the demand relates shall from the date of such demand bear interest at the default rate specified in Section 2.13 of the Credit Agreement and the Collateral Agent shall be entitled to exercise all or any of the rights, powers, discretions and remedies (including all rights and remedies in foreclosure) vested in it (whether at law, by virtue of the Mortgage and this Deed or otherwise) and in particular (without limiting the generality of the foregoing) and for the avoidance of any doubt, the power of sale and other powers specified in section 23 of the Conveyancing and Law of Property Act Chapter 138 (applied in respect of personal as well as real property) as varied or amended by this Deed shall be immediately exercisable upon and at any time thereafter and, without prejudice to the generality of the foregoing, the Collateral Agent shall have power:

- (a) to take possession of the Vessel;
- (b) to require that all policies, contracts, certificates of entry and other records relating to the Insurances (including details of and correspondence concerning outstanding claims) be delivered forthwith to such adjusters and/or brokers and/or other insurers as the Collateral Agent may nominate;
- (c) to collect, recover, compromise and give a good discharge for, all claims then outstanding or thereafter arising under the Insurances or any of them or in respect of any other part of the Mortgaged Property and to take over or institute (if necessary using the name of the Owner) all such proceedings in connection therewith as the Collateral Agent in its absolute discretion thinks fit, and, in the case of the Insurances, to permit the brokers through whom collection or recovery is effected to charge the usual brokerage therefor;
- (d) to discharge, compound, release or compromise claims in respect of the Vessel or any other part of the Mortgaged Property which have given or may give rise to any charge or Lien or other claim on the Vessel or any other part of the Mortgaged Property or which are or may be enforceable by proceedings against the Vessel or any other part of the Mortgaged Property;
- (e) to sell the Vessel or any share or interest therein with or without prior notice to the Owner, and with or without the benefit of any charterparty, and free from any claim by the Owner (whether in admiralty, in equity, at law or by statute) by public auction or private contract, at such place and upon such terms as the Collateral Agent in its absolute discretion may determine, with power to postpone any such sale, and without being answerable for any loss occasioned by such sale or resulting from postponement thereof and with power, where the Collateral Agent purchases the Vessel, to make payment of the sale price by making an equivalent reduction in the amount of the Obligations;

(f) to manage, insure, maintain and repair the Vessel, and to employ, sail or lay up the Vessel in such manner and for such period as the Collateral Agent, in its absolute discretion, deems expedient accounting only for net profits arising from any such employment;

(g) to order the Vessel to proceed forthwith at the Owner's risk and expense to a port or place nominated by the Collateral Agent and if the Owner fails to give the necessary instructions to the master of the Vessel for any reason whatsoever, the Collateral Agent shall have the right to give such instructions directly to the master;

(h) to administer, amend or terminate any existing charter, management, services or similar agreement or instrument relating to the Vessel and/or enter into any such agreement or instrument; and

(i) to recover from the Owner on demand all fees, costs and expenses incurred or paid by the Collateral Agent in connection with the exercise of the powers (or any of them) referred to in this Section 7.1.

Section 22 of the Conveyancing and Law of Property Act Chapter 138 shall not apply to this Deed and the statutory power of sale shall be exercisable at any time after the moneys secured by this Deed have become payable. For the purpose of all powers conferred by statute, the Obligations shall be deemed to have become due and payable on the date hereof.

Section 7.2 Upon the occurrence of any Event of Default described in Article VI which is continuing, the Collateral Agent shall be entitled (but not bound) by writing executed by any director or officer of the Collateral Agent to appoint any person or persons to be a receiver and/or manager of the Mortgaged Property or any part thereof (a "Receiver") (with power to authorize any joint Receiver to exercise any power independently of any other joint Receiver) and may from time to time fix his remuneration, and may remove any Receiver so appointed and appoint another in his place. Any Receiver shall be the agent of the Owner and the Owner shall be solely responsible for his acts or defaults and for his remuneration, and such Receiver shall have power on behalf of and at the cost of the Owner (notwithstanding any liquidation of the Owner) to do or omit to do anything which the Owner could do or omit to do in relation to the Mortgaged Property or any part thereof and in particular (but without prejudice to the generality of the foregoing) any such Receiver may exercise all the powers and discretions conferred on the Collateral Agent by the Mortgage and this Deed.

Section 7.3 Subject to Section 7.2, any Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved, upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

Section 7.4 Neither the Collateral Agent nor any Receiver shall be liable as mortgagee in possession in respect of all or any of the Mortgaged Property to account or be liable for any loss upon realization or for any neglect or default of any nature whatsoever in connection therewith for which a mortgagee in possession may be liable as such.

Section 7.5 Upon any sale of the Vessel or any share or interest therein by the Collateral Agent pursuant to Section 7.1(e), or by any Receiver, the purchaser shall not be bound to see or inquire whether the Collateral Agent's power of sale has arisen in the manner provided in this Deed and such sale shall be deemed to be within the power of the Collateral Agent (or the Receiver, as the case may be) and the receipt of the Collateral Agent (or the Receiver, as the case may be) of the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of such sale or be in any way answerable therefor and such sale shall operate to divest the Owner of all rights, title and interest of any nature whatsoever in the Vessel and to bar any such interest of the Owner and all persons claiming through or under the Owner.

ARTICLE VIII.

APPLICATION OF MONEYS

Subject to the terms of the Credit Agreement and any Senior Secured Notes Indenture and Section 4.02 of the Collateral Agreement, all sums received by the Collateral Agent or any Receiver pursuant to the Mortgage, this Deed, any Senior Secured Notes Indenture or any of the Loan Documents and all sums received in connection with the taking possession and/or sale of the Vessel or any chartering or other use of the Vessel by the Collateral Agent or Receiver (including, without limitation, the proceeds of any claims for damages or claims on any insurance received by the Collateral Agent or Receiver while in possession of or while chartering or using the Vessel) shall, unless otherwise agreed by the Collateral Agent or Receiver or otherwise expressly provided in the Loan Documents or any Senior Secured Notes Indenture, be applied by it in the following order:

FIRST, in or towards payment of all expenses and charges incurred by the Collateral Agent or Receiver in the protection and exercise of its rights, powers, discretions and remedies under or pursuant to the Mortgage and/or this Deed (including, without limitation, any damages or losses incurred by reason of the Collateral Agent's or Receiver's possession, chartering or use of the Vessel) and in or towards supplying indemnity in such amount and in such form as the Collateral Agent or Receiver shall consider appropriate against any encumbrances having priority over or equality with the Mortgage and/or this Deed; then

SECOND, in or towards payment to the Administrative Agent, any other Authorized Representative (as defined in the Collateral Agreement) the Collateral Agent or Receiver of any other costs, charges and expenses incurred by it or them and recoverable from the Owner or any other Loan Party under or pursuant to the Credit Agreement, the Loan Documents or any Senior Secured Notes Indenture together with interest at the rate or rates specified in the Credit Agreement, the Loan Documents or any Senior Secured Notes Indenture; then

THIRD, to the payment in full of Unfunded Advances/Participations (the amounts so applied to be distributed between or among the Administrative Agent, the Collateral Agent, the Swingline Lender and any Issuing Bank pro rata in accordance with the amounts of Unfunded Advances/Participations owed to them on the date of any such distribution); then

FOURTH, to the payment in full of all other Obligations (other than Obligations under clauses (b) and (c) of the definition thereof) (the amounts so applied to be distributed, as provided in the Credit Agreement or the applicable Senior Secured Note Indenture, as the case may be, among the Secured Parties pro rata in accordance with the respective amounts of the Obligations (other than Obligations under clauses (b) and (c) of the definition thereof) owed to them on the date of any such distribution, which in the case of Letters of Credit, shall be paid by deposit in an account with the Collateral Agent, in the name of the Collateral Agent and for the benefit of the Issuing Bank and the Lenders, an amount in cash in U.S. Dollars equal to the aggregate L/C Exposure as of such date plus any accrued and unpaid interest thereon); then

FIFTH, to the payment in full of all Obligations under clauses (b) and (c) of the definition thereof (the amounts so applied to be distributed among the Secured Parties pro rata in accordance with the respective amounts of the Obligations under clauses (b) and (c) of the definition thereof owed to them on the date of any such distribution); then

SIXTH, to the Owner (or any other Loan Party as provided in the applicable Loan Documents and any Senior Secured Notes Indenture), its successors or assigns, or as a court of competent jurisdiction may otherwise direct;

provided, that on and after the Intercreditor Effective Date, such proceeds will be applied as between the holders of the Senior Secured Note Obligations, on the one hand, and the Credit Agreement Secured Parties, on the other hand, in the order specified in the First Lien Intercreditor Agreement, with the portion thereof allocable to the Credit Agreement Secured Parties then being applied in the manner set forth above in this Article VIII.

The Collateral Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Deed.

In the event that the amounts received by the Collateral Agent or any Receiver and referred to in this Article VIII is insufficient to pay in full the whole of the Obligations, the Collateral Agent or the Receiver, as the case may be, shall be entitled to collect the shortfall from the Owner or any other person liable for the time being therefor.

ARTICLE IX.

REMEDIES CUMULATIVE AND OTHER PROVISIONS

Section 9.1 No failure or delay on the part of the Collateral Agent and/or a Receiver to exercise any right, power or remedy vested in it or them under any of the Loan Documents or any Senior Secured Notes Indenture shall operate as a waiver thereof, nor shall any single or partial exercise by the Collateral Agent and/or a Receiver of any right, power or remedy nor the discontinuance, abandonment or adverse determination of any proceedings taken by the Collateral Agent and/or a Receiver to enforce any right, power or remedy preclude any other or further exercise thereof or proceedings to enforce the same or the exercise of any other right, power or remedy nor shall the giving by the Collateral Agent of any consent to any act which by the terms of this Deed requires such consent prejudice the right of the Collateral Agent to withhold or give consent to the doing of any other similar act. The remedies provided in the Loan Documents or any Senior Secured Notes Indenture are cumulative and are not exclusive of any remedies provided by law.

Section 9.2 The Collateral Agent shall be entitled, at any time and as often as may be expedient, to delegate all or any of the powers and discretions vested in it by the Mortgage and this Deed (including the power vested in it by virtue of Article X) or any of the other Loan Documents or any Senior Secured Notes Indenture in such manner, upon such terms, and to such persons as the Collateral Agent in its absolute discretion may think fit.

Section 9.3 The Collateral Agent shall be entitled to do all acts and things incidental or conducive to the exercise of any of the rights, powers or remedies possessed by it as mortgagee of the Vessel (whether at law, under the Mortgage and/or this Deed or otherwise) and in particular (but without prejudice to the generality of the foregoing), upon becoming entitled to exercise any of its powers under Article X, the Collateral Agent shall be entitled to discharge any cargo on board the Vessel (whether the same shall belong to the Owner or any other person) and to enter into such other arrangements in respect of the Vessel, her insurances, management, maintenance, repair, classification and employment in all respects as if the Collateral Agent was the owner of the Vessel, but without being responsible in the absence of gross negligence or willful misconduct for any loss incurred as a result of the Collateral Agent doing or omitting to do any such acts or things as aforesaid.

ARTICLE X.

ATTORNEY

Section 10.1 By way of security, the Owner hereby irrevocably appoints the Collateral Agent (and all officers, employees or agents designated by the Collateral Agent) and any Receiver, jointly and also severally, to be its attorney generally for and in the name and on behalf of the Owner, and as the act and deed or otherwise of the Owner to (i) execute, seal and deliver and otherwise perfect and do all such deeds, assurances, agreements, instruments, acts and things which may be required for the full exercise of all or any of the rights, powers or remedies conferred by the Mortgage, this Deed, the Credit Agreement, any Senior Secured Notes Indenture or any of the other Loan Documents, or which may be deemed proper in or in connection with all or any of the purposes aforesaid (including, without prejudice to the generality of the foregoing, the execution and delivery of a bill of sale of the Vessel), and (ii) make, settle and adjust claims in respect of the Mortgaged Property under policies of insurance, endorsing the name of the Owner on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance and for making all determinations and decisions with respect thereto. In the event that the Owner at any time or times shall fail to obtain or maintain any of the policies of insurances required hereby or under the Credit Agreement or any Senior Secured Notes Indenture or to pay any premium in whole or part relating thereto, the Collateral Agent and the Receiver may, without waiving or releasing any obligation or liability of the Owner hereunder or any Event of Default, in its sole discretion, obtain and maintain such policies of insurance and pay such premium and take any other actions with respect thereto as the Collateral Agent or the Receiver reasonably deems advisable. All sums disbursed by the Collateral Agent or the Receiver in connection with this Section 10.1, including reasonable documented attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, upon demand, by the Owner to the Collateral Agent or the Receiver and shall be additional Obligations secured hereby. The Owner ratifies and confirms, and agrees to ratify and confirm, any lawful deed, assurance, agreement, instrument, act or thing which the Collateral Agent or the Receiver may execute or do pursuant hereto, *provided always* that such power shall not be exercisable by or on behalf of the Collateral Agent until the occurrence of an Event of Default which is continuing.

Section 10.2 The exercise of such power by or on behalf of the Collateral Agent or any Receiver shall not put any person dealing with the Collateral Agent or the Receiver upon any inquiry as to whether any Event of Default has happened, nor shall such person be in any way affected by notice that no such Event of Default has happened, and the exercise by the Collateral Agent or the Receiver of such power shall be conclusive evidence of the Collateral Agent's or such Receiver's right to exercise the same.

Section 10.3 The Owner hereby irrevocably appoints the Collateral Agent and any Receiver jointly and also severally to be its attorney in its name and on its behalf and as its act and deed or otherwise of it, to agree the form of and to execute and do all deeds, instruments, acts and things in order to file, record, register or enroll the Mortgage and/or this Deed in any court, public office or elsewhere which the Collateral Agent may in its discretion consider necessary or advisable, now or in the future, to ensure the legality, validity, enforceability or admissibility in evidence thereof and any other assurance, document, act or thing required to be executed by the Owner pursuant to Section 11.2.

Section 10.4 The provisions of Section 6.21 and Section 6.08 of the Collateral Agreement shall apply *mutatis mutandis*.

ARTICLE XI.

MISCELLANEOUS

Section 11.1 Costs and Indemnities. (a) Subject to the terms of the Credit Agreement or any Senior Secured Notes Indenture, the Owner shall pay to the Collateral Agent on demand all documented reasonable expenses (including legal fees, fees of insurance advisers, printing, out-of-pocket expenses, stamp duties, registration fees and other duties or charges) together with any value added tax or similar tax payable in respect thereof incurred by the Collateral Agent and/or Receiver in connection with (i) the exercise or enforcement of, or preservation of any rights under, the Mortgage, this Deed, or otherwise in respect of the Obligations and the security therefor or (ii) the preparation, completion, execution or registration of the Mortgage and this Deed.

(b) Subject to the terms of the Credit Agreement or any Senior Secured Notes Indenture, the Owner hereby agrees and undertakes to indemnify the Collateral Agent and any Receiver against all losses, actions, claims, expenses (including, but not limited to, reasonable legal fees and expenses on a full indemnity basis), demands, obligations and liabilities whatever and whenever arising which may now or hereafter be incurred by the Collateral Agent and/or Receiver; or by any manager, agent, officer or employee for whose liability, act or omission it or he may be answerable, in respect of, in relation to, or in connection with anything done or omitted in the exercise or purported exercise of the powers contained in the Mortgage, this Deed, or otherwise in connection therewith and herewith or with any part of the Mortgaged Property or otherwise howsoever in relation to, or in connection with, any of the matters dealt with in the Mortgage and this Deed.

Section 11.2 Further Assurances. The Owner hereby further undertakes at its own expense from time to time to execute, sign, perfect, do and (if required) register every such further assurance, document, act or thing as in the opinion of the Collateral Agent may be reasonably necessary or desirable for the purpose of more effectually mortgaging and charging the Mortgaged Property or perfecting the security constituted or intended to be constituted by the Mortgage and this Deed.

Section 11.3 Notices. The provisions of Section 6.01 of the Collateral Agreement shall apply *mutatis mutandis* in respect of any certificate, notice, demand or other communication given or made under this Deed.

Section 11.4 Benefit of this Deed. This Deed shall be binding on the Owner and its permitted successors and assigns and shall inure to the benefit of the Collateral Agent, the Secured Parties and their respective permitted successors and assigns. The Owner expressly acknowledges and accepts the provisions of Section 9.09 of the Credit Agreement and agrees that any person in favor of whom an assignment or transfer is made in accordance with such section shall be entitled to the benefit of this Deed.

Section 11.5 Counterparts. This Deed may be entered into in the form of two counterparts, each executed by one of the parties, and, provided both the parties shall so execute this Deed, each of the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original but, taken together, they shall constitute one instrument.

Section 11.6 Severability of Provisions. Each of the provisions in this Deed are severable and distinct from the others, and if at any time one or more such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be affected or impaired thereby.

Section 11.7 GOVERNING LAW. THIS DEED AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS DEED SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE BAHAMAS.

Section 11.8 Jurisdiction.

(a) Each party to this Deed hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any court of The Bahamas, in any action or proceeding arising out of or relating to the Mortgage and/or this Deed, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such Bahamian court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) Each party to this Deed hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to the Mortgage and/or this Deed in any court of The Bahamas. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Collateral Agent or any Secured Party to take proceedings against the Owner in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not. The parties further agree that only the courts of The Bahamas and not those of any other state shall have jurisdiction to determine any claim which the Owner may have against the Collateral Agent or any Secured Party arising out of or in connection with the Mortgage and/or this Deed.

Section 11.9 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Deed and are not to affect the construction of, or to be taken into consideration in interpreting, this Deed.

Section 11.10 Subject to First Lien Intercreditor Agreement. Notwithstanding anything herein to the contrary, on and after the Intercreditor Effective Date (i) the liens and security interests granted to the Collateral Agent pursuant to this Deed are expressly subject to the First Lien Intercreditor Agreement and (ii) the exercise of any right or remedy by the Collateral Agent hereunder is subject to the limitations and provisions of the First Lien Intercreditor Agreement. In the event of any conflict between the terms of the First Lien Intercreditor Agreement and the terms of this Deed, the terms of the First Lien Intercreditor Agreement shall govern. Nothing herein is intended, or shall be construed, to give any Loan Party any additional right, remedy or claim under, to or in respect of this Deed or Vessel.

IN WITNESS whereof this Deed has been duly executed as the day and year first above written.

[_____] ,
as Owner

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A., as Collateral Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

Date: [●]

[FORM OF] FIRST PREFERRED MARSHALL ISLANDS MORTGAGE

executed by

[_____]

as Owner

in favor of

JPMORGAN CHASE BANK, N.A.,

not in its individual capacity, but solely as Mortgage Trustee,

as Mortgagee

“[VESSEL NAME]”

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THIS FIRST PREFERRED MORTGAGE is dated and effective as of [____], (this “Mortgage”), and is made by [____], a [____] organized under the laws of [●], having an address at [●] [and qualified as a foreign maritime entity under the laws of the Republic of the Marshall Islands] (the “Owner”), in favor of JPMORGAN CHASE BANK, N.A., not in its individual capacity but solely as mortgage trustee under the Credit Agreement as defined below (together with its successors and assigns in such capacity, the “Mortgagee”) for the Guaranteed Parties.

WHEREAS, the parties hereto have entered into an Amended and Restated Credit Agreement dated as of October [___], 2014 (a copy of said Amended and Restated Credit Agreement (without exhibits other than the Notes) is attached hereto as Exhibit A and constitutes an integral part of this Mortgage; said Amended and Restated Credit Agreement, as the same may be amended, restated, supplemented, waived or otherwise modified from time to time, the “Credit Agreement”), among NCL CORPORATION LTD., a Bermuda company (“NCL” or the “Borrower”), the LENDERS party thereto from time to time, JPMORGAN CHASE BANK, N.A., as administrative agent for the Lenders and certain other parties thereto and the Mortgagee.

WHEREAS, the Borrower may from time to time enter into one or more Swap Agreements that (i) were in effect on the date of this Mortgage with a counterparty that was a Lender, an Agent, an Arranger or an Affiliate of a Lender, Agent or Arranger as of the date of this Mortgage or (ii) are entered into after the date of this Mortgage with any counterparty that was or is a Lender, an Agent, an Arranger or an Affiliate of a Lender, an Arranger or an Agent at the time such Swap Agreement is entered into; provided that such Lender is not a Defaulting Lender at the time such Swap Agreement is entered into (any and all of said Swap Agreements collectively, the “Relevant Swap Agreements”), pursuant to which the Borrower and any such swap counterparty may enter into Transactions (as such term is defined in each of said Relevant Swap Agreements), each as evidenced by a Confirmation (as such term is defined in each of said Relevant Swap Agreements), providing for, among other things, the payment of certain amounts by the Borrower to such swap counterparty. The Borrower and such swap counterparties estimate that the aggregate amount which may become due and payable by the Borrower to such swap counterparties under the Relevant Swap Agreements shall not exceed U.S.\$[●] (the “Swap Exposure”).

WHEREAS, the Mortgagee and each Subsidiary Guarantor, including the Owner, have also entered into a Guarantee and Collateral Agreement, dated as of May 24, 2013 (a copy of said Guarantee and Collateral Agreement (without exhibits), including a supplement thereto entered into as of the date hereof, is attached hereto as Exhibit B and constitutes an integral part of this Mortgage; said Guarantee and Collateral Agreement, as the same may be amended, restated, supplemented, waived or otherwise modified from time to time, the “Collateral Agreement”).

WHEREAS, the Owner is the sole, absolute and unencumbered, legal and beneficial owner of the whole of the Vessel (as defined herein) (save and except the Permitted Liens).

WHEREAS, in order to secure the repayment of the Guaranteed Obligations, the Owner has duly executed in favor of the Mortgagee this First Preferred Mortgage under and pursuant to Chapter 3 of the Republic of the Marshall Islands Maritime Act of 1990, (as amended, the "Maritime Act").

[WHEREAS, this First Preferred Mortgage is made 'pursuant to agreement' in accordance with section 309(2)(a) of the Maritime Act.]

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

ARTICLE I.

DEFINITIONS

Section 1.1 In this Mortgage (including the introductory paragraph and the recitals) unless the context otherwise requires or unless otherwise defined herein, words and expressions defined in the Collateral Agreement or the Credit Agreement shall have the same meanings when used in this Mortgage and the following terms shall have the following meanings:

"Approved Manager" means any company designated by the Owner from time to time, as the technical manager of the Vessel.

"Collateral Agreement" has the meaning assigned to such term in the recitals.

"Compulsory Acquisition" means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Vessel by any government entity or other competent authority, whether de jure or de facto, but shall exclude requisition for use or hire not involving requisition of title.

"Event of Default" has the meaning assigned to such term in Section 6.1.

"Insurances" has the meaning assigned to such term in Section 5.2(a).

"Loss Payable Clause" means the provisions regulating the manner of payment of sums receivable under the Insurances which are to be incorporated in the relevant insurance documents, such Loss Payable Clauses to be in the forms set out in Appendix A and Appendix B of Schedule 1 to the First Lien Insurance Assignment, dated as of the date hereof, made by the Owner in favor of the Mortgagee in respect of the Vessel, or in such other forms as may from time to time be agreed in writing by the Mortgagee.

"Owner" includes the successors in title and assignees of the Owner.

"Secured Obligations" has the meaning assigned to such term in Section 2.1.

"Security Period" means the period commencing on the date hereof and terminating on the date on which all the Secured Obligations (other than contingent indemnity or expense reimbursement obligations in respect of which no claim has been made) have been paid in full in cash in immediately available funds.

“Vessel” means the vessel “[_____]” registered as a Marshall Islands ship at the Port of Majuro under Official Number [_____] and includes, but is not limited to, any interest therein and her engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumables or other stores, belongings and appurtenances whether on board or ashore and whether now owned or hereafter acquired and also any and all additions, improvements and replacements hereafter made in or to such vessel or any part thereof or in or to her equipment and appurtenances aforesaid.

Section 1.2 This Mortgage shall be read together with the Collateral Agreement and the Credit Agreement but in case of any conflict between this Mortgage and the Collateral Agreement or the Credit Agreement, the provisions of the Collateral Agreement or the Credit Agreement, as applicable, shall prevail to the extent permitted under Marshall Islands law.

ARTICLE II.

MORTGAGE AND COVENANT TO PAY

Section 2.1 In order to secure the payment of the Guaranteed Obligations, and the payment of all other sums that may hereinafter be secured by the Mortgage in accordance with the terms hereof, and to secure the performance and observance of and compliance with all the agreements, covenants and conditions of the Mortgage, the Collateral Agreement, the Credit Agreement, the other Loan Documents and any Relevant Swap Agreement (all of the foregoing being referred to herein as the “Secured Obligations”), the Owner has duly authorized the execution and delivery of this Mortgage under and pursuant to the laws of the Republic of the Marshall Islands.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, and in order to secure the payment of the Secured Obligations, the Owner has granted, conveyed, mortgaged, pledged, confirmed, assigned, transferred and set over and by these presents does grant, convey, mortgage, pledge, confirm, assign, transfer and set over, unto the Mortgagee, and its successors and assigns, the whole of the Vessel;

TO HAVE AND TO HOLD all and singular the above mortgaged and described property unto the Mortgagee and its successors and assigns, to its and to its successors’ and assigns’ own use, benefit and behoof forever;

PROVIDED, and these presents are upon the condition that, if the Owner or its successors or assigns shall pay or cause to be paid the Secured Obligations as and when the same shall become due and payable in accordance with the respective terms of the Collateral Agreement and this Mortgage, and all other such sums as may hereafter become secured by this Mortgage in accordance with the terms hereof, and the Owner shall duly perform, observe and comply with or cause to be performed, observed, or complied with all the covenants, terms and conditions of this Mortgage, the Collateral Agreement, the Credit Agreement, the other Loan Documents and any Relevant Swap Agreement expressed or implied, to be performed, then this Mortgage and the estate and rights hereunder shall cease, determine and be void, otherwise to remain in full force and effect.

The Owner, for itself, its successors and assigns, hereby covenants, declares and agrees with the Mortgagee and its successors and assigns that the Vessel is to be held subject to the further covenants, conditions, terms and uses hereinafter set forth.

Section 2.2 The Owner covenants and undertakes with the Mortgagee and the Guaranteed Parties to do or permit to be done each and every act or thing which the Mortgagee may from time to time require to be done for the purpose of enforcing the Mortgagee's and the Guaranteed Parties' rights under this Mortgage and to allow its name to be used as and when required by the Mortgagee for that purpose.

Section 2.3 The Owner covenants and undertakes with the Mortgagee and the Guaranteed Parties to pay, on demand, to the Mortgagee all monies and discharge all Secured Obligations now or hereafter due, owing or incurred to the Mortgagee and the Guaranteed Parties under, or in connection with the Credit Agreement, any other Loan Document, any Relevant Swap Agreement and/or this Mortgage when the same become due for payment in accordance with their terms whether by acceleration or otherwise.

Section 2.4 The Owner shall cause to be filed, registered or recorded, and hereby irrevocably authorizes the Mortgagee, at the Owner's expense, at any time and from time to time to file, register or record this Mortgage and any amendments hereto in the Maritime Administrator of the Marshall Islands, in accordance with the provisions of Chapter 3 of the Maritime Act.

ARTICLE III.

REPRESENTATIONS AND WARRANTIES

Section 3.1 The Owner hereby represents and warrants to the Mortgagee and the Guaranteed Parties that it is the legal and beneficial owner of and has good right and title, free from any Liens (other than the Liens created pursuant to the Loan Documents and Permitted Liens), to the Vessel. The Vessel is duly and validly registered in the name of the Owner under the laws and flag of the Republic of the Marshall Islands and shall so remain during the Security Period, except as otherwise not prohibited by the Credit Agreement.

Section 3.2 The representation and warranty in Section 3.1 shall be deemed to be repeated by the Owner on and as of each day from the date of this Mortgage until the end of the Security Period as if made with reference to the facts and circumstances existing on each such date.

Section 3.3 The Owner also hereby represents and warrants to the Mortgagee and the Guaranteed Parties on the date hereof that this Mortgage has been validly created and constitutes a valid, legally binding and enforceable first preferred ship mortgage on the Vessel.

ARTICLE IV.

CONTINUING SECURITY AND OTHER MATTERS

Section 4.1 The security created by this Mortgage shall:

(a) be held by the Mortgagee (for the benefit of the Guaranteed Parties) as a continuing security for the payment of the Secured Obligations and the performance and observance of and compliance with all of the covenants, terms and conditions contained in the Credit Agreement and the other Loan Documents and any Relevant Swap Agreement, express or implied;

(b) not be satisfied by any intermediate payment or satisfaction of any part of the amount hereby and thereby secured (or by any settlement of accounts between the Owner or any other person who may be liable to the Mortgagee, the Guaranteed Parties or their permitted successors and assigns in respect of the Secured Obligations or any part thereof);

(c) be in addition to, and shall not in any way prejudice or affect, and may be enforced by the Mortgagee without prior recourse to, the security created by any other Loan Document, any Relevant Swap Agreement and any guarantee or indemnity now or hereafter held by the Mortgagee or the Guaranteed Parties in respect of the Secured Obligations; and

(d) not be in any way prejudiced or affected by the existence of any of the other Loan Documents, any Relevant Swap Agreement or any other rights or remedies or by the same becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Mortgagee or any Guaranteed Party dealing with, exchanging, varying or failing to perfect or enforce any of the same, or giving time for payment or performance or indulgence or compounding with any other person liable.

Section 4.2 All the rights, remedies and powers vested in the Mortgagee (for the ratable benefit of the Guaranteed Parties) hereunder shall be in addition to and not a limitation of any and every other right, power or remedy vested in the Mortgagee or the Guaranteed Parties under the Loan Documents, any Relevant Swap Agreement or under any other guarantees or indemnity now or hereafter held by the Mortgagee or the Guaranteed Parties in respect of the Secured Obligations and all the powers so vested in the Mortgagee or the Guaranteed Parties may be exercised from time to time and as often as the Mortgagee or the Guaranteed Parties may deem expedient.

Section 4.3 The Mortgagee shall not be obligated to make any inquiry as to the nature or sufficiency of any payment received by it under this Mortgage or to make any claim or take any action to collect any moneys hereby owed or to enforce any rights or benefits hereby granted to the Mortgagee or to which the Mortgagee or any Guaranteed Party may at any time be entitled under this Mortgage.

Section 4.4 The Owner shall remain liable to perform all the obligations assumed by it in relation to the Vessel and the Mortgagee shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever in the event of any failure by the Owner to perform its obligations in respect thereof.

ARTICLE V.

COVENANTS

Section 5.1 The Owner hereby covenants with the Mortgagee and the Guaranteed Parties and undertakes throughout the Security Period as follows (at its own cost):

(a) No Sale. The Owner will not sell or otherwise dispose of the Vessel or any part thereof or interest therein, except as otherwise not prohibited by the Credit Agreement.

(b) Negative Pledge. The Owner will not create any Lien over the Vessel or suffer the creation or existence of any such Lien to or in favor of any person, except for Permitted Liens.

(c) Maritime Liens. The Owner will pay and discharge or cause to be paid and discharged all debts, damages and liabilities whatsoever which have given or may give rise to maritime or possessory Liens on or claims enforceable against the Vessel, except such debts, damages and liabilities which give rise to maritime or possessory Liens to the extent not otherwise prohibited under Section 6.02 of the Credit Agreement, and in the event of arrest of the Vessel pursuant to legal process or in the event of her detention in exercise or purported exercise of any such Liens on or claims enforceable against the Vessel as aforesaid, to procure the release of the Vessel from such arrest or detention within twenty one (21) days of receiving notice thereof providing bail or otherwise as the circumstances may require.

(d) Flag or Registration. The Owner shall ensure that the Vessel remains registered as a Marshall Islands ship in the Republic of the Marshall Islands and retains the right to fly its flag and the Owner will not make any changes in the registration or the flag of the Vessel, except as otherwise not prohibited by the Credit Agreement.

(e) Bareboat Charterparties. The Owner will not permit the Vessel to be engaged on any bareboat charterparty or any sub-bareboat charterparty, unless otherwise approved by the Collateral Agent under the Collateral Agreement or the Administrative Agent under the Credit Agreement, or would not reasonably be expected to have a material adverse effect on the rights of the Guaranteed Parties.

(f) Time Charterparties. The Owner will not permit the Vessel to be engaged on any time charterparties or sub-time charterparties other than the Charter Agreements, unless otherwise approved by the Collateral Agent under the Collateral Agreement or the Administrative Agent under the Credit Agreement, or would not reasonably be expected to have a materially adverse effect on the rights of the Guaranteed Parties.

(g) Copies of Charterparties. Upon request of the Mortgagee, the Owner will send to the Mortgagee a copy of any charterparty for the Vessel and any addenda thereto.

(h) Managers. The Owner will ensure that the Vessel will at all times only be managed by an Approved Manager pursuant to customary technical management agreements assigned to the Mortgagee (for the ratable benefit of the Guaranteed Parties) under the Collateral Agreement; *provided* that this clause shall not prohibit an Approved Manager from entering into commercial or technical management agreements with other persons for the provision of services to the Vessel. The Owner will not agree to termination of or any material amendments that are adverse to the Guaranteed Parties' interest in, or waive or fail to enforce, any material provisions of such management agreements unless the termination, amendment, waiver or failure to enforce such provisions (1) cannot reasonably be expected to have a material adverse effect on the rights of the Guaranteed Parties or (2) is approved by the Mortgagee. If any manager or the Owner terminates any of the approved management agreements or any manager commits a default thereunder which entitles the Owner to terminate the relevant approved management agreement, then the Owner shall enter into a new management agreement with an Approved Manager.

(i) Inspection. The Owner will permit the Mortgagee or its representatives to inspect the Vessel at reasonable times, upon reasonable prior notice to the Owner, and as often as may be reasonably requested by the Mortgagee and the Owner will not in any way restrict the Mortgagee's or its representatives' access to the Vessel and to all class and insurance certificates and records whether or not being kept by third parties. As long as no Event of Default has occurred, the inspections shall be conducted without any unreasonable interference with the operation of the Vessel. The Mortgagee or its representative shall be entitled to perform one inspection of the Vessel per year at the expense of the Owner; *provided* that the Owner shall pay the costs of such additional inspections as the Mortgagee or its representative or any Guaranteed Party may carry out at any time after an Event of Default has occurred and is continuing.

(j) Class. The Owner will ensure that the Vessel shall maintain the class set out in the classification certificates issued by a classification society, free of any overdue recommendations, exceptions, qualifications and notations of such classification society, and the Owner will forward a certified copy of the classification certificates to the Mortgagee upon request.

(k) Surveys. The Owner will submit or procure the Vessel to be submitted regularly to such periodical or other surveys as may be required by applicable law, by insurers or for classification purposes.

(l) ISM Code and ISPS Code. The Owner will arrange for and procure the punctual approval and certification of the management organization on shore and on board the Vessel and ensure that the Vessel is operated in accordance with the ISM Code and ISPS Code in force from time to time. The Owner shall have a valid and current International Ship Security Certificate issued in respect of the Vessel pursuant to the ISPS Code and any other certification that may be required.

(m) Compliance. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Guaranteed Parties, the Owner will ensure that the Vessel will comply with all relevant laws, regulations and requirements (statutory or otherwise) as are applicable to ships (i) registered under the same flag as the Vessel and (ii) engaged in the same or similar service as the Vessel is engaged, including without limitation environmental laws.

(n) No Illegal Trade or Trade Outside Insurance Cover. The Owner will not operate the Vessel or permit it to be operated in any manner, trade or business which is forbidden by international law, or which is unlawful or illicit under the laws of any relevant jurisdiction, or in carrying illicit or prohibited goods, or in any manner whatsoever if the foregoing may render the Vessel liable to condemnation in a prize court, or to destruction, seizure, confiscation, penalty or sanction or, except as otherwise not prohibited under the Credit Agreement, in a geographical area outside the scope of any of its insurances or in any way which may jeopardize its insurance coverage, wholly or in part.

(o) Maintenance. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Guaranteed Parties, the Owner will ensure that the Vessel will be maintained and be in a good and efficient state of repair consistent with first class ship-ownership and management practice.

(p) Change of Structure, Type or Speed. The Owner will not change the structure, type or speed of the Vessel in any way which would reasonably be expected to have a material adverse effect on the rights of the Guaranteed Parties, unless otherwise consented to by the Mortgagee.

(q) Notification of Damage and Claims. The Owners will promptly notify the Mortgagee of:

- (i) any damage to or alteration of the Vessel involving costs in excess of US\$[*] regardless of whether the costs are paid by insurers;
- (ii) any material environmental claims or incidents, to the extent notice thereof has not been publicly filed;

- (iii) any Event of Loss with respect to the Vessel;
- (iv) any requisition of the Vessel;
- (v) any requirement or recommendation made by any insurer or classification society or by any competent authority which is not complied with in accordance with its terms; and
- (vi) any arrest, detention or seizure of the Vessel or any exercise or purported exercise of a Lien on the Vessel or any part thereof which is not lifted forthwith.

(r) Further Information. The Owner will furnish the Mortgagee without undue delay with all such information as it may from time to time reasonably require regarding the Vessel, its employment, position and engagements, including any particulars of all towages and salvages and documents relating to all charters and other contracts for its employment, or otherwise howsoever concerning the Vessel.

(s) Notice. The Owner undertakes to place and at all times and places to retain a certified copy of this Mortgage on board the Vessel with her papers and cause such certified copy of this Mortgage to be exhibited to any and all persons having business with the Vessel which might create or imply any commitment or encumbrance whatsoever on or in respect of the Vessel (other than Liens created by this Mortgage) and to any representative of the Mortgagee and to place and keep prominently displayed in the bridge and in the master's cabin of the Vessel a framed printed notice in plain type reading as follows:

NOTICE OF MORTGAGE

This Vessel is subject to a first preferred mortgage in favor of JPMORGAN CHASE BANK, N.A. acting through its office at [_____], not in its individual capacity, but solely as mortgage trustee under authority of Chapter 3 of the Republic of the Marshall Islands Maritime Act of 1990, as amended. Under the said mortgage, neither the *Owner* nor any manager nor any charterer nor the master of this Vessel nor any other person has any right, power or authority to create, incur or permit to be imposed upon this Vessel any commitments, encumbrances or liens, whatsoever other than for certain Permitted Liens that are described in the Amended and Restated Credit Agreement, dated October [___], 2014, among JPMORGAN CHASE BANK, N.A., NCL CORPORATION LTD. and certain other parties thereto, all as more fully set forth therein.

(t) Further Assurances. Where the Vessel is (or is to be) sold in exercise of any power contained in this Mortgage or otherwise conferred on the Mortgagee, the Owner undertakes to execute, forthwith upon request by the Mortgagee, such form of conveyance of the Vessel as the Mortgagee may require.

(u) Environmental Laws. Except to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Guaranteed Parties, the Owner shall comply with, and procure that all employees of the Owner in the course of their employment comply with, all environmental laws including, without limitation, requirements relating to manning and establishment of financial responsibility and to obtain and comply with, and procure that all employees of the Owner in the course of their employment obtain and comply with, all environmental permits.

Section 5.2 Until the Security Period has terminated, the Owner undertakes as follows (at its own cost) unless otherwise consented to by the Mortgagee:

(a) Insurances. The Owner will take out and maintain in its name or procure to be taken out and maintained in its name during the Security Period customary insurances on the Vessel with financially sound and reputable insurers or underwriters, including without limitation, as follows (jointly the "Insurances"):

(i) hull, machinery and equipment insurance (including hull interest/increased value insurance) (covering all fire and usual marine risks including excess risks), freight interest/anticipated earnings insurance and freight demurrage and defense (FD&D) insurance;

(ii) war risk insurance (covering damage to hull and deprivations and blocking and trapping and protection and indemnity risks with a single and separate limit for the same amounts insured under war hull);

(iii) protection and indemnity insurance (including pollution risks); and

(iv) such additional insurances as a prudent shipowner would take out or as the Mortgagee may reasonably require.

(b) Renewal. The Owner will renew the Insurances before the relevant policies, contracts or entries expire.

(c) Premiums. The Owner will punctually pay all premiums, calls, contributions or other sums in respect of the Insurances and produce all relevant receipts when so required by the Mortgagee.

(d) Guarantees. The Owner will arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity or war risk association for or for the continuance of the Vessel's entry into such association.

(e) Collection of Claims. The Owner will do all things necessary and provide all documents, evidence and information to enable the Mortgagee to collect or recover any moneys which shall at any time become payable to the Mortgagee according to the applicable Loss Payable Clause in respect of the Insurances.

(f) Application of Recoveries. The Owner will apply all sums receivable under the Insurances which are to be paid to the Owner in accordance with the applicable Loss Payable Clause in repairing all damage and/or in discharging the liability in respect of which such sums shall have been received.

(g) Policies and Other Information. Upon request of the Mortgagee, the Owner will use commercially reasonable efforts to procure that the brokers, underwriters, protection and indemnity and war risks associations shall promptly furnish the Mortgagee with copies of the policies, insurances certificates, certificates of entry, rule books, cover notes and any changes thereto which may from time to time be issued in respect of the Insurances and the Owner shall promptly furnish the Mortgagee with all such other information as it may from time to time reasonably require regarding the Insurances.

ARTICLE VI.

DEFAULT

Section 6.1 The Mortgagee may in its discretion by notice to the Owner declare all or any part of the Secured Obligations to be immediately due and payable on the happening of any of the events set out in this Article VI (each an "Event of Default"). Following such declaration the Secured Obligations, or that part of it to which the declaration relates, shall immediately become due and payable and the security constituted by this Mortgage shall immediately become enforceable without any further notice, demand, protest or other requirement, all of which the Owner expressly waives:

(a) if there shall occur an Event of Default (as defined in the Collateral Agreement) which is continuing; or

(b) if the registration of the Vessel or the recordation, validity or priority of this Mortgage shall be contested by any Loan Party or become void or voidable or liable to cancellation or termination; or

(c) if any act or omission of the Owner or any managers or agents of the Vessel shall materially prejudice the security conferred on the Mortgagee by this Mortgage; or

(d) if the Marshall Islands becomes involved in war (whether or not declared) or civil war or is occupied by any other power and the Mortgagee in its discretion considers that, as a result, the security conferred on it by this Mortgage is materially prejudiced and the Owner does not when required by the Mortgagee to do so procure that the Vessel is registered under the laws and flag of another country acceptable to the Mortgagee in its sole and absolute discretion and does not procure that there is executed, delivered and registered in favor of the Mortgagee (for the ratable benefit of the Guaranteed Parties) a further mortgage on the Vessel (together, if required by the Mortgagee, with a deed of covenant supplement to such mortgage) on materially the same terms as this Mortgage.

ARTICLE VII.

POWERS OF MORTGAGEE ON EVENT OF DEFAULT

Section 7.1 Upon the occurrence of any Event of Default which is continuing and the Mortgagee (for the benefit of the Guaranteed Parties) shall make demand for all or any part of the Secured Obligations, the amount of the Secured Obligations to which the demand relates shall from the date of such demand bear interest at the default rate specified in Section 2.13 of the Credit Agreement and the Mortgagee shall be entitled to exercise all or any of the rights, powers, discretions and remedies (including all rights and remedies in foreclosure) vested in it (whether at law, by virtue of this Mortgage or otherwise) and, without prejudice to the generality of the foregoing, the Mortgagee shall have power:

- (a) exercise all of the rights and remedies in foreclosure and otherwise given to a mortgagee by the provisions of the laws of the Republic of the Marshall Islands or of any other jurisdiction where the Vessel may be found;
- (b) bring suit at law, in equity or in admiralty, as it may be advised, to recover judgment for the Secured Liabilities, and collect the same out of any and all property of the Owner whether covered by this Mortgage or otherwise;
- (c) to take possession of the Vessel;
- (d) to require that all policies, contracts, certificates of entry and other records relating to the Insurances (including details of and correspondence concerning outstanding claims) be delivered forthwith to such adjusters and/or brokers and/or other insurers as the Mortgagee may nominate;
- (e) to collect, recover, compromise and give a good discharge for, all claims then outstanding or thereafter arising under the Insurances or any of them or in respect of any other part of the Vessel and to take over or institute (if necessary using the name of the Owner) all such proceedings in connection therewith as the Mortgagee in its absolute discretion thinks fit, and, in the case of the Insurances, to permit the brokers through whom collection or recovery is effected to charge the usual brokerage therefor;
- (f) to discharge, compound, release or compromise claims in respect of the Vessel or any other part of the Vessel which have given or may give rise to any charge or Lien or other claim on the Vessel or any other part of the Vessel or which are or may be enforceable by proceedings against the Vessel or any other part of the Vessel;
- (g) to sell the Vessel or any interest therein with or without prior notice to the Owner, and with or without the benefit of any charterparty, and free from any claim by the Owner (whether in admiralty, in equity, at law or by statute) by public auction or private contract, at such place and upon such terms as the Mortgagee in its absolute discretion may determine, with power to postpone any such sale, and without being answerable for any loss occasioned by such sale or resulting from postponement thereof and with power, where the Mortgagee purchases the Vessel, to make payment of the sale price by making an equivalent reduction in the amount of the Secured Obligations;

(h) to manage, insure, maintain and repair the Vessel, and to employ, sail or lay up the Vessel in such manner and for such period as the Mortgagee, in its absolute discretion, deems expedient accounting only for net profits arising from any such employment;

(i) to order the Vessel to proceed forthwith at the Owner's risk and expense to a port or place nominated by the Mortgagee and if the Owner fails to give the necessary instructions to the master of the Vessel for any reason whatsoever, the Mortgagee shall have the right to give such instructions directly to the master;

(j) to administer, amend or terminate any existing charter, management, services or similar agreement or instrument relating to the Vessel and/or enter into any such agreement or instrument; and

(k) to recover from the Owner on demand all fees, costs and expenses incurred or paid by the Mortgagee in connection with the exercise of the powers (or any of them) referred to in this Section 7.1.

Section 7.2 The Owner covenants and agrees that in addition to any and all other rights, powers and remedies elsewhere in this Mortgage granted to and conferred upon the Mortgagee, the Mortgagee in any suit to enforce any of its rights, powers or remedies, if an Event of Default shall have occurred and is continuing, shall be entitled as a matter of right and not as a matter of discretion (a) to the appointment of a receiver or receivers of the Vessel and any receiver so appointed shall have full rights and powers to use and operate the Vessel or such other powers as the Court appointing such receiver may prescribe, including but not limited to the power to pay off the crew of the Vessel and repatriate the crew, if need be, and (b) to a decree ordering and directing the sale and disposal of the Vessel, and the Mortgagee may become the purchaser at any such sale and shall have the right to credit on the purchase price any and all sums of money due under the Collateral Agreement, or otherwise hereunder.

Section 7.3 The Mortgagee shall not be liable as mortgagee in possession in respect of all or any part of the Vessel to account or be liable for any loss upon realization or for any neglect or default of any nature whatsoever in connection therewith for which a mortgagee in possession may be liable as such.

Section 7.4 Upon any sale of the Vessel or any interest therein by the Mortgagee pursuant to Section 7.1(e), the purchaser shall not be bound to see or inquire whether the Mortgagee's power of sale has arisen in the manner provided in this Mortgage and such sale shall be deemed to be within the power of the Mortgagee and the receipt of the Mortgagee of the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of such sale or be in any way answerable therefor and such sale shall operate to divest the Owner of all rights, title and interest of any nature whatsoever in the Vessel and to bar any such interest of the Owner and all persons claiming through or under the Owner.

ARTICLE VIII.

APPLICATION OF MONEYS

Subject to the terms of the Credit Agreement and Section 4.02 of the Collateral Agreement, all sums received by the Mortgagee pursuant to this Mortgage, any of the Loan Documents or any Relevant Swap Agreement and all sums received in connection with the taking possession and/or sale of the Vessel or any chartering or other use of the Vessel by the Mortgagee (including, without limitation, the proceeds of any claims for damages or claims on any insurance received by the Mortgagee while in possession of or while chartering or using the Vessel) shall, unless otherwise agreed by the Mortgagee or otherwise expressly provided in the Loan Documents or any Relevant Swap Agreement, be applied by it in the following order:

FIRST, in or towards payment of all expenses and charges incurred by the Mortgagee in the protection and exercise of its rights, powers, discretions and remedies under or pursuant to this Mortgage (including, without limitation, any damages or losses incurred by reason of the Mortgagee's possession, chartering or use of the Vessel) and in or towards supplying indemnity in such amount and in such form as the Mortgagee shall consider appropriate against any encumbrances having priority over or equality with this Mortgage; then

SECOND, in or towards payment to the Administrative Agent or the Mortgagee of any other costs, charges and expenses incurred by it or them and recoverable from the Owner or any other Loan Party under or pursuant to the Credit Agreement, the Loan Documents or any Relevant Swap Agreement, together with interest at the rate or rates specified in the Credit Agreement, the Loan Documents or any Relevant Swap Agreement; then

THIRD, to the payment in full of all other Secured Obligations, the amounts so applied to be distributed as set forth in Section 4.02 of the Collateral Agreement; then

FOURTH, to the Owner (or any other Loan Party as provided in the applicable Loan Documents), its successors or assigns, or as a court of competent jurisdiction may otherwise direct.

The Mortgagee shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Mortgage.

In the event that the amounts received by the Mortgagee and referred to in this Article VIII are insufficient to pay in full the whole of the Secured Obligations, the Mortgagee shall be entitled to collect the shortfall from the Owner or any other person liable for the time being therefor.

ARTICLE IX.

REMEDIES CUMULATIVE AND OTHER PROVISIONS

Section 9.1 No failure or delay on the part of the Mortgagee to exercise any right, power or remedy vested in it under any of the Loan Documents or any Relevant Swap Agreement shall operate as a waiver thereof, nor shall any single or partial exercise by the Mortgagee of any right, power or remedy nor the discontinuance, abandonment or adverse determination of any proceedings taken by the Mortgagee to enforce any right, power or remedy preclude any other or further exercise thereof or proceedings to enforce the same or the exercise of any other right, power or remedy nor shall the giving by the Mortgagee of any consent to any act which by the terms of this Mortgage requires such consent prejudice the right of the Mortgagee to withhold or give consent to the doing of any other similar act. The remedies provided in the Loan Documents or any Relevant Swap Agreement are cumulative and are not exclusive of any remedies provided by law.

Section 9.2 The Mortgagee shall be entitled, at any time and as often as may be expedient, to delegate all or any of the powers and discretions vested in it by this Mortgage (including the power vested in it by virtue of Article X) or any of the other Loan Documents or any Relevant Swap Agreement in such manner, upon such terms, and to such persons as the Mortgagee in its absolute discretion may think fit.

Section 9.3 The Mortgagee shall be entitled to do all acts and things incidental or conducive to the exercise of any of the rights, powers or remedies possessed by it as mortgagee of the Vessel (whether at law, under this Mortgage or otherwise) and in particular (but without prejudice to the generality of the foregoing), upon becoming entitled to exercise any of its powers under Article X, the Mortgagee shall be entitled to discharge any cargo on board the Vessel (whether the same shall belong to the Owner or any other person) and to enter into such other arrangements in respect of the Vessel, her insurances, management, maintenance, repair, classification and employment in all respects as if the Mortgagee was the owner of the Vessel, but without being responsible in the absence of gross negligence or willful misconduct for any loss incurred as a result of the Mortgagee doing or omitting to do any such acts or things as aforesaid.

ARTICLE X.

ATTORNEY

Section 10.1 By way of security, the Owner hereby irrevocably appoints the Mortgagee (and all officers, employees or agents designated by the Mortgagee), to be its attorney generally for and in the name and on behalf of the Owner, and as the act and deed or otherwise of the Owner to (i) execute, seal and deliver and otherwise perfect and do all such deeds, assurances, agreements, instruments, acts and things which may be required for the full exercise of all or any of the rights, powers or remedies conferred by this Mortgage, the Credit Agreement, any of the other Loan Documents or any Relevant Swap Agreement, or which may be deemed proper in or in connection with all or any of the purposes aforesaid (including, without prejudice to the generality of the foregoing, the execution and delivery of a bill of sale of the Vessel), and (ii) make, settle and adjust claims in respect of the Vessel under policies of insurance, endorsing the name of the Owner on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance and for making all determinations and decisions with respect thereto. In the event that the Owner at any time or times shall fail to obtain or maintain any of the policies of insurances required hereby or under the Credit Agreement or to pay any premium in whole or part relating thereto, the Mortgagee may, without waiving or releasing any obligation or liability of the Owner hereunder or any Event of Default, in its sole discretion, obtain and maintain such policies of insurance and pay such premium and take any other actions with respect thereto as the Mortgagee reasonably deems advisable. All sums disbursed by the Mortgagee in connection with this Section 10.1, including reasonable documented attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, upon demand, by the Owner to the Mortgagee and shall be additional Secured Obligations secured hereby. The Owner ratifies and confirms, and agrees to ratify and confirm, any lawful deed, assurance, agreement, instrument, act or thing which the Mortgagee may execute or do pursuant hereto, *provided always* that such power shall not be exercisable by or on behalf of the Mortgagee until the occurrence of an Event of Default which is continuing.

Section 10.2 The exercise of such power by or on behalf of the Mortgagee shall not put any person dealing with the Mortgagee upon any inquiry as to whether any Event of Default has happened, nor shall such person be in any way affected by notice that no such Event of Default has happened, and the exercise by the Mortgagee of such power shall be conclusive evidence of the Mortgagee's right to exercise the same.

Section 10.3 The Owner hereby irrevocably appoints the Mortgagee to be its attorney in its name and on its behalf and as its act and deed or otherwise of it, to agree the form of and to execute and do all deeds, instruments, acts and things in order to file, record, register or enroll this Mortgage in any court, public office or elsewhere which the Mortgagee may in its discretion consider necessary or advisable, now or in the future, to ensure the legality, validity, enforceability or admissibility in evidence thereof and any other assurance, document, act or thing required to be executed by the Owner pursuant to Section 11.2.

Section 10.4 The provisions of Section 6.08 of the Collateral Agreement shall apply *mutatis mutandis*.

ARTICLE XI.

MISCELLANEOUS

Section 11.1 Costs and Indemnities. (a) Subject to the terms of the Credit Agreement, the Owner shall pay to the Mortgagee on demand all documented reasonable expenses (including legal fees, fees of insurance advisers, printing, out-of-pocket expenses, stamp duties, registration fees and other duties or charges) together with any value added tax or similar tax payable in respect thereof incurred by the Mortgagee in connection with (i) the exercise or enforcement of, or preservation of any rights under, this Mortgage, or otherwise in respect of the Secured Obligations and the security therefor or (ii) the preparation, completion, execution or registration of this Mortgage.

(b) Subject to the terms of the Credit Agreement, the Owner hereby agrees and undertakes to indemnify the Mortgagee against all losses, actions, claims, expenses (including, but not limited to, reasonable legal fees and expenses on a full indemnity basis), demands, obligations and liabilities whatever and whenever arising which may now or hereafter be incurred by the Mortgagee; or by any manager, agent, officer or employee for whose liability, act or omission it or he may be answerable, in respect of, in relation to, or in connection with anything done or omitted in the exercise or purported exercise of the powers contained in this Mortgage, or otherwise in connection therewith and herewith or with any part of the Vessel or otherwise howsoever in relation to, or in connection with, any of the matters dealt with in this Mortgage.

Section 11.2 Further Assurances. The Owner hereby further undertakes at its own expense from time to time to execute, sign, perfect, do and (if required) register or record every such further assurance, document, act or thing as in the opinion of the Mortgagee may be reasonably necessary or desirable for the purpose of more effectually mortgaging and charging the Vessel or perfecting the security constituted or intended to be constituted by this Mortgage.

Section 11.3 Notices. The provisions of Section 6.01 of the Collateral Agreement shall apply *mutatis mutandis* in respect of any certificate, notice, demand or other communication given or made under this Mortgage.

Section 11.4 Benefit of this Mortgage. This Mortgage shall be binding on the Owner and its permitted successors and assigns and shall inure to the benefit of the Mortgagee, and its permitted successors and assigns for the benefit of the Guaranteed Parties. The Owner expressly acknowledges and accepts the provisions of Section 9.09 of the Credit Agreement and agrees that any person in favor of whom an assignment or transfer is made in accordance with such section shall be entitled to the benefit of this Mortgage.

Section 11.5 Severability of Provisions. Each of the provisions in this Mortgage are severable and distinct from the others, and if at any time one or more such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Mortgage shall not in any way be affected or impaired thereby.

Section 11.6 GOVERNING LAW. THE PROVISIONS OF THIS MORTGAGE SHALL, WITH RESPECT TO ITS VALIDITY, EFFECT, RECORDATION AND ENFORCEMENT, BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE APPLICABLE LAWS OF THE REPUBLIC OF THE MARSHALL ISLANDS.

Section 11.7 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Mortgage and are not to affect the construction of, or to be taken into consideration in interpreting, this Mortgage.

Section 11.8 Recording: Clause. For the purpose of recording this Mortgage as required by Chapter 3 of the Maritime Act, the total amount of the direct and contingent obligations secured by this Mortgage is \$[●] (of which (a) U.S.\$[●] is attributable to the Facilities and (b) U.S.\$[●] is attributable to the Swap Exposure) together with interest, fees, commissions and performance of mortgage covenants. [The date of maturity of this Mortgage is [●] and there is no separate discharge amount.]

IN WITNESS whereof this Mortgage has been executed by the duly authorized Attorney-in-Fact of the Owner on the date stated at the beginning of this Mortgage.

[_____] ,
as Owner

By: _____
Name:
Title:

ACKNOWLEDGMENT OF MORTGAGE

STATE OF [●])
) S.S.

COUNTY OF [●])

On this [●] day of [●] before me personally appeared [●] me known who being by me duly sworn did depose and say that he resides at [●] he is an Attorney-in-Fact for [●] described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

**[FORM OF]
FIRST LIEN EARNINGS ASSIGNMENT**

THIS ASSIGNMENT made as of [____], 2014 (this "Assignment"), by [____] a [____] [company][limited liability corporation] having an address at [____] (the "Assignor"), to JPMORGAN CHASE BANK, N.A., with its office at [____] (together with each of its successors and assigns, the "Assignee"), as Collateral Agent for the Secured Parties, including but not limited to (i) the financial institutions party to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, restated, supplemented, waived or otherwise modified from time to time, the "Credit Agreement") among NCL Corporation Ltd., the Assignee and others, (ii) any hedging counterparties to the extent that they are Secured Parties as defined in the Credit Agreement, and (iii) the other Secured Parties. Capitalized terms used in this Assignment and not otherwise defined herein have the respective meanings assigned thereto in the Credit Agreement.

1. THE ASSIGNOR, in consideration of One Dollar (\$1.00) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DOES HEREBY ASSIGN, transfer and set over unto the Assignee for itself and for the benefit of the Secured Parties, and, as collateral security for the Obligations now or hereafter existing, does hereby grant to the Assignee for the benefit of the Secured Parties a security interest in all right, title and interest of the Assignor in and to all monies or claims for monies due and to become due to the Assignor (the "Earnings"), and all liens therefor, under or arising out of, any present or future passenger ticket, bill of lading, bareboat, time or voyage charter party, contract of affreightment, towing or salvage contract or service, or other contract or arrangement whatsoever, whether expressed or implied, made or issued for or in connection with the service, use, management or operation of the passenger vessel [____], documented under the laws of [____] with Official Number [____] and IMO Number [____] (the "Vessel"), for the carriage of goods, mail, or passengers or the performance of towing or salvage services, or for any other purpose whatsoever (such contracts or arrangement being hereinafter collectively called the "Contracts"), or any amendment thereof or addition thereto, for or as carriage, passage, charter hire, fees, freight, demurrage, requisition or otherwise thereunder, or as compensation for the modification, termination or breach thereof, or for or as contributions in general average arising out of any such carriage or under any such Contracts or pursuant to any bond or other security for general average, and all claims for damages in respect of the actual, constructive or compromised total loss or requisition or other compulsory acquisition or other loss of use of the Vessel, and all proceeds of any of the foregoing.

2. The Assignor warrants and covenants that (a) it has not heretofore assigned, hypothecated or pledged, nor will it hereafter assign, hypothecate or pledge, any of the right, title or interest assigned hereby, whether now due or hereafter becoming due, to any person, firm or corporation other than to the Assignor for the benefit of the Secured Parties, and (b) it will not take or omit to take any action, the taking or omission of which might result in the impairment of any right, title or interest assigned hereby.

3. The Assignor hereby authorizes and directs each person, firm or corporation liable therefor, upon the occurrence and during the continuation of an Event of Default (as defined in the Collateral Agreement), to pay the Assignee, for the benefit of the Secured Parties, upon notice by the Assignee of this Assignment, all monies as and when due the Assignor pursuant to or arising out of any of the Contracts, and to draw to the order of the Assignee or as it may direct any and all checks and other instruments for the payment of the monies and claims assigned hereby, and to accept the receipts of the Assignee therefor.

4. It is expressly agreed that, anything herein contained to the contrary notwithstanding, the Assignor shall remain liable under the Contracts to perform all the obligations assumed by it thereunder, and neither the Assignee nor the Secured Parties shall have any obligations or liabilities under the Contracts, by reason of or arising out of this Assignment, nor shall the Assignee or the Secured Parties be required or obligated in any manner to perform any obligations of the Assignor under or pursuant to the Contracts.

5. The Assignor hereby irrevocably appoints (which appointment is coupled with an interest) the Assignee, its successors and assigns, as the Assignor's true and lawful attorney-in-fact, with full power, in the name of the Assignor, or otherwise, upon the occurrence and during the continuation of an Event of Default (as defined in the Collateral Agreement), to demand, receive and collect, and to give acquittance for the payment of any and all monies or claims for monies or rights which are assigned hereby; to file any claims and to commence, maintain or discontinue any actions, suits or other proceedings which the Assignee deems reasonably advisable in order to collect or enforce payment of any such monies, to settle, adjust and compromise any and all disputes or claims in respect of such monies, and to endorse any and all checks, drafts or other orders or instruments for the payment of monies payable to the Assignor which shall be issued in respect of such monies, but the Assignee is not obligated in any manner to make any inquiry as to the nature or sufficiency of any payment received by it or to take any of the actions hereinabove authorized.

6. The Assignor agrees that it will promptly execute and deliver such further documents and do such other acts and things as the Assignee may from time to time reasonably request in order further to effect the purpose of this Assignment.

7. The Assignor hereby irrevocably authorizes the Assignee, at the Assignor's expense, to file such financing statements or give such notices relating to this Assignment, without the Assignor's signature, as the Assignee at its option may deem appropriate, and irrevocably appoints (which appointment is coupled with an interest) the Assignee, its successors and assigns, as the Assignor's attorney-in-fact with full power to execute any such financing statements or notices in the Assignor's name and to perform all other acts which the Assignee deems reasonably necessary or appropriate to perfect and continue the security interest conferred hereby.

8. The Assignor covenants and agrees with the Assignee that the Assignor will (a) duly perform and observe all of the terms and provisions of the Contracts on the part of the Assignor to be performed or observed; (b) clearly record on the books and records of the Assignor notations of this Assignment; and (c) in the event that the Assignor shall receive payment of any monies hereby assigned, after an Event of Default (as defined in the Collateral Agreement) shall have occurred and be continuing, forthwith turn over the same to the Assignee in the identical form in which received (except for such endorsements as may be required thereon) and, until so turned over, hold the same in trust for the Assignee.

9. The powers and authority granted to the Assignee herein have been given for a valuable consideration and are hereby declared to be irrevocable and coupled with an interest.

10. This Assignment shall be binding upon the Assignor and upon the Assignor's successors and assigns and shall inure to the benefit of the Assignee, its successors and assigns.

11. All notices or other communications required or permitted to be made or given hereunder shall be made by postage prepaid letter, or by electronic means, as follows:

If to the Assignee: JPMorgan Chase Bank, N.A.

With Copy to: JPMorgan Chase Bank, N.A.

If to the Assignor: 7665 Corporate Center Drive
Miami, Florida 33126
United States of America
Attn: Wendy Beck
Tel. No.: (305) 436-4098
Fax No.: (305) 436-4140
Email: wbeck@ncl.com

and

Attn: Daniel Farkas
Tel. No.: (305) 436-4690
Fax No.: (305) 436-4117
Email: dfarkas@ncl.com

With copies to:

Apollo Management, L.P.
9 West 57th Street
New York, NY 10019
Attn: Steve Martinez
Tel. No.: (212) 515-3200
Fax No.: (212) 515-3288

and

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York
NY 10019-6064
Attn: Brad Finkelstein
Tel No: (212) 373-3074
Fax No: (212) 492-0074
Email: bfinkelstein@paulweiss.com

12. This Assignment shall be governed and controlled by the internal laws of the State of New York (but without reference to any provision thereof which might permit or require the application of the law of another jurisdiction).

13. Notwithstanding anything herein to the contrary, on and after the Intercreditor Effective Date (as defined in the Collateral Agreement) (i) the liens and security interests granted to the Assignee pursuant to this Assignment are expressly subject to the First Lien Intercreditor Agreement and (ii) the exercise of any right or remedy by the Assignee hereunder is subject to the limitations and provisions of the First Lien Intercreditor Agreement. In the event of any conflict between the terms of the First Lien Intercreditor Agreement and the terms of this Assignment, the terms of the First Lien Intercreditor Agreement shall govern. Nothing herein is intended, or shall be construed, to give any Loan Party any additional right, remedy or claim under, to or in respect of this Assignment.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed by each of the undersigned directors on the date first above written.

[_____]

By:

Name:

Title:

FIRST LIEN INSURANCE ASSIGNMENT

THIS ASSIGNMENT made as of [____], 2014 (this "Assignment"), by [____], a [____] company having an address at [____] (the "Assignor"), to JPMORGAN CHASE BANK, N.A., with its office at [____] (together with each of its successors and assigns, the "Assignee"), as Collateral Agent for the Secured Parties, including but not limited to (i) the financial institutions party to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, restated, supplemented, waived or otherwise modified from time to time, the "Credit Agreement") among NCL Corporation Ltd., the Assignee and others, (ii) any hedging counterparties to the extent that they are Secured Parties as defined in the Credit Agreement, and (iii) the other Secured Parties. Capitalized terms used in this Assignment and not otherwise defined herein have the respective meanings assigned thereto in the Credit Agreement.

1. THE ASSIGNOR, in consideration of One Dollar (\$1.00) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DOES HEREBY ASSIGN, transfer and set over unto the Assignee for itself and for the benefit of the Secured Parties, and, as collateral security for the Obligations now or hereafter existing, does hereby grant to the Assignee for the benefit of the Secured Parties a security interest in all right, title and interest of the Assignor in and to all proceeds of insurance and all monies or claims for monies due and to become due to the Assignor, and all other rights of the Assignor, under or arising out of any present or future insurance, including loss of earnings insurance and return of premiums (the "Insurance"), on or for the benefit of or relating to the passenger vessel [____] documented under the laws of [____] with Official Number [____] and IMO Number [____] (the "Vessel"), which insurance shall be in accordance with the provisions of the Credit Agreement, any Senior Secured Notes Indenture, and the Vessel Mortgage for the Vessel.

2. Payment of the proceeds of the Insurance on the Vessel shall be made as provided in the loss payable clauses in the forms set out in Appendix A and Appendix B of Schedule 1 hereto, or in such other forms as may from time to time be agreed in writing by the Assignee.

3. The Assignor warrants and covenants that (a) it has not heretofore assigned, hypothecated or pledged, nor will it hereafter assign, hypothecate or pledge, any of the right, title or interest assigned hereby, whether now due or hereafter becoming due, to any person, firm or corporation other than to the Assignee for the benefit of the Secured Parties, and (b) it will not take or omit to take any action, the taking or omission of which might result in the impairment of any right, title or interest assigned hereby.

4. The Assignor hereby authorizes and directs each person, firm or corporation liable therefor, upon the occurrence and during the continuation of an Event of Default (as defined in the Collateral Agreement), to pay the Assignee, for the benefit of the Secured Parties, all monies as and when due the Assignor pursuant to or arising out of any of the Insurance, and to draw to the order of the Assignee any and all checks and other instruments for the payment of the monies and claims assigned hereby, and to accept the receipts of the Assignee therefor.

5. It is expressly agreed that, anything herein contained to the contrary notwithstanding, the Assignor shall remain liable under the Insurance to perform all the obligations assumed by it thereunder, and neither the Assignee nor the Secured Parties shall have any obligations or liabilities under the Insurance, by reason of or arising out of this Assignment, nor shall the Assignee or the Secured Parties be required or obligated in any manner to perform any obligations of the Assignor under or pursuant to the Insurance.

6. In the event that the Assignor at any time or times shall fail to obtain or maintain any of the policies of insurance required under the Credit Agreement, any Senior Secured Notes Indenture or Deed of Covenants related to the Vessel or to pay any premium in whole or part relating thereto, the Assignee may, without waiving or releasing any obligation or liability of the Assignor hereunder or any Event of Default (as defined in the Collateral Agreement), in its sole discretion, obtain and maintain such policies of insurance in the name of the Assignor and pay such premium and take any other actions with respect thereto as the Assignee reasonably deems advisable.

7. The Assignor hereby irrevocably appoints (which appointment is coupled with an interest) the Assignee, its successors and assigns, as the Assignor's true and lawful attorney-in-fact, with full power, in the name of the Assignor, or otherwise, upon the occurrence and during the continuation of an Event of Default (as defined in the Collateral Agreement), to demand, receive and collect, and to give acquittance for the payment of any and all monies or claims for monies which are assigned hereby; to file any claims and to commence, maintain or discontinue any actions, suits or other proceedings which the Assignee deems reasonably advisable in order to collect or enforce payment of any such monies; to settle, adjust and compromise any and all disputes or claims in respect of such monies, and to endorse any and all checks, drafts or other orders or instruments for the payment of monies payable to the Assignor which shall be issued in respect of such monies, but the Assignee is not obligated in any manner to make any inquiry as to the nature or sufficiency of any payment received by it or to take any of the actions hereinabove authorized.

8. The Assignor agrees that it will promptly execute and deliver such further documents and do such other acts and things as the Assignee may from time to time reasonably request in order further to effect the purpose of this Assignment, including giving such notices (in such form as the Assignee shall reasonably require, including the Notice of Assignment of Insurances attached hereto as Schedule 1) and obtaining such consents as required by the Vessel Mortgage and Section 10 hereof.

9. The Assignor hereby irrevocably authorizes the Assignee, at the Assignor's expense, to file such financing statements and give such notices relating to this Assignment, without the Assignor's signature, as the Assignee at its option may deem appropriate, and irrevocably appoints (which appointment is coupled with an interest) the Assignee, its successors and assigns, as the Assignor's attorney-in-fact with full power to execute any such financing statements or notices in the Assignor's name and to perform all other acts which the Assignee deems reasonably necessary or appropriate to perfect and continue the security interest conferred hereby.

10. The Assignor covenants and agrees with the Assignee that the Assignor will (a) duly perform and observe all of the terms and provisions of the Insurance on the part of the Assignor to be performed or observed; (b) clearly record on the books and records of the Assignor notations of this Assignment; and (c) in the event that the Assignor shall receive payment of any monies hereby assigned, after an Event of Default (as defined in the Collateral Agreement) shall have occurred and be continuing, forthwith turn over the same to the Assignee in the identical form in which received (except for such endorsements as may be required thereon) and, until so turned over, hold the same in trust for the Assignee.

11. The Assignor hereby covenants and agrees that it will forthwith give notice of this Assignment to all underwriters or shall instruct its brokers to give such notice, and that where the consent of any underwriter is required pursuant to any of the Insurance assigned hereby that it shall be obtained and evidence thereof shall be provided to the Assignee or, in the case of protection and indemnity coverage, that the Assignor shall use commercially reasonable efforts to procure that the Assignee be provided with a letter of undertaking by the underwriters; and that there shall be duly endorsed upon all slips, cover notes, policies, certificates of entry or other instruments issued or to be issued in connection with the insurances assigned hereby such loss payable, notice of cancellation, and other clauses as may be required by Section 2 hereof.

12. The powers and authority granted to the Assignee herein have been given for a valuable consideration and are hereby declared to be irrevocable and coupled with an interest.

13. This Assignment shall be binding upon the Assignor and upon the Assignor's successors and assigns and shall inure to the benefit of the Assignee, its successors and assigns.

14. All notices or other communications required or permitted to be made or given hereunder shall be made by postage prepaid letter, or by electronic means, as follows:

If to the Assignee: JPMorgan Chase Bank, N.A.

With Copy to: JPMorgan Chase Bank, N.A.

If to the Assignor:

7665 Corporate Center Drive
Miami, Florida 33126
United States of America
Attn: Wendy Beck
Tel. No.: (305) 436-4098
Fax No.: (305) 436-4140
Email: wbeck@ncl.com

and

Attn: Daniel Farkas
Tel. No.: (305) 436-4690
Fax No.: (305) 436-4117
Email: dfarkas@ncl.com

With copies to:

Apollo Management, L.P.
9 West 57th Street
New York, NY 10019
Attn: Steve Martinez
Tel. No.: (212) 515-3200
Fax No.: (212) 515-3288

and

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York
NY 10019-6064
Attn: Brad Finkelstein
Tel No: (212) 373-3074
Fax No: (212) 492-0074
Email: bfinkelstein@paulweiss.com

15. This Assignment shall be governed and controlled by the internal laws of the State of New York (but without reference to any provision thereof which might permit or require the application of the law of another jurisdiction) as to interpretation, enforcement, validity, construction, effect, and in all other respects, including, without limitation, the legality of any interest rate and other charges, but excluding perfection of the security interests in the rights, title and interest assigned hereby, which shall be governed and controlled by the laws of the relevant jurisdiction.

16. Notwithstanding anything herein to the contrary, on and after the Intercreditor Effective Date (as defined in the Collateral Agreement) (i) the liens and security interests granted to the Assignee pursuant to this Assignment are expressly subject to the First Lien Intercreditor Agreement and (ii) the exercise of any right or remedy by the Assignee hereunder is subject to the limitations and provisions of the First Lien Intercreditor Agreement. In the event of any conflict between the terms of the First Lien Intercreditor Agreement and the terms of this Assignment, the terms of the First Lien Intercreditor Agreement shall govern. Nothing herein is intended, or shall be construed, to give any Loan Party any additional right, remedy or claim under, to or in respect of this Assignment.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed by each of the undersigned directors on the date first above written.

[_____]

By:

Name:

Title:

Signature Page to Insurance Assignment [_____]

SCHEDULE 1

NOTICE OF ASSIGNMENT OF INSURANCES

[] (the "Owner"), the owner of the passenger vessel [], registered under the laws of [] with Official Number [] and IMO Number [] (the "Vessel"), HEREBY GIVES NOTICE that by an Assignment in writing dated as of [], 2014, made by the Owner to JPMORGAN CHASE BANK, N.A., as administrative agent and collateral agent (the "First Mortgagee") under an amended and restated credit agreement dated as of October 31, 2014 (the "Credit Agreement"), the Owner assigned to the First Mortgagee all its right, title and interest in all insurances in respect of the Vessel including the insurances constituted by the policy whereon this Notice is endorsed.

Dated as of [], 2014

[]

By:

Name:

Title:

Signature Page to Insurance Assignment []

APPENDIX A

LOSS PAYABLE CLAUSE

HULL AND MACHINERY, HULL INTEREST AND WAR (FIRST MORTGAGE)

BY ASSIGNMENTS IN WRITING dated as of [_____], NCL CORPORATION LTD. (the "Parent") and the respective owners of the vessels described below assigned absolutely to JPMORGAN CHASE BANK, N.A. (together with its successors and assigns, the "First Mortgagee") acting through its office, [____], as collateral agent and administrative agent under an amended and restated credit agreement dated as of October 31, 2014 (the "Credit Agreement"), first mortgagee of: the passenger vessel NORWEGIAN DAWN, registered under the laws of the Commonwealth of The Bahamas with Official Number 9000046 and IMO Number 9195169; the passenger vessel NORWEGIAN GEM, registered under the laws of the Commonwealth of The Bahamas with Official Number 8001151 and IMO Number 9355733; the passenger vessel NORWEGIAN PEARL, registered under the laws of the Commonwealth of The Bahamas with Official Number 8001150 and IMO Number 9342281; the passenger vessel NORWEGIAN SPIRIT, registered under the laws of the Commonwealth of The Bahamas with Official Number 8000814 and IMO Number 9141065; the passenger vessel NORWEGIAN STAR, registered under the laws of the Commonwealth of The Bahamas with Official Number 8000359 and IMO Number 9195157; and the passenger vessel NORWEGIAN SUN, registered under the laws of the Commonwealth of The Bahamas with Official Number 8000245 and IMO Number 9218131 [the passenger vessel MARINER, registered under the laws of the Commonwealth of The Bahamas with Official Number 8001280 and IMO Number 9210139; the passenger vessel NAVIGATOR, registered under the laws of the Commonwealth of The Bahamas with Official Number 9000380 and IMO Number 9064126; the passenger vessel VOYAGER, registered under the laws of the Commonwealth of The Bahamas with Official Number 8000610 and IMO Number 9247144; the passenger vessel INSIGNIA, registered under the laws of the Republic of the Marshall Islands with Official Number 1663 and IMO Number 9156462; the passenger vessel NAUTICA, registered under the laws of the Republic of the Marshall Islands with Official Number 1665 and IMO Number 9200938; and the passenger vessel REGATTA, registered under the laws of the Republic of the Marshall Islands with Official Number 1664 and IMO Number 9156474] (each, a "Vessel") this policy and all benefits thereof including all claims of whatsoever nature hereunder.

Claims hereunder for an actual total loss, arranged, agreed or compromised or constructive total loss shall be payable to the First Mortgagee for distribution first to itself and thereafter to others as their respective interests may appear.

Subject thereto, all other claims shall be payable as provided in subsections (a) and (b) below; PROVIDED HOWEVER that upon notice from the First Mortgagee to the underwriters of a default under the Credit Agreement, all claims under this policy of insurance shall be payable to the First Mortgagee for distribution first to itself and thereafter to others as their respective interests may appear.

(a) A claim in respect of any one casualty or occurrence where the aggregate claim against all insurers does not exceed [*] UNITED STATES DOLLARS (US\$[*]) or the equivalent in any other currency, prior to adjustment for any franchise or deductible under the terms of the policy, shall be paid directly to the Parent for the repair, salvage or other charges involved or as reimbursement if the Parent has fully repaired all damage sustained to the applicable Vessel and paid all the salvage or other charges.

(b) A claim in respect of any one casualty or occurrence where the aggregate claim against all insurers exceeds [*] UNITED STATES DOLLARS (US\$[*]) or the equivalent in any other currency prior to adjustment for any franchise or deductible under the terms of the policy, shall, subject to the prior written consent of the First Mortgagee, be paid to the Parent as and when the applicable Vessel is restored to her former state and condition and the liability in respect of which the insurance loss is payable is discharged, and provided that the insurers may with such consent as aforesaid make payment on account of repairs in the course of being effected, but, in the absence of such prior written consent shall be payable directly to the First Mortgagee for distribution first to itself and thereafter to others as their respective interests may appear.

APPENDIX B

LOSS PAYABLE CLAUSE

PROTECTION AND INDEMNITY

| <u>Vessel</u> | <u>IMO No.</u> | <u>Owner</u> |
|------------------|----------------|----------------------------------|
| NORWEGIAN DAWN | 9195169 | Norwegian Dawn Limited |
| NORWEGIAN GEM | 9355733 | Norwegian Gem, Ltd. |
| NORWEGIAN PEARL | 9342281 | Norwegian Pearl, Ltd. |
| NORWEGIAN SPIRIT | 9141065 | Norwegian Spirit, Ltd. |
| NORWEGIAN STAR | 9195157 | Norwegian Star Limited |
| NORWEGIAN SUN | 9218131 | Norwegian Sun Limited |
| [INSIGNIA | 9156462 | Insignia Vessel Acquisition, LLC |
| NAUTICA | 9200938 | Nautica Acquisition, LLC |
| REGATTA | 9156474 | Regatta Acquisition, LLC |
| MARINER | 9210139 | Mariner, LLC |
| NAVIGATOR | 9000380 | Navigator Vessel Company, LLC |
| VOYAGER | 9247144 | Voyager Vessel Company, LLC] |

Payment of any recovery to which NCL Corporation Ltd. (the "Parent") and the Joint Members under Rule 9i listed in the Certificate of Entry and Acceptance are entitled to receive out of the funds of the Association in respect of any liability, costs or expenses incurred by it shall be made to the Parent or to its order unless and until the Association receives notice from JPMORGAN CHASE BANK, N.A., acting through its office at [], as collateral agent for itself and others (together with its successors and assigns, the "Collateral Agent"), that the Parent is in default under an amended and restated credit agreement dated as of October 31, 2014 (the "Credit Agreement") or is otherwise obligated to deliver such recovery to the Collateral Agent, in which event all recoveries shall thereafter be paid to the Collateral Agent or its order, provided always that no liability whatsoever shall attach to the Association, its managers or their agents for failure to comply with the latter obligation until after the expiry of two clear business days from the receipt of such notice. The Association shall, unless it receives from the Collateral Agent notice to the contrary, be at liberty at the request of the Parent to provide bail or other security to prevent the arrest or obtain the release of the applicable Vessel, without liability to the Collateral Agent.

[Reserved]

[FORM OF]
FIRST LIEN INTERCREDITOR AGREEMENT

FIRST LIEN INTERCREDITOR AGREEMENT

Among

JPMORGAN CHASE BANK, N.A.

as the Authorized Representative under the Credit Agreement,

[]

as the Initial Additional Authorized Representative, and

each additional Authorized Representative from time to time party hereto

Dated as of []

FIRST LIEN INTERCREDITOR AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, this "Agreement") dated as of [____], among JPMORGAN CHASE BANK, N.A., as the Authorized Representative for the Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the "Collateral Agent"), [____], as the Authorized Representative for the Initial Additional Secured Parties (in such capacity and together with its successors in such capacity, the "Initial Additional Authorized Representative"), and each additional Authorized Representative from time to time party hereto for the Additional Secured Parties of the Series with respect to which it is acting in such capacity.

In consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Collateral Agent (for itself and on behalf of the Credit Agreement Secured Parties), the Initial Additional Authorized Representative (for itself and on behalf of the Initial Additional Secured Parties) and each additional Authorized Representative (for itself and on behalf of the Additional Secured Parties of the applicable Series) agree as follows:

ARTICLE I

Definitions

SECTION 1.01 Construction; Certain Defined Terms. (a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument, other document, statute or regulation herein shall be construed as referring to such agreement, instrument, other document, statute or regulation as from time to time amended, amended and restated, supplemented or otherwise modified, (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, but shall not be deemed to include the subsidiaries of such Person unless express reference is made to such subsidiaries, (iii) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Articles, Sections and Annexes shall be construed to refer to Articles, Sections and Annexes of this Agreement, (v) unless otherwise expressly qualified herein, the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (vi) the term "or" is not exclusive.

(b) It is the intention of the Secured Parties of each Series that the holders of Obligations of such Series (and not the Secured Parties of any other Series) bear the risk of (i) any determination by a court of competent jurisdiction that (x) any of the Obligations of such Series are unenforceable under applicable law or are subordinated to any other obligations (other than another Series of Obligations), (y) any of the Obligations of such Series do not have an enforceable security interest in any of the Collateral securing any other Series of Obligations and/or (z) any intervening security interest exists securing any other obligations (other than another Series of Obligations) on a basis ranking prior to the security interest of such Series of Obligations but junior to the security interest of any other Series of Obligations and (ii) the existence of any Collateral for any other Series of Obligations that is not Shared Collateral (any such condition referred to in the foregoing clauses (i) or (ii) with respect to any Series of Obligations, an "Impairment" of such Series); provided that the existence of a maximum claim with respect to any real property subject to a mortgage which applies to all Obligations shall not be deemed to be an Impairment of any Series of Obligations. In the event of any Impairment with respect to any Series of Obligations, the results of such Impairment shall be borne solely by the holders of such Series of Obligations, and the rights of the holders of such Series of Obligations (including the right to receive distributions in respect of such Series of Obligations pursuant to Section 2.01) set forth herein shall be modified to the extent necessary so that the effects of such Impairment are borne solely by the holders of the Series of such Obligations subject to such Impairment. Additionally, in the event the Obligations of any Series are modified pursuant to applicable law (including pursuant to Section 1129 of the Bankruptcy Code), any reference to such Obligations or the Secured Credit Documents governing such Obligations shall refer to such Obligations or such documents as so modified.

(c) Capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Credit Agreement. As used in this Agreement, the following terms have the meanings specified below:

"Additional Authorized Representative" means the Authorized Representative of any Series of Additional Obligations acting on behalf of the holders of such Series of Additional Obligations and shall include the Initial Additional Authorized Representative.

"Additional Agreement" shall have the meaning given the term "Senior Secured Note Indenture" in the Guarantee and Collateral Agreement and shall include the Initial Additional Agreement.

"Additional Secured Parties" means the holders of any Additional Obligations and any Additional Authorized Representative and shall include the Initial Additional Secured Parties and the Initial Additional Authorized Representative.

"Additional Obligations" shall have the meaning given the term "Senior Secured Note Obligations" in the Guarantee and Collateral Agreement and shall include the Initial Additional Obligations.

"Agreement" has the meaning assigned to such term in the introductory paragraph of this Agreement.

"Applicable Authorized Representative" means, with respect to any Shared Collateral, (i) until the earlier of (x) the Discharge of Credit Agreement Obligations and (y) the Non-Controlling Authorized Representative Enforcement Date, the Collateral Agent and (ii) from and after the earlier of (x) the Discharge of Credit Agreement Obligations and (y) the Non-Controlling Authorized Representative Enforcement Date, the Major Non-Controlling Authorized Representative; provided, in each case, that if there shall occur one or more Non-Controlling Authorized Representative Enforcement Dates, the Applicable Authorized Representative shall be the Authorized Representative that is the Major Non-Controlling Authorized Representative in respect of the most recent Non-Controlling Authorized Representative Enforcement Date.

“Authorized Representative” means (i) in the case of any Credit Agreement Obligations or the Credit Agreement Secured Parties, the Collateral Agent, (ii) in the case of the Initial Additional Obligations or the Initial Additional Secured Parties, the Initial Additional Authorized Representative, and (iii) in the case of any Series of Additional Obligations or Additional Secured Parties that become subject to this Agreement after the date hereof, the Authorized Representative named for such Series in the applicable Joinder Agreement.

“Bankruptcy Case” has the meaning assigned to such term in Section 2.05(b).

“Bankruptcy Code” means Title 11 of the United States Code, as amended.

“Bankruptcy Law” means the Bankruptcy Code and any similar Federal, state or foreign law for the relief of debtors.

“Collateral” means all assets and properties subject to Liens created pursuant to any Security Document to secure one or more Series of the Obligations.

“Collateral Agent” has the meaning assigned to such term in the introductory paragraph of this Agreement.

“Controlling Secured Parties” means, with respect to any Shared Collateral, (i) at any time when the Collateral Agent is the Applicable Authorized Representative, the Credit Agreement Secured Parties and (ii) at any other time, the Series of Secured Parties whose Authorized Representative is the Applicable Authorized Representative for such Shared Collateral.

“Credit Agreement” means the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, amended and restated, replaced, refinanced, supplemented or otherwise modified from time to time) among NCL Corporation Ltd., a Bermuda Company, the lenders party thereto from time to time and JPMorgan Chase Bank, N.A., as administrative agent for the Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the “Administrative Agent”).

“Credit Agreement Obligations” means (a) the Loan Document Obligations, (b) the due and punctual payment and performance of all obligations of each Loan Party under each Swap Agreement that (i) was in effect on the Closing Date with a counterparty that is a Lender, an Agent, an Arranger or an Affiliate of a Lender, an Agent or an Arranger as of the Closing Date or (ii) is entered into after the Closing Date with any counterparty that is a Lender, an Agent, an Arranger or an Affiliate of a Lender, an Agent or an Arranger at the time such Swap Agreement is entered into; provided that such Lender is not a Defaulting Lender at the time such Swap Agreement is entered into, and (c) the due and punctual payment and performance of all obligations of the Borrower and any of its Subsidiaries in respect of overdrafts and related liabilities owed to a Lender, an Agent, an Arranger or any of its Affiliates (or any other person designated by the Borrower as a provider of cash management services and entitled to the benefit of this Agreement) and arising from cash management services (including treasury, depository, overdraft, credit or debit card, electronic funds transfer, ACH services and other cash management arrangements).

“Credit Agreement Secured Parties” has the meaning assigned to such term in the Guarantee and Collateral Agreement.

“DIP Financing” has the meaning assigned to such term in Section 2.05(b).

“DIP Financing Liens” has the meaning assigned to such term in Section 2.05(b).

“DIP Lenders” has the meaning assigned to such term in Section 2.05(b).

“Discharge” means, with respect to any Shared Collateral and any Series of Obligations, the date on which such Series of Obligations is no longer secured by such Shared Collateral. The term “Discharged” has a corresponding meaning.

“Discharge of Credit Agreement Obligations” means, with respect to any Shared Collateral, the Discharge of the Credit Agreement Obligations with respect to such Shared Collateral; provided that the Discharge of Credit Agreement Obligations shall not be deemed to have occurred in connection with a Refinancing of such Credit Agreement Obligations with additional Obligations secured by such Shared Collateral under an additional agreement which has been designated in writing by the Administrative Agent (under the Credit Agreement so Refinanced) to the Applicable Authorized Representative and each other Authorized Representative as the “Credit Agreement” for purposes of this Agreement.

“Event of Default” has the meaning set forth in the Guarantee and Collateral Agreement.

“Guarantee and Collateral Agreement” means the Guarantee and Collateral Agreement dated as of May 24, 2013, by and among the Pledgors party thereto from time to time, the Collateral Agent (as successor in interest to Deutsche Bank Trust Company Americas) and any Additional Authorized Representatives from time to time party thereto.

“Impairment” has the meaning assigned to such term in Section 1.01(b).

“Initial Additional Agreement” means that certain Senior Secured Note Indenture dated as of [_____], among the Borrower [_____].

“Initial Additional Authorized Representative” shall have the meaning assigned to such term in the introductory paragraph to this Agreement.

“Initial Additional Obligations” means the Additional Obligations pursuant to the Initial Additional Agreement.

“Initial Additional Secured Parties” means the holders of any Initial Additional Obligations and the Initial Additional Authorized Representative.

“Insolvency or Liquidation Proceeding” means:

- (1) any case commenced by or against a Borrower or any Pledgor under any Bankruptcy Law, any other proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of a Borrower or any Pledgor, any receivership or assignment for the benefit of creditors relating to a Borrower or any Pledgor or any similar case or proceeding relative to a Borrower or any Pledgor or its creditors, as such, in each case whether or not voluntary;
- (2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to a Borrower or any Pledgor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or
- (3) any other proceeding of any type or nature in which substantially all claims of creditors of a Borrower or any Pledgor are determined and any payment or distribution is or may be made on account of such claims.

“Intervening Creditor” has the meaning assigned to such term in Section 2.01(a).

“Joinder Agreement” means the documents required to be delivered by an Authorized Representative to the Applicable Authorized Representative and each other Authorized Representative pursuant to Section 6.20 of the Guarantee and Collateral Agreement in order to create an additional Series of Additional Obligations and add Additional Secured Parties hereunder.

“Lien” shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, charge, assignment, security interest or encumbrance of any kind in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset.

“Loan Document Obligations” has the meaning assigned to such term in the Guarantee and Collateral Agreement.

“Major Non-Controlling Authorized Representative” means, with respect to any Shared Collateral, the Authorized Representative of the Series of Additional Obligations that constitutes the largest outstanding principal amount of any then outstanding Series of Obligations with respect to such Shared Collateral; provided, however, that if there are two outstanding Series of Additional Obligations which have an equal outstanding principal amount, the Series of Additional Obligations with the earlier maturity date shall be considered to have the larger outstanding principal amount for purposes of this definition.

“New York UCC” means the Uniform Commercial Code as from time to time in effect in the State of New York.

“Non-Controlling Authorized Representative” means, at any time with respect to any Shared Collateral, any Authorized Representative that is not the Applicable Authorized Representative at such time with respect to such Shared Collateral.

“Non-Controlling Authorized Representative Enforcement Date” means, with respect to any Non-Controlling Authorized Representative, the date which is 90 days (throughout which 90 day period such Non-Controlling Authorized Representative was the Major Non-Controlling Authorized Representative) after the occurrence of both (i) an Event of Default (under and as defined in the Additional Agreement under which such Non-Controlling Authorized Representative is the Authorized Representative) and (ii) the Applicable Authorized Representative’s and each other Authorized Representative’s receipt of written notice from such Non-Controlling Authorized Representative certifying that (x) such Non-Controlling Authorized Representative is the Major Non-Controlling Authorized Representative and that an Event of Default (under and as defined in the Additional Agreement under which such Non-Controlling Authorized Representative is the Authorized Representative) has occurred and is continuing and (y) the Obligations of the Series with respect to which such Non-Controlling Authorized Representative is the Authorized Representative are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with the terms of the applicable Additional Agreement; provided that the Non-Controlling Authorized Representative Enforcement Date shall be stayed and shall not occur and shall be deemed not to have occurred with respect to any Shared Collateral (1) at any time the Collateral Agent or the Applicable Authorized Representative has commenced and is diligently pursuing any enforcement action with respect to such Shared Collateral or (2) at any time the Pledgor which has granted a security interest in such Shared Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding.

“Non-Controlling Secured Parties” means, with respect to any Shared Collateral, the Secured Parties which are not Controlling Secured Parties with respect to such Shared Collateral.

“Obligations” has the meaning assigned to such term in the Guarantee and Collateral Agreement.

“Pledgors” means the Borrower and each subsidiary or direct or indirect parent company of the Borrower, in each case, which has granted a security interest pursuant to any Security Document to secure any Series of Obligations.

“Possessory Collateral” means any Shared Collateral in the possession of the Applicable Authorized Representative (or its agents or bailees), to the extent that possession thereof perfects a Lien thereon under the Uniform Commercial Code of any jurisdiction. Possessory Collateral includes, without limitation, any Certificated Securities, Promissory Notes, Instruments, and Chattel Paper, in each case, delivered to or in the possession of the Applicable Authorized Representative under the terms of the Security Documents. All capitalized terms used in this definition and not defined elsewhere in this Agreement have the meanings assigned to them in the New York UCC.

“Proceeds” has the meaning assigned to such term in Section 2.01 hereof

“Refinance” means, in respect of any indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other indebtedness or enter alternative financing arrangements, in exchange or replacement for such indebtedness (in whole or in part), including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including in each case, but not limited to, after the original instrument giving rise to such indebtedness has been terminated and including, in each case, through any credit agreement, indenture or other agreement. “Refinanced” and “Refinancing” have correlative meanings.

“Secured Credit Documents” means (i) the Credit Agreement and the other Loan Documents (as defined in the Credit Agreement), (ii) the Initial Additional Agreement and (iii) each Additional Agreement.

“Secured Parties” means (a) the Credit Agreement Secured Parties and (ii) the Additional Secured Parties.

“Security Documents” means the Guarantee and Collateral Agreement, each other Security Document (as defined in the Credit Agreement) and each other agreement entered into in favor of the Applicable Authorized Representative for purposes of securing any Series of Obligations.

“Series” means (a) with respect to the Secured Parties, each of (i) the Secured Parties (in their capacities as such), (ii) the Initial Additional Secured Parties (in their capacity as such) and (iii) the Additional Secured Parties that become subject to this Agreement after the date hereof that are represented by a common Authorized Representative (in its capacity as such for such Additional Secured Parties) and (b) with respect to any Obligations, each of (i) the Credit Agreement Obligations, (ii) the Initial Additional Obligations and (iii) the other Additional Obligations incurred pursuant to any Additional Agreement, which pursuant to any Joinder Agreement, are to be represented hereunder by a common Authorized Representative (in its capacity as such for such Additional Obligations).

“Shared Collateral” means, at any time, Collateral in which the holders of two or more Series of Obligations (or their respective Authorized Representatives or the Collateral Agent on behalf of such holders) hold a valid and perfected security interest or Lien at such time. If more than two Series of Obligations are outstanding at any time and the holders of less than all Series of Obligations hold a valid and perfected security interest or Lien in any Collateral at such time, then such Collateral shall constitute Shared Collateral for those Series of Obligations that hold a valid security interest or Lien in such Collateral at such time and shall not constitute Shared Collateral for any Series which does not have a valid and perfected security interest or Lien in such Collateral at such time.

ARTICLE II

Priorities and Agreements with Respect to Shared Collateral

SECTION 2.01 Priority of Claims. (a) Anything contained herein or in any of the Secured Credit Documents to the contrary notwithstanding (but subject to Section 1.01(b)), if an Event of Default has occurred and is continuing, and the Applicable Authorized Representative or any Secured Party is taking action to enforce rights in respect of any Shared Collateral, or any distribution is made in respect of any Shared Collateral in any Bankruptcy Case of any Pledgor or any Secured Party receives any payment pursuant to any intercreditor agreement (other than this Agreement) with respect to any Shared Collateral, the proceeds of any sale, collection or other liquidation of any such Shared Collateral by any Secured Party or received by the Applicable Authorized Representative or any Secured Party pursuant to any such intercreditor agreement with respect to such Shared Collateral and proceeds of any such distribution (subject, in the case of any such distribution, to the sentence immediately following) to which the Obligations are entitled under any intercreditor agreement (other than this Agreement) (all proceeds of any sale, collection or other liquidation of any Collateral and all proceeds of any such distribution being collectively referred to as "Proceeds"), shall be applied by the Applicable Authorized Representatives (i) FIRST, to the payment of all amounts incurred by the Applicable Authorized Representative (in its capacity as such) in connection with such sale or collection or otherwise owing to it pursuant to the terms of any Secured Credit Document and (ii) SECOND, subject to Section 1.01(b), to the extent any Proceeds remain after payment pursuant to clause (i), to the payment in full of the Obligations of each Series on a ratable basis in accordance with the terms of the applicable Secured Credit Documents. Notwithstanding the foregoing, with respect to any Shared Collateral for which a third party (other than a Secured Party) has a lien or security interest that is junior in priority to the security interest of any Series of Obligations but senior (as determined by appropriate legal proceedings in the case of any dispute) to the security interest of any other Series of Obligations (such third party an "Intervening Creditor"), the value of any Shared Collateral or Proceeds which are allocated to such Intervening Creditor shall be deducted on a ratable basis solely from the Shared Collateral or Proceeds to be distributed in respect of the Series of Obligations with respect to which such Impairment exists. If, despite the provisions of Section 2.01(a)(ii), any Secured Party shall receive any payment or other recovery in excess of its portion of payments on account of the Obligations to which it is then entitled in accordance with this Section 2.01(a), such Secured Party shall hold such payment or recovery in trust for the benefit of all Secured Parties for distribution in accordance with this Section 2.01(a).

(b) It is acknowledged that the Obligations of any Series may, subject to the limitations set forth in the then extant Secured Credit Documents, be increased, extended, renewed, replaced, restated, supplemented, restructured, repaid, refunded, Refinanced or otherwise amended or modified from time to time, all without affecting the priorities set forth in Section 2.01(a) or the provisions of this Agreement defining the relative rights of the Secured Parties of any Series.

(c) Notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any Liens securing any Series of Obligations granted on the Shared Collateral and notwithstanding any provision of the Uniform Commercial Code of any jurisdiction, or any other applicable law or the Secured Credit Documents or any defect or deficiencies in the Liens securing the Obligations of any Series or any other circumstance whatsoever (but, in each case, subject to Section 1.01(b)), each Secured Party hereby agrees that the Liens securing each Series of Obligations on any Shared Collateral shall be of equal priority.

Notwithstanding anything in this Agreement or any other Secured Credit Documents to the contrary, Cash Collateral pledged to secure Credit Agreement Obligations consisting of reimbursement obligations in respect of Letters of Credit or otherwise held by the Administrative Agent or the Collateral Agent pursuant to Section 2.05(c) or (j), 2.11(d) or (e), or 2.22 of the Credit Agreement (or any equivalent successor provision) shall be applied as specified in such Section of the Credit Agreement and shall not constitute Shared Collateral.

SECTION 2.02 Actions with Respect to Shared Collateral: Prohibition on Contesting Liens (a) With respect to any Shared Collateral, (i) only the Applicable Authorized Representative shall act or refrain from acting with respect to the Shared Collateral (including with respect to any intercreditor agreement with respect to any Shared Collateral), (ii) the Applicable Authorized Representative shall not follow any instructions with respect to such Shared Collateral (including with respect to any intercreditor agreement with respect to any Shared Collateral) from any Non-Controlling Authorized Representative and (iii) no Non-Controlling Authorized Representative or other Secured Party (other than the Applicable Authorized Representative) shall or shall instruct the Applicable Authorized Representative to, commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its security interest in or realize upon, or take any other action available to it in respect of, any Shared Collateral (including with respect to any intercreditor agreement with respect to any Shared Collateral), whether under any Security Document, applicable law or otherwise, it being agreed that only the Applicable Authorized Representative, acting on the instructions of the Secured Parties (other than any Non-Controlling Secured Parties) and in accordance with the applicable Security Documents, shall be entitled to take any such actions or exercise any such remedies with respect to Shared Collateral. Notwithstanding the equal priority of the Liens securing each Series of Obligations, the Applicable Authorized Representative may deal with the Shared Collateral as if such Applicable Authorized Representative had a senior Lien on such Collateral. No Non-Controlling Authorized Representative or Non-Controlling Secured Party will contest, protest or object to any foreclosure proceeding or action brought by the Applicable Authorized Representative or Controlling Secured Party or any other exercise by the Applicable Authorized Representative or Controlling Secured Party of any rights and remedies relating to the Shared Collateral, or to cause the Applicable Authorized Representative to do so. The foregoing shall not be construed to limit the rights and priorities of any Secured Party, Applicable Authorized Representative or Authorized Representative with respect to any Collateral not constituting Shared Collateral.

(b) Each of the Authorized Representatives agrees that it will not accept any Lien on any Collateral for the benefit of any Series of Obligations (other than funds deposited for the discharge or defeasance of any Additional Agreement) other than pursuant to the Security Documents and pursuant to Sections 2.05(c) or (j), 2.11(d) or (e) or 2.22 of the Credit Agreement, and by executing this Agreement (or a Joinder Agreement), each Authorized Representative and the Series of Secured Parties for which it is acting hereunder agree to be bound by the provisions of this Agreement and the other Security Documents applicable to it.

(c) Each of the Secured Parties agrees that it will not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the perfection, priority, validity, attachment or enforceability of a Lien held by or on behalf of any of the Secured Parties in all or any part of the Collateral, or the provisions of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any of the Applicable Authorized Representative or any Authorized Representative to enforce this Agreement.

SECTION 2.03 No Interference: Payment Over. (a) Each Secured Party agrees that (i) it will not challenge or question in any proceeding the validity or enforceability of any Obligations of any Series or any Security Document or the validity, attachment, perfection or priority of any Lien under any Security Document or the validity or enforceability of the priorities, rights or duties established by or other provisions of this Agreement; (ii) it will not take or cause to be taken any action the purpose or intent of which is, or could be, to interfere, hinder or delay, in any manner, whether by judicial proceedings or otherwise, any sale, transfer or other disposition of the Shared Collateral by the Applicable Authorized Representative, (iii) except as provided in Section 2.02, it shall have no right to (A) direct the Applicable Authorized Representative or any other Secured Party to exercise, and shall not exercise, any right, remedy or power with respect to any Shared Collateral (including pursuant to any intercreditor agreement) or (B) consent to the exercise by the Applicable Authorized Representative or any other Secured Party of any right, remedy or power with respect to any Shared Collateral, (iv) it will not institute any suit or assert in any suit, bankruptcy, insolvency or other proceeding any claim against the Applicable Authorized Representative or any other Secured Party seeking damages from or other relief by way of specific performance, instructions or otherwise with respect to any Shared Collateral, and none of the Applicable Authorized Representative, any Applicable Authorized Representative or any other Secured Party shall be liable for any action taken or omitted to be taken by the Applicable Authorized Representative, such Applicable Authorized Representative or other Secured Party with respect to any Shared Collateral in accordance with the provisions of this Agreement, (v) it will not seek, and hereby waives any right, to have any Shared Collateral or any part thereof marshaled upon any foreclosure or other disposition of such Collateral and (vi) it will not attempt, directly or indirectly, whether by judicial proceedings or otherwise, to challenge the enforceability of any provision of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any of the Applicable Authorized Representative or any other Secured Party to enforce this Agreement.

(b) Each Secured Party hereby agrees that if it shall obtain possession of any Shared Collateral or shall realize any proceeds or payment in respect of any such Shared Collateral, pursuant to any Security Document or by the exercise of any rights available to it under applicable law or in any Insolvency or Liquidation Proceeding or through any other exercise of remedies (including pursuant to any intercreditor agreement), at any time prior to the Discharge of each of the Obligations, then it shall hold such Shared Collateral, proceeds or payment in trust for the other Secured Parties and promptly transfer such Shared Collateral, proceeds or payment, as the case may be, to the Applicable Authorized Representative, to be distributed in accordance with the provisions of Section 2.01 hereof.

SECTION 2.04 Automatic Release of Liens: Amendments to Security Documents (a) If, at any time the Applicable Authorized Representative forecloses upon or otherwise exercises remedies against any Shared Collateral, then (whether or not any Insolvency or Liquidation Proceeding is pending at the time) the Liens in favor of the Applicable Authorized Representative for the benefit of each Series of Secured Parties upon such Shared Collateral will automatically be released and discharged; provided that any proceeds of any Shared Collateral realized therefrom shall be applied pursuant to Section 2.01 hereof.

(b) Each Secured Party agrees that the Applicable Authorized Representative may enter into any amendment (and, upon request by the Applicable Authorized Representative, each Authorized Representative shall sign a consent to such amendment) to any Security Document (including to release Liens securing any Series of Obligations), so long as the Applicable Authorized Representative receives a certificate of an authorized officer of the Borrower stating that such amendment is permitted by the terms of each then extant Secured Credit Document. Additionally, each Secured Party agrees that the Applicable Authorized Representative may enter into any amendment (and, upon request by the Applicable Authorized Representative, each Authorized Representative shall sign a consent to such amendment) to any Security Document solely as such Security Document relates to a particular Series of Obligations (including to release Liens securing any Series of Obligations) so long as (x) such amendment is in accordance with the Secured Credit Document pursuant to which such Series of Obligations was incurred and (y) such amendment does not adversely affect the Secured Parties of any other Series. In making the determinations required by this 2.04(b), the Applicable Authorized Representative may conclusively rely on a certificate of an authorized officer of the Borrower.

(c) Each Authorized Representative agrees to execute and deliver (at the sole cost and expense of the Pledgors) all such authorizations and other instruments as shall reasonably be requested by the Applicable Authorized Representative to evidence and confirm any release of Shared Collateral or amendment to any Security Document provided for in this Section.

SECTION 2.05 Certain Agreements with Respect to Bankruptcy or Insolvency Proceedings (a) This Agreement, which the parties acknowledge shall be a subordination agreement subject to Section 510 of the Bankruptcy Code, shall continue in full force and effect notwithstanding the commencement of any proceeding under the Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency, receivership or similar law by or against the Borrower or any of its subsidiaries.

(b) If any Pledgor shall become subject to a case (a "Bankruptcy Case") under the Bankruptcy Code, whether voluntary or involuntary, and shall, as debtor(s)-in-possession, move for approval of financing ("DIP Financing") to be provided by one or more lenders (the "DIP Lenders") under Section 364 of the Bankruptcy Code or the use of cash collateral under Section 363 of the Bankruptcy Code, each Secured Party agrees that it will raise no objection to any such financing or to the Liens on the Shared Collateral securing the same ("DIP Financing Liens") or to any use of cash collateral that constitutes Shared Collateral, unless any Controlling Secured Party, or an Authorized Representative of any Controlling Secured Party, shall then oppose or object to such DIP Financing or such DIP Financing Liens or use of cash collateral (and (i) to the extent that such DIP Financing Liens are senior to the Liens on any such Shared Collateral for the benefit of the Controlling Secured Parties, each Non-Controlling Secured Party will subordinate its Liens with respect to such Shared Collateral on the same terms as the Liens of the Controlling Secured Parties (other than any Liens of any Secured Parties constituting DIP Financing Liens) are subordinated thereto, and (ii) to the extent that such DIP Financing Liens rank pari passu with the Liens on any such Shared Collateral granted to secure the Obligations of the Controlling Secured Parties, each Non-Controlling Secured Party will confirm the priorities with respect to such Shared Collateral as set forth herein), in each case so long as (A) the Secured Parties of each Series retain the benefit of their Liens on all such Shared Collateral pledged to the DIP Lenders, including proceeds thereof arising after the commencement of such proceeding, with the same priority vis-à-vis all the other Secured Parties (other than any Liens of the Secured Parties constituting DIP Financing Liens) as existed prior to the commencement of the Bankruptcy Case, (B) the Secured Parties of each Series are granted Liens on any additional collateral pledged to any Secured Parties as adequate protection or otherwise in connection with such DIP Financing or use of cash collateral, with the same priority vis-à-vis the Secured Parties as set forth in this Agreement, (C) if any amount of such DIP Financing or cash collateral is applied to repay any of the Obligations, such amount is applied pursuant to Section 2.01 of this Agreement, and (D) if any Secured Parties are granted adequate protection, including in the form of periodic payments, in connection with such DIP Financing or use of cash collateral, the proceeds of such adequate protection is applied pursuant to Section 2.01 of this Agreement; provided that the Secured Parties of each Series shall have a right to object to the grant of a Lien to secure the DIP Financing over any Collateral subject to Liens in favor of the Secured Parties of such Series or its Authorized Representative that shall not constitute Shared Collateral; and provided further, that the Secured Parties receiving adequate protection shall not object to any other Secured Party receiving adequate protection comparable to any adequate protection granted to such Secured Parties in connection with a DIP Financing or use of cash collateral.

SECTION 2.06 Reinstatement. In the event that any of the Obligations shall be paid in full and such payment or any part thereof shall subsequently, for whatever reason (including an order or judgment for disgorgement of a preference under Title 11 of the United States Code, or any similar law, or the settlement of any claim in respect thereof), be required to be returned or repaid, the terms and conditions of this Article II shall be fully applicable thereto until all such Obligations shall again have been paid in full in cash.

SECTION 2.07 Insurance. As between the Secured Parties, the Applicable Authorized Representative shall have the right to adjust or settle any insurance policy or claim covering or constituting Shared Collateral in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding affecting the Shared Collateral.

SECTION 2.08 Refinancings. The Obligations of any Series, subject to the limitations set forth in the then extant Secured Credit Documents, may be Refinanced, in whole or in part, in each case, without notice to, or the consent (except to the extent a consent is otherwise required to permit the refinancing transaction under any Secured Credit Document) of any Secured Party of any other Series, all without affecting the priorities provided for herein or the other provisions hereof; provided that the Authorized Representative of the holders of any such Refinancing indebtedness shall have executed a Joinder Agreement on behalf of the holders of such Refinancing indebtedness.

SECTION 2.09 Possessory Applicable Authorized Representative as Gratuitous Bailee for Perfection (a) The Possessory Collateral shall be delivered to the Applicable Authorized Representative and the Applicable Authorized Representative agrees to hold any Shared Collateral constituting Possessory Collateral that is part of the Shared Collateral in its possession or control (or in the possession or control of its agents or bailees) as gratuitous bailee for the benefit of each other Secured Party and any assignee solely for the purpose of perfecting the security interest granted in such Possessory Collateral, if any, pursuant to the applicable Security Documents, in each case, subject to the terms and conditions of this Section 2.09. Pending delivery to the Applicable Authorized Representative, each other Authorized Representative agrees to hold any Shared Collateral constituting Possessory Collateral, from time to time in its possession, as gratuitous bailee for the benefit of each other Secured Party and any assignee, solely for the purpose of perfecting the security interest granted in such Possessory Collateral, if any, pursuant to the applicable Security Documents, in each case, subject to the terms and conditions of this Section 2.09. The Borrower shall take such further action as is required to effectuate the transfer contemplated hereby and shall indemnify each Authorized Representative for loss or damage suffered by such Authorized Representative as a result of such transfer except for loss or damage suffered by such Authorized Representative as a result of its own willful misconduct, gross negligence or bad faith.

(b) The duties or responsibilities of the Applicable Authorized Representative and each other Authorized Representative under this Section 2.09 shall be limited solely to holding any Shared Collateral constituting Possessory Collateral as gratuitous bailee for the benefit of each other Secured Party for purposes of perfecting the Lien held by such Secured Parties therein.

ARTICLE III

SECTION 3.01 Existence and Amounts of Liens and Obligations. Whenever the Applicable Authorized Representative or any Authorized Representative shall be required, in connection with the exercise of its rights or the performance of its obligations hereunder, to determine the existence or amount of any Obligations of any Series, or the Shared Collateral subject to any Lien securing the Obligations of any Series, it may request that such information be furnished to it in writing by each other Authorized Representative and shall be entitled to make such determination on the basis of the information so furnished; provided, however, that if an Authorized Representative shall fail or refuse reasonably promptly to provide the requested information, the requesting Applicable Authorized Representative or Authorized Representative shall be entitled to make any such determination by such method as it may, in the exercise of its good faith judgment, determine, including by reliance upon a certificate of the Borrower. The Applicable Authorized Representative and each Authorized Representative may rely conclusively, and shall be fully protected in so relying, on any determination made by it in accordance with the provisions of the preceding sentence (or as otherwise directed by a court of competent jurisdiction) and shall have no liability to any Pledgor, any Secured Party or any other person as a result of such determination.

ARTICLE IV

THE AUTHORIZED REPRESENTATIVE

SECTION 4.01 Appointment and Authority. (a) Each of the Credit Agreement Secured Parties hereby irrevocably appoints the Collateral Agent to act on its behalf as the Authorized Representative hereunder and under each of the other Security Documents and authorizes the Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Applicable Agent by the terms hereof or thereof, including for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any Pledgor to secure any of the Credit Agreement Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Collateral Agent and any co-agents, sub-agents and attorneys-in-fact appointed by the Applicable Authorized Representative pursuant to Section 4.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under any of the Security Documents, or for exercising any rights and remedies thereunder, shall be entitled to the benefits of all provisions of this Article IV and Section 10.05 of the Credit Agreement (as though such co-agents, sub-agents and attorneys-in-fact were the "Collateral Agent" under the Security Documents) as if set forth in full herein with respect thereto.

(b) Each Non-Controlling Secured Party acknowledges and agrees that the Applicable Authorized Representative shall be entitled, for the benefit of the Secured Parties, to sell, transfer or otherwise dispose of or deal with any Shared Collateral as provided herein and in the Security Documents, without regard to any rights to which the holders of the Non-Controlling Secured Obligations would otherwise be entitled as a result of such Non-Controlling Secured Obligations. Without limiting the foregoing, each Non-Controlling Secured Party agrees that none of the Applicable Authorized Representative or any other Secured Party shall have any duty or obligation first to marshal or realize upon any type of Shared Collateral (or any other Collateral securing any of the Obligations), or to sell, dispose of or otherwise liquidate all or any portion of such Shared Collateral (or any other Collateral securing any Obligations), in any manner that would maximize the return to the Non-Controlling Secured Parties, notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by the Non-Controlling Secured Parties from such realization, sale, disposition or liquidation. Each of the Secured Parties waives any claim it may now or hereafter have against the Applicable Authorized Representative or the Authorized Representative of any other Series of Obligations or any other Secured Party of any other Series arising out of (i) any actions which the Applicable Authorized Representative, any Authorized Representative or any Secured Party takes or omits to take (including, actions with respect to the creation, perfection or continuation of Liens on any Collateral, actions with respect to the foreclosure upon, sale, release or depreciation of, or failure to realize upon, any of the Collateral and actions with respect to the collection of any claim for all or any part of the Obligations from any account debtor, guarantor or any other party) in accordance with the Security Documents or any other agreement related thereto or to the collection of the Obligations or the valuation, use, protection or release of any security for the Obligations, (ii) any election by any Applicable Authorized Representative or any holders of Obligations, in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b) of the Bankruptcy Code or (iii) subject to Section 2.05, any borrowing by, or grant of a security interest or administrative expense priority under Section 364 of the Bankruptcy Code by, the Borrower or any of its subsidiaries, as debtor-in-possession.

SECTION 4.02 Rights as a Secured Party. The Person serving as the Applicable Authorized Representative hereunder shall have the same rights and powers in its capacity as a Secured Party under any Series of Obligations that it holds as any other Secured Party of such Series and may exercise the same as though it were not the Applicable Authorized Representative and the term "Secured Party" or "Secured Parties" or (as applicable) "Additional Secured Party" or "Additional Secured Parties" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Applicable Authorized Representative hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any subsidiary or other Affiliate thereof as if such Person were not the Applicable Authorized Representative hereunder and without any duty to account therefor to any other Secured Party.

SECTION 4.03 Exculpatory Provisions. (a) The Applicable Authorized Representative shall not have any duties or obligations except those expressly set forth herein and in the other Security Documents. Without limiting the generality of the foregoing, the Applicable Authorized Representative:

- (i) shall not be subject to any fiduciary or other implied duties, regardless of whether an Event of Default has occurred and is continuing;
- (ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Security Documents that the Applicable Authorized Representative is required to exercise; provided that the Applicable Authorized Representative shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Applicable Authorized Representative to liability or that is contrary to any Security Document or applicable law;
- (iii) shall not, except as expressly set forth herein and in the other Security Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Applicable Authorized Representative or any of its Affiliates in any capacity;
- (iv) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Applicable Authorized Representative or in the absence of its own gross negligence or willful misconduct or in reliance on a certificate of an authorized officer of the Borrower stating that such action is permitted by the terms of this Agreement. The Applicable Authorized Representative shall be deemed not to have knowledge of any Event of Default under any Series of Obligations unless and until notice describing such Event Default is given to the Applicable Authorized Representative by the Authorized Representative of such Obligations or the Borrower; and
- (v) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Security Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Security Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral for any Series of Obligations, or (v) the satisfaction of any condition set forth in any Secured Credit Document, other than to confirm receipt of items expressly required to be delivered to the Applicable Authorized Representative.

SECTION 4.04 Reliance by Applicable Authorized Representative The Applicable Authorized Representative shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Applicable Authorized Representative also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. The Applicable Authorized Representative may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

SECTION 4.05 Delegation of Duties. The Applicable Authorized Representative may perform any and all of its duties and exercise its rights and powers hereunder or under any other Security Document by or through any one or more sub-agents appointed by the Applicable Authorized Representative. The Applicable Authorized Representative and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Affiliates of the Applicable Authorized Representative and any such sub-agent.

SECTION 4.06 Non-Reliance on Applicable Authorized Representative and Other Secured Parties Each Secured Party acknowledges that it has, independently and without reliance upon the Applicable Authorized Representative, any other Authorized Representative or any other Secured Party or any of their Affiliates and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and the other Secured Credit Documents. Each Secured Party also acknowledges that it will, independently and without reliance upon the Applicable Authorized Representative, any Authorized Representative or any other Secured Party or any of their Affiliates and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Secured Credit Document or any related agreement or any document furnished hereunder or thereunder.

SECTION 4.07 Collateral Matters. Each of the Secured Parties irrevocably authorizes the Applicable Authorized Representative, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Applicable Authorized Representative under any Security Document in accordance with Section 2.04 or upon receipt of a written request from the Borrower stating that the releases of such Lien is permitted by the terms of each then extant Secured Credit Document;

(b) to release any Pledgor from its obligations under the Security Documents upon receipt of a written request from the Borrower stating that such release is permitted by the terms of each then extant Secured Credit Document.

ARTICLE V

Miscellaneous

SECTION 5.01 Notices. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

- (a) if to the Administrative Agent and the Collateral Agent, to it at JPMorgan Chase Bank, N.A., [];
- (b) if to the Additional Authorized Representative, to it at [] (Telephone: []; Telecopy No. []).

Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt (if a Business Day) and on the next Business Day thereafter (in all other cases) if delivered by hand or overnight courier service or sent by telecopy or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 5.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 5.01. As agreed to in writing among each Authorized Representative from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable person provided from time to time by such person.

SECTION 5.02 Waivers; Amendment; Joinder Agreements. (a) No failure or delay on the part of any party hereto in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereto are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any party hereto in any case shall entitle such party to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any provision hereof may be terminated, waived, amended or modified (other than pursuant to any Joinder Agreement) except pursuant to an agreement or agreements in writing entered into by each Authorized Representative.

(c) Notwithstanding the foregoing, without the consent of any Secured Party, any Authorized Representative may become a party hereto by execution and delivery of Joinder Agreement in accordance with Section 6.20 of the Guarantee and Collateral Agreement and upon such execution and delivery, such Authorized Representative and the Additional Secured Parties and Additional Obligations of the Series for which such Authorized Representative is acting shall be subject to the terms hereof and the terms of the other Security Documents applicable thereto.

SECTION 5.03 Parties in Interest. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, as well as the other Secured Parties, all of whom are intended to be bound by, and to be third party beneficiaries of, this Agreement.

SECTION 5.04 Survival of Agreement. All covenants, agreements, representations and warranties made by any party in this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement.

SECTION 5.05 Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

SECTION 5.06 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 5.07 Governing Law; Jurisdiction; Consent to Service of Process. This Agreement shall be construed in accordance with and governed by the law of the State of New York.

SECTION 5.08 Submission to Jurisdiction Waivers. Each Authorized Representative, on behalf of itself and the Secured Parties of the Series for whom it is acting, irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the Security Documents, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person (or its Authorized Representative) at the address referred to in 5.01;

(d) agrees that nothing herein shall affect the right of any other party hereto (or any Secured Party) to effect service of process in any other manner permitted by law or shall limit the right of any party hereto (or any Secured Party) to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 5.08 any special, exemplary, punitive or consequential damages.

SECTION 5.09 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM THEREIN.

SECTION 5.10 Headings. Article, Section and Annex headings used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 5.11 Conflicts. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any of the other Secured Credit Documents or Security Documents, the provisions of this Agreement shall control.

SECTION 5.12 Provisions Solely To Define Relative Rights The provisions of this Agreement are and are intended solely for the purpose of defining the relative rights of the Secured Parties in relation to one another. None of the Borrower, any Pledgor or any other creditor thereof shall have any rights or obligations hereunder, except as expressly provided in this Agreement (provided that nothing in this Agreement (other than Section 2.04, 2.05, 2.08, 2.09 or Article V) is intended to or will amend, waive or otherwise modify the provisions of the Credit Agreement or any Additional Agreements), and none of the Borrower or any Pledgor may rely on the terms hereof (other than Sections 2.04, 2.05, 2.08, 2.09 and Article V). Nothing in this Agreement is intended to or shall impair the obligations of any Pledgor, which are absolute and unconditional, to pay the Obligations as and when the same shall become due and payable in accordance with their terms.

SECTION 5.13 Integration. This Agreement together with the other Secured Credit Documents and the Security Documents represents the agreement of each of the Pledgors and the Secured Parties with respect to the subject matter hereof and there are no promises, undertakings, representations or warranties by any Pledgor, the Applicable Authorized Representative or any other Secured Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Secured Credit Documents or the Security Documents

SECTION 5.14 Additional Pledgors. The Borrower agrees that, if any Subsidiary or direct or indirect parent company shall become a Pledgor after the date hereof, it will promptly cause such Person to execute and deliver an instrument in the form of Annex I. Upon such execution and delivery, such Person will become a Pledgor hereunder with the same force and effect as if originally named as a Pledgor herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by the Collateral Agent, the Initial Additional Authorized Representative and each additional Authorized Representative. The rights and obligations of each Pledgor hereunder shall remain in full force and effect notwithstanding the addition of any new Pledgor as a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

JPMORGAN CHASE BANK, N.A. as Collateral Agent,

by _____
Name:
Title:

by _____
Name:
Title:

[_____], as Initial Additional Authorized Representative

by _____
Name:
Title:

CONSENT OF THE BORROWER AND PLEDGORS

Dated: [_____]

Reference is made to the First Lien Intercreditor Agreement dated as of the date hereof between JPMorgan Chase Bank, N.A., as Collateral Agent and [_____], as Initial Additional Authorized Representative, as the same may be amended, restated, supplemented, waived, or otherwise modified from time to time (the "Intercreditor Agreement"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

The Borrower and each of the undersigned Pledgors has read the foregoing Intercreditor Agreement and consents thereto. The Borrower and each of the undersigned Pledgors agrees not to take any action that would be contrary to the express provisions of the foregoing Intercreditor Agreement, agrees to abide by the requirements expressly applicable to it under the foregoing Intercreditor Agreement and agrees that, except as otherwise provided therein, no Secured Party shall have any liability to the Borrower or any Pledgor for acting in accordance with the provisions of the foregoing Intercreditor Agreement. The Borrower and each Pledgor understands that the foregoing Intercreditor Agreement is for the sole benefit of the Secured Parties and their respective successors and assigns, and that the Borrower and each such Pledgor is not an intended beneficiary or third party beneficiary thereof except to the extent otherwise expressly provided therein.

Notwithstanding anything to the contrary in the Intercreditor Agreement or provided herein, each party to the Intercreditor Agreement agrees that the Borrower and the Pledgors shall not have any right to consent to or approve any amendment, modification or waiver of any provision of the Intercreditor Agreement except to the extent their rights are adversely affected (in which case the Borrower shall have the right to consent to or approve any such amendment, modification or waiver).

Without limitation to the foregoing, the Borrower and each Pledgor agrees to take such further action and to execute and deliver such additional documents and instruments (in recordable form, if requested) as the Applicable Authorized Representative may reasonably request to effectuate the terms of and the lien priorities contemplated by the Intercreditor Agreement.

This Consent shall be governed and construed in accordance with the laws of the State of New York.

IN WITNESS HEREOF, this Consent is hereby executed by each of the Pledgors as of the date first written above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

NCL INTERNATIONAL, LTD.

By: _____
Name:
Title:

NORWEGIAN DAWN LIMITED

By: _____
Name:
Title:

NORWEGIAN GEM, LTD.

By: _____
Name:
Title:

NORWEGIAN PEARL, LTD.

By: _____
Name:
Title:

NORWEGIAN SPIRIT, LTD.

By: _____
Name:
Title:

NORWEGIAN STAR LIMITED

By: _____
Name:
Title:

NORWEGIAN SUN LIMITED

By: _____
Name:
Title:

OCEANIA CRUISES, INC.

By: _____
Name:
Title:

SEVEN SEAS CRUISES S. DE R.L.

By: _____
Name:
Title:

INSIGNIA VESSEL ACQUISITION, LLC

By: _____
Name:
Title:

NAUTICA ACQUISITION, LLC

By: _____
Name:
Title:

REGATTA ACQUISITION, LLC

By: _____
Name:
Title:

MARINER, LLC

By: _____
Name:
Title:

NAVIGATOR VESSEL COMPANY, LLC

By: _____
Name:
Title:

VOYAGER VESSEL COMPANY, LLC

By: _____
Name:
Title:

[FORM OF]
SECOND LIEN INTERCREDITOR AGREEMENT

SECOND LIEN INTERCREDITOR AGREEMENT dated as of [_____] , among NCL CORPORATION LTD., a Bermuda company (the "Borrower"), JPMORGAN CHASE BANK, N.A., as the Credit Agreement Agent and each Other First Priority Lien Obligations Agent from time to time party hereto, each in its capacity as First Lien Agent, and [_____] , as Second Lien Collateral Agent and each other Second Priority Agent for any Future Second Lien Indebtedness from time to time party hereto, each in its capacity as Second Priority Agent.

A. WHEREAS, (i) the Borrower is party to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, amended and restated, replaced, Refinanced, supplemented or otherwise modified from time to time, the "Credit Agreement") among the Borrower, the lenders party thereto from time to time, JPMorgan Chase Bank, N.A. as administrative agent and collateral agent and the other parties thereto, (ii) the Borrower may become a party to Other First Priority Lien Obligations Credit Documents (as defined below) and (iii) the Obligations of the Borrower under the Credit Agreement and any such Other First Priority Lien Obligations Credit Documents will constitute Senior Lender Claims (as defined below);

B. WHEREAS, the Borrower (i) is party to the Indenture dated as of [_____] (as amended, amended and restated, replaced, Refinanced, supplemented or otherwise modified from time to time, the "Second Priority Senior Secured Notes Indenture"), under which the Second Lien Notes were issued, by and among the [Borrower] and [_____] , as Trustee, (ii) may become a party to Second Priority Documents governing Future Second Lien Indebtedness and (iii) the Obligations of the Borrower under the Second Priority Senior Secured Notes Indenture and any such Second Priority Documents governing Future Second Lien Indebtedness will constitute Second Priority Claims (as defined below); and

Accordingly, in consideration of the foregoing, the mutual covenants and obligations herein set forth and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

SECTION 1. Definitions.

1.1 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"Affiliate" shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

"Agreement" shall mean this Agreement, as amended, renewed, extended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“Bankruptcy Code” shall mean Title 11 of the United States Code.

“Bankruptcy Law” shall mean the Bankruptcy Code and any similar Federal, state or foreign law for the relief of debtors.

“Borrower” shall have the meaning set forth in the recitals.

“Common Collateral” shall mean all of the assets of any Pledgor, whether real, personal or mixed, constituting both Senior Lender Collateral and Second Priority Collateral, including without limitation any assets in which the First Lien Agents are automatically deemed to have a Lien pursuant to the provisions of Section 2.3.

“Comparable Second Priority Collateral Document” shall mean, in relation to any Common Collateral subject to any Lien created under any Senior Collateral Document, those Second Priority Collateral Documents that create a Lien on the same Common Collateral, granted by the same Pledgor.

“Control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and “Controlling” and “Controlled” shall have meanings correlative thereto.

“Credit Agreement” shall have the meaning set forth in the recitals.

“Credit Agreement Agent” shall mean JPMorgan Chase Bank, N.A., in its capacity as administrative agent and collateral agent for the Credit Agreement Lenders under the Credit Agreement, the Senior Collateral Agreement, the Senior Vessel Mortgages and the other Senior Lender Documents entered into pursuant to the Credit Agreement, together with its successors in such capacity.

“Credit Agreement Lender” shall mean a “Lender” as defined in the Credit Agreement.

“Credit Agreement Obligations” has the meaning assigned to the term “Obligations” in the Senior Collateral Agreement (other than clause (d) of such definition).

“Credit Agreement Secured Parties” has the meaning assigned to the term “Secured Parties” in the Senior Collateral Agreement (other than clause (f) of such definition).

“DIP Financing” shall have the meaning set forth in Section 6.1.

“Discharge of Senior Lender Claims” shall mean, except to the extent otherwise provided in Section 5.7 below, (a) payment in full in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of (i) all outstanding Senior Lender Claims and, with respect to letters of credit outstanding thereunder, delivery of cash collateral or backstop letters of credit in respect thereof in compliance with the applicable Senior Lender Document or entry into arrangements satisfactory to the Credit Agreement Agent and the Issuing Bank (as defined in the Credit Agreement) with respect, in each case after or concurrently with the termination of all commitments to extend credit or issue or extend letters of credit thereunder and (ii) any other Senior Lender Claims that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and (b) termination of all other commitments of the Senior Secured Parties under the Senior Lender Documents; provided that the Discharge of Senior Lender Claims shall not be deemed to have occurred if such payments are made with the proceeds of other Senior Lender Claims that constitute an exchange or replacement for or a Refinancing of such Obligations or Senior Lender Claims. In the event the Senior Lender Claims are modified and the Obligations are paid over time or otherwise modified pursuant to Section 1129 of the Bankruptcy Code, the Senior Lender Claims shall be deemed to be discharged when the final payment is made, in cash, in respect of such Indebtedness and any Obligations pursuant to such new Indebtedness shall have been satisfied.

“First Lien Agent” shall mean each of (a) the Credit Agreement Agent and (b) any Other First Priority Lien Obligations Agent.

“First Lien Intercreditor Agreement” has the meaning assigned to such term in the Credit Agreement.

“First Priority Designated Agent” shall mean the Credit Agreement Agent or, if the Credit Agreement Agent and any Other First Priority Lien Obligations Agent shall have entered into a First Lien Intercreditor Agreement the “Applicable Authorized Representative” as defined therein.

“Future Second Lien Indebtedness” shall mean means any Indebtedness that is issued or guaranteed by the Borrower, and/or any Guarantor (other than Indebtedness constituting Noteholder Claims) which Indebtedness and Guarantees are secured by the Second Priority Collateral (or a portion thereof) on a pari passu basis (but without regard to control of remedies) with the Noteholder Claims; provided, however, that (i) such Indebtedness is permitted to be incurred, secured and guaranteed on such basis by each then extant Senior Lender Document and Second Priority Document and (ii) the Second Priority Agent for the holders of such Indebtedness shall have executed and delivered this Agreement as of the date hereof or become party to this Agreement pursuant to, and by satisfying the conditions set forth in, Section 9.20 hereof.

“Indebtedness” shall mean and include all obligations that constitute “Indebtedness” within the meaning of the Second Priority Senior Secured Notes Indenture, any Second Priority Documents governing Future Second Lien Indebtedness, the Credit Agreement, or the Other First Priority Lien Obligations Credit Documents.

“Indenture Secured Parties” shall mean the Persons holding Noteholder Claims, including the Trustee and the Second Lien Collateral Agent.

“Insolvency or Liquidation Proceeding” shall mean (a) any voluntary or involuntary case or proceeding under any Bankruptcy Law with respect to any Pledgor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Pledgor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Pledgor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy or (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Pledgor.

“Lien” shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, charge, assignment, security interest or encumbrance of any kind in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset.

“Loan Documents” means the Credit Agreement and the other “Loan Documents” as defined in the Credit Agreement.

“Mortgaged Vessel” shall have the meaning set forth in the Credit Agreement.

“Noteholder Claims” shall mean all Obligations in respect of the Notes or arising under the Noteholder Documents or any of them, including all fees and expenses of the Trustee thereunder.

“Noteholder Collateral” shall mean all of the assets and property of any Pledgor, whether real, personal or mixed, with respect to which a Lien is granted or purported to be granted as security for any Noteholder Claim.

“Noteholder Collateral Agreement” shall mean the [Reference Second Lien Security Agreement], among [the Borrower,] the subsidiaries of the Borrower from time to time party thereto and [] as [Trustee][collateral agent (in such capacity, the “Second Lien Collateral Agent”)].

“Noteholder Collateral Documents” shall mean the Noteholder Collateral Agreement, the Second Priority Vessel Mortgages and any other document or instrument pursuant to which a Lien is granted or purported to be granted by any Pledgor to secure any Noteholder Claims or under which rights or remedies with respect to any such Lien are governed.

“Noteholder Documents” shall mean (a) the Second Priority Senior Secured Notes Indenture, the Notes, the Noteholder Collateral Documents and (b) any other related document or instrument executed and delivered pursuant to any Noteholder Document described in clause (a) above evidencing or governing any Obligations thereunder.

“Notes” shall mean (a) the Second Lien Notes, (b) Future Second Lien Indebtedness and (c) any additional notes issued under the Second Priority Senior Secured Notes Indenture or any Second Priority Documents governing Future Second Lien Indebtedness by the [Borrower], to the extent permitted by the Second Priority Senior Secured Notes Indenture, each Second Priority Document governing Future Second Lien Indebtedness, the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, each other Senior Lender Documents and each Second Priority Document, as applicable, in each case then outstanding.

“Obligations” shall mean, with respect to any Person, any payment, performance or other obligations of such Person of any kind, including, without limitation, any liability of such Person on any claim, whether or not the right of any creditor to payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured or unsecured, and whether or not such claim is discharged, stayed or otherwise affected by any Insolvency or Liquidation Proceeding. Without limiting the generality of the foregoing, the Obligations of any Pledgor under any Senior Lender Document or Second Priority Document include the obligations to pay principal, interest (including interest accrued on or accruing after the commencement of any Insolvency or Liquidation Proceeding, whether or not a claim for post-filing interest is allowed in such proceeding) or premium on any Indebtedness, letter of credit commissions (if applicable), charges, expenses, fees, attorneys’ fees and disbursements, indemnities and other amounts payable by such Pledgor to reimburse any amount in respect of any of the foregoing that any Senior Lender or Second Priority Secured Party, in its sole discretion, may elect to pay or advance on behalf of such Pledgor.

“Other First Priority Lien Obligations” means any Indebtedness that is issued or guaranteed by the Borrower, and/or any Guarantor (other than Indebtedness constituting Credit Agreement Obligations) which Indebtedness and Guarantees are secured by the Senior Collateral (or a portion thereof) on a pari passu basis (but without regard to control of remedies) with the Credit Agreement Obligations; provided, however, that (i) such Indebtedness is permitted to be incurred, secured and guaranteed on such basis by each then extant Senior Lender Document and Second Priority Document and (ii) the Other First Priority Lien Obligations Agent for the holders of such Indebtedness shall have (A) executed and delivered this Agreement as of the date hereof or become party to this Agreement pursuant to, and by satisfying the conditions set forth in, Section 9.20 hereof and (B) become a party to a First Lien Intercreditor Agreement pursuant to, and by satisfying the conditions set forth in, Section 6.20 of the Senior Collateral Agreement; provided further that, if such Indebtedness will be the initial Other First Priority Lien Obligations incurred by the Borrower, then the Guarantors, the Credit Agreement Agent and the Other First Priority Lien Obligations Agent for such Indebtedness shall have executed and delivered a First Lien Intercreditor Agreement.

“Other First Priority Lien Obligations Agent” shall mean, with respect to any Other First Priority Lien Obligations Credit Document, the Person elected, designated or appointed as the administrative agent, trustee, collateral agent or similar representative with respect to such Other First Priority Lien Obligations Credit Document by or on behalf of the holders of such Other First Priority Lien Obligations, and its respective successors in such capacity.

“Other First Priority Lien Obligations Credit Document” means any (a) instruments, agreements or documents evidencing debt facilities or commercial paper facilities, providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to lenders or to special purpose entities formed to borrow from lenders against such receivables) or letters of credit, (b) debt securities, indentures and/or other forms of debt financing (including convertible or exchangeable debt instruments or bank guarantees or bankers’ acceptances), or (c) instruments or agreements evidencing any other indebtedness, in each case in respect of Other First Priority Lien Obligations.

“Other First Priority Lien Obligations Documents” means each Other First Priority Lien Obligations Credit Document and each Other First Priority Lien Obligations Security Document related thereto.

“Other First Priority Lien Obligations Security Documents” means any other document or instrument pursuant to which a Lien is granted or purported to be granted by any Pledgor to secure any Other First Priority Lien Obligations or under which rights or remedies with respect to any such Lien are governed.

“Person” shall mean any natural person, corporation, business trust, joint venture, association, company, partnership, limited liability company or government, individual or family trusts, or any agency or political subdivision thereof.

“Pledged Collateral” shall mean the Common Collateral in the possession or control of any First Lien Agent (or in the possession or control of its agents or bailees), to the extent that possession or control thereof is taken to perfect a Lien thereon under the Uniform Commercial Code.

“Pledgors” shall mean the Borrower and each of the Borrower’s Subsidiaries, in each case, that has executed and delivered, or may from time to time hereafter execute and deliver, a Second Priority Collateral Document or a Senior Collateral Document.

“Recovery” shall have the meaning set forth in Section 6.4.

“Refinance” means, in respect of any indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other indebtedness or enter alternative financing arrangements, in exchange or replacement for such indebtedness (in whole or in part), including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including in each case, but not limited to, after the original instrument giving rise to such indebtedness has been terminated and including, in each case, through any credit agreement, indenture or other agreement. “Refinanced” and “Refinancing” have correlative meanings.

“Required Lenders” shall mean, with respect to any Senior Lender Documents, those Senior Secured Parties the approval of which is required to approve an amendment or modification of, termination or waiver of any provision of or consent to any departure from such Senior Lender Documents (or would be required to effect such consent under this Agreement if such consent were treated as an amendment of the Senior Lender Documents with respect to such Senior Secured Parties).

“Second Lien Collateral Agent” shall have the meaning set forth in the definition of Noteholder Collateral Agreement.

“Second Lien Notes” shall mean [_____], issued pursuant to the Second Priority Senior Secured Notes Indenture and any notes issued by [the Borrower] in exchange for, and as contemplated by, the Second Lien Notes and the related registration rights agreement with substantially identical terms as the Second Lien Notes.

“Second Priority Agents” shall mean (a) the Trustee as agent for the Indenture Secured Parties, (b) the Second Lien Collateral Agent and (c) the collateral agent, trustee or other authorized representative for any Future Second Lien Indebtedness that is named as Second Priority Agent in respect of such Future Second Lien Indebtedness in the applicable joinder agreement pursuant to Section 9.20.

“Second Priority Claims” shall mean the Noteholder Claims and all other Obligations in respect of, or arising under, the Second Priority Documents, including all fees and expenses of the Second Priority Agent for any Future Second Lien Indebtedness.

“Second Priority Collateral” shall mean the Noteholder Collateral and all of the assets and property of any Pledgor, whether real, personal or mixed, with respect to which a Lien is granted or purported to be granted as security for any Second Priority Claim.

“Second Priority Collateral Documents” shall mean the Noteholder Collateral Agreement, each other Noteholder Collateral Document and any comparable agreement(s) executed and delivered by any Pledgor for purposes of providing collateral security for any Future Second Lien Indebtedness.

“Second Priority Designated Agent” shall mean such agent or trustee as is designated “Second Priority Designated Agent” by Second Priority Secured Parties holding a majority in aggregate principal amount of the Second Priority Claims then outstanding that vote as a single class; it being understood that as of the date of this Agreement and for so long as any Obligations under the Second Priority Senior Secured Notes Indenture remain outstanding, the Second Lien Collateral Agent shall be so designated Second Priority Designated Agent.

“Second Priority Documents” shall mean the Noteholder Documents, the Second Priority Collateral Documents and any other document or instrument evidencing or governing, or securing, any Future Second Lien Indebtedness.

“Second Priority Lien” shall mean any Lien on any Second Priority Collateral securing any Second Priority Claims.

“Second Priority Secured Parties” shall mean the Indenture Secured Parties and all other Persons holding any Second Priority Claims, including the Second Priority Agent for any Future Second Lien Indebtedness.

“Second Priority Vessel Mortgages” shall mean each of the second preferred or second priority ship mortgages or other security documents granting a Lien on a Mortgaged Vessel to secure the Second Priority Claims.

“Second Priority Senior Secured Notes Indenture” shall have the meaning set forth in the recitals.

“Senior Collateral Agreement” shall mean the Guarantee and Collateral Agreement dated as of May 24, 2013 (as amended, amended and restated, replaced, refinanced, supplemented or otherwise modified from time to time) among the subsidiaries of the Borrower from time to time party thereto and the Credit Agreement Agent, as collateral agent.

“Senior Collateral Documents” shall mean the Senior Collateral Agreement, the Senior Vessel Mortgages, each other Security Document (as defined in the Credit Agreement), the Other First Priority Lien Obligations Security Documents and any security agreement, mortgage or other agreement, document or instrument pursuant to which a Lien is now or hereafter granted securing any Senior Lender Claims or under which rights or remedies with respect to such Lien are at any time governed.

“Senior Lender Claims” shall mean (i) the “Obligations” as defined in the Senior Collateral Agreement (other than clause (d) of such definition) and (ii) Obligations arising under the Other First Priority Lien Obligations Credit Documents and any other Senior Lender Documents, whether or not such Obligations constitute Indebtedness, including Obligations under any agreement that is an exchange or replacement for or an extension, increase or Refinancing of any other Senior Lender Claims. Senior Lender Claims shall include all interest and expenses accrued or accruing (or that would, absent the commencement of an Insolvency or Liquidation Proceeding, accrue) after the commencement of an Insolvency or Liquidation Proceeding in accordance with and at the rate specified in the relevant Senior Lender Documents whether or not the claim for such interest or expenses is allowed or allowable as a claim in such Insolvency or Liquidation Proceeding.

“Senior Lender Collateral” shall mean “Collateral” as defined in any Senior Collateral Document and all of the other assets or property of the Pledgors, whether real, personal or mixed, with respect to which a Lien is granted or purported to be granted as security for any Senior Lender Claim.

“Senior Lender Documents” shall mean the Loan Documents, the Other First Priority Lien Obligations Credit Documents, the Senior Collateral Documents and each of the other agreements, documents and instruments providing for, evidencing or securing any Senior Lender Claim, including any Obligation under the Credit Agreement and any other related document or instrument executed or delivered pursuant to any such document at any time or otherwise evidencing or securing any Obligation arising under any such document.

“Senior Secured Parties” shall mean the Credit Agreement Secured Parties and all other Persons holding Senior Lender Claims, including the First Lien Agents.

“Senior Vessel Mortgages” shall mean each of the first preferred or first priority ship mortgages or other security documents granting a Lien on a Mortgaged Vessel to secure the Senior Lender Claims.

“Subsidiary” shall mean any “Subsidiary” of the Borrower as defined in the Credit Agreement.

“Trustee” shall mean [_____], in its capacity as trustee under the Second Priority Senior Secured Notes Indenture [and as collateral agent under the Noteholder Collateral Documents], and its successors in such capacity.

“Uniform Commercial Code” or “UCC” shall mean the Uniform Commercial Code as from time to time in effect in the State of New York.

1.2 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified in accordance with this Agreement, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Sections shall be construed to refer to Sections of this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 2. Lien Priorities.

2.1 Subordination of Liens. Notwithstanding (i) the date, time, method, manner or order of filing or recordation of any document or instrument or grant, attachment or perfection (including any defect or deficiency or alleged defect or deficiency in any of the foregoing) of any Liens granted to the Second Priority Secured Parties on the Common Collateral or of any Liens granted to the Senior Secured Parties on the Common Collateral, (ii) any provision of the UCC, any Bankruptcy Law, or any applicable law or the Second Priority Documents or the Senior Lender Documents, (iii) whether any First Lien Agent, either directly or through agents, holds possession of, or has control over, all or any part of the Common Collateral, (iv) the fact that any such Liens may be subordinated, voided, avoided, invalidated or lapsed or (v) any other circumstance of any kind or nature whatsoever, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, hereby agrees that: (a) any Lien on the Common Collateral securing any Senior Lender Claims now or hereafter held by or on behalf of any First Lien Agent or any other Senior Secured Party or any agent or trustee therefor regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall have priority over and be senior in all respects and prior to any Lien on the Common Collateral securing any Second Priority Claims now or hereafter held by or on behalf of any Second Priority Agent or any Second Priority Secured Parties or any agent or trustee therefor regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise and (b) any Lien on the Common Collateral securing any Second Priority Claims now or hereafter held by or on behalf of any Second Priority Secured Parties or any agent or trustee therefor regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to all Liens on the Common Collateral securing any Senior Lender Claims now or hereafter held by or on behalf of any First Lien Agent or any other Senior Secured Party or any agent or trustee therefor regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise. All Liens on the Common Collateral securing any Senior Lender Claims shall be and remain senior in all respects and prior to all Liens on the Common Collateral securing any Second Priority Claims for all purposes, whether or not such Liens securing any Senior Lender Claims are subordinated to any Lien securing any other obligation of a Borrower, any other Pledgor or any other Person.

2.2 Prohibition on Contesting Liens Each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, and each First Lien Agent, for itself and on behalf of each applicable Senior Secured Party in respect of which it serves as First Lien Agent, agrees that it shall not (and hereby waives any right to) take any action to challenge, contest or support any other Person in contesting or challenging, directly or indirectly, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, perfection, priority or enforceability of (a) any Lien securing any Senior Lender Claims held (or purported to be held) by or on behalf of any First Lien Agent or any of the Senior Secured Parties or any agent or trustee therefor in any Senior Lender Collateral or (b) a Lien securing any Second Priority Claims held (or purported to be held) by or on behalf of any Second Priority Secured Party in the Common Collateral, as the case may be; provided, however, that nothing in this Agreement shall be construed to prevent or impair the rights of any First Lien Agent or any Senior Lender to enforce this Agreement (including the priority of the Liens securing the Senior Lender Claims as provided in Section 2.1) or any of the Senior Lender Documents.

2.3 No New Liens. So long as the Discharge of Senior Lender Claims has not occurred and subject to Section 6, each Second Priority Agent agrees, for itself and on behalf of each applicable Second Priority Secured Party, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against a Borrower or any other Pledgor, that it shall not acquire or hold any Lien on any assets of a Borrower or any other Pledgor securing any Second Priority Claims that are not also subject to the first-priority Lien in respect of the Senior Lender Claims under the Senior Lender Documents. If any Second Priority Agent or any Second Priority Secured Party shall (nonetheless and in breach hereof) acquire or hold any Lien on any collateral that is not also subject to the first-priority Lien in respect of the Senior Lender Claims under the Senior Lender Documents, then such Second Priority Agent shall, without the need for any further consent of any party and notwithstanding anything to the contrary in any other document, be deemed to also hold and have held such lien for the benefit of the First Lien Agents as security for the Senior Lender Claims (subject to the lien priority and other terms hereof) and shall promptly notify each First Lien Agent in writing of the existence of such Lien and in any event take such actions as may be requested by any First Lien Agent to assign or release such Liens to the First Lien Agents (and/or each of its designee) as security for the applicable Senior Lender Claims.

2.4 Perfection of Liens. Neither the First Lien Agents nor the Senior Secured Parties shall be responsible for perfecting and maintaining the perfection of Liens with respect to the Common Collateral for the benefit of the Second Priority Agents or the other Second Priority Secured Parties. The provisions of this Agreement are intended solely to govern the respective Lien priorities as between the Senior Secured Parties and the Second Priority Secured Parties and shall not impose on the First Lien Agents, the Second Priority Agents, the Second Priority Secured Parties or the Senior Secured Parties or any agent or trustee therefor any obligations in respect of the disposition of proceeds of any Common Collateral which would conflict with prior perfected claims therein in favor of any other Person or any order or decree of any court or governmental authority or any applicable law.

2.5 Waiver of Marshalling. Until the Discharge of Senior Lender Claims, each Second Priority Agent, on behalf of itself and the applicable Second Priority Secured Parties, agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshalling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to the Common Collateral or any other similar rights a junior secured creditor may have under applicable law.

2.6 Nature of First Priority Obligations. Each of the Second Priority Agents for itself and on behalf of the other applicable Second Priority Secured Parties acknowledges that a portion of the Senior Lender Claims represents debt that is revolving in nature and that the amount thereof that may be outstanding at any time or from time to time may be increased or reduced and subsequently reborrowed, and that the terms of the Senior Lender Claims may be modified, extended or amended from time to time, and that the aggregate amount of the Senior Lender Claims may be increased, replaced or Refinanced, in each event, without notice to or consent by the Second Priority Secured Parties and without affecting the provisions hereof. The lien priorities provided in Section 2.1 shall not be altered or otherwise affected by any such amendment, modification, supplement, extension, repayment, reborrowing, increase, replacement, renewal, restatement or Refinancing of the Senior Lender Claims, or any portion thereof, or by any amendment, modification, supplement, extension, repayment, reborrowing, increase, replacement, renewal, restatement or Refinancing of the Second Priority Claims, or any portion thereof.

SECTION 3. Enforcement.

3.1 Exercise of Remedies.

(a) So long as the Discharge of Senior Lender Claims has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against a Borrower or any other Pledgor, (i) no Second Priority Agent or any Second Priority Secured Party will (x) exercise or seek to exercise any rights or remedies (including setoff or recoupment) with respect to any Common Collateral or any other security in respect of any applicable Second Priority Claims, or exercise any right under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement, or institute any action or proceeding with respect to such rights or remedies (including any action of foreclosure), (y) contest, protest or object to any foreclosure proceeding or action brought with respect to the Common Collateral or any other collateral by any First Lien Agent or any Senior Lender in respect of the Senior Lender Claims, the exercise of any right by any First Lien Agent or any Senior Lender (or any agent or sub-agent on their behalf) in respect of the Senior Lender Claims under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any Second Priority Agent or any Second Priority Secured Party either is a party or may have rights as a third party beneficiary, or any other exercise by any such party, of any rights and remedies relating to the Common Collateral or any other collateral under the Senior Lender Documents or otherwise in respect of Senior Lender Claims, or (z) object to the forbearance by the Senior Secured Parties from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Common Collateral or any other collateral in respect of Senior Lender Claims and (ii) except as otherwise provided herein, each First Lien Agent and the Senior Secured Parties shall have the exclusive right to enforce rights, exercise remedies (including setoff and the right to credit bid their debt) and make determinations regarding the release, disposition or restrictions with respect to the Common Collateral without any consultation with or the consent of any Second Priority Agent or any Second Priority Secured Party; provided, however, that (A) in any Insolvency or Liquidation Proceeding commenced by or against a Borrower or any other Pledgor, each Second Priority Agent may file a proof of claim or statement of interest with respect to the applicable Second Priority Claims, (B) each Second Priority Agent may take any action (not adverse to the prior Liens on the Common Collateral securing the Senior Lender Claims, or the rights of either First Lien Agent or the Senior Secured Parties to exercise remedies in respect thereof) in order to create, prove, perfect, preserve or protect (but not enforce) its rights in, and perfection and priority of its Lien on, the Common Collateral, (C) in any Insolvency or Liquidation Proceeding commenced by or against a Borrower or any other Pledgor, each Second Priority Agent may file any necessary or responsive pleadings in opposition to any motion, adversary proceeding or other pleading filed by any Person objecting to or otherwise seeking disallowance of the claim or Lien of such Second Priority Agent or Second Priority Secured Party, (D) each Second Priority Agent may file any pleadings, objections, motions, or agreements which assert rights available to unsecured creditors of a Borrower or any other Pledgor arising under any Insolvency or Liquidation Proceeding or applicable non-bankruptcy law and (E) each Second Priority Agent and each Second Priority Secured Party may vote on any plan of reorganization in any Insolvency or Liquidation Proceeding of a Borrower or any other Pledgor, in each case (A) through (E) above to the extent such action is not inconsistent with, or could not result in a resolution inconsistent with, the terms of this Agreement.

(b) In exercising rights and remedies with respect to the Senior Lender Collateral, each First Lien Agent and the Senior Secured Parties may enforce the provisions of the Senior Lender Documents and exercise remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of Common Collateral or other collateral upon foreclosure, to incur expenses in connection with such sale or disposition, and to exercise all the rights and remedies of a secured lender under the uniform commercial code of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(c) So long as the Discharge of Senior Lender Claims has not occurred, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that it will not take or receive any Common Collateral or other collateral or any proceeds of Common Collateral or other collateral in connection with the exercise of any right or remedy (including setoff or recoupment) with respect to any Common Collateral or other collateral in respect of the applicable Second Priority Claims. Without limiting the generality of the foregoing, unless and until the Discharge of Senior Lender Claims has occurred, except as expressly provided in the proviso in clause (ii) of Section 3.1(a), the sole right of the Second Priority Agents and the Second Priority Secured Parties with respect to the Common Collateral or any other collateral is to hold a Lien on the Common Collateral or such other collateral in respect of the applicable Second Priority Claims pursuant to the Second Priority Documents, as applicable, for the period and to the extent granted therein and to receive a share of the proceeds thereof, if any, after the Discharge of Senior Lender Claims has occurred.

(d) Subject to the proviso in clause (ii) of Section 3.1(a) above, (i) each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, agrees that no Second Priority Agent or any Second Priority Secured Party will take any action that would hinder any exercise of remedies undertaken by any First Lien Agent or Senior Secured Parties with respect to the Common Collateral or any other collateral under the Senior Lender Documents, including any sale, lease, exchange, transfer or other disposition of the Common Collateral or such other collateral, whether by foreclosure or otherwise, and (ii) each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, hereby waives any and all rights it or any Second Priority Secured Party may have as a junior lien creditor or otherwise to object to the manner in which any First Lien Agent or Senior Secured Parties seek to enforce or collect the Senior Lender Claims or the Liens granted in any of the Senior Lender Collateral, regardless of whether any action or failure to act by or on behalf of any First Lien Agent or Senior Secured Parties is adverse to the interests of the Second Priority Secured Parties.

(e) Each Second Priority Agent hereby acknowledges and agrees that no covenant, agreement or restriction contained in any applicable Second Priority Document shall be deemed to restrict in any way the rights and remedies of any First Lien Agent or Senior Secured Parties with respect to the Senior Lender Collateral as set forth in this Agreement and the Senior Lender Documents.

(f) Until the Discharge of Senior Lender Claims, the First Priority Designated Agent shall have the exclusive right to exercise any right or remedy with respect to the Common Collateral and shall have the exclusive right to determine and direct the time, method and place for exercising such right or remedy or conducting any proceeding with respect thereto.

3.2 Cooperation. Subject to the proviso in clause (ii) of Section 3.1(a), each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that, unless and until the Discharge of Senior Lender Claims has occurred, it will not commence, or join with any Person (other than the Senior Secured Parties and any First Lien Agent upon the request of the First Lien Designated Agent) in commencing, any enforcement, collection, execution, levy or foreclosure action or proceeding with respect to any Lien held by it in the Common Collateral or any other collateral under any of the applicable Second Priority Documents or otherwise in respect of the applicable Second Priority Claims.

3.3 Actions Upon Breach. If any Second Priority Secured Party, in contravention of the terms of this Agreement, in any way takes, attempts to or threatens to take any action with respect to the Common Collateral (including any attempt to realize upon or enforce any remedy with respect to this Agreement) or fails to take any action required by this Agreement, this Agreement shall create an irrebuttable presumption and admission by such Second Priority Secured Party that relief against such Second Priority Secured Party by injunction, specific performance and/or other appropriate equitable relief is necessary to prevent irreparable harm to the Senior Secured Parties, it being understood and agreed by each Second Priority Agent on behalf of each applicable Second Priority Secured Party that (i) the Senior Secured Parties' damages from its actions may at that time be difficult to ascertain and may be irreparable, and (ii) each Second Priority Secured Party waives any defense that the Pledgors and/or the Senior Secured Parties cannot demonstrate damage and/or can be made whole by the awarding of damages.

SECTION 4. Payments.

4.1 Application of Proceeds. So long as the Discharge of Senior Lender Claims has not occurred, the Common Collateral and any other collateral in respect of the Second Priority Claims or proceeds thereof received in connection with the sale or other disposition of, or collection on, such Common Collateral or other collateral upon the exercise of remedies as a secured party, shall be applied by the First Lien Agents to the Senior Lender Claims in such order as specified in the relevant Senior Lender Documents until the Discharge of Senior Lender Claims has occurred. Upon the Discharge of Senior Lender Claims, subject to Section 5.7 hereof, each of the First Lien Agents shall deliver promptly to the Second Priority Designated Agent any Common Collateral or proceeds thereof held by it in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct to be applied by the Second Priority Designated Agent ratably to the Second Priority Claims in such order as specified in the Second Priority Documents.

4.2 Payments Over. Any Common Collateral or other collateral in respect of the Second Priority Claims or proceeds thereof received by any Second Priority Agent or any Second Priority Secured Party in connection with the exercise of any right or remedy (including setoff or recoupment) relating to the Common Collateral or such other collateral prior to the Discharge of Senior Lender Claims shall be segregated and held for the benefit of and forthwith paid over to the First Priority Designated Agent (and/or its designees) for the benefit of the Senior Secured Parties in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The First Lien Agents are each hereby individually authorized to make any such endorsements as agent for any Second Priority Agent or any such Second Priority Secured Party. This authorization is coupled with an interest and is irrevocable.

SECTION 5. Other Agreements.

5.1 Releases.

(a) If, at any time any Pledgor or the holder of any Senior Lender Claim delivers notice to each Second Priority Agent that any specified Common Collateral (including all or substantially all of the equity interests of a Pledgor or any of its Subsidiaries) (including for such purpose, in the case of the sale of equity interests in any Subsidiary, any Common Collateral held by such Subsidiary or any direct or indirect Subsidiary thereof) is:

(A) sold, transferred or otherwise disposed of:

(i) by the owner of such Common Collateral in a transaction permitted under the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture and each other Senior Lender Document and Second Priority Document (if any); or

(ii) during the existence of any Event of Default under (and as defined in) the Credit Agreement or the Other First Priority Lien Obligations Credit Documents to the extent that any of the First Lien Agents has consented to such sale, transfer or disposition; or

(B) otherwise released as permitted by the Credit Agreement and the Other First Priority Lien Obligations Credit Documents, then (whether or not any Insolvency or Liquidation Proceeding is pending at the time) the Liens in favor of the Second Priority Secured Parties upon such Common Collateral will automatically be released and discharged as and when, but only to the extent, such Liens on such Common Collateral securing Senior Lender Claims are released and discharged. Upon delivery to each Second Priority Agent of a notice from any First Lien Agent stating that any release of Liens securing or supporting the Senior Lender Claims has become effective (or shall become effective upon each Second Priority Agent's release) (whether in connection with a sale of such assets by the relevant Pledgor pursuant to the preceding sentence or otherwise), each Second Priority Agent will promptly execute and deliver such instruments, releases, termination statements or other documents confirming such release on customary terms.

(b) Each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, hereby irrevocably constitutes and appoints each First Lien Agent and any officer or agent of such First Lien Agent, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of each Second Priority Agent or such holder or in such First Lien Agent's own name, from time to time in such First Lien Agent's discretion, for the purpose of carrying out the terms of this Section 5.1, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Section 5.1, including any termination statements, endorsements or other instruments of transfer or release.

(c) Unless and until the Discharge of Senior Lender Claims has occurred, each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, hereby consents to the application, whether prior to or after a default, of proceeds of Common Collateral or other collateral to the repayment of Senior Lender Claims pursuant to the Senior Lender Documents; provided that nothing in this Section 5.1(c) shall be construed to prevent or impair the rights of the Second Priority Agents or the Second Priority Secured Parties to receive proceeds in connection with the Second Priority Claims not otherwise in contravention of this Agreement.

5.2 Insurance. Unless and until the Discharge of Senior Lender Claims has occurred, each First Lien Agent and the Senior Secured Parties shall have the sole and exclusive right, subject to the rights of the Pledgors under the Senior Lender Documents, to adjust settlement for any insurance policy covering the Common Collateral or any other collateral in respect of the Second Priority Claims in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding affecting the Common Collateral or such other collateral. Unless and until the Discharge of Senior Lender Claims has occurred, all proceeds of any such policy and any such award if in respect of the Common Collateral or such other collateral shall be paid (a) first, prior to the occurrence of the Discharge of Senior Lender Claims, to the First Lien Agents for the benefit of Senior Secured Parties pursuant to the terms of the Senior Lender Documents, (b) second, after the occurrence of the Discharge of Senior Lender Claims, to the Second Priority Agents for the benefit of the Second Priority Secured Parties pursuant to the terms of the applicable Second Priority Documents and (c) third, if no Second Priority Claims are outstanding, to the owner of the subject property, such other person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If any Second Priority Agent or any Second Priority Secured Party shall, at any time, receive any proceeds of any such insurance policy or any such award in contravention of this Agreement, it shall pay such proceeds over to any First Lien Agent in accordance with the terms of Section 4.2.

5.3 Amendments to Second Priority Collateral Documents

(a) So long as the Discharge of Senior Lender Claims has not occurred, without the prior written consent of the First Lien Agents, no Second Priority Collateral Document may be amended, supplemented or otherwise modified or entered into to the extent such amendment, supplement or modification, or the terms of any new Second Priority Collateral Document, would be prohibited by or inconsistent with any of the terms of this Agreement. Each Second Priority Agent agrees that each applicable Second Priority Collateral Document shall contain the applicable provisions set forth on Annex I hereto (or similar provisions approved by the First Lien Agents).

(b) In the event that the First Lien Agents or the Senior Secured Parties enter into any amendment, waiver or consent in respect of or replace any Senior Collateral Document for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any Senior Collateral Document or changing in any manner the rights of the First Lien Agents, the Senior Secured Parties, a Borrower or any other Pledgor thereunder (including the release of any Liens in Senior Lender Collateral), then such amendment, waiver or consent shall apply automatically to any comparable provision of each Comparable Second Priority Collateral Document without the consent of any Second Priority Agent, a Borrower, any other Pledgor or any Second Priority Secured Party and without any action by any Second Priority Agent, a Borrower, any other Pledgor or any Second Priority Secured Party; provided, that such amendment, waiver or consent does not materially adversely affect the rights of a Borrower, any other Pledgor or the Second Priority Secured Parties or the interests of the Second Priority Secured Parties in the Second Priority Collateral and not the other creditors of such Borrower or such Pledgor, as the case may be, that have a security interest in the affected collateral in a like or similar manner (without regard to the fact that the Lien of such Senior Collateral Document is senior to the Lien of the Comparable Second Priority Collateral Document). The relevant First Lien Agent shall give written notice of such amendment, waiver or consent to each Second Priority Agent; provided that the failure to give such notice shall not affect the effectiveness of such amendment, waiver or consent with respect to the provisions of any Second Priority Collateral Document as set forth in this Section 5.3(b).

(c) Anything contained herein to the contrary notwithstanding, until the Discharge of Senior Lender Claims has occurred, no Second Priority Collateral Document shall be entered into unless the collateral covered thereby is also subject to a perfected first-priority interest in favor of the First Lien Agents for the benefit of the Senior Secured Parties pursuant to the Senior Collateral Documents.

5.4 Rights As Unsecured Creditors. Notwithstanding anything to the contrary in this Agreement, the Second Priority Agents and the Second Priority Secured Parties may exercise rights and remedies as an unsecured creditor against a Borrower or any Pledgor in accordance with the terms of the applicable Second Priority Documents and applicable law, in each case to the extent not inconsistent with the provisions of this Agreement. Nothing in this Agreement shall prohibit the receipt by any Second Priority Agent or any Second Priority Secured Party of the required payments of interest and principal so long as such receipt is not the direct or indirect result of (a) the exercise by any Second Priority Agent or any Second Priority Secured Party of rights or remedies as a secured creditor in respect of Common Collateral or other collateral or (b) enforcement in contravention of this Agreement of any Lien in respect of Second Priority Claims held by any of them. In the event any Second Priority Agent or any Second Priority Secured Party becomes a judgment lien creditor or other secured creditor in respect of Common Collateral or other collateral as a result of its enforcement of its rights as an unsecured creditor in respect of Second Priority Claims or otherwise, such judgment or other lien shall be subordinated to the Liens securing Senior Lender Claims on the same basis as the other Liens securing the Second Priority Claims are so subordinated to such Liens securing Senior Lender Claims under this Agreement. Nothing in this Agreement impairs or otherwise adversely affects any rights or remedies the First Lien Agents or the Senior Secured Parties may have with respect to the Senior Lender Collateral.

5.5 First Lien Agents as Gratuitous Bailees for Perfection.

(a) Each First Lien Agent agrees to hold the Pledged Collateral that is part of the Common Collateral that is in its possession or control (or in the possession or control of its agents or bailees) as gratuitous bailee for each Second Priority Agent and any assignee solely for the purpose of perfecting the security interest granted in such Pledged Collateral pursuant to the Second Priority Collateral Agreements, subject to the terms and conditions of this Section 5.5 (such bailment being intended, among other things, to satisfy the requirements of Sections 8-106(d)(3), 8-301(a)(2) and 9-313(c) of the UCC).

(b) In the event that any First Lien Agent (or its agent or bailees) has Lien filings against Intellectual Property (as defined in the Senior Collateral Agreement) that is part of the Common Collateral that are necessary for the perfection of Liens in such Common Collateral, such First Lien Agent agrees to hold such Liens as gratuitous bailee for each Second Priority Agent and any assignee solely for the purpose of perfecting the security interest granted in such Liens pursuant to the Second Priority Collateral Agreements, subject to the terms and conditions of this Section 5.5.

(c) Except as otherwise specifically provided herein (including Sections 3.1 and 4.1), until the Discharge of Senior Lender Claims has occurred, any First Lien Agent shall be entitled to deal with the Pledged Collateral in accordance with the terms of the Senior Lender Documents as if the Liens under the Second Priority Collateral Documents did not exist. The rights of the Second Priority Agents and the Second Priority Secured Parties with respect to such Pledged Collateral shall at all times be subject to the terms of this Agreement.

(d) The First Lien Agents shall have no obligation whatsoever to any Second Priority Agent or any Second Priority Secured Party to assure that the Pledged Collateral is genuine or owned by the Pledgors or to protect or preserve rights or benefits of any Person or any rights pertaining to the Common Collateral except as expressly set forth in this Section 5.5. The duties or responsibilities of the First Lien Agents under this Section 5.5 shall be limited solely to holding the Pledged Collateral as gratuitous bailee for each Second Priority Agent for purposes of perfecting the Lien held by the Second Priority Secured Parties.

(e) The First Lien Agents shall not have by reason of the Second Priority Collateral Documents or this Agreement or any other document a fiduciary relationship in respect of any Second Priority Agent or any Second Priority Secured Party and the Second Priority Agents and the Second Priority Secured Parties hereby waive and release the First Lien Agents from all claims and liabilities arising pursuant to the First Lien Agents' role under this Section 5.5, as agent and gratuitous bailee with respect to the Common Collateral.

(f) Upon the Discharge of Senior Lender Claims, the relevant First Lien Agent shall deliver to the Second Priority Designated Agent, to the extent that it is legally permitted to do so, the remaining Pledged Collateral (if any) and to the extent such Pledged Collateral is in the possession or control of such First Lien Agent (or its agents or bailees) together with any necessary endorsements (or otherwise allow the Second Priority Designated Agent to obtain control of such Pledged Collateral) or as a court of competent jurisdiction may otherwise direct.

(g) Neither the First Lien Agents nor the Senior Secured Parties shall be required to marshal any present or future collateral security for the Borrower's or their Subsidiaries' obligations to the First Lien Agents or the Senior Secured Parties under the Credit Agreement or the Senior Collateral Documents or any assurance of payment in respect thereof or to resort to such collateral security or other assurances of payment in any particular order, and all of their rights in respect of such collateral security or any assurance of payment in respect thereof shall be cumulative and in addition to all other rights, however existing or arising.

5.6 Second Priority Designated Agent as Gratuitous Bailee for Perfection

(a) Upon the Discharge of Senior Lender Claims, the Second Priority Designated Agent agrees to hold the Pledged Collateral that is part of the Common Collateral in its possession or control (or in the possession or control of its agents or bailees) as gratuitous bailee for the other Second Priority Agents and any assignee solely for the purpose of perfecting the security interest granted in such Pledged Collateral pursuant to the applicable Second Priority Collateral Agreement, subject to the terms and conditions of this Section 5.6.

(b) In the event that the Second Priority Designated Agent (or its agent or bailees) has Lien filings against Intellectual Property (as defined in the Senior Collateral Agreement) that is part of the Common Collateral that are necessary for the perfection of Liens in such Common Collateral, upon the Discharge of Senior Lender Claims, the Second Priority Designated Agent agrees to hold such Liens as gratuitous bailee for the other Second Priority Agents and any assignee solely for the purpose of perfecting the security interest granted in such Liens pursuant to the applicable Second Priority Collateral Agreement, subject to the terms and conditions of this Section 5.6.

(c) The Second Priority Designated Agent, in its capacity as gratuitous bailee, shall have no obligation whatsoever to the other Second Priority Agents or the First Lien Agent to assure that the Pledged Collateral is genuine or owned by the Pledgors or to protect or preserve rights or benefits of any Person or any rights pertaining to the Common Collateral except as expressly set forth in this Section 5.6. The duties or responsibilities of the Second Priority Designated Agent under this Section 5.6 upon the Discharge of Senior Lender Claims shall be limited solely to holding the Pledged Collateral as gratuitous bailee for the other Second Priority Agents for purposes of perfecting the Lien held by the applicable Second Priority Secured Parties.

(d) The Second Priority Designated Agent shall not have by reason of the Second Priority Collateral Documents or this Agreement or any other document a fiduciary relationship in respect of the other Second Priority Agents (or the Second Priority Secured Parties for which such other Second Priority Agents are agents) and the other Second Priority Agents hereby waive and release the Second Priority Designated Agent from all claims and liabilities arising pursuant to the Second Priority Designated Agent's role under this Section 5.6, as agent and gratuitous bailee with respect to the Common Collateral.

(e) In the event that the Second Priority Designated Agent shall cease to be so designated the Second Priority Designated Agent pursuant to the definition of such term, the then Second Priority Designated Agent shall deliver to the successor Second Priority Designated Agent, to the extent that it is legally permitted to do so, the remaining Pledged Collateral (if any), together with any necessary endorsements (or otherwise allow the successor Second Priority Designated Agent to obtain control of such Pledged Collateral) or as a court of competent jurisdiction may otherwise direct, and such successor Second Priority Designated Agent shall perform all duties of the Second Priority Designated Agent as set forth herein.

5.7 Release Upon Discharge of Senior Lender Claims; No Release If Event of Default; Reinstatement

(a) Except as otherwise provided in clause (b) of this Section 5.7, upon the Discharge of Senior Lender Claims and the concurrent release of the Liens securing Senior Lender Claims, the Liens in favor of the Second Priority Secured Parties shall automatically be released and discharged.

(b) Notwithstanding any other provisions contained in this Agreement, if an Event of Default (as defined in the Second Priority Senior Secured Notes Indenture or any other Second Priority Document, as applicable) exists on the date of Discharge of Senior Lender Claims, the Second Priority Liens on the Second Priority Collateral securing the Second Priority Claims relating to such Event of Default will not be released, except to the extent such Second Priority Collateral or any portion thereof was disposed of in order to repay Senior Lender Claims secured by such Second Priority Collateral, and thereafter the applicable Second Priority Agent will have the right to foreclose upon such Second Priority Collateral (but in such event, the Liens on such Second Priority Collateral securing the applicable Second Priority Claims will be released when such Event of Default and all other Events of Default under the Second Priority Senior Secured Notes Indenture or any other Second Priority Document, as applicable, cease to exist).

(c) If, at any time after the Discharge of Senior Lender Claims has occurred, the Borrower incurs and designates any Senior Lender Claims, then such Discharge of Senior Lender Claims shall automatically be deemed not to have occurred for all purposes of this Agreement (other than with respect to any actions taken prior to the date of such designation as a result of the occurrence of such first Discharge of Senior Lender Claims), and the applicable agreement governing such Senior Lender Claims shall automatically be treated as the Credit Agreement for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Common Collateral set forth herein and the granting by the First Lien Agents of amendments, waivers and consents hereunder. Upon receipt of notice of such designation (including the identity of any new First Lien Agent), each Second Priority Agent shall promptly (i) enter into such documents and agreements, including amendments or supplements to this Agreement, as such new First Lien Agent shall reasonably request in writing in order to provide the new First Lien Agent the rights of the First Lien Agents contemplated hereby and (ii) to the extent then held by any Second Priority Agent, deliver to such First Lien Agent the Pledged Collateral that is Common Collateral together with any necessary endorsements (or otherwise allow such First Lien Agent to obtain possession or control of such Pledged Collateral).

SECTION 6. Insolvency or Liquidation Proceedings.

6.1 Financing Issues. If a Borrower or any other Pledgor shall be subject to any Insolvency or Liquidation Proceeding and any First Lien Agent shall desire to permit the use of cash collateral or to permit a Borrower or any other Pledgor to obtain financing under Section 363 or Section 364 of Title 11 of the United States Code or any similar provision in any Bankruptcy Law ("DIP Financing"), then each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that it will raise no objection to, and will not encourage or support any objection to, and will not otherwise contest (a) such use of cash collateral or DIP Financing and will not request adequate protection or any other relief in connection therewith (except to the extent permitted by Section 6.3) and, to the extent the Liens securing the Senior Lender Claims under the Senior Lender Documents are subordinated or pari passu with such DIP Financing, will subordinate its Liens in the Common Collateral and any other collateral to such DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Second Priority Claims are so subordinated to Liens securing Senior Lender Claims under this Agreement, (b) any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement in respect of Senior Lender Claims made by any First Lien Agent or any holder of Senior Lender Claims, (c) any lawful exercise by any holder of Senior Lender Claims of the right to credit bid, under Section 63(k) of the Bankruptcy Code, Senior Lender Claims at any sale in foreclosure of Senior Lender Collateral, (d) any other request for judicial relief made in any court by any holder of Senior Lender Claims relating to the lawful enforcement of any Lien on Senior Lender Collateral or (e) any order under Section 363(b) and (f) of the Bankruptcy Code relating to a sale of assets of any Pledgor for which any First Lien Agent has consented that provides, to the extent the sale is to be free and clear of Liens, that the Liens securing the Senior Lender Claims and the Second Priority Claims will attach to the proceeds of the sale on the same basis of priority as the Liens securing the Senior Lender Collateral do to the Liens securing the Second Priority Collateral in accordance with this Agreement.

6.2 Relief from the Automatic Stay. Until the Discharge of Senior Lender Claims has occurred, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that none of them shall seek relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of the Common Collateral or any other collateral, without the prior written consent of all First Lien Agents and Required Lenders.

6.3 Adequate Protection. Each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that none of them shall contest (or support any other Person contesting) (a) any request by any First Lien Agent or Senior Secured Parties for adequate protection or (b) any objection by any First Lien Agent or Senior Secured Parties to any motion, relief, action or proceeding based on such First Lien Agent's or the Senior Secured Parties' claiming a lack of adequate protection. Notwithstanding the foregoing, in any Insolvency or Liquidation Proceeding, (i) if the Senior Secured Parties (or any subset thereof) are granted adequate protection in the form of additional collateral in connection with any DIP Financing or use of cash collateral under Section 363 or Section 364 of Title 11 of the United States Code or any similar Bankruptcy Law, then each Second Priority Agent, on behalf of itself and any applicable Second Priority Secured Party, (A) may seek or request adequate protection in the form of a replacement Lien on such additional collateral, which Lien is subordinated to the Liens securing the Senior Lender Claims and such DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Second Priority Claims are so subordinated to the Liens securing Senior Lender Claims under this Agreement and (B) agrees that it will not seek or request, and will not accept, adequate protection in any other form, and (ii) in the event any Second Priority Agent, on behalf of itself or any applicable Second Priority Secured Party, seeks or requests adequate protection and such adequate protection is granted in the form of additional collateral, then such Second Priority Agent, on behalf of itself or each such Second Priority Secured Party, agrees that the First Lien Agents shall also be granted a senior Lien on such additional collateral as security for the applicable Senior Lender Claims and any such DIP Financing and that any Lien on such additional collateral securing the Second Priority Claims shall be subordinated to the Liens on such collateral securing the Senior Lender Claims and any such DIP Financing (and all Obligations relating thereto) and any other Liens granted to the Senior Secured Parties as adequate protection on the same basis as the other Liens securing the Second Priority Claims are so subordinated to such Liens securing Senior Lender Claims under this Agreement.

6.4 Avoidance Issues. If any Senior Lender is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of a Borrower or any other Pledgor (or any trustee, receiver or similar person therefor), because the payment of such amount was declared to be fraudulent or preferential in any respect or for any other reason, any amount (a "Recovery"), whether received as proceeds of security, enforcement of any right of setoff or otherwise, then as among the parties hereto the Senior Lender Claims shall be deemed to be reinstated to the extent of such Recovery and to be outstanding as if such payment had not occurred and the Senior Secured Parties shall be entitled to a Discharge of Senior Lender Claims with respect to all such recovered amounts and shall have all rights hereunder until such time. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto.

6.5 Application. This Agreement, which the parties acknowledge to be a subordination agreement subject to Section 510 of the Bankruptcy Code, shall be applicable prior to and after the commencement of any Insolvency or Liquidation Proceeding. All references herein to any Pledgor shall apply to any trustee for such Person and such Person as debtor in possession. The relative rights as to the Common Collateral and other collateral and proceeds thereof shall continue after the filing thereof on the same basis as prior to the date of the petition, subject to any court order approving the financing of, or use of cash collateral by, any Pledgor.

6.6 Waivers. Until the Discharge of Senior Lender Claims has occurred, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, (a) will not assert or enforce any claim under Section 506(c) of the United States Bankruptcy Code senior to or on a parity with the Liens securing the Senior Lender Claims for costs or expenses of preserving or disposing of any Common Collateral or other collateral, and (b) waives any claim it may now or hereafter have arising out of the election by any Senior Lender of the application of Section 1111(b)(2) of the Bankruptcy Code.

6.7 Reorganization Securities. If, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed, pursuant to a plan of reorganization or similar dispositive restructuring plan, on account of both the Senior Lender Claims and the Second Priority Claims, then, to the extent the debt obligations distributed on account of the Senior Lender Claims and on account of the Second Priority Claims are secured by Liens upon the same assets or property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

SECTION 7. Reliance; Waivers; etc.

7.1 Reliance. The consent by the Senior Secured Parties to the execution and delivery of the Second Priority Documents to which the Senior Secured Parties have consented and all loans and other extensions of credit made or deemed made on and after date hereof by the Senior Secured Parties to the Borrower or any Subsidiary shall be deemed to have been given and made in reliance upon this Agreement. Each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, acknowledges that it and the applicable Second Priority Secured Parties is not entitled to rely on any credit decision or other decisions made by any First Lien Agent or any Senior Lender in taking or not taking any action under the applicable Second Priority Document or this Agreement.

7.2 No Warranties or Liability. Neither any First Lien Agent nor any Senior Lender shall have been deemed to have made any express or implied representation or warranty upon which the Second Priority Agent or the Second Priority Secured Parties may rely, including with respect to the execution, validity, legality, completeness, collectability or enforceability of any of the Senior Lender Documents, the ownership of any Common Collateral or the perfection or priority of any Liens thereon. The Senior Secured Parties will be entitled to manage and supervise their respective loans and extensions of credit under the Senior Lender Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate, and the Senior Secured Parties may manage their loans and extensions of credit without regard to any rights or interests that any Second Priority Agent or any of the Second Priority Secured Parties have in the Common Collateral or otherwise, except as otherwise provided in this Agreement. Neither any First Lien Agent nor any Senior Lender shall have any duty to any Second Priority Agent or any Second Priority Secured Party to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an event of default or default under any agreements with the Borrower or any Subsidiary thereof (including the Second Priority Documents), regardless of any knowledge thereof that they may have or be charged with. Except as expressly set forth in this Agreement, the First Lien Agents, the Senior Secured Parties, the Second Priority Agents and the Second Priority Secured Parties have not otherwise made to each other, nor do they hereby make to each other, any warranties, express or implied, nor do they assume any liability to each other with respect to (a) the enforceability, validity, value or collectability of any of the Second Priority Claims, the Senior Lender Claims or any guarantee or security which may have been granted to any of them in connection therewith, (b) the Borrower's title to or right to transfer any of the Common Collateral or (c) any other matter except as expressly set forth in this Agreement.

7.3 Obligations Unconditional. All rights, interests, agreements and obligations of the First Lien Agents and the Senior Secured Parties, and the Second Priority Agents and the Second Priority Secured Parties, respectively, hereunder shall remain in full force and effect irrespective of:

- (a) any lack of validity or enforceability of any Senior Lender Documents or any Second Priority Documents;
- (b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the Senior Lender Claims or Second Priority Claims, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of the Credit Agreement or any other Senior Lender Document or of the terms of the Second Priority Senior Secured Notes Indenture or any other Second Priority Document;
- (c) any exchange of any security interest in any Common Collateral or any other collateral, or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the Senior Lender Claims or Second Priority Claims or any guarantee thereof;
- (d) the commencement of any Insolvency or Liquidation Proceeding in respect of a Borrower or any other Pledgor; or
- (e) any other circumstances that otherwise might constitute a defense available to, or a discharge of, a Borrower or any other Pledgor in respect of the Senior Lender Claims, or of any Second Priority Agent or any Second Priority Secured Party in respect of this Agreement.

SECTION 8. Representations and Warranties

8.1 Representations and Warranties of Each Party. Each party hereto represents and warrants to the other parties hereto as follows:

- (a) Such party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all requisite power and authority to execute and deliver this Agreement and perform its obligations hereunder.
- (b) This Agreement has been duly executed and delivered by such party and constitutes a legal, valid and binding obligation of such party, enforceable in accordance with its terms.
- (c) The execution, delivery and performance by such party of this Agreement (i) do not require any consent or approval of, registration or filing with or any other action by any governmental authority and (ii) will not violate any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of such party or any order of any governmental authority or any provision of any indenture, agreement or other instrument binding upon such party.

8.2 Representations and Warranties of First Lien Agent and Second Priority Agent. Each First Lien Agent and Second Priority Agent represents and warrants to the other parties hereto that it has been authorized by the Senior Secured Parties or the Indenture Secured Parties, as applicable, to enter into this Agreement.

SECTION 9. Miscellaneous.

9.1 Conflicts. Subject to Section 9.18, in the event of any conflict between the provisions of this Agreement and the provisions of any Senior Lender Document or any Second Priority Document, the provisions of this Agreement shall govern.

9.2 Continuing Nature of this Agreement; Severability. Subject to Section 6.4, this Agreement shall continue to be effective until the Discharge of Senior Lender Claims shall have occurred or such later time as all the Obligations in respect of the Second Priority Claims shall have been paid in full. This is a continuing agreement of lien subordination and the Senior Secured Parties may continue, at any time and without notice to each Second Priority Agent or any Second Priority Secured Party, to extend credit and other financial accommodations and lend monies to or for the benefit of a Borrower or any other Pledgor constituting Senior Lender Claims in reliance hereon. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency or Liquidation Proceeding. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

9.3 Amendments; Waivers. Subject to Section 9.20 hereof, no amendment, modification or waiver of any of the provisions of this Agreement by any Second Priority Agent or any First Lien Agent shall be deemed to be made unless the same shall be in writing signed on behalf of the party making the same or its authorized agent and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time. The Borrower and the Pledgors shall not have any right to consent to or approve any amendment, modification or waiver of any provision of this Agreement except to the extent their rights are adversely affected (in which case the Borrower shall have the right to consent to or approve any such amendment, modification or waiver). Upon the Borrower's request in connection with a designation of additional obligations as Other First Priority Lien Obligations or Future Second Lien Indebtedness, any First Lien Agent and/or any Second Priority Agent shall enter into such supplemental agreements (which may each take the form of an amendment, an amendment and restatement or a supplement of the foregoing Agreement) to facilitate the designation of such additional obligations as contemplated by Section 9.20 hereof as the Borrower may request; provided that the Borrower shall have delivered to each First Lien Agent and Second Priority Agent a certificate from an authorized officer of the Borrower confirming that such designation of additional obligations pursuant to Section 9.20 is permitted under each Senior Lien Document and each Second Priority Document and each First Lien Agent and Second Priority Agent may conclusively rely on such officer's certificate without any further inquiry..

9.4 Information Concerning Financial Condition of the Borrower and the Subsidiaries. Neither any First Lien Agent nor any Senior Lender shall have any obligation to any Second Priority Agent or any Second Priority Secured Party to keep the Second Priority Agent or any Second Priority Secured Party informed of, and the Second Priority Agents and the Second Priority Secured Parties shall not be entitled to rely on the First Lien Agents or the Senior Secured Parties with respect to, (a) the financial condition of the Borrower and its Subsidiaries and all endorsers, pledgors and/or guarantors of the Second Priority Claims or the Senior Lender Claims and (b) all other circumstances bearing upon the risk of nonpayment of the Second Priority Claims or the Senior Lender Claims. The First Lien Agents, the Senior Secured Parties, each Second Priority Agent and the Second Priority Secured Parties shall have no duty to advise any other party hereunder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that any First Lien Agent, any Senior Lender, any Second Priority Agent or any Second Priority Secured Party, in its or their sole discretion, undertakes at any time or from time to time to provide any such information to any other party, it or they shall be under no obligation (w) to make, and the First Lien Agents, the Senior Secured Parties, the Second Priority Agents and the Second Priority Secured Parties shall not make, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (x) to provide any additional information or to provide any such information on any subsequent occasion, (y) to undertake any investigation or (z) to disclose any information that, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

9.5 Subrogation. Each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, hereby waives any rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of Senior Lender Claims has occurred.

9.6 Application of Payments. Except as otherwise provided herein, all payments received by the Senior Secured Parties may be applied, reversed and reapplied, in whole or in part, to such part of the Senior Lender Claims as the Senior Secured Parties, in their sole discretion, deem appropriate, consistent with the terms of the Senior Lender Documents. Except as otherwise provided herein, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, assents to any such extension or postponement of the time of payment of the Senior Lender Claims or any part thereof and to any other indulgence with respect thereto, to any substitution, exchange or release of any security that may at any time secure any part of the Senior Lender Claims and to the addition or release of any other Person primarily or secondarily liable therefor.

9.7 Consent to Jurisdiction; Waivers. The parties hereto consent to the nonexclusive jurisdiction of any state or federal court located in New York County, New York (the "New York Courts"), and consent that all service of process may be made by registered mail directed to such party as provided in Section 9.8 for such party. Service so made shall be deemed to be completed three days after the same shall be posted as aforesaid. The parties hereto waive any objection to any action instituted hereunder in any such court based on forum non conveniens, and any objection to the venue of any action instituted hereunder in any such court. Each of the parties hereto waives any right it may have to trial by jury in respect of any litigation based on, or arising out of, under or in connection with this Agreement, or any course of conduct, course of dealing, verbal or written statement or action of any party hereto in connection with the subject matter hereof. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement in the courts of any jurisdiction, except that each Second Priority Secured Party and each Second Priority Agent agrees that (a) it will not bring any such action or proceeding in any court other than New York Courts, and (b) in any such action or proceeding brought against any Second Priority Agent or any Pledgor or any Second Priority Secured Party in any other court, it will not assert any cross-claim, counterclaim or setoff, or seek any other affirmative relief, except to the extent that the failure to assert the same will preclude such Second Priority Secured Party from asserting or seeking the same in the New York Courts.

9.8 Notices. All notices to the Second Priority Secured Parties and the Senior Secured Parties permitted or required under this Agreement may be sent to the Trustee, the First Lien Agents or any Second Priority Agent as provided in the Second Priority Senior Secured Notes Indenture, the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the other relevant Senior Lender Documents or the other relevant Second Priority Documents, as applicable. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, telecopied, electronically mailed or sent by courier service or U.S. mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a telecopy or electronic mail or upon receipt via U.S. mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth below each party's name on the signature pages hereto, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties. The First Lien Agents hereby agree to promptly notify each Second Priority Agent upon payment in full in cash of all Obligations under the applicable Senior Lender Documents (except for contingent indemnities and cost and reimbursement obligations to the extent no claim therefor has been made).

9.9 Further Assurances. Each of the Second Priority Agents, on behalf of itself and each applicable Second Priority Secured Party, and each applicable First Lien Agent, on behalf of itself and each Senior Lender, agrees that each of them shall take such further action and shall execute and deliver to each other First Lien Agent and the Senior Secured Parties such additional documents and instruments (in recordable form, if requested) as each other First Lien Agent or the Senior Secured Parties may reasonably request, to effectuate the terms of and the lien priorities contemplated by this Agreement.

9.10 GOVERNING LAW. THIS AGREEMENT SHALL BE INTERPRETED, AND THE RIGHTS AND LIABILITIES OF THE PARTIES BOUND HEREBY DETERMINED, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

9.11 Binding on Successors and Assigns. This Agreement shall be binding upon the First Lien Agents, the Senior Secured Parties, the Second Priority Agents, the Second Priority Secured Parties and their respective permitted successors and assigns.

9.12 Specific Performance. Each First Lien Agent may demand specific performance of this Agreement. Each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by any First Lien Agent.

9.13 Section Titles. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of this Agreement.

9.14 Counterparts. This Agreement may be executed in one or more counterparts, including by means of facsimile or other electronic transmission, each of which shall be an original and all of which shall together constitute one and the same document.

9.15 Authorization. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. The First Lien Agents represent and warrant that this Agreement is binding upon the applicable Senior Secured Parties. The Trustee represents and warrants that this Agreement is binding upon the Indenture Secured Parties.

9.16 No Third Party Beneficiaries; Successors and Assigns. This Agreement and the rights and benefits hereof shall inure to the benefit of, and be binding upon, each of the parties hereto and their respective successors and assigns and shall inure to the benefit of each of, and be binding upon, the holders of Senior Lender Claims and Second Priority Claims. No other Person shall have or be entitled to assert rights or benefits hereunder. Notwithstanding the foregoing, the Borrower is the intended beneficiary and third party beneficiary hereof with the right and power to enforce with respect to Sections 5.1, 5.3, 5.7, 9.3, 9.16 and 9.20 and Article VI hereof and as otherwise provided herein.

9.17 Effectiveness. This Agreement shall become effective when executed and delivered by the parties hereto. This Agreement shall be effective both before and after the commencement of any Insolvency or Liquidation Proceeding. All references to a Borrower or any other Pledgor shall include each Borrower or any other Pledgor as debtor and debtor-in-possession and any receiver or trustee for a Borrower or any other Pledgor (as the case may be) in any Insolvency or Liquidation Proceeding.

9.18 Relative Rights. Notwithstanding anything in this Agreement to the contrary (except to the extent contemplated by Section 5.3(b)), nothing in this Agreement is intended to or will (a) amend, waive or otherwise modify the provisions of the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Senior Lender Documents or Second Priority Documents entered into in connection with the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Senior Lender Document or Second Priority Document or permit a Borrower or any Subsidiary to take any action, or fail to take any action, to the extent such action or failure would otherwise constitute a breach of, or default under, the Credit Agreement or any other Senior Lender Documents entered into in connection with the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Second Priority Documents, (b) change the relative priorities of the Senior Lender Claims or the Liens granted under the Senior Lender Documents on the Common Collateral (or any other assets) as among the Senior Secured Parties, (c) otherwise change the relative rights of the Senior Secured Parties in respect of the Common Collateral as among such Senior Secured Parties or (d) obligate a Borrower or any Subsidiary to take any action, or fail to take any action, that would otherwise constitute a breach of, or default under, the Credit Agreement, the Other First Priority Lien Obligations Credit Documents or any other Senior Lender Document entered into in connection with the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Second Priority Documents.

9.19 References. Notwithstanding anything to the contrary in this Agreement, any references contained herein to any Section, clause, paragraph, definition or other provision of the Second Priority Senior Secured Notes Indenture (including any definition contained therein) shall be deemed to be a reference to such Section, clause, paragraph, definition or other provision as in effect on the date of this Agreement; provided that any reference to any such Section, clause, paragraph or other provision shall refer to such Section, clause, paragraph or other provision of the Second Priority Senior Secured Notes Indenture, as applicable (including any definition contained therein), as amended or modified from time to time if such amendment or modification has been (1) made in accordance with the Second Priority Senior Secured Notes Indenture, and (2) approved in writing by, or on behalf of, the requisite Senior Secured Parties as are needed under the terms of the Credit Agreement and the Other First Priority Lien Obligations Credit Documents, to approve such amendment or modification.

9.20 Joinder Requirements. The Borrower and/or any First Lien Agent and/or any Second Priority Agent, without the consent of any other First Lien Agent or Second Priority Agent, any Senior Lender or any Second Priority Secured Party, may designate additional obligations as Other First Priority Lien Obligations or Future Second Lien Indebtedness if the incurrence of such obligations is permitted under each of the Credit Agreement, each Other First Priority Lien Obligations Credit Document, the Second Priority Senior Secured Notes Indenture, each other relevant Senior Lender Document and Second Priority Document and this Agreement. If so permitted, as a condition precedent to the effectiveness of such designation, the applicable Other First Priority Lien Obligations Agent or the Second Lien Agent for such Future Second Lien Indebtedness shall execute and deliver to each First Lien Agent and Second Priority Agent, a joinder agreement to this Agreement in form and substance reasonably satisfactory to the First Lien Designated Agent. Notwithstanding anything to the contrary set forth in this Section 9.20 or in Section 9.3 hereof, any First Lien Agent and/or any Second Priority Agent may, and, at the request of the Borrower, shall, in each case, without the consent of any other First Lien Agent or Second Priority Agent, any Senior Lender or any Second Priority Secured Party, enter into a supplemental agreement (which may take the form of an amendment, an amendment and restatement or a supplement of this Agreement) to facilitate the designation of such additional obligations as Other First Priority Lien Obligations or Future Second Lien Indebtedness. Any such amendment may, among other things, (i) add other parties holding Future Second Lien Indebtedness (or any agent or trustee thereof) to the extent such Indebtedness is permitted by the Credit Agreement, each Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture and each other Second Priority Document governing Future Second Lien Indebtedness, (ii) add other parties holding Obligations arising under the Other First Priority Lien Obligations Credit Documents (or any agent or trustee thereof) to the extent such Obligations are permitted by the Credit Agreement, each Other First Priority Lien Obligations Credit Document, the Second Priority Senior Secured Notes Indenture and each other Second Priority Document governing Future Second Lien Indebtedness, (iii) in the case of Future Second Lien Indebtedness, (a) establish that the Lien on the Common Collateral securing such Future Second Lien Indebtedness shall be junior and subordinate in all respects to all Liens on the Common Collateral securing any Senior Lender Claims and shall share in the benefits of the Common Collateral equally and ratably with all Liens on the Common Collateral securing any Second Priority Claims, and (b) provide to the holders of such Future Second Lien Indebtedness (or any agent or trustee thereof) the comparable rights and benefits (including any improved rights and benefits that have been consented to by the First Lien Agents) as are provided to the holders of Second Priority Claims under the foregoing Agreement immediately prior to the incurrence of such Future Second Lien Indebtedness, and (iv) in the case of Obligations arising under Other First Priority Lien Obligations Credit Documents, (a) establish that the Lien on the Common Collateral securing such Obligations shall be superior in all respects to all Liens on the Common Collateral securing any Second Priority Claims and any Future Second Lien Indebtedness and shall share in the benefits of the Common Collateral equally and ratably with all Liens on the Common Collateral securing any other Senior Lender Claims, and (b) provide to the holders of such Obligations arising under the Other First Priority Lien Obligations Credit Documents (or any agent or trustee thereof) the comparable rights and benefits as are provided to the holders of Senior Lender Claims under the foregoing Agreement immediately prior to the incurrence of such Obligations. Any such additional party, each First Lien Agent and each Second Priority Agent shall be entitled to rely on the determination of officers of the Borrower that such modifications are permitted by the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture and each other Second Priority Document governing Future Second Lien Indebtedness if such determination is set forth in an officers' certificate of an authorized officer of the Borrower delivered to such party, the First Lien Agents and each Second Priority Agent; provided, however, that such determination will not affect whether or not the Borrower has complied with its undertakings in the Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Senior Collateral Documents, the Second Priority Senior Secured Notes Indenture, any other Second Priority Document governing Future Second Lien Indebtedness or the Second Priority Collateral Documents.

9.21 Intercreditor Agreements. Each party hereto agrees that the Senior Secured Parties (as among themselves) and the Second Priority Secured Parties (as among themselves) may each enter into intercreditor agreements (or similar arrangements) with the applicable First Lien Agent or Second Priority Agent governing the rights, benefits and privileges as among the Senior Secured Parties or the Second Priority Secured Parties, as the case may be, in respect of the Common Collateral, this Agreement and the other Senior Collateral Documents or Second Priority Collateral Documents, as the case may be, including as to application of proceeds of the Common Collateral, voting rights, control of the Common Collateral and waivers with respect to the Common Collateral, in each case so long as (A) the terms thereof do not violate or conflict with the provisions of this Agreement or the other Senior Collateral Documents or Second Priority Collateral Documents, as the case may be, (B) in the case of any such intercreditor agreement (or similar arrangement) affecting any Senior Secured Parties, the First Lien Agent acting on behalf of such Senior Secured Parties agrees in its sole discretion to enter into any such intercreditor agreement (or similar arrangement) and (C) in the case of any such intercreditor agreement (or similar arrangement) affecting the Senior Secured Parties holding Senior Lender Claims under the Credit Agreement, such intercreditor agreement (or similar arrangement) is permitted under the Credit Agreement or the Required Lenders otherwise authorize the applicable First Lien Agent to enter into any such intercreditor agreement (or similar arrangement). Notwithstanding the preceding clauses (B) and (C), to the extent that the applicable First Lien Agent is not authorized by the Required Lenders to enter into any such intercreditor agreement (or similar arrangement) or does not agree to enter into such intercreditor agreement (or similar arrangement), such intercreditor agreement (or similar arrangement) shall not be binding upon the applicable First Lien Agent but, subject to the immediately succeeding sentence, may still bind the other parties party thereto. In any event, if a respective intercreditor agreement (or similar arrangement) exists, the provisions thereof shall not be (or be construed to be) an amendment, modification or other change to this Agreement or any other Senior Collateral Document or Second Priority Collateral Document, and the provisions of this Agreement and the other Senior Collateral Documents and Second Priority Collateral Documents shall remain in full force and effect in accordance with the terms hereof and thereof (as such provisions may be amended, modified or otherwise supplemented from time to time in accordance with the terms thereof, including to give effect to any intercreditor agreement (or similar arrangement)).

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

NCL CORPORATION LTD.

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A., as Credit Agreement Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

Address:
Attention:
Telecopier:

[_____], as Second Lien Collateral Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

Address:
Attention:
Telecopier:

Provision for the Second Priority Senior Secured Notes Indenture

“Reference is made to the Intercreditor Agreement dated as of [•] (as amended, restated, supplemented or otherwise modified from time to time, the “*Intercreditor Agreement*”), among the Borrower, the Subsidiaries of the Borrower party thereto, JPMorgan Chase Bank, N.A., as Credit Agreement Agent (as defined therein), and [Trustee], as Second Lien Collateral Agent (as defined therein). The trustee and each Noteholder, by the acceptance of its Note and the benefits of this Agreement, (a) acknowledges that it has received a copy of the Intercreditor Agreement, (b) consents to the subordination of Liens provided for in the Intercreditor Agreement, (c) agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement and (d) authorizes and instructs the Trustee to enter into the Intercreditor Agreement as Collateral Agent and on behalf of such Noteholder. The foregoing provisions are intended as an inducement to the lenders under the First Lien Credit Agreement to permit the incurrence of Indebtedness under this Agreement and to extend credit to the Borrower and such lenders are intended third party beneficiaries of such provisions.”

Provision for the Second Priority Collateral Agreements

“Reference is made to the Intercreditor Agreement dated as of [•] (as amended, restated, supplemented or otherwise modified from time to time, the “*Intercreditor Agreement*”), among the Borrower, the Subsidiaries of the Borrower party thereto, JPMorgan Chase Bank, N.A., as Credit Agreement Agent (as defined therein), and [Trustee], as Second Lien Collateral Agent (as defined therein). Notwithstanding anything herein to the contrary, the lien and security interest granted to the Trustee, for the benefit of the Noteholders and the other secured parties, pursuant to this Agreement and the exercise of any right or remedy by the Trustee and the other secured parties hereunder are subject to the provisions of the Intercreditor Agreement. In the event of any conflict or inconsistency between the provisions of the Intercreditor Agreement and this Agreement, the provisions of the Intercreditor Agreement shall control.”

[FORM OF]
REVOLVING FACILITY LOAN NOTE

US\$: _____

New York, New York
_____, 20__

FOR VALUE RECEIVED, NCL Corporation Ltd., a Bermuda company (the "Borrower"), promises to pay to the order of _____ (the "Lender") the principal amount of _____ DOLLARS AND ___ CENTS (US\$ _____), or, if less, the aggregate outstanding principal amount of the Revolving Facility Loans made by the Lender to the Borrower pursuant to the Credit Agreement referred to below. The outstanding principal amount of this Revolving Facility Loan Note shall be paid in the amounts, on the dates and in the manner specified in the Credit Agreement. The Borrower further agrees to pay interest on the principal amount hereof from time to time outstanding at the rates and on the dates specified in the Credit Agreement. Principal and interest of any Revolving Facility Loan made to the Borrower shall be payable in Dollars in immediately available funds at the office of the Administrative Agent.

The holder of this Revolving Facility Loan Note is authorized to endorse on the schedule annexed hereto and made a part hereof, or on a continuation thereof that shall be attached hereto and made a part hereof, the date and amount of each Revolving Facility Loan made to the Borrower and the date and amount of each payment or prepayment of principal thereof. Each such endorsement shall constitute *prima facie* evidence of the accuracy of the information endorsed. The failure to make any such endorsement shall not affect the obligations of the Borrower in respect of the Revolving Facility Loans made to the Borrower.

This Revolving Facility Loan Note (a) is one of the promissory notes referred to in the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement") among the Borrower, the LENDERS party thereto from time to time, JPMORGAN CHASE BANK, N.A., as administrative and collateral agent for and on behalf of the Lenders and certain other parties thereto (in such capacity, the "Administrative Agent"), and the other financial institutions party thereto in the various capacities specified therein, (b) is subject to, and the Lender is entitled to the benefits of, the provisions of Credit Agreement and (c) is subject to prepayment as provided in the Credit Agreement. This Revolving Facility Loan Note is secured as provided in the Security Documents. There shall be maintained a Register for the purpose of registering transfers of this Revolving Facility Loan Note and the amount of the Lender's Revolving Facility Commitment and the Revolving Facility Loans owing by the Borrower to the Lender as provided in Section 10.04(b) of the Credit Agreement.

Upon the occurrence and during the continuance of any one or more Events of Default, all amounts then remaining unpaid on this Revolving Facility Loan Note shall become, or may be declared to be, immediately due and payable, all as provided in the Credit Agreement.

All parties now and hereafter liable with respect to this Revolving Facility Loan Note, whether as maker, principal, surety, guarantor, endorser or otherwise, hereby waive presentment, demand, protest and all other notices of any kind.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

THIS REVOLVING FACILITY LOAN NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES THEREOF.

[Signature Page to Follow.]

This Promissory Note is issued pursuant to and is subject to the Credit Agreement, executed as of the date set forth above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

Signature Page to the Promissory Note – Revolving Facility Loan

SCHEDULE TO REVOLVING FACILITY LOAN NOTE

| Date | Amount of Loan | Amount of Principal Repaid | Unpaid Balance | Notation Made By |
|-------------|---------------------------|---|---------------------------|-----------------------------|
| | | | | |

Signature Page to the Promissory Note – Revolving Facility Loan

[FORM OF]
TERM LOAN NOTE

US\$: _____

New York, New York
_____, 20__

FOR VALUE RECEIVED, NCL Corporation Ltd., a Bermuda company (the "Borrower"), promises to pay to the order of _____ (the "Lender") the principal amount of _____ DOLLARS AND ___ CENTS (US\$ _____). The outstanding principal amount of this Term Loan Note shall be paid in installments on each Term Loan Installment Date and in the manner specified in the Credit Agreement referred to below. The Borrower further agrees to pay interest on the principal amount hereof from time to time outstanding at the rates and on the dates specified in the Credit Agreement. All such principal and interest and any other amounts shall be payable in Dollars in immediately available funds at the office of the Administrative Agent.

This Term Loan Note (a) is one of the promissory notes referred to in the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement") among the Borrower, the LENDERS party thereto from time to time, JPMORGAN CHASE BANK, N.A., as administrative and collateral agent for and on behalf of the Lenders and certain other parties thereto (in such capacity, the "Administrative Agent"), and the other financial institutions party thereto in the various capacities specified therein, (b) is subject to, and the Lender is entitled to the benefits of, the provisions of Credit Agreement and (c) is subject to prepayment as provided in the Credit Agreement. This Term Loan Note is secured as provided in the Security Documents. There shall be maintained a Register for the purpose of registering transfers of this Term Loan Note and the amount of the Lender's Commitment and the Term Loan owing by the Borrower to the Lender as provided in Section 10.04(b) of the Credit Agreement.

Upon the occurrence and during the continuance of any one or more Events of Default, all amounts then remaining unpaid on this Term Loan Note shall become, or may be declared to be, immediately due and payable, all as provided in the Credit Agreement.

All parties now and hereafter liable with respect to this Term Loan Note, whether as maker, principal, surety, guarantor, endorser or otherwise, hereby waive presentment, demand, protest and all other notices of any kind.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.



THIS TERM LOAN NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES THEREOF.

[Signature Page to Follow.]

This Promissory Note is issued pursuant to and is subject to the Credit Agreement, executed as of the date set forth above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

Signature Page to the Promissory Note – Term Loan

PERFECTION CERTIFICATE

Reference is hereby made to (i) that certain Amended and Restated Credit Agreement (the "Credit Agreement") dated as of October 31, 2014 among NCL CORPORATION LTD., a Bermuda company ("NCL" or the "Borrower"), JPMORGAN CHASE BANK, N.A., as Collateral Agent (in such capacity, the "Collateral Agent") and the other parties thereto and (ii) that certain Guarantee and Collateral Agreement (the "Collateral Agreement") dated as of May 24, 2013 among each Subsidiary of the Borrower party thereto (each a "Subsidiary Guarantor" and collectively, the "Subsidiary Guarantors") and the Collateral Agent (as successor in interest to Deutsche Bank Trust Company Americas). Capitalized terms used but not defined herein have the meanings assigned in the Credit Agreement.

As used herein, the term "Companies" means the Borrower and the Subsidiary Guarantors.

The undersigned hereby certify to the Collateral Agent as follows:

1. Names.

(a) The exact legal name of each Company, as such name appears in its respective certificate of incorporation or any other organizational document, is set forth in Schedule 1(a). Each Company is (i) the type of entity disclosed next to its name in Schedule 1(a) and (ii) a registered organization except to the extent disclosed in Schedule 1(a). Also set forth in Schedule 1(a) is the organizational identification number, if any, of each Company that is a registered organization, the Federal Taxpayer Identification Number of each Company and the jurisdiction of formation of each Company.

(b) Set forth in Schedule 1(b) hereto is a list of any other corporate or organizational names each Company has had in the past five years, together with the date of the relevant change.

(c) Set forth in Schedule 1(c) is a list of all other names used by each Company, or any other business or organization to which each Company became the successor by merger, consolidation, acquisition, change in form, nature or jurisdiction of organization or otherwise, on any filings with the Internal Revenue Service at any time within the five years preceding the date hereof. Except as set forth in Schedule 1(c), no Company has changed its jurisdiction of organization at any time during the past four months.

2. Current Locations. The chief executive office of each Company is located at the address set forth in Schedule 2 hereto.

3. Extraordinary Transactions. Except for those purchases, acquisitions and other transactions described in Schedule 3 attached hereto, all of the Collateral owned by a Company has been originated by such Company in the ordinary course of business or consists of goods which have been acquired by such Company in the ordinary course of business from a person in the business of selling goods of that kind.

4. File Search Reports. Attached hereto as **Schedule 4** is a true and accurate summary of file search reports from the Uniform Commercial Code filing offices (i) in each jurisdiction identified in Section 1(a) or Section 2 with respect to each legal name set forth in Section 1 and (ii) in each jurisdiction described in **Schedule 1(c)** or **Schedule 3** relating to any of the transactions described in **Schedule 1(c)** or **Schedule 3** with respect to each legal name of the person or entity from which each Company purchased or otherwise acquired any of the Collateral. A true copy of each financing statement, including judgment and tax liens, bankruptcy and pending lawsuits or other filing identified in such file search reports has been delivered to the Collateral Agent.

5. UCC Filings. The financing statements (duly authorized by each Company constituting the debtor therein), including the indications of the collateral, attached as **Schedule 5** relating to the Collateral Agreement, are in the appropriate forms for filing in the filing offices in the jurisdictions identified in **Schedule 6** hereof.

6. Schedule of Filings. Attached hereto as **Schedule 6** is a schedule of (i) the appropriate filing offices for the financing statements attached hereto as **Schedule 5**, (ii) the appropriate filing offices for the filings described in **Schedule 11(c)**, and (iii) any other actions required to create, preserve, protect and perfect the security interests in the Collateral owned by the Companies granted to the Collateral Agent pursuant to the Security Documents. No other filings or actions are required to create, preserve, protect and perfect the security interests in the Collateral owned by the Companies granted to the Collateral Agent pursuant to the Security Documents.

7. Real Property. (a) Attached hereto as **Schedule 7(a)** is a list of all (i) real property owned, leased or otherwise held by each Company located in the United States as of the Acquisition Closing Date, (ii) real property to be encumbered by a Mortgage and fixture filing, which real property includes all real property owned, leased or otherwise held by each Company as of the Acquisition Closing Date having a value in excess of \$2,000,000 (such real property, the "Mortgaged Property"), (iii) common names, addresses and uses of each Mortgaged Property (stating improvements located thereon) and (iv) other information relating thereto required by such Schedule. Except as described in **Schedule 7(b)** attached hereto: (i) no Company has entered into any leases, subleases, tenancies, franchise agreements, licenses or other occupancy arrangements as owner, lessor, sublessor, licensor, franchisor or grantor with respect to any of the real property described in **Schedule 7(a)** and (ii) no Company has any Leases which require the consent of the landlord, tenant or other party thereto to the borrowing of the Acquisition Loans. The Mortgages delivered as of the date hereof are in the appropriate form for filing in the filing offices in the jurisdictions identified in **Schedule 6**.

8. Termination Statements. Attached hereto as **Schedule 8(a)** are the duly authorized termination statements in the appropriate form for filing in each applicable jurisdiction identified in **Schedule 8(b)** hereto with respect to each Lien described therein.

9. Stock Ownership and Other Equity Interests. Attached hereto as **Schedule 9(a)** is a true and correct list of each of all of the authorized, and the issued and outstanding, stock, partnership interests, limited liability company membership interests or other equity interest of each Company and the record and beneficial owners of such stock, partnership interests, membership interests or other equity interests setting forth the percentage of such equity interests pledged under the Collateral Agreement.

10. Instruments and Tangible Chattel Paper. Attached hereto as **Schedule 10** is a true and correct list of all promissory notes, instruments (other than checks to be deposited in the ordinary course of business), tangible chattel paper, electronic chattel paper and other evidence of indebtedness held by each Company as of the date hereof, including all intercompany notes between or among any Company, any other Subsidiary Guarantor or any of their respective Subsidiaries, stating if such instruments, chattel paper or other evidence of indebtedness is pledged under the Collateral Agreement.

11. Intellectual Property. (a) Attached hereto as **Schedule 11(a)** is a schedule setting forth all of each Company's Patents and Trademarks (each as defined in the Collateral Agreement) applied for or registered with the United States Patent and Trademark Office, and all other Patents and Trademarks (each as defined in the Collateral Agreement), including the name of the registered owner or applicant and the registration, application, or publication number, as applicable, of each Patent or Trademark owned by each Company.

(b) Attached hereto as **Schedule 11(b)** is a schedule setting forth all of each Company's United States Copyrights (each as defined in the Collateral Agreement), and all other Copyrights, including the name of the registered owner and the registration number of each Copyright owned by each Company.

(c) Attached hereto as **Schedule 11(c)** is a schedule setting forth all Patent Licenses, Trademark Licenses and Copyright Licenses, whether or not recorded with the USPTO or USCO, as applicable, including, but not limited to, the relevant signatory parties to each license along with the date of execution thereof and, if applicable, a recordation number or other such evidence of recordation.

(d) Attached hereto as **Schedule 11(d)** in proper form for filing with the United States Patent and Trademark Office (the "USPTO") and United States Copyright Office (the "USCO") are the filings necessary to preserve, protect and perfect the security interests in the United States Trademarks, Trademark Licenses, Patents, Patent Licenses, Copyrights and Copyright Licenses set forth in **Schedule 11(a), Schedule 11(b), and Schedule 11(c)**, including duly signed copies of each of the Patent Security Agreement, Trademark Security Agreement and the Copyright Security Agreement, as applicable.

12. Commercial Tort Claims. Attached hereto as **Schedule 12** is a true and correct list of all Commercial Tort Claims (as defined in the Collateral Agreement) held by each Company, including a brief description thereof and stating if such commercial tort claims are required to be pledged under the Collateral Agreement.

13. Deposit Accounts, Securities Accounts and Commodity Accounts No information is provided with respect to the Deposit Accounts, Securities Accounts and/or Commodity Account since they are not required to be subject to Collateral Agent's control pursuant to the Collateral Agreement.

14. Letter-of-Credit Rights. Attached hereto as **Schedule 14** is a true and correct list of all letters of credit issued in favor of each Company, as beneficiary thereunder, stating if letter-of-credit rights with respect to such letters of credit are required to be subject to a control arrangement pursuant to the Collateral Agreement.

15. Motor Vehicles. No information is provided with respect to the motor vehicles and other goods (covered by certificates of title or ownership) since they are not required to be pledged pursuant to the Collateral Agreement.

16. Insurance. Attached hereto as **Schedule 16** is a true and correct list of all general liability, vessel and property insurance policies of each Company.

17. Other Collateral. Attached hereto as **Schedule 17** is a true and correct list of all of the following types of collateral, if any, owned or held by each Company: (a) all agreements and contracts with any Governmental Authority and (b) all ships and boats vessels, stating in each case, if such types of collateral are required to be pledged pursuant to the Collateral Agreement or any other Security Document.

IN WITNESS WHEREOF, we have hereunto signed this Perfection Certificate as of this ____ day of _____, 2014.

[_____]

By: _____
Name:
Title:

[_____]

By: _____
Name:
Title:]

[Signature Page to Perfection Certificate]

Schedule 1(a)

Legal Names, Etc.

| Legal Name | Type of Entity | Registered Organization (Yes/No) | Organizational Number¹³ | Federal Taxpayer Identification Number | State of Formation |
|-------------------|-----------------------|---|---|---|---------------------------|
|-------------------|-----------------------|---|---|---|---------------------------|

¹³ If none, so state.

Schedule 1(b)

Prior Organizational Names

[]

Schedule 1(c)

Changes in Corporate Identity; Other Names

[]

Schedule 2

Chief Executive Offices

Company/Subsidiary

Address

Country

State

Schedule 3

Transactions Other Than in the Ordinary Course of Business

[]

Schedule 4

File Search Reports

See attached.

Schedule 5

Copy of Financing Statements To Be Filed

See attached.

Schedule 6

Filings/Filing Offices

| Type of Filing¹⁴ | Entity | Applicable Security Document | Jurisdictions |
|------------------------------------|---------------|-------------------------------------|----------------------|
|------------------------------------|---------------|-------------------------------------|----------------------|

¹⁴ UCC-1 financing statement, intellectual property filing or other necessary filing.

Schedule 7(a)

Real Property

[]

Schedule 7(b)

Real Property Leases

[]

Schedule 8(a)

Attached hereto is a true copy of each termination statement filing duly acknowledged or otherwise identified by the filing officer.

Schedule 8(b)

Termination Statement Filings

| <u>Debtor</u> | <u>Jurisdiction</u> | <u>Secured Party</u> | <u>Type of Collateral</u> | <u>UCC-1 File Date</u> | <u>UCC-1 File Number</u> |
|---------------|---------------------|----------------------|---------------------------|----------------------------|------------------------------|
|---------------|---------------------|----------------------|---------------------------|----------------------------|------------------------------|

Schedule 9

(a) Equity Interests of the Companies

| Current Legal Entities Owned | Record Owner | Certificate No. | No. Shares/ Interest | Percent Pledged |
|---|---------------------|------------------------|---------------------------------|----------------------------|
|---|---------------------|------------------------|---------------------------------|----------------------------|

Schedule 10

Instruments and Tangible Chattel Paper

1. Promissory Notes/Intercompany Notes:

[]

2. Chattel Paper:

[]

Schedule 11(a)

Patents and Trademarks

UNITED STATES PATENTS:

[]

OTHER PATENTS:

[]

UNITED STATES TRADEMARKS:

[]

OTHER TRADEMARKS:

[]

Schedule 11(b)

Copyrights

[]

Schedule 11(c)

Intellectual Property Licenses

Patent Licenses:

[]

Trademark Licenses:

[]

Copyright Licenses:

[]

Schedule 11(d)

Intellectual Property Filings

[]

Schedule 12

Commercial Tort Claims

[]

Schedule 14

Letter of Credit Rights

[]

Schedule 16

**Vessel and Property
Insurance**

See attached.

Schedule 17

Other Collateral

(a) Agreements and Contracts with Governmental Authorities

[]

(b) Ships, Boats and Vessels

| Description | Pledged [Yes/No] |
|--------------------|-----------------------------|
|--------------------|-----------------------------|

[FORM OF]
PERMITTED LOAN PURCHASE ASSIGNMENT AND ACCEPTANCE

Reference is made to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), the Lenders party thereto from time to time, JPMorgan Chase Bank, N.A., as administrative agent (together with its successors and assigns, in such capacity, the "Administrative Agent") and as collateral agent and certain other parties thereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The Assignor identified on Schedule I hereto (the "Assignor") and the Borrower or Fund Affiliate identified on Schedule I hereto as "Assignee" (the "Assignee") agree as follows:

1. The Assignor hereby irrevocably sells and assigns to the Assignee without recourse to the Assignor, and the Assignee hereby irrevocably purchases and assumes from the Assignor without recourse to the Assignor, as of the Effective Date (as defined below) and pursuant to the terms and conditions set forth in the Credit Agreement for Permitted Loan Purchases (including, without limitation, Sections 10.04(i) and 10.04(j) thereof), the interest described in Schedule I hereto (the "Assigned Interest") in and to the Assignor's rights and obligations under the Credit Agreement with respect to those credit facilities contained in the Credit Agreement as are set forth on Schedule I hereto (individually, an "Assigned Facility"; collectively, the "Assigned Facilities"), in a principal amount for each Assigned Facility as set forth on Schedule I hereto.

2. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Permitted Loan Purchase Assignment and Acceptance and to consummate the transactions contemplated hereby; (b) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or with respect to the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant thereto, other than that the Assignor has not created any adverse claim upon the interest being assigned by it hereunder and that such interest is free and clear of any such adverse claim; (c) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower, any of its Subsidiaries or any other obligor or the performance or observance by the Borrower, any of its Subsidiaries or any other obligor of any of its respective obligations under the Credit Agreement or any other Loan Document or any other instrument or document furnished pursuant hereto or thereto; and (d) attaches any Notes held by it evidencing the Assigned Facilities. To the extent the Assignor has retained any interest in the Assigned Facility and holds a Note evidencing such interest, the Assignor hereby requests that the Administrative Agent exchange the attached Notes for a new Note or Notes payable to the Assignor, in each case in amounts which reflect the assignment being made hereby (and after giving effect to any other assignments which have become effective on the Effective Date).

3. The Assignee (a) represents and warrants that it is legally authorized to enter into this Permitted Loan Purchase Assignment and Acceptance and has taken all action necessary to execute and deliver this Permitted Loan Purchase Assignment and Acceptance and to consummate the transaction contemplated hereby; and (b) represents and warrants that it satisfied the requirements, if any, specified in the Credit Agreement that are required to be satisfied in order to make a Permitted Loan Purchase of the Assigned Interest.

4. The effective date of this Permitted Loan Purchase Assignment and Acceptance shall be the Effective Date of Assignment described in Schedule 1 hereto (the "Effective Date"). Following the execution of this Permitted Loan Purchase Assignment and Acceptance, the Assigned Interest shall be deemed to be automatically and immediately (contributed to the Borrower, if applicable, and) cancelled and extinguished (with a corresponding permanent reduction in Revolving Facility Commitments to the extent the Assigned Interest consists of Revolving Facility Loans). The Administrative Agent shall update the Register, effective as of the Effective Date, to record such event as if it were a prepayment of such Assigned Interest (with a corresponding permanent reduction in Revolving Facility Commitments to the extent the Assigned Interest consists of Revolving Facility Loans) pursuant to Section 10.04(j) of the Credit Agreement.

5. Upon such acceptance and recording, from and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued prior to the Effective Date. No payments in respect of the Assigned Interest (which shall be deemed to have been cancelled and extinguished as of the Effective Date) shall be due to the Assignor or the Assignee from and after the Effective Date.

6. As of the Effective Date, the Assignor shall, to the extent provided in this Permitted Loan Purchase Assignment and Acceptance, relinquish its rights and be released from its obligations under the Credit Agreement.

7. This Permitted Loan Purchase Assignment and Acceptance shall be binding upon, and inure to the benefit of the parties hereto and their respective successors and assigns. This Permitted Loan Purchase Assignment and Acceptance may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Permitted Loan Purchase Assignment and Acceptance by telecopy shall be effective as delivery of a manually executed counterpart of this Permitted Loan Purchase Assignment and Acceptance.

8. This Permitted Loan Purchase Assignment and Acceptance shall be governed by and construed in accordance with the laws of the State of New York.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Permitted Loan Purchase Assignment and Acceptance to be executed as of the date first above written by their respective duly authorized officers on Schedule 1 hereto.

[NAME OF ASSIGNOR]

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signature Page to Permitted Loan Purchase Assignment and Acceptance]

Accepted and Consented To:

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent

By:

Name:
Title:

[Signature Page to Permitted Loan Purchase Assignment and Acceptance]

Schedule 1
to Permitted Loan Purchase Assignment and Acceptance

Name of Assignor: _____

Name of Assignee: _____

Effective Date of Assignment: _____

| Principal Amount Assigned of the Term Facility | Percentage of Loan/Commitment Assigned¹ |
|---|---|
| \$ _____ | ____._____% |

1 Calculate the Loan/Commitment Percentage that is assigned to at least 15 decimal places and show as a percentage of the aggregate Term Loans of all the Lenders, or the aggregate Commitments of all the Lenders in respect of Term Loans, as applicable.

FORM OF NON-BANK TAX CERTIFICATE
(For Foreign Lenders That Are Not Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, supplemented or otherwise modified from time to time) (the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), each lender from time to time party thereto (collectively, the "Lenders"), and JPMorgan Chase Bank, N.A. as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (v) no payments in connection with any Loan Document are effectively connected with the undersigned's conduct of a U.S. trade or business.

The undersigned has furnished the Administrative Agent with a certificate of its non-U.S. person status on IRS Form W-8BEN or W-8BEN-E, as appropriate. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent in writing and (2) the undersigned shall furnish the Borrower and the Administrative Agent a properly completed and currently effective certificate in either the calendar year in which payment is to be made by the Borrower or the Administrative Agent to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Lender]

By: _____
Name:
Title:

[Address]

Dated: _____, 20[]

FORM OF NON-BANK TAX CERTIFICATE
(For Foreign Lenders That Are Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, supplemented or otherwise modified from time to time) (the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), each lender from time to time party thereto (collectively, the "Lenders"), and JPMorgan Chase Bank, N.A. as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) neither the undersigned nor any of its partners/members is a bank within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) no payments in connection with any Loan Document are effectively connected with the undersigned's or its partners/members' conduct of a U.S. trade or business.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as appropriate, or (ii) and IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as appropriate, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent in writing and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Lender]

By: _____
Name:
Title:

[Address]

Dated: _____, 20[]

FORM OF NON-BANK TAX CERTIFICATE
(For Foreign Participants That Are Not Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, supplemented or otherwise modified from time to time) (the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), each lender from time to time party thereto (collectively, the "Lenders"), and JPMorgan Chase Bank, N.A. as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(e) and Section 10.04(d) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (v) no payments in connection with any Loan Document are effectively connected with the undersigned's conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. person status on IRS Form W-8BEN or W-8BEN-E, as appropriate. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Participant]

By: _____
Name:
Title:

[Address]

Dated: _____, 20[]

FORM OF NON-BANK TAX CERTIFICATE
(For Foreign Participants That Are Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Amended and Restated Credit Agreement dated as of October 31, 2014 (as amended, supplemented or otherwise modified from time to time) (the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), each lender from time to time party thereto (collectively, the "Lenders"), and JPMorgan Chase Bank, N.A. as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(e) and Section 10.04(d) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such participation, (iii) neither the undersigned nor any of its partners/members is a bank within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) no payments in connection with any Loan Document are effectively connected with the undersigned's or its partners/members' conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as appropriate, or (ii) and IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as appropriate, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Participant]

By: _____
Name:
Title:

[Address]

Dated: _____, 20[]

SCHEDULE 1.01(a)
IMMATERIAL SUBSIDIARIES

None.

SCHEDULE 1.01(b)
SPECIFIED TARGET SUBSIDIARIES

1. Insignia Vessel Acquisition, LLC, a Delaware limited liability company.
2. Nautica Acquisition, LLC, a Delaware limited liability company.
3. Regatta Acquisition, LLC, a Delaware limited liability company.
4. Mariner, LLC, a Marshall Islands limited liability company.
5. Navigator Vessel Company, LLC, a Delaware limited liability company.
6. Voyager Vessel Company, LLC, a Delaware limited liability company.

SCHEDULE 1.01(c)
SPECIFIED TARGET MORTGAGE VESSELS

1. **Insignia**
Official Number: 1663
IMO Number: 9156462
2. **Nautica**
Official Number: 1665
IMO Number: 9200938
3. **Regatta**
Official Number: 1664
IMO Number: 9156474
4. **Seven Seas Mariner**
Official Number: 8001280
IMO Number: 9210139
5. **Seven Seas Navigator**
Official Number: 9000380
IMO Number: 9064126
6. **Seven Seas Voyager**
Official Number: 8000610
IMO Number: 9247144

SCHEDULE 1.01(d)
ISSUING BANK SUBLIMITS

| Issuing Bank | Issuing Bank Sublimit |
|-------------------------------------|------------------------------|
| JPMorgan Chase Bank, N.A. | \$ [*] |
| Fifth Third Bank | \$ [*] |
| Nordea Bank Abp, New York Branch | \$ [*] |
| Mizuho Bank, Ltd. | \$ [*] |
| Bank of America, N.A. | \$ [*] |
| Barclays Bank PLC | \$ [*] |
| HSBC Bank USA, National Association | \$ [*] |
| Branch Banking & Trust Company | \$ [*] |
| Total | \$ 200,000,000 |

**SCHEDULE 2.01
COMMITMENTS**

| Lender | Revolving Facility Commitment | Term A Loan Commitment |
|--|--------------------------------------|-------------------------------|
| JPMORGAN CHASE BANK, N.A. | \$ | \$ |
| MIZUHO BANK, LTD. | \$ | \$ |
| DNB CAPITAL LLC | \$ | \$ |
| FIFTH THIRD BANK | \$ | \$ |
| NORDEA BANK ABP, NEW YORK BRANCH | \$ | \$ |
| BANK OF AMERICA, N.A. | \$ | \$ |
| HSBC BANK PLC | \$ | \$ |
| HSBC BANK USA, NATIONAL ASSOCIATION | \$ | \$ |
| BRANCH BANKING & TRUST COMPANY | \$ | \$ |
| SKANDINAVISKA ENSKILDA BANKEN AB (PUBL) | \$ | \$ |
| BNP PARIBAS | \$ | \$ |
| CITIZENS BANK | \$ | \$ |
| COMMERZBANK AG, NEW YORK BRANCH | \$ | \$ |
| CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK | \$ | \$ |
| MUFG BANK, LTD. | \$ | \$ |
| PNC BANK, NATIONAL ASSOCIATION | \$ | \$ |
| SUNTRUST BANK | \$ | \$ |
| CITIBANK, N.A. | \$ | \$ |
| DEUTSCHE BANK AG NEW YORK BRANCH | \$ | \$ |
| BARCLAYS BANK PLC | \$ | \$ |
| SUMITOMO MITSUI BANKING CORPORATION | \$ | \$ |
| UBS AG, STAMFORD BRANCH | \$ | \$ |
| SOCIETE GENERALE | \$ | \$ |
| GOLDMAN SACHS BANK USA | \$ | \$ |
| CAPITAL BANK-A DIVISION OF FIRST TENNESSEE BANK NATIONAL ASSOCIATION | \$ | \$ |
| TD BANK, N.A. | \$ | \$ |
| TD BANK USA, N.A. | \$ | \$ |
| U.S. BANK NATIONAL ASSOCIATION | \$ | \$ |
| BANCO SANTANDER S.A., NEW YORK BRANCH | \$ | \$ |
| BANKUNITED, N.A. | \$ | \$ |
| FLORIDA COMMUNITY BANK, N.A. | \$ | \$ |
| FIRSTBANK PUERTO RICO d/b/a FIRSTBANK FLORIDA | \$ | \$ |
| MEGA INTERNATIONAL COMMERCIAL BANK CO. LTD. | \$ | \$ |
| ASSOCIATED BANK NATIONAL ASSOCIATION | \$ | \$ |
| UNITED BANK | \$ | \$ |
| COMERICA BANK | \$ | \$ |
| TAIWAN BUSINESS BANK, LOS ANGELES BRANCH | \$ | \$ |
| TAIWAN COOPERATIVE BANK, LOS ANGELES BRANCH | \$ | \$ |
| HUA NAN COMMERCIAL BANK LOS ANGELES BRANCH | \$ | \$ |
| CHANG HWA COMMERCIAL BANK, LTD., NEW YORK BRANCH | \$ | \$ |
| INTERNATIONAL FINANCE BANK | \$ | \$ |
| Total | \$ 875,000,000.00 | \$ 1,633,000,000.00 |

**SCHEDULE 3.01
ORGANIZATION AND GOOD STANDING**

None.

**SCHEDULE 3.04
GOVERNMENTAL APPROVALS**

None.

SCHEDULE 3.07(b)
POSSESSION UNDER LEASES

None.

**SCHEDULE 3.07(c)
INTELLECTUAL PROPERTY**

None.

**SCHEDULE 3.08(a)
SUBSIDIARIES**

| Name | Jurisdiction of Organization | Owner | Percentage |
|---|-------------------------------------|---|-------------------|
| NCL Corporation, Ltd. | Bermuda | Norwegian Cruise Line Holdings Ltd. | 100% |
| Arrasas Limited | Isle of Man | NCL Corporation Ltd. | 100% |
| NCL International, Ltd. | The Islands of Bermuda | Arrasas Limited | 100% |
| Pride of Hawaii, LLC | Delaware | Arrasas Limited | 100% |
| NCL America Holdings, LLC | Delaware | Norwegian Sextant Ltd | 100% |
| NCL America LLC | Delaware | NCL America Holdings, LLC | 100% |
| Pride of America Ship Holding, LLC | Delaware | NCL America Holdings, LLC | 100% |
| NCLC Investments Canada Ltd. | British Columbia, Canada | NCL Corporation Ltd. | 100% |
| NCL Australia Pty Ltd | Australia | NCL Corporation Ltd. | 100% |
| NCL Singapore Pte. Ltd. | Singapore | NCL Corporation Ltd. | 100% |
| NCL Japan KK | Japan | NCL Corporation Ltd. | 100% |
| NCL Hong Kong Limited | Hong Kong | NCL Corporation Ltd. | 100% |
| Norwegian Cruise Co. Inc. | Delaware | NCL Corporation Ltd. | 100% |
| Norwegian Compass Ltd. | United Kingdom | NCL Corporation Ltd. | 100% |
| Norwegian Sextant Ltd | United Kingdom | Norwegian Cruise Co. Inc. | 100% |
| Norwegian Cruise Line India Private Limited | India | NCL Singapore Pte. Ltd., NCL International, Ltd. | 99.999% 0.001% |
| NCL (Bahamas) Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Breakaway One, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Breakaway Two, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Breakaway Three, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Breakaway Four, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |

| Name | Jurisdiction of Organization | Owner | Percentage |
|-------------------------|-------------------------------------|-------------------------|-------------------|
| Norwegian Epic, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Jewel Limited | Isle of Man | NCL International, Ltd. | 100% |
| Norwegian Gem, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Pearl, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Spirit, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Star Limited | Isle of Man | NCL International, Ltd. | 100% |
| Norwegian Dawn Limited | Isle of Man | NCL International, Ltd. | 100% |
| Norwegian Sun Limited | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Sky, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian USCRA, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo One, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Two, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Three, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Four, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Five, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Six, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Seahawk One, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Seahawk Two, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |

| Name | Jurisdiction of Organization | Owner | Percentage |
|--|-------------------------------------|--|-------------------|
| Sixthman Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Eurosoft Corporation Limited | United Kingdom | NCL International, Ltd. | 100% |
| Bermuda Tenders, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Eurosoft Cruise Line (Shanghai) Co., Ltd. | China | Eurosoft Corporation Limited | 100% |
| Cruise Quality Travel Spain SL | Spain | NCL (Bahamas) Ltd. | 100% |
| NCL (Guernsey) Limited | Guernsey | NCL (Bahamas) Ltd. | 100% |
| NCL Construction Corp., Ltd. | The Islands of Bermuda | NCL (Bahamas) Ltd. | 100% |
| NCLM Limited | Malta | NCL (Guernsey) Limited | 100% |
| Norwegian Cruise Line Agência de Viagens Ltda. | Brazil | NCL (Bahamas) Ltd., NCL International, Ltd. | 90%, 10% |
| Future Investments, Ltd. | The Islands of Bermuda | Arrasas Limited | 100% |
| Belize Investments Limited | St. Lucia | Future Investments, Ltd. | 100% |
| Krystalsea Limited | British Virgin Islands | Belize Investments Limited | 100% |
| Belize Island Holdings Ltd. | Belize | Belize Investments Limited, Future Investments, Ltd. | 99.99%, 0.01% |
| Prestige Cruises International S. de R.L. | Panama | NCL Corporation Ltd. Norwegian Cruise Lines Holdings Ltd. | 99.99%, 0.01% |
| Prestige Cruise Holdings S. de R.L. | Panama | Prestige Cruises International S. de R.L. NCL Corporation Ltd. | 99.99%, 0.01% |
| Oceania Cruises S. de R.L. | Panama | Prestige Cruise Holdings S. de R.L. Prestige Cruises International S. de R.L. | 99.99%, 0.01% |
| Classic Cruises, LLC | Delaware | Prestige Cruise Holdings S. de R.L. | 100% |

| Name | Jurisdiction of Organization | Owner | Percentage |
|---|-------------------------------------|--|-------------------|
| Classic Cruises II, LLC | Delaware | Prestige Cruise Holdings S. de R.L. | 100% |
| Insignia Vessel Acquisition, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Marina New Build, LLC | Marshall Islands | Oceania Cruises S. de R.L. | 100% |
| Nautica Acquisition, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Regatta Acquisition, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Riviera New Build, LLC | Marshall Islands | Oceania Cruises S. de R.L. | 100% |
| Sirena Acquisition | Cayman Islands | Oceania Cruises S. de R.L. | 100% |
| OCI Finance Corp | Delaware | Oceania Cruises S. de R.L. | 100% |
| Prestige Cruise Services, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Prestige Cruises Air Services, Inc. | Florida | Oceania Cruises S. de R.L. | 100% |
| O Class Plus One, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| O Class Plus Two, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Seven Seas Cruises S. de R.L. | Panama | Classic Cruises, LLC, Classic Cruises II, LLC | 50%, 50% |
| Explorer New Build, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Explorer II New Build, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Explorer III New Build, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| SSC Finance Corp | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Mariner, LLC | Marshall Islands | Seven Seas Cruises S. de R.L. | 100% |
| Navigator Vessel Company, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Voyager Vessel Company, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Prestige Cruise Services (Europe) Limited | United Kingdom | Seven Seas Cruises S. de R.L. | 100% |

**SCHEDULE 3.08(b)
SUBSCRIPTIONS**

None.

**SCHEDULE 3.17
FILINGS/FILING OFFICES**

| Type of Filing | Entity | Applicable Security Document [Guarantee and Collateral Agreement or Other] | Jurisdictions |
|-----------------------|----------------------------------|---|-------------------------|
| UCC-1 | Norwegian Dawn Limited | Guarantee and Collateral Agreement | Washington D.C Florida |
| UCC-1 | Norwegian Star Limited | Guarantee and Collateral Agreement | Washington D.C Florida |
| UCC-1 | Norwegian Sun Limited | Guarantee and Collateral Agreement | Washington D.C Florida |
| UCC-1 | Norwegian Spirit, Ltd. | Guarantee and Collateral Agreement | Washington D.C Florida |
| UCC-1 | Norwegian Gem, Ltd. | Guarantee and Collateral Agreement | Washington D.C Florida |
| UCC-1 | Norwegian Pearl, Ltd. | Guarantee and Collateral Agreement | Washington D.C Florida |
| UCC-1 | Insignia Vessel Acquisition, LLC | Guarantee and Collateral Agreement | Delaware |
| UCC-1 | Nautica Acquisition, LLC | Guarantee and Collateral Agreement | Delaware |
| UCC-1 | Regatta Acquisition, LLC | Guarantee and Collateral Agreement | Delaware |
| UCC-1 | Mariner, LLC | Guarantee and Collateral Agreement | Washington D.C. Florida |
| UCC-1 | Navigator Vessel Company, LLC | Guarantee and Collateral Agreement | Delaware |
| UCC-1 | Voyager Vessel Company, LLC | Guarantee and Collateral Agreement | Delaware |
| UCC-1 | Norwegian Sky, Ltd. | Guarantee and Collateral Agreement | Washington D.C Florida |

| Type of Filing | Entity | Applicable Security Document [Guarantee and Collateral Agreement or Other] | Jurisdictions |
|---|-------------------------|---|--|
| Charge over shares of Norwegian Gem, Ltd. Charge over shares of Norwegian Pearl, Ltd. Charge over shares of Norwegian Spirit, Ltd. Charge over shares of Norwegian Sun Limited | NCL International, Ltd. | Bermuda Share Charge | Bermuda Registrar of Companies |
| Charge over shares of Norwegian Sky, Ltd. Charge over shares of Norwegian Dawn Limited Charge over shares of Norwegian Star Limited | NCL International, Ltd. | Isle of Man Share Charge | The Companies Registry of the Isle of Man Department of Economic Development |
| Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Norwegian Sun Limited | Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Bermuda Registrar of Companies |
| Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Norwegian Spirit, Ltd. | Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Bermuda Registrar of Companies |
| Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Norwegian Gem, Ltd. | Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Bermuda Registrar of Companies |

| Type of Filing | Entity | Applicable Security Document [Guarantee and Collateral Agreement or Other] | Jurisdictions |
|---|------------------------|---|--|
| Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Norwegian Pearl, Ltd. | Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Bermuda Registrar of Companies |
| Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Norwegian Dawn Limited | Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | The Companies Registry of the Isle of Man Department of Economic Development |
| Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Norwegian Star Limited | Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | The Companies Registry of the Isle of Man Department of Economic Development |
| Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Norwegian Sky, Ltd. | Guarantee and Collateral Agreement; Mortgage; Deed of Covenant; Earnings Assignment; Insurance Assignment | Bermuda Registrar of Companies |
| Mortgage Registration | Norwegian Sun Limited | Mortgage; Deed of Covenant | Bahamas |
| Mortgage Registration | Norwegian Spirit, Ltd. | Mortgage; Deed of Covenant | Bahamas |
| Mortgage Registration | Norwegian Gem, Ltd. | Mortgage; Deed of Covenant | Bahamas |
| Mortgage Registration | Norwegian Pearl, Ltd. | Mortgage; Deed of Covenant | Bahamas |
| Mortgage Registration | Norwegian Dawn Limited | Mortgage; Deed of Covenant | Bahamas |

| Type of Filing | Entity | Applicable Security Document [Guarantee and Collateral Agreement or Other] | Jurisdictions |
|-------------------------------|----------------------------------|---|----------------------|
| Mortgage Registration | Norwegian Star Limited | Mortgage; Deed of Covenant | Bahamas |
| First Preferred Ship Mortgage | Insignia Vessel Acquisition, LLC | Mortgage | Marshall Islands |
| First Preferred Ship Mortgage | Nautica Acquisition, LLC | Mortgage | Marshall Islands |
| First Preferred Ship Mortgage | Regatta Acquisition, LLC | Mortgage | Marshall Islands |
| Mortgage Registration Form | Mariner, LLC | Mortgage; Deed of Covenant | Bahamas |
| Mortgage Registration Form | Navigator Vessel Company, LLC | Mortgage; Deed of Covenant | Bahamas |
| Mortgage Registration Form | Voyager Vessel Company, LLC | Mortgage; Deed of Covenant | Bahamas |
| Mortgage Registration Form | Norwegian Sky, Ltd. | Mortgage; Deed of Covenant | Bahamas |

SCHEDULE 3.20
INSURANCE

1. Marine Hull and Machinery, Hull and Freight Interests, War Risk Hull and War Risk Protection and Indemnity insurance covering the Mortgaged Vessels, as more fully described in Certificate to the Letter of Undertaking issued by [*] dated on or about the Restatement Effective Date and delivered to the Collateral Agent, which is incorporated herein by reference.
2. Protection and Indemnity insurance covering the Mortgaged Vessels, as more fully described in the Letters of Undertaking issued by [*] dated on or about the Restatement Effective Date and delivered to the Collateral Agent, which is incorporated herein by reference.

**SCHEDULE 6.01
INDEBTEDNESS**

1. €308,130,000 Secured Loan Agreement dated April 20, 2004, between Pride of Hawaii Inc. (the owner of the Pride of Hawaii) as Borrower, HSBC Bank PLC as Agent and the Lenders and other parties party thereto as guaranteed by NCL Corporation Ltd, as amended, restated, supplemented or otherwise modified.
2. \$334,050,000 Secured Loan Agreement dated April 20, 2004, between Norwegian Jewel Limited (the owner of the Norwegian Jewel) as Borrower, HSBC Bank PLC as Agent and the Lenders and other parties party thereto guaranteed by NCL Corporation Ltd, as amended, restated, supplemented or otherwise modified.
3. €258,000,000 Secured Loan Agreement dated April 4, 2003, between Pride of America Ship Holding LLC (the owner of the Pride of America) as Borrower, HSBC Bank PLC as Agent and the Lenders and other parties party thereto as guaranteed by NCL Corporation Ltd, as amended, restated, supplemented or otherwise modified.
4. €40,000,000 Commercial Loan dated April 4, 2003, between Pride of America Ship Holding LLC (the owner of the Pride of America) as Borrower, HSBC Bank PLC as Agent and the Lenders and other parties party thereto as guaranteed by NCL Corporation Ltd, as amended, restated, supplemented or otherwise modified.
5. €662,905,320 Secured Loan Agreement dated September 22, 2006, between F3 Two Ltd as Borrower, BNP Paribas as Agent and the Lenders and other parties party thereto in respect of Hull No. D33 as guaranteed by NCL Corporation Ltd, as amended, restated, supplemented or otherwise modified.
6. €529,846,154 Credit Agreement, dated November 18, 2010 and as amended May 31, 2012, among Breakaway One, Ltd., as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH as facility agent, collateral agent and CIRR agent, and the other agents and parties named therein, as amended, restated, supplemented or otherwise modified.
7. €529,846,154 Credit Agreement, dated November 18, 2010, among Breakaway Two, Ltd., as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH as facility agent, collateral agent and CIRR agent, and the other agents and parties named therein, as amended, restated, supplemented or otherwise modified.
8. €126,075,000 Credit Agreement, dated November 18, 2010, among Norwegian Jewel Limited, as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH, as facility agent and collateral agent, and the other agents and parties named therein, as amended, restated, supplemented or otherwise modified.
9. €126,075,000 Credit Agreement, dated November 18, 2010, among Pride of Hawaii, LLC, as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH, as facility agent and collateral agent, and the other agents and parties named therein, as amended, restated, supplemented or otherwise modified.

10. €590,478,870 Credit Agreement, dated October 12, 2012, among Breakaway Three, Ltd., as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH, as facility agent and collateral agent, and the other agents and parties named therein, as amended, restated, supplemented or otherwise modified.
11. €590,478,870 Credit Agreement, dated October 12, 2012, among Breakaway Four, Ltd., as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH, as facility agent and collateral agent, and the other agents and parties named therein, as amended, restated, supplemented or otherwise modified.
12. Approximately \$300,000,000 principal amount outstanding pursuant to that certain \$300,000,000 Indenture for 5.00% Senior Notes due 2018, dated as of February 6, 2013, by and between NCL Corporation Ltd. and U.S. Bank National Association, as Trustee, as amended, restated, supplemented or otherwise modified.
13. Approximately \$227,500,000 principal amount outstanding pursuant to that certain \$350,000,000 Indenture for 9.50% Senior Notes due 2018, dated as of November 9, 2010, by and between NCL Corporation Ltd. and U.S. Bank National Association, as Trustee, as amended, restated, supplemented or otherwise modified.
14. Up to \$260,200,000 in relation to the acquisition of Sky vessel on the terms set forth in the fully executed memorandum of agreement related to the sale of the Sky vessel, dated on or around June 1, 2012.

SCHEDULE 6.02(b)
LIENS

None.

**SCHEDULE 6.04
INVESTMENTS**

None.

**SCHEDULE 6.07
TRANSACTIONS WITH AFFILIATES**

None.

**SCHEDULE 6.09
CONTRACTUAL ENCUMBRANCES**

None.

**SCHEDULE 10.01
NOTICE INFORMATION**

Loan Parties' Address:

7665 Corporate Center Drive
Miami, Florida 33126
United States of America
Attn: Mark Kempa
Tel. No.: (305) 436-4932
Fax No.: (305) 436-4140
Email: mkempa@nclcorp.com

and

Attn: Daniel Farkas
Tel. No.: (305) 436-4690
Fax No.: (305) 436-4117
Email: dfarkas@ncl.com

With copies to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York NY 10019-6064
Attn: Brad Finkelstein
Tel No: (212) 373-3074
Fax No: (212) 492-0074
Email: bfinkelstein@paulweiss.com

Administrative Agent's Address:

JPMorgan Chase Bank, N.A.
500 Stanton Christiana Rd.
NCC5 / 1st Floor
Newark, DE 19713
Attention: Loan & Agency Services Group
Tel: (302) 553-6955
Fax: 12012443577@tls.ldsprod.com
Email: william.tanzilli@chase.com

Collateral Agent's Address:

JPMorgan Chase & Co.
CIB DMO WLO
Mail code NY1-C413
4 CMC, Brooklyn, NY, 11245-0001
United States
Email: jb.collateral.services@jpmchase.com

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution Version

DATED 19 December 2018

LEONARDO FIVE, LTD.
as Borrower

and

**THE BANKS AND FINANCIAL INSTITUTIONS
LISTED IN SCHEDULE 1**
as Lenders

and

**CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
BNP PARIBAS FORTIS S.A./N.V.
HSBC BANK PLC
KFW IPEX-BANK GMBH
CASSA DEPOSITI E PRESTITI S.P.A.
BANCO SANTANDER, S.A.
SOCIÉTÉ GÉNÉRALE**
as Joint Mandated Lead Arrangers

and

BNP PARIBAS
as Facility Agent

and

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
as SACE Agent

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

with the support of

SACE S.P.A.

LOAN AGREEMENT

relating to
the part financing of the 3,300 passenger cruise ship
newbuilding presently designated as
Hull No. [*] at Fincantieri S.p.A.

**WATSON FARLEY
&
WILLIAMS**

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THIS AGREEMENT is made on 19 December 2018.

PARTIES

- (1) **LEONARDO FIVE, LTD.**, an exempted company incorporated under the laws of Bermuda whose registered office is at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda as borrower (the "**Borrower**")
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1 (*Lenders and Commitments*) as lenders (the "**Lenders**")
- (3) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK, BNP PARIBAS FORTIS S.A./N.V., KFW IPEX-BANK GMBH, HSBC BANK PLC, CASSA DEPOSITI E PRESTITI S.P.A., SOCIÉTÉ GÉNÉRALE and BANCO SANTANDER S.A.** as joint mandated lead arrangers (the "**Joint Mandated Lead Arrangers**")
- (4) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK**, as SACE agent (the "**SACE Agent**")
- (5) **BNP PARIBAS**, as facility agent (the "**Facility Agent**")
- (6) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, as security trustee (the "**Security Trustee**")

BACKGROUND

- (A) By a shipbuilding contract dated as of 21 October 2016 (as amended or supplemented from time to time, including on 26 July 2018, the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A., a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) the Borrower, the Builder agreed to design, construct and deliver, and the Borrower agreed to purchase, a 3,300 - passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on or about [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
 - (B) The total price payable by the Borrower to the Builder under the Shipbuilding Contract is eight hundred million euros (€800,000,000) (the "**Initial Contract Price**"). The Initial Contract Price is payable on the following terms and:
 - (i) as to [*], being [*], by an initial payment which is to be within 5 Business Days after the effective date of the Shipbuilding Contract in accordance with Article 10.1(A) of the Shipbuilding Contract ("**First Shipbuilding Contract Instalment**");
 - (ii) as to [*], being [*], on the later of the date of commencement of steel cutting and the date falling 24 months prior to the Intended Delivery Date;
 - (iii) as to [*], being [*], on the later of keel laying in dry-dock and the date falling 18 months prior to the Intended Delivery Date;
 - (iv) as to [*], being [*], on the later of launching and the date falling 12 months prior to the Intended Delivery Date; and
 - (v) as to [*], being [*], on delivery of the Ship on the Delivery Date,
-

as each such event is described in the Shipbuilding Contract.

- (C) The Initial Contract Price may be decreased at delivery of the Ship under Articles 13, 14, 16, 17, 19 and 20 of the Shipbuilding Contract (in aggregate the **Liquidated Damages**) or by mutual agreement between the parties (the Initial Contract Price adjusted as aforesaid being the **Final Contract Price**). For the avoidance of doubt, under the Shipbuilding Contract the price of the Ship may be increased or decreased pursuant to Article 24 thereof but, for the purposes of this Agreement, the Final Contract Price will not include any increase in the price under Article 24.
- (D) The Lenders have agreed to make available to the Borrower a Dollar loan facility for the purpose of assisting the Borrower in financing, subject to exchange rate fluctuations, up to eighty per cent. (80%) of the Final Contract Price (and subject to an aggregate amount no greater than the Eligible Amount) and one hundred per cent. (100%) of the SACE Premium.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Definitions

Subject to Clause 1.5 (*General Interpretation*), in this Agreement:

“**Affected Lender**” has the meaning given in Clause 6.6 (*Unavailability of Screen Rate*).

“**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.

“**Annex VI**” means Annex VI (Regulations for the Prevention of Air Pollution from Ships, entered into on 19 May, 2005) to the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 (MARPOL) and as further revised in October 2008 with such revised version having entered into force on 1 July 2010.

“**Approved Broker**” means Clarkson plc, Barry Rogliano Salles, Fearnleys, Rocca & Partners, Brax Shipbrokers AS (or any Affiliate of such person through which valuations are commonly issued) or such other shipbroker or ship valuer experienced in valuing cruise ships nominated by the Borrower and approved by the Facility Agent.

“**Approved Flag**” means the Bermuda flag, the Marshall Islands flag, the Bahamas flag or such other flag as the Facility Agent may, with the approval of the Italian Authorities and at least four Lenders representing as a minimum the Majority Lenders, approve from time to time.

“**Approved Manager**” means any of the Borrower, NCL Corporation Ltd., NCL (Bahamas) Ltd. or other member of the Group, or any company which is not a member of the Group which the Facility Agent may, with the authorisation of the Majority Lenders, approve from time to time as manager of the Ship.

“**Approved Manager’s Undertaking**” means, in the event that the Approved Manager is a company other than the Borrower, a letter of undertaking executed or to be executed by the Approved Manager in favour of the Facility Agent, which will include, without limitation, an agreement by the Approved Manager to subordinate its rights against the Ship and the Borrower to the rights of the Secured Parties under the Finance Documents, in the agreed form.

“**Availability Period**” means the period commencing on the Effective Date and ending on:

- (a) the earlier to occur of (i) the Delivery Date and (ii) 26 March 2027 (or such later date as the Facility Agent may, with the authorisation of the Lenders, agree with the Borrower); or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated.

“**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.

“**Base Rate**” means one Euro for [*] Dollars or any other rate communicated by SACE being the Euro/USD spot rate as at the date of the SACE board approval plus [*] per cent subject to the approval of all Lenders and the Borrower.

“**Bermuda Obligors**” means the Borrower, the Shareholder and the Guarantor.

“**Builder**” has the meaning given in Recital (A).

“**Business Day**” means a day (other than a Saturday or a Sunday) on which banks are open in New York, Milan, Frankfurt, Brussels, Madrid, Paris, Rome and London; and

“**CDP**” means Cassa Depositi e Prestiti S.p.A.

“**Certified Copy**” means in relation to any document delivered or issued by or on behalf of any company, a copy of such document certified as a true, complete and up-to-date copy of the original by any of the directors or the secretary or assistant secretary or any attorney-in-fact for the time being of that company.

“**Charged Property**” means all of the assets which from time to time are, or are expressed to be, the subject of Security Interests pursuant to the Finance Documents.

“**CIRR**” means, in relation to the Loan, the applicable Commercial Interest Reference Rate determined in accordance with the OECD Arrangement on Guidelines for Officially Supported Export Credits, to be notified by SIMEST to the Facility Agent (through the SACE Agent) and expected to be three point thirty two per cent (3.32%) per annum.

“**CIRR Break Costs**” means, in respect of the Loan, all the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the relevant Interest Make-up Agreement, including without limitation, as a result of any prepayment of all or any part of the Loan under this Agreement (whether voluntary, following acceleration of the Loan or otherwise), as a result of an Interest Make-up Event and/or as a result of the Borrower deciding to switch from the Fixed Interest Rate to another interest rate after the Drawdown Date. Such amounts include, without limitation, (i) breakage costs calculated on the basis of the net present value referred to in the relevant Interest Make-up Agreement, (ii) any amount due as a consequence of the close-out of any hedging arrangement entered into by SIMEST in relation to this Agreement, (iii) default interest and penalties (*maggiorazioni*) whenever applicable, and (iv) all amounts (if any) to be returned by the SACE Agent or the Facility Agent (as applicable) to SIMEST under and pursuant to the Interest Make-up Agreement.

“**Code**” means the United States Internal Revenue Code of 1986.

“**Code of Ethics**” means the code of ethics adopted by CDP, available on CDP’s website (http://www.cdp.it/static/upload/cdp/cdp_code_ethics.pdf).

“**Commitment**” means, in relation to a Lender, the amount equal to the percentage of the Maximum Loan Amount set opposite its name in Schedule 1 (*Lenders and Commitments*), or, as the case may require, the amount specified in the relevant Transfer Certificate, in each case as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and “**Total Commitments**” means the aggregate of the Commitments of all the Lenders).

“**Compliance Certificate**” has the meaning given to the term “Compliance Certificate” in the Guarantee.

“**Confidential Information**” means all information relating to any Obligor, the Group, the Finance Documents or the Loan of which a Creditor Party becomes aware in its capacity as, or for the purpose of becoming, a Creditor Party or which is received by a Creditor Party from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Creditor Party, if the information was obtained by that Creditor Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Creditor Party of Clause 33 (*Confidentiality*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Creditor Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Creditor Party after that date, from a source which is, as far as that Creditor Party is aware, unconnected with the Group and which, in either case, as far as that Creditor Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or

(iv) any Reference Bank Quotation.

“**Confidentiality Undertaking**” means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrower and the Facility Agent.

“**Contribution**” means, in relation to a Lender, the amount of the Loan which is owing to that Lender.

“**Conversion Rate**” means the rate determined by the Facility Agent on the Conversion Rate Fixing Date and notified to the Borrower as being the lower of:

- (a) the Base Rate; or
- (b) the FOREX Contracts Weighted Average Rate.

“**Conversion Rate Fixing Date**” means the date falling [*] days before the Intended Delivery Date.

“**Corresponding Debt**” means any amount, other than any Parallel Debt, which an Obligor owes to a Creditor Party under or in connection with the Finance Documents.

“**Creditor Party**” means the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender, whether as at the date of this Agreement or at any later time.

“**Delegate**” means any delegate, agent, attorney or co-trustee appointed by the Security Trustee

“**Delivery Date**” means the date and time of delivery of the Ship by the Builder to the Borrower as stated in the Protocol of Delivery and Acceptance.

“**Document of Compliance**” has the meaning given to it in the ISM Code.

“**Dollar Equivalent**” means such amount in Dollars as is calculated by the Facility Agent on the Conversion Rate Fixing Date to be the equivalent of an amount in Euro at the Conversion Rate.

“**Dollars**”, “**\$**” and “**USD**” means the lawful currency for the time being of the United States of America.

“**Drawdown Date**” means the date on which the Loan is drawn down and applied in accordance with Clause 2 (*Facility*).

“**Drawdown Notice**” means a notice in the form set out in Schedule 2 (*Form of Drawdown Notice*) (or in any other form which the Facility Agent approves or reasonably requires).

“**Earnings**” means all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower and which arise out of the use or operation of the Ship, including (but not limited to):

- (a) all freight, hire, fare and passage moneys, compensation payable to the Borrower, the Facility Agent or the Security Trustee (as the case may be) in the event of requisition of the Ship for hire, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of the Ship;
- (b) all moneys which are at any time payable under Insurances in respect of loss of earnings;
- (c) all moneys which are at any time payable to the Borrower in respect of the general average contribution; and
- (d) if and whenever the Ship is employed on terms whereby any moneys falling within paragraphs (a) or (b) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Ship.

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

“**Effective Date**” means the earlier of:

- (a) the Guarantor providing the Facility Agent with written notice stating that this Agreement and the other Finance Documents signed on or about the date hereof have become effective; and
- (b) 16.00 Central European time on 31 January 2019.

“**Eligible Amount**” means eighty per cent. (80%) of the lesser of:

- (a) the Dollar Equivalent of eight hundred million euros (€800,000,000); and
- (b) the Dollar Equivalent of the Final Contract Price.

“**Environmental Approval**” means any present or future permit, ruling, variance or other authorisation required under Environmental Laws.

“**Environmental Claim**” means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, “claim” includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

“**Environmental Incident**” means:

- (a) any release, emission, spill or discharge into the Ship or into or upon the air, sea, land or soils (including the seabed) or surface water of Environmentally Sensitive Material within or from the Ship; or

- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or the Ship and/or any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water otherwise than from the Ship and in connection with which the Ship is actually or potentially liable to be arrested and/or where any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

“**Environmental Law**” means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

“**Environmentally Sensitive Material**” means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

“**Equator Principles**” means the standards entitled “A financial industry benchmark for determining, assessing and managing environmental and social risk in projects” dated June 2013 and adopted by certain financial institutions, as the same may be amended or supplemented from time to time.

“**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.

“**EU Blocking Regulation**” means EU Regulation (EC) 2271/96 of 22 November 1996.

“**Euro**”, “**Euros**” and “**EUR**” means the single currency of the Participating Member States.

“**Event of Default**” means any of the events or circumstances described in Clause 18.1 (*Events of Default*).

“**Existing Indebtedness**” means Financial Indebtedness referred to in the financial statements of the Guarantor delivered to the Facility Agent prior to the date of this Agreement.

“**Exporter Declaration**” means a declaration in the form required by SIMEST at the relevant time duly signed by an authorised signatory of the Builder.

“**Facility**” means the term loan facility made available under this Agreement as described in Clause 2.1 (*Amount of facility*).

“**Facility Agent**” means BNP Paribas, a French “*société anonyme*”, having a share capital of two billion four hundred ninety-nine million five hundred ninety-seven thousand one hundred and twenty-two Euros (€2,499,597,122) and its registered office located at 16 Boulevard des Italiens, 75009, Paris, France, registered under the n° Siren 662.042.449 at the *Registre du Commerce et des Sociétés* of Paris or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

“**Facility Office**” means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement.

“**FATCA**” means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

“**FATCA Application Date**” means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

“**FATCA Deduction**” means a deduction or withholding from a payment under a Finance Document required by FATCA.

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

“**Fee Letter**” means any letter dated on or about the date of this Agreement between:

- (a) the Facility Agent and the Borrower setting out the fees referred to in paragraph (a) of Clause 9.1 (*Fees*);

- (b) the Facility Agent and the Borrower setting out the fees referred to in paragraph (c) of Clause 9.1 (*Fees*);
- (c) the SACE Agent and the Borrower setting out the fees referred to in paragraph (d) of Clause 9.1 (*Fees*);
- (d) the Security Trustee and the Borrower setting out the fees referred to in paragraph (e) of Clause 9.1 (*Fees*); or
- (e) the Borrower and a Creditor Party setting out the fees payable to such Creditor Party pursuant to the terms of this Agreement.

“Finance Documents” means:

- (a) this Agreement;
- (b) any Fee Letter;
- (c) the Guarantee;
- (d) the General Assignment;
- (e) the Mortgage;
- (f) the Post-Delivery Assignment;
- (g) any Subordinated Debt Security;
- (h) the Shares Security Deed;
- (i) the Approved Manager’s Undertaking;
- (j) any Transfer Certificate;
- (k) any Compliance Certificate;
- (l) any Drawdown Notice;
- (m) any other document (whether creating a Security Interest or not) which is executed as security for, or for the purpose of establishing any priority or subordination arrangement in relation to, the Secured Liabilities; and
- (n) any other document (whether creating a Security Interest or not) which is designated as a Finance Document by agreement between the Borrower, SACE and the Facility Agent.

“Final Contract Price” has the meaning given in Recital (C).

“Financial Indebtedness” means, in relation to a person (the **“debtor”**), an indebtedness of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;

- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount;
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person; or
- (g) arising from receivables sold or discounted (other than receivables to the extent they are sold on a non-recourse basis).

“**First Instalment**” means the first instalment of the SACE Premium as more particularly described in paragraph (a) of Clause 8.1 *SACE Premium*).

“**Fixed Interest Rate**” means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) the CIRR.

“**Fixed Rate Margin**” means the difference between the Floating Rate Margin and the SIMEST Margin Contribution.

“**Floating Interest Rate**” means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) LIBOR for the relevant period.

“**Floating Rate Margin**” means one point forty-five per cent. (1.45%).

“**FOREX Contracts**” means each actual purchase contract, spot or forward contract and any other contract, such as an option or collar arrangement, which is entered into in the foreign exchange markets for the acquisition of Euro intended to pay the delivery instalment under the Shipbuilding Contract, which:

- (a) matures not later than the Intended Delivery Date, provided that option arrangements may mature up to one month after such date if at the time they are entered into there exists a reasonable uncertainty as to the date on which the Ship will be delivered;

- (b) is entered into by the Borrower or the Guarantor or a combination of the foregoing not later than two (2) days before the Conversion Rate Fixing Date so that the Borrower, directly or through the Guarantor, purchases or may purchase Euro with Dollars at a pre-agreed rate; and
- (c) is notified to the Facility Agent within ten (10) days of its execution but in any event no later than the day preceding the Conversion Rate Fixing Date, with a Certified Copy of each such contract being delivered to the Facility Agent at such time.

“FOREX Contracts Weighted Average Rate” means the rate determined by the Facility Agent on the Conversion Rate Fixing Date in accordance with the following principles which (inter alia) are intended to take into account any maturity mismatch between the maturity of the FOREX Contracts and the Intended Delivery Date as well as FOREX Contracts that are unwound as part of the hedging strategy of the Borrower:

- (a) FOREX Contracts that are spot or forward foreign exchange contracts, if any, shall be valued at the contract value (taking into account any rescheduling);
- (b) the difference between the Euro amount available under (a) above and the Euro amount balance payable to the Builder on the Delivery Date is assumed to be purchased at the official daily fixing rate of the Bloomberg Fx Fixings for the purchase of Euro with Dollars as displayed on World Markets Reuters (or such other pages as may replace that page on that service or a successor service) at or around 1 p.m. (London time) on the Conversion Rate Fixing Date;
- (c) any FOREX Contract which is an option or collar arrangement and is not unwound at the Conversion Rate Fixing Date will be marked to market and the resulting profit or loss shall reduce or increase the Dollar countervalue of the purchased Euro;
- (d) any FOREX Contract which is an option or collar arrangement and is sold or purchased back at the time FOREX Contract(s) are entered into for an identical Euro amount shall be accounted for the net premium cost or profit, as the case may be.

Any marked to market valuation, as required in paragraph (c) above, shall be performed by BNP Paribas’s dedicated desk in accordance with market practices. The Borrower shall have the right to request indicative valuations from time to time prior to the Conversion Rate Fixing Date.

“Funding Rate” means any individual rate notified by a Lender to the Facility Agent pursuant to Clause 6.11(b).

“GAAP” means generally accepted accounting principles in the United States of America consistently applied (or, if not consistently applied, accompanied by details of the inconsistencies) including, without limitation, those set forth in the opinion and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

“General Assignment” means an assignment of, *inter alia*, any Management Agreement, the Earnings, the Insurances, any charter and any Requisition Compensation, executed or to be executed by the Borrower and, in the event that the Approved Manager is not a member of the Group and is named as a co-assured in the Insurances, the Approved Manager in favour of the Security Trustee in the agreed form.

“**German Blocking Provisions**” means section 7 of the German Foreign Trade Regulation (AWV) (*Außenwirtschaftsverordnung*) (in connection with section 4 paragraph 1 a no. 3 German Foreign Trade Law (AWG) (*Außenwirtschaftsgesetz*)).

“**Gross Negligence**” means any act or omission, whether deliberate or not, which in the circumstances (including both the probability and seriousness of the consequences likely to result) would reasonably be regarded by those familiar with the nature of the activity in question and with the surrounding circumstances, as amounting to the reckless disregard of, or serious indifference to, the consequences, being in any case more than a negligent failure to exercise proper skill and care.

“**Group**” means the Guarantor and its Subsidiaries.

“**Guarantee**” means a guarantee issued by the Guarantor in favour of the Security Trustee in the agreed form.

“**Guarantor**” means NCL Corporation Ltd., a Bermuda company with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda.

“**Holding Company**” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“**IAPPC**” means a valid international air pollution prevention certificate for the Ship issued under Annex VI.

“**Illicit Origin**” means any origin which is illicit, fraudulent or in breach of Sanctions including, without limitation, drug trafficking, corruption, organised criminal activities, terrorism, money laundering or fraud.

“**Initial Contract Price**” has the meaning given in Recital (B).

“**Insurances**” means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are effected in respect of the Ship, its Earnings or otherwise in relation to it; and
- (b) all rights and other assets relating to, or derived from any of such policies, contracts or entries, including any rights to a return of a premium.

“**Intended Delivery Date**” means [*] (the date on which the Ship will be ready for delivery pursuant to the Shipbuilding Contract as at the date of this Agreement) or any other date notified by the Borrower to the Facility Agent in accordance with paragraph (a) of Clause 3.5 (*No later than sixty (60) days before the Intended Delivery Date*) or paragraph (c) of Clause 3.9 (*No later than five (5) Business Days before the Intended Delivery Date*) as being the date on which the Builder and the Borrower have agreed that the Ship will be ready for delivery pursuant to the Shipbuilding Contract.

“**Interest Make-up Agreement**” means an agreement on interest stabilisation (*Capitolato per il Contributo Interessi*) to be entered into between SIMEST and the SACE Agent on behalf of the Lenders and in form and substance acceptable to the SACE Agent, the Facility Agent and the Lenders, which provides, *inter alia*, for the applicable CIRR to be subsidised in relation to the Loan made available under this Agreement and to which the CIRR applies.

“**Interest Make-up Event**” means the occurrence of any circumstances which result in the termination, cancellation, revocation, cessation or suspension (in each case, in whole or in part) of the Interest Make-up Agreement or the Interest Make-up Agreement otherwise ceases or may cease to be in full force and effect or the SACE Agent notifies the Borrower that the Fixed Interest Rate is not available for any reason, in each case, in accordance with the terms of the Interest Make-up Agreement.

“**Interest Period**” means a period determined in accordance with Clause 7 (*Interest Periods*).

“**ISM Code**” means the International Safety Management Code for the safe operation of ships and for pollution prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation as the same may be amended or supplemented from time to time.

“**ISPS Code**” means the International Ship and Port Facility Security (ISPS) Code adopted by the International Maritime Organisation (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

“**Italian Authorities**” means SACE and/or SIMEST and any other relevant Italian authorities involved in the implementation of the Loan.

“**Legislative Decree 231/01**” means the Italian legislative decree of 8 June 2001, no. 231 (*Disciplina della responsabilità amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica, a norma dell'articolo 11 della legge 29 settembre 2000, n.300*) as amended from time to time, on administrative vicarious liability of corporate entities.

“**Lender**” means a bank, financial institution, trust, fund or other entity listed in Schedule 1 (*Lenders and Commitments*) and acting through its Facility Office or its transferee, successor or assign.

“**LIBOR**” means, in relation to the Loan or any part of the Loan:

- (a) the applicable Screen Rate as of the Quotation Date for Dollars and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or
- (b) as otherwise determined pursuant to Clause 6.6 (*Unavailability of Screen Rate*).

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

“**Loan**” means the principal amount for the time being outstanding under this Agreement.

“**Majority Lenders**” means:

- (a) before the Loan has been made, Lenders whose Commitments total [*] per cent. of the Total Commitments; and

(b) after the Loan has been made, Lenders whose Contributions total [*] per cent. of the Loan.

“**Management Agreement**” means the management agreement (if any) entered or to be entered into between the Borrower and an Approved Manager which is not a member of the Group with respect to the Ship on terms reasonably acceptable to the Majority Lenders and SACE.

“**Margin**” means:

- (a) in relation to the Fixed Interest Rate, the Fixed Rate Margin; and
- (b) in relation to the Floating Interest Rate, the Floating Rate Margin.

“**Maritime Registry**” means the maritime registry which the Borrower will specify to the Lenders no later than 90 days before the Intended Delivery Date, being that of Bermuda, the Marshall Islands, Bahamas or such other registry as the Facility Agent may, with the approval of the Italian Authorities and at least three Lenders representing as a minimum the Majority Lenders, approve.

“**Material Adverse Effect**” means the occurrence of any event or circumstance which reasonably would be expected to have a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) of any Obligor or the Group as a whole;
- (b) the ability of any Obligor to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Secured Party under any of the Finance Documents.

“**Maximum Loan Amount**” means the aggregate of:

- (a) the Dollar Equivalent of six hundred and forty million Euros (€640,000,000); and
- (b) one hundred per cent. (100%) of the SACE Premium to be paid in accordance with Clause 8.1 *§ACE Premium*),

provided that such amount shall not, at any time, exceed nine hundred fifty-four million eight hundred fifty-four thousand seven hundred seventy-one Dollars and seventy-eight cents (\$954,854,771.78), provided further that the \$954,854,771.78 figure shall be adjusted to the extent the Base Rate is not exactly [*] upon the final determination of such Base Rate subject to all Lenders’ approval.

“**Minor Modification**” means a modification of the plans or the specification or the construction of the Ship under Article 24 of the Shipbuilding Contract, resulting in a contract price increase or decrease of less than [*] Euros (€[*]).

“**Model**” means the principles of the compliance system adopted by CDP pursuant to Legislative Decree 231/01, available on CDP’s website (https://en.cdp.it/kdocs/1896656/Organization_Management_and_Control_Model_pursuant_to_Italian_Legislative_Decree_No._231-01_EN.pdf).

“**Mortgage**” means the first priority mortgage on the Ship acceptable for registration on the Approved Flag and, if applicable, deed of covenant, executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

“**Negotiation Period**” has the meaning given in Clause 6.9 (*Negotiation of alternative rate of interest*).

“**Obligors**” means the Borrower, the Guarantor, the Shareholder and (in the event that the Approved Manager is a member of the Group) the Approved Manager.

“**Original Jurisdiction**” means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the date of this Agreement.

“**Overnight LIBOR**” means, on any date, the London interbank offered rate, being the day to day rate at which Dollars are offered to prime banks in the London interbank market and published by the Intercontinental Exchange at or about 11.00 a.m. London time on page LIBOR01 of the Reuters screen. If the agreed page is replaced or the service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower, provided that if the rate is less than zero, Overnight LIBOR shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

“**Parallel Debt**” means any amount which an Obligor owes to the Security Trustee under Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*).

“**Participating Member State**” means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“**Party**” means a party to this Agreement from time to time.

“**Permitted Financial Indebtedness**” means any Financial Indebtedness:

- (a) incurred under the Finance Documents; or
- (b) permitted pursuant to Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

“**Permitted Security Interests**” means:

- (a) in the case of the Borrower:
 - (i) any of the Security Interests referred to in paragraph (b)(ii)(A) below; and
 - (ii) any of the Security Interests referred to in paragraphs (b)(ii)(B), (b)(ii)(C), (b)(ii)(E), (b)(ii)(H) and (b)(ii)(I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Borrower in the case of paragraphs (b)(ii)(C) or (b)(ii)(E) or incurred by the Borrower in the case of paragraphs (b)(ii)(B), (b)(ii)(H) or (b)(ii)(I); and

- (b) in the case of the Guarantor:
- (i) any of the Security Interests referred to in paragraphs (ii)(A), (ii)(D), (ii)(F) and (ii)(G) below; and
 - (ii) any of the Security Interests referred to in paragraphs (C), (E), (H) and (I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Guarantor in the case of paragraph (C) or (E) or incurred by the Guarantor in the case of paragraph (H) or (I);
 - (A) any Security Interest created by or pursuant to the Finance Documents and any deposits or other Security Interests placed or incurred in connection with any bond or other surety from time to time provided to the US Federal Maritime Commission in order to comply with laws, regulations and rules applicable to the operators of passenger vessels operating to or from ports in the United States of America;
 - (B) liens on the Ship up to an aggregate amount at any time not exceeding [*] for current crew's wages and salvage and liens incurred in the ordinary course of trading the Ship;
 - (C) any deposits or pledges up to an aggregate amount at any time not exceeding [*] to secure the performance of bids, tenders, bonds or contracts required in the ordinary course of business;
 - (D) any other Security Interest including in relation to the Existing Indebtedness over the assets of any Obligor other than the Borrower notified by the Borrower or any of the Obligors to the Facility Agent and accepted by it prior to the date of this Agreement;
 - (E) (without prejudice to the provisions of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*)) liens on assets leased, acquired or upgraded after the date of this Agreement or assets newly constructed or converted after the date of this Agreement provided that (i) such liens secure Financial Indebtedness otherwise permitted under this Agreement, (ii) such liens are incurred at the time of such lease, acquisition, upgrade, construction or conversion and (iii) the Financial Indebtedness secured by such liens does not exceed the cost of such upgrade or the cost of such assets acquired or leased;
 - (F) other liens arising in the ordinary course of business of the Group unrelated to Financial Indebtedness and securing obligations not yet delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established provided that (i) the aggregate amount of all cash and the fair market value of all other property subject to such liens as are described in this paragraph (F) does not exceed [*] and (ii) such cash and/or other property is not an asset of the Borrower;

- (G) subject to the other provisions of this Agreement and the Guarantee, any Security Interest in respect of existing Financial Indebtedness of a person which becomes a Subsidiary of the Guarantor or is merged with or into the Guarantor or any of its subsidiaries;
- (H) liens in favour of credit card companies on unearned customer deposits pursuant to agreements therewith; and
- (I) liens in favour of customers on unearned customer deposits.

“Pertinent Document” means:

- (a) any Finance Document;
- (b) any policy or contract of insurance contemplated by or referred to in Clause 12 (*General Undertakings*) or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and
- (d) any document which has been or is at any time sent by or to the Facility Agent in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraph (b) or (c).

“Pertinent Matter” means:

- (a) any transaction or matter contemplated by, arising out of, or in connection with a Pertinent Document; or
- (b) any statement relating to a Pertinent Document or to a transaction or matter falling within paragraph (a);

and covers any such transaction, matter or statement, whether entered into, arising or made at any time before the signing of this Agreement or on or at any time after that signing.

“Post-Delivery Assignment” means an assignment of the rights of the Borrower in respect of the post-delivery guarantee liability of the Builder under Article 25 of the Shipbuilding Contract executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

“Prohibited Jurisdiction” means any country or territory which is, or whose government is, the target of country-wide or territory-wide Sanctions.

“Prohibited Payment” means:

- (a) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would constitute bribery or an improper gift or payment under, or a breach of Sanctions, any laws of the Republic of Italy, England and Wales, Bermuda, the Council of the European Union, Germany, the United States of America or any other applicable jurisdiction; or

(b) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would or might constitute bribery within the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997.

“Prohibited Person” means any person that (i) appears on any Sanctions list of prohibited persons, (ii) is directly or indirectly owned 50 percent or more by, or directly or indirectly controlled by, one or more persons covered by sub-section (i) above, or (iii) is located, is resident in or is incorporated under the laws of a Prohibited Jurisdiction.

“Protocol of Delivery and Acceptance” means the protocol of delivery and acceptance of the Ship to be signed by the Borrower and the Builder in accordance with Article 8 of the Shipbuilding Contract.

“Quotation Date” means, in relation to any Interest Period (or any period for which an interest rate is to be determined under any provision of a Finance Document), the day which is 2 Business Days before the first day of that period, unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Date will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Date will be the last of those days).

“Qualifying Certificate” means the certificate to be issued by the Builder on the Delivery Date and issued to the Facility Agent and copied to the Borrower substantially in the form set out in Schedule 5 (*Qualifying Certificate*).

“Receiver” means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property

“Reference Bank Quotation” means any quotation supplied to the Facility Agent by a Reference Bank.

“Reference Bank Rate” means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks as either:

- (a) if:
- (i) the Reference Bank is a contributor to the applicable Screen Rate; and
 - (ii) it consists of a single figure,

the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the Screen Rate are asked to submit to the relevant administrator; or

- (b) in any other case, the rate at which the relevant Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market.

“**Reference Banks**” means such entities as may be appointed by the Facility Agent in consultation with the Borrower.

“**Relevant Interbank Market**” means the London Interbank Market.

“**Relevant Jurisdiction**” means, in relation to an Obligor:

- (a) its jurisdiction of incorporation;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party.

“**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 (or any successor organization).

“**Repayment Date**” means a date on which a repayment is required to be made under Clause 5 (*Repayment*).

“**Replacement Benchmark**” means a benchmark rate which is:

- (a) a formally designated, nominated or recommended as the replacement for the Screen Rate by:
 - (i) the administrator of the Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by the 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” shall be the replacement under paragraph (ii) above;

- (b) in the opinion of the Majority Lenders and the Obligors, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor of that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Obligors, an appropriate successor to that Screen Rate.

“**Representative**” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“**Requisition Compensation**” includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of “**Total Loss**”.

“**Restricted Creditor Party**” means a Creditor Party which serves a notice pursuant to paragraph (a) of Clause 37.7 *Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation*).

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

“**SACE**” means SACE S.p.A.

“**SACE Agent**” means Crédit Agricole Corporate and Investment Bank, a French “*société anonyme*”, having a share capital of seven billion eight hundred and fifty one million six hundred and thirty six thousand three hundred and forty two Euros (€7,851,636,342) and its registered office located at 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France, registered under the n° Siren 304 187 701 at the Registre du Commerce et des Sociétés of Nanterre or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

“**SACE Insurance Policy**” means the insurance policy in respect of this Agreement (which, in all material respects, is not inconsistent with the commercial terms of this Agreement) to be issued by SACE for the benefit of the Lenders in respect of one hundred per cent. (100%) of the Loan together with interest thereon in form and substance satisfactory to the Facility Agent, the SACE Agent and all the Lenders.

“**SACE Premium**” means the amount payable by the Borrower to SACE directly or through the SACE Agent in two instalments in respect of the SACE Insurance Policy as set out in Clause 8 (*SACE Premium and Italian Authorities*).

“**SACE Premium Instalments**” means each of the First Instalment and Second Instalment.

“**SACE Required Documents**” means in relation to the Drawdown Notice:

- (a) a duly completed and executed Qualifying Certificate; and
- (b) each of the other documents, information and other evidence specified in or required to be enclosed with such Qualifying Certificate.

“**Safety Management Certificate**” has the meaning given to it in the ISM Code.

“**Sanctions**” means any financial, economic or trade sanctions, embargoes or other restrictions relating to trading, doing business, investment, exporting, importing, travelling, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Hong Kong Monetary Authority, the European Union or the Council of the European Union, the United Nations or its Security Council or imposed by any member state of the European Union or Switzerland;
- (b) imposed by the US, including the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC); or

(c) otherwise imposed by any law or regulation.

“**SBC Effective Date**” means the effective date under the Shipbuilding Contract.

“**Screen Rate**” means, in relation to a particular period, 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 at or about 11 a.m (London time) on the Quotation Date for such period as displayed on page LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters (and if such page ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consulting with the Borrower).

“**Screen Rate Replacement Event**” means, in relation to the Screen Rate:

(a) the methodology, formula or other means of determining the Screen Rate has, in the opinion of the Majority Lenders and the Obligors materially changed;

(b)

(i)

(A) the administrator of the Screen Rate or its supervisor publicly announces that such administrator is insolvent;

(B) information is published in any order, decree, notice, petition or filing, however, described of or filed with a court, tribunal, exchange, regulatory authority or judicial body which reasonably confirms that the administrator of the Screen Rate is insolvent,

provided that in each case, at that time, there is no successor or administrator to continue to provide the Screen Rate;

(ii) the administrator of the Screen Rate publicly announces that it has ceased or will cease, to provide the Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the Screen Rate;

(iii) the supervisor of the administrator of the Screen Rate publicly announces that the Screen Rate has been or will be permanently or indefinitely discontinued;

(iv) the administrator of the Screen Rate or its supervisor announces that the Screen Rate may no longer be used;

(c) the administrator of the Screen Rate determines that the Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:

(i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Obligors) temporary; or

- (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the period of fifteen (15) Business Days;
- (d) in the opinion of the Majority Lenders and the Obligors, the Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

“**Second Instalment**” means the second instalment of the SACE Premium as more particularly described in paragraph (b) of Clause 8.1 *SACE Premium*).

“**Secured Liabilities**” means all liabilities which the Borrower, the Obligors or any of them have, at the Effective Date or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country.

“**Secured Party**” means SACE, the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender whether at the date of this Agreement or any later time, a Receiver or any Delegate.

“**Security Interest**” means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien, assignment, hypothecation or any other security interest of any kind or other agreement or arrangement having the effect of conferring security;
- (b) the security rights of a plaintiff under an action *in rem*; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution.

“**Security Period**” means the period commencing on the Effective Date and ending on the date on which:

- (a) all amounts which have become due for payment by the Borrower or any Obligor under the Finance Documents have been fully and irrevocably paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) neither the Borrower nor any other Obligor has any future or contingent liability under Clause 19 *(Application of sums received)* below or any other provision of this Agreement or another Finance Document; and
- (d) the Facility Agent does not consider that there is a significant risk that any payment or transaction under a Finance Document would be set aside, or would have to be reversed or adjusted, in any present or possible future bankruptcy of the Borrower or an Obligor or in any present or possible future proceeding relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created by a Finance Document.

“**Security Property**” means:

- (a) the Security Interests expressed to be granted in favour of the Security Trustee as trustee for the Secured Parties and all proceeds received or recovered by or on behalf of the Security Trustee under or by virtue of any Security Interest including any money or other assets which are received or recovered by it as a result of the enforcement or exercise by it of such a Security Interest or right;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Trustee as trustee for the Secured Parties and secured by the Security Interests together with all representations and warranties expressed to be given by an Obligor in favour of the Security Trustee as trustee for the Secured Parties;
- (c) the Security Trustee’s interest in any turnover trust created under the Finance Documents;
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Trustee is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties,

except:

- (i) rights intended for the sole benefit of the Security Trustee; and
- (ii) any moneys or other assets which the Security Trustee has transferred to the Facility Agent or (being entitled to do so) has retained in accordance with the provisions of this Agreement.

“**Security Requirement**” means the amount in Dollars (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which is at any relevant time one hundred and twenty-five per cent. (125%) of the Loan.

“**Security Trustee**” means HSBC Corporate Trustee Company (UK) Limited, a company incorporated in England and Wales (with registered number 6447555) whose registered office is located at 8 Canada Square, London, E14 5HQ or any successor of it appointed under Clause 27 (*The Security Trustee*).

“**Security Value**” means the amount in Dollars (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which, at any relevant time, is the aggregate of (i) the charter free market value of the Ship as most recently determined in accordance with Clause 13.4 (*Valuation of the Ship*); and (ii) the market value of any additional security for the time being actually provided to the Facility Agent pursuant to Clause 15 (*Security Value Maintenance*).

“**Servicing Party**” means the Facility Agent or the Security Trustee.

“**Shares Security Deed**” means a document creating security over the share capital in the Borrower in the agreed form.

“**Shareholder**” means NCL International Ltd., a Bermuda company with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda.

“**Ship**” means the passenger cruise ship currently designated with Hull No.[*] (as more particularly described in the Shipbuilding Contract) to be constructed under the Shipbuilding Contract and to be delivered to, and purchased by, the Borrower and registered in its name under an Approved Flag.

“**Shipbuilding Contract**” has the meaning given in Recital (A).

“**SIMEST**” means Società Italiana per Le Imprese all’Estero - SIMEST S.p.A., which grants export subsidies in Italy under and according to the Italian Legislative Decree n. 143/98 and its amendments.

“**SIMEST Margin Contribution**” means the margin contribution approved and granted by SIMEST to the Lenders under the Interest Make-up Agreement as communicated by the SACE Agent to the Creditor Parties and the Borrower following the date of this Agreement as soon as the SACE Agent is made aware of it.

“**Structuring Fee**” has the meaning given in paragraph (a) of Clause 9.1 (*Fees*).

“**Subordinated Debt Security**” has the meaning given in paragraph (b)(ii) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

“**Subsidiary**” has the following meaning:

A company (S) is a subsidiary of another company (P) if:

- (a) a majority of the issued shares in S (or a majority of the issued shares in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; or
- (b) P has direct or indirect control over a majority of the voting rights attaching to the issued shares of S; or
- (c) P has the direct or indirect power to appoint or remove a majority of the directors of S; or
- (d) P otherwise has the direct or indirect power to ensure that the affairs of S are conducted in accordance with the wishes of P;

and any company of which S is a subsidiary is a parent company of S.

“**Tax**” means any tax, levy, impost, duty, assessment, fee, deduction or other charge or withholding of a similar nature imposed by any governmental authority (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

“**Third Party Act**” means the Contracts (Rights of Third Parties) Act 1999.

“**Total Loss**” means:

- (a) actual, constructive, compromised, agreed or arranged total loss of the Ship;

- (b) any expropriation, confiscation, requisition or acquisition of the Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority, (excluding a requisition for hire for a fixed period not exceeding 1 year without any right to an extension) unless it is within 1 month redelivered to the Borrower's full control;
- (c) any arrest, capture, seizure or detention of the Ship (including any hijacking or theft) unless it is within 1 month redelivered to the Borrower's full control.

"Total Loss Date" means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earliest of:
 - (i) the date on which a notice of abandonment is given to the insurers (or deemed or agreed to be given); and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower with the Ship's insurers in which the insurers agree to treat the Ship as a total loss; and
- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Facility Agent acting reasonably and in consultation with the Borrower that the event constituting the total loss occurred.

"Transaction Documents" means the Finance Documents and the Underlying Documents.

"Transfer Certificate" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrower.

"Underlying Documents" means the Shipbuilding Contract, any Management Agreement, any bareboat charter and any charter and associated guarantee in respect of which a notice of assignment is required to be served under the terms of the General Assignment.

"Unpaid Sum" means (i) any sum due and payable but unpaid by an Obligor under the Finance Documents and (ii) any part of the SACE Premium unpaid by the Borrower.

"US" means the United States of America.

"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 of certain terms

In this Agreement:

“Facility Agent”, the **“SACE Agent”**, the **“Joint Mandated Lead Arranger”**, the **“Security Trustee”**, **“SACE”**, any **“Creditor Party”**, any **“Secured Party”**, any **“Lender”**, any **“Obligor”** or any other **“person”**, shall be construed so as to include its successors in title, permitted assigns and permitted transferees.

“approved by the Lenders” (or any similar determination or instruction by the Lenders) means approved in writing by the Facility Agent acting on the instructions of all the Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and any requirement for approval by all the Lenders shall mean prior approval.

“approved by the Majority Lenders” (or any similar determination or instruction by the Majority Lenders) means approved in writing by the Facility Agent acting on the instructions of the Majority Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Majority Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and otherwise **“approved”** means approved in writing by the Facility Agent (on such conditions as the Facility Agent may impose) and **“approval”** and **“approve”** shall be construed accordingly and any requirement for approval by the Facility Agent, the SACE Agent or the Majority Lenders shall mean prior approval.

“asset” includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment.

“company” includes any partnership, joint venture and unincorporated association.

“**consent**” includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation.

“**contingent liability**” means a liability which is not certain to arise and/or the amount of which remains unascertained.

“**date of this Agreement**” means 19 December 2018.

“**document**” includes a deed; also a letter, fax or electronic mail.

“**expense**” means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Taxes including VAT.

“**including**” and “**in particular**” (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.

“**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;

“**law**” includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council.

“**legal or administrative action**” means any legal proceeding or arbitration and any administrative or regulatory action or investigation.

“**liability**” includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise.

“**months**” shall be construed in accordance with Clause 1.4 (*Meaning of “month”*).

“**parent company**” has the meaning given in the definition of “Subsidiary”.

“**person**” includes any individual, firm, company, corporation, government, any state, political sub-division of a state and local or municipal authority, agency of a state or any association, trust, joint venture, consortium or partnership; and any international organisation (whether or not having a separate legal personality).

“**proceedings**” means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure.

“**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Construction of Insurance Terms

“**approved**” means, for the purposes of Clause 14 (*Insurance Undertakings*), approved in writing by the Facility Agent.

“**excess risks**” means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims.

“**obligatory insurances**” means all insurances effected, or which the Borrower is obliged to effect, under Clause 14 (*Insurance Undertakings*) or any other provision of this Agreement or another Finance Document.

“**policy**” in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms.

“**protection and indemnity risks**” means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02) (1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/10/83) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision.

“**war risks**” includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24 of the Institute Time Clauses (Hulls) (1/11/95) or clause 23 of the Institute Time Clauses (Hulls)(1/10/83).

1.4 Meaning of “month”

A period of one or more “**months**” ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (“**the numerically corresponding day**”), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;

and “**month**” and “**monthly**” shall be construed accordingly.

1.5 General Interpretation

In this Agreement:

- (a) references in Clause 1.1 (*Definitions*) to a Finance Document or any other document being an “**agreed form**” are to the form agreed between the Facility Agent (acting with the authorisation of each of the Creditor Parties and SACE) and the Borrower with any modifications to that form which the Facility Agent (with the authorisation of the Majority Lenders and SACE in the case of substantial modifications) approves or reasonably requires;
- (b) references to, or to a provision of, a Finance Document or any other document are references to it as amended, amended and restated or supplemented, whether before the date of this Agreement or otherwise;

- (c) references to Sanctions, for the purposes of Clause 11 (*Representations and Warranties*), Clause 12 (*General Undertakings*), Clause 20 (*Indemnities*), Clause 21 (*Illegality, etc.*) and the Finance Documents shall mean “Sanctions” as defined in Clause 1.1 (*Definitions*), by which any Obligor, any Creditor Party or any party involved in the transactions contemplated in the Finance Documents is bound or to which it is subject or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of any Obligor or any Creditor Party;
- (d) references to, or to a provision of, any law or regulation include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (e) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;
- (f) words denoting the singular number shall include the plural and vice versa; and
- (g) Clauses 1.1 (*Definitions*) to 1.5 (*General Interpretation*) apply unless the contrary intention appears.

1.6 Headings

In interpreting a Finance Document or any provision of a Finance Document, all clauses, sub-clauses and other headings in that and any other Finance Document shall be entirely disregarded.

1.7 Schedules

The schedules form an integral part of this Agreement.

2 FACILITY

2.1 Amount of facility

Subject to the other provisions of this Agreement, the Lenders agree to make available to the Borrower a loan not exceeding the Maximum Loan Amount intended to be applied as follows:

- (a) in payment to the Builder, up to the Eligible Amount, of all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) in reimbursement to the Borrower of the amount of the First Instalment of the SACE Premium paid by it to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (c) in payment to SACE of the amount of the Second Instalment of the SACE Premium payable by the Borrower to SACE in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.2 Lenders' participations in Loan

Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

2.3 Purpose of Loan

The Borrower undertakes with each Secured Party to use the Loan only to pay for:

- (a) goods and services of Italian origin incorporated in the design, construction or delivery of the Ship;
- (b) subject to the limits and conditions fixed by the Italian Authorities, goods and services incorporated in the design, construction or delivery of the Ship and originating from countries other than Italy where the provision of such goods or services has been sub-contracted by the Builder and therefore remains the Builder's responsibility under the Shipbuilding Contract;
- (c) all or part of eighty per cent. (80%) of the Final Contract Price;
- (d) reimbursement to the Borrower of the First Instalment of the SACE Premium paid by the Borrower direct to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (e) the Second Instalment of the SACE Premium payable in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.4 Creditor Parties' rights and obligations

- (a) The obligations of each Creditor Party under the Finance Documents are several. Failure by a Creditor Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Creditor Party is responsible for the obligations of any other Creditor Party under the Finance Documents.
- (b) The rights of each Creditor Party and SACE under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Creditor Party and SACE from an Obligor shall be a separate and independent debt.
- (c) A Creditor Party and SACE may not, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.
- (d) Notwithstanding any other provision of the Finance Documents and subject to the prior written consent of SACE, a Creditor Party may separately sue for any Unpaid Sum due to it without the consent of any other Creditor Party or joining any other Creditor Party to the relevant proceedings (it being understood that a Creditor Party may file a claim noting the amounts due to it in the event insolvency proceedings are commenced against the Borrower by a third party).

2.5 Monitoring

No Creditor Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

2.6 Obligations of Lenders several

The obligations of the Lenders under this Agreement are several; and a failure of a Lender to perform its obligations under this Agreement shall not result in:

- (a) the obligations of the other Lenders being increased; nor
 - (b) any Obligor or any other Lender being discharged (in whole or in part) from its obligations under any Finance Document,
- and in no circumstances shall a Lender have any responsibility for a failure of another Lender to perform its obligations under this Agreement or any other Finance Document.

3 CONDITIONS PRECEDENT

3.1 General

The Borrower may only draw the Loan when the following conditions have been fulfilled to the satisfaction of the Facility Agent and provided no Event of Default shall have occurred and remains unremedied or is likely to occur as a consequence of the drawing of the Loan:

3.2 No later than the Effective Date

The Facility Agent shall have received no later than the Effective Date:

- (a) an opinion from legal counsel to the Secured Parties as to Bermuda law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Bermuda Obligors' execution of any Finance Documents to which they are party on the Effective Date;
- (b) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of this Agreement and the Guarantee;
- (c) an opinion from legal counsel to the Secured Parties as to Bermuda law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the Shares Security Deed;
- (d) a Certified Copy of the executed Shipbuilding Contract;
- (e) such documentary evidence as the Facility Agent and its legal advisers may require in relation to the due authorisation and execution by the Borrower and the Builder of the Shipbuilding Contract and of all documents to be executed by the Borrower and the Builder;
- (f) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom that it will act for the Borrower and the Guarantor as agent for service of process in England in respect of this Agreement and any other Finance Document;
- (g) duly executed originals of the Guarantee and the Shares Security Deed and of each document to be submitted pursuant to it;
- (h) such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender or SACE) or any Lender or SACE (for itself) in order for the Facility Agent and such Lender or SACE 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;

- (i) payment of the initial portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter; and
- (j) payment of the initial portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the initial portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the initial portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter.

3.3 No later than four (4) years before the Intended Delivery Date

The Facility Agent shall have received no later than four (4) years before the Intended Delivery Date, payment of the remaining portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter.

3.4 No later than ninety (90) days before the Intended Delivery Date

The Facility Agent (or the SACE Agent in respect of paragraphs (c), (e) and (f) below) shall have received no later than ninety (90) days before the Intended Delivery Date:

- (a) notification from the Borrower of its chosen Maritime Registry;
- (b) notification of the Approved Manager;
- (c) the SACE Insurance Policy documentation relating to the transaction contemplated by this Agreement issued on terms whereby the SACE Insurance Policy will enter into full force and effect upon fulfilment of the conditions specified therein to be fulfilled on or before the Drawdown Date;
- (d) evidence that the First Instalment has been paid;
- (e) an original of the Interest Make-up Agreement relative to the Loan and in full force and effect;
- (f) an original of the SACE Insurance Policy; and
- (g) an opinion from legal counsel to the Creditor Parties as to Italian law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of SACE's issuance of the SACE Insurance Policy and compliance with the principles governing the eligibility of credit risk mitigation techniques as per Article 194, paragraph 1, of the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013.

3.5 No later than sixty (60) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than sixty (60) days before the Intended Delivery Date:

- (a) notification of the Intended Delivery Date;

- (b) a notice from the Borrower as described in paragraph (a) of Clause 8.4 (*Refund*); and
- (c) a Bermuda tax opinion from legal counsel to the Secured Parties in respect of the tax treatment of the entry by the Bermuda incorporated Borrower into this Agreement and the other Finance Documents substantially in the form notified to the Borrower on or around the Effective Date and updated to reflect any changes in law.

3.6 No later than forty-five (45) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than forty five (45) days before the Intended Delivery Date (and on each subsequent date on which a Compliance Certificate is to be received by the Security Trustee pursuant to clause 11.3(c) of the Guarantee) a duly completed Compliance Certificate from the Guarantor;

3.7 No later than [*] ([*]) days before the Intended Delivery Date

The SACE Agent (with a copy to the Facility Agent) shall have received from the Borrower no later than [*] ([*]) days before the Intended Delivery Date notification, signed by a duly authorised signatory of the Borrower, specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable to the Loan until the date of payment of the final repayment instalment of the Loan.

3.8 No later than fifteen (15) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than fifteen (15) Business Days before the Intended Delivery Date insurance documents in form and substance satisfactory to the Lenders confirming that the Insurances have been effected and will be in full force and effect on the Delivery Date.

3.9 No later than five (5) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than five (5) Business Days before the Intended Delivery Date:

- (a) the Drawdown Notice from the Borrower, signed by a duly authorised signatory of the Borrower, specifying the amount of the Loan to be drawn down;
- (b) a Certified Copy of any amendments to the Shipbuilding Contract which are not Minor Modifications and of the power of attorney pursuant to which the authorised signatory of the Borrower signed the Drawdown Notice and a specimen of his signature; and
- (c) a final confirmation of the Intended Delivery Date signed by a duly authorised signatory of the Borrower, and counter-signed by a duly authorised signatory of the Builder.

3.10 No later than the Delivery Date

The Facility Agent shall have received no later than the Delivery Date:

- (a) if applicable, a duly executed original of the Subordinated Debt Security;
- (b) any opinions from legal counsel to the Secured Parties relating to the due execution, validity and enforceability of the Subordinated Debt Security, in form and substance satisfactory to the Facility Agent and the Secured Parties;

- (c) evidence of payment to and receipt by the Builder of:
 - (i) the four (4) pre-delivery instalments of the Final Contract Price; and
 - (ii) any other part of the Final Contract Price as at the Delivery Date not being financed hereunder;
- (d) payment of the relevant portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the relevant portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the relevant portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter;
- (e) evidence of payment of all amounts which are due and payable hereunder by the Borrower on or prior to the Delivery Date;
- (f) a certificate from the Borrower, signed by an authorised representative of the Borrower, confirming that:
 - (i) the representations and warranties contained in Clause 11 (*Representations and Warranties*) are true and correct as of the Delivery Date in consideration of the facts and circumstances existing as of the Delivery Date; and
 - (ii) no mandatory prepayment event pursuant to Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) is continuing or would result from the Loan;
- (g) an original or a certified copy of each of the SACE Required Documents and the Facility Agent and the SACE Agent shall be satisfied that the SACE Required Documents on their face appear properly completed and comply with the requirements of this Agreement and the requirements of the SACE Insurance Policy; and
- (h) provided always that the obligations of the Lenders to make the Loan available on the Delivery Date are subject to the Lenders remaining satisfied that each of the SACE Insurance Policy and the Interest Make-up Agreement will cover the Loan following the advance of the Loan, payment of the Second Instalment and delivery to the Facility Agent of the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.11 At Delivery

Immediately prior to the delivery of the Ship by the Builder to the Borrower, the Facility Agent shall have received:

- (a) evidence that immediately following delivery:
 - (i) the Ship will be registered in the name of the Borrower in the Maritime Registry;
 - (ii) title to the Ship will be held by the Borrower free of all Security Interests other than any maritime lien in respect of crew's wages and trade debts arising out of equipment, consumable and other stores placed on board the Ship prior to or concurrently with delivery, none of which is overdue;

- (iii) the Mortgage will be duly registered in the Maritime Registry and constitutes a first priority security interest over the Ship and that all taxes and fees payable to the Maritime Registry in respect of the Ship have been paid in full; and
- (iv) the opinions mentioned in paragraphs (b), (c) and (d) of Clause 3.12 (*Immediately following Delivery*), in draft form immediately prior to the delivery of the Ship, and the documents mentioned in paragraph (e) of Clause 3.12 (*Immediately following Delivery*) will be issued to and received by the Facility Agent;
- (b) a Certified Copy of a classification certificate (or interim classification certificate) showing the Ship to be classed in accordance with paragraph (c) of Clause 11.3 (*Representations on the Delivery Date*).
- (c) duly executed originals of the General Assignment, any Approved Manager's Undertaking and the Post-Delivery Assignment together with relevant notices of assignment and the acknowledgement of the notice of assignment to be issued pursuant to the General Assignment and the Post-Delivery Assignment;
- (d) a Certified Copy of any executed Management Agreement, any bareboat charter and any related security pursuant to paragraph (b) of Clause 13.1 (*Pooling of earnings and charters*) (if applicable) and any time charterparty in respect of the Ship;
- (e) a Certified Copy of any current certificate of financial responsibility in respect of the Ship issued under OPA, a valid Safety Management Certificate (or interim Safety Management Certificate) issued to the Ship in respect of its management by the Approved Manager pursuant to the ISM Code, a valid Document of Compliance (or interim Document of Compliance) issued to the Approved Manager in respect of ships of the same type as the Ship pursuant to the ISM Code, a valid International Ship Security Certificate issued to the Ship in accordance with the ISPS Code and a valid IAPPC issued to the Ship in accordance with Annex VI and, if entered into, any carrier initiative agreement with the United States' Customs and Border Protection under the Customs-Trade Partnership Against Terrorism (C-TPAT) programme along with any other documents required under the ISM Code and the ISPS Code;
- (f) a Certified Copy of the power of attorney pursuant to which the authorised signatory(ies) of the Borrower signed the documents referred to in this Clause 3.11 (*At Delivery*) and to which the Borrower is a party and a specimen of his or their signature(s); and
- (g) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom (or any replacement process agent satisfactory to the Facility Agent acting reasonably) that it will act for each of the relevant Obligors as agent for service of process in England in respect of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment and the Post-Delivery Assignment.

3.12 Immediately following Delivery

Immediately following the delivery of the Ship by the Builder to the Borrower, the Facility Agent (with copy to the Security Trustee), or, in the case of paragraph (a) below, the Security Trustee (with copy to the Facility Agent), shall receive:

- (a) a duly executed original of the Mortgage;

- (b) an opinion from legal counsel acceptable to the Secured Parties as to the law of the Maritime Registry in form and substance satisfactory to the Facility Agent and the Secured Parties confirming:
 - (i) the valid registration of the Ship in the Maritime Registry; and
 - (ii) the Mortgage over the Ship is a first priority security and has been validly registered in the Maritime Registry;
- (c) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and any other relevant security document entered into at delivery;
- (d) an opinion from legal counsel acceptable to the Secured Parties as to the laws of the state of Bermuda in form and substance satisfactory to the Facility Agent and the Secured Parties together with the company documentation of the Borrower and a certificate of a competent officer or manager of the Borrower containing specimen signatures of the persons authorised to sign the documents on behalf of the Borrower, confirming that, without limitation:
 - (i) the Mortgage, the deed of covenants constituting part of the Mortgage, the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) fall within the scope of the Borrower's company purpose as defined by its Memorandum of Association and By-laws and are binding on it; and
 - (ii) the Borrower's representatives are fully empowered to sign the Protocol of Delivery and Acceptance, the Mortgage, the deed of covenants constituting part of the Mortgage, the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) and any related security pursuant to paragraph (b) of Clause 13.1 (*Pooling of earnings and charters*); and
- (e) the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.13 Notification of satisfaction of conditions precedent

The Facility Agent shall notify the Lenders and SACE promptly upon being satisfied as to the satisfaction of the conditions precedent referred to in this Clause 3 (*Conditions Precedent*).

3.14 Waiver of conditions precedent

If the Majority Lenders, at their discretion, subject to the prior written consent of SACE, permit the Loan to be borrowed before any of the conditions precedent referred to in Clause 3 (*Conditions Precedent*) has been satisfied, the Borrower shall ensure that that condition is satisfied within five (5) Business Days after the date (as specified in the relevant part of Clause 3 (*Conditions Precedent*)) or such later date as the Facility Agent may agree in writing with the Borrower.

3.15 Changes to SACE's or SIMEST's requirements

- (a) If SACE or SIMEST notifies the SACE Agent in writing of a change of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), or gives instructions to the SACE Agent with the effect that, in the opinion of the SACE Agent, this Agreement or certain documents which the Borrower is or may be required to provide for the purpose of drawing the Loan under this Agreement shall be amended to comply with such change or instructions, then the SACE Agent shall promptly notify the Borrower of such a change in SACE's or SIMEST's requirements (as applicable) and of the relevant amendments to be made to this Agreement or any such documents as the SACE Agent considers appropriate.
- (b) If the SACE Agent notifies the Borrower of any proposed changes to this Agreement under paragraph (a) above, and provided that:
 - (i) all the Lenders and the Borrower agree with such changes; and
 - (ii) the Borrower indemnifies and holds harmless the SACE Agent, the Facility Agent and the Lenders for any reasonable costs that it may incur arising from or in connection with any such amendments (including legal fees),

then such changes will be made to this Agreement in accordance with the terms hereof.

- (c) If, in the opinion of the Lenders, there are any provisions of this Agreement that contradict or conflict with any provision of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), such that compliance by any Creditor Party with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) may result in a breach by such Creditor Party of any of the terms of this Agreement or to an extent that the same may have the effect of rendering all or any part of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) void, voidable or otherwise not in full force and effect, the Borrower agrees that any relevant terms of this Agreement will be amended to the extent agreed in writing between the Borrower, the Facility Agent and the SACE Agent to ensure compliance with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable).

3.16 No claim against the Creditor Parties

The Borrower agrees that the Creditor Parties may act on the instructions of the Italian Authorities in relation to this Agreement.

3.17 Examination and reliance on documents by the Facility Agent

- (a) The SACE Agent shall ensure that an officer or employee or other person designated by it as its authorised representative is present at the Builder on the Delivery Date for the purpose of examining originals (or certified copies) of the SACE Required Documents duly signed by the parties thereto and collecting copies thereof (which copies shall be certified as true copies by an authorised signatory of the Builder and/or the Borrower, as applicable).
- (b) The Facility Agent shall be entitled (but not obliged) to rely and act upon any documentation or information provided under this Clause 3 (*Conditions Precedent*), which appears on its face to have been duly completed.
- (c) The Facility Agent's responsibility to the Borrower and the Lenders for the examination of the Drawdown Notice, and, when applicable, the documents provided by any person other than the Borrower in connection with the Drawdown Notice, shall be limited to the examination of their apparent compliance with the terms and conditions thereof in accordance with Articles 14 (Standard of examination of documents) and 34 (Disclaimer on effectiveness of documents) of the "Uniform Customs and Practice for Documentary Credits" (currently publication number 600 of the International Chamber of Commerce, latest edition) (except that no time limit for examination of documents shall apply).

- (d) The Facility Agent and the Lenders shall not be obliged to enquire as to, or be responsible for, the validity, truthfulness and genuineness and (where the relevant document is a conformed copy) conformity to the original of the Drawdown Notice or any other document which appears on its face to be in order, or of any signatures thereon or any of the statements set out therein and shall be entitled to rely on the accuracy of any such statements.
- (e) In case of any discrepancy in any such documents, the Facility Agent shall notify the Borrower in writing thereof and shall request its approval of such discrepancy in writing.
- (f) The Facility Agent and the Lenders shall not be responsible for any delay in making available the Loan resulting from any requirement for the delivery of further information or documents reasonably required by the Facility Agent for the relevant conditions precedent in this Agreement to be satisfied.

4 DRAWDOWN

4.1 Borrower's irrevocable payment instructions

The Lenders shall not be obliged to fulfil their obligation to make the Loan available other than (i) by paying the Builder all or part of eighty per cent. (80%) of the Final Contract Price on behalf of and in the name of the Borrower, (ii) by reimbursing the Borrower for the First Instalment of the SACE Premium which was paid by the Borrower to SACE on the earlier of (A) the date falling 30 days after the issuance of the SACE Insurance Policy and (B) the date falling 6 months after the date of SACE's board approval and (iii) by payment to SACE of the Second Instalment of the SACE Premium payable on the Drawdown Date. For the avoidance of doubt, the amount of the Loan shall not exceed the Maximum Loan Amount.

The Borrower hereby instructs the Lenders in accordance with this Clause 4.1 (*Borrower's irrevocable payment instructions*):

- (a) to pay to the Builder, up to the Eligible Amount, all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) to reimburse the Borrower the amount of the First Instalment of the SACE Premium already paid by the Borrower to SACE on the date specified in paragraph (a) of Clause 8.1; and
- (c) to pay to the Facility Agent on behalf of the Lenders for onward payment to SACE (such payment to SACE to be made for value on the Drawdown Date), by drawing under this Agreement, the amount of the Second Instalment of the SACE Premium.

Payment to the Builder of the amount drawn under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) above shall be made on the Drawdown Date during usual banking hours in Italy to the Builder's account as specified by the Builder in accordance with the Shipbuilding Contract after receipt and verification by the Facility Agent of the documents provided under Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

Save as contemplated in Clause 4.3 (*Modification of payment terms*) below, the payment instruction contained in this Clause 4.1 (*Borrower's irrevocable payment instructions*) is irrevocable.

4.2 Conversion Rate for Loan

The Dollar amount to be drawn down under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) shall be calculated by the Facility Agent on the Conversion Rate Fixing Date in accordance with the definitions of "Eligible Amount" and "Conversion Rate" in Clause 1.1 (*Definitions*).

4.3 Modification of payment terms

The Borrower expressly acknowledges that the payment terms set out in this Clause may only be modified with the agreement of the Italian Authorities, the Facility Agent, the Security Trustee, the Lenders and the Borrower in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) and with the agreement of the Italian Authorities, the Facility Agent, the Lenders and the Borrower in the case of paragraphs (b) and (c) of Clause 4.1 (*Borrower's irrevocable payment instructions*); **provided that** it is the intention of the Borrower, the Lenders, the Security Trustee and the Facility Agent that prior to the Conversion Rate Fixing Date agreement shall be reached with those financial institutions with whom the Borrower has entered into the FOREX Contracts (the "**Counterparties**") in order that the Euro payments due from the Counterparties under the FOREX Contracts shall be paid to the Facility Agent for holding in escrow and to be released by the Facility Agent simultaneously with (i) the payment in full to the Builder of the balance of the Final Contract Price denominated in Euro at the time of delivery of the Ship and (ii) the payment to the Counterparties of the Dollars due to them under the relevant FOREX Contracts out of the Dollar amount available under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*), subject only to delivery of the Ship by the Builder to the Borrower taking place as evidenced by the execution and delivery of the Protocol of Delivery and Acceptance and to the Borrower having deposited with the Facility Agent before the Drawdown Date, if and to the extent required, any Dollar and/or Euro amounts as may be needed to ensure the payment in full of both the balance of the Final Contract Price in Euro and the Dollars owed to the Counterparties under all the relevant FOREX Contracts.

4.4 Availability and conditions

- (a) Drawing may not be made under this Agreement (and the Loan shall not be available) after the expiry of the Availability Period.
- (b) There will be only one drawing under this Agreement.
- (c) The aggregate amount of the Loan cannot exceed the Maximum Loan Amount.

4.5 Notification to Lenders of receipt of a Drawdown Notice

The Facility Agent shall promptly and, in any case, by no later than three (3) Business Days before the Drawdown Date, notify the Lenders that it has received a Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;
- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the first Interest Period.

4.6 Lenders to make available Contributions

Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Facility Agent the amount due from that Lender under Clause 2.2 (*Lenders' participations in Loan*).

4.7 Disbursement of Loan

Subject to the provisions of this Agreement, the Facility Agent shall on the Drawdown Date pay the amounts which the Facility Agent receives from the Lenders under Clause 4.6 (*Lenders to make available Contributions*) in the like funds as the Facility Agent received the payments from the Lenders:

- (a) in the case of the amount referred to in paragraph (a) of Clause 4.1 *Borrower's irrevocable payment instructions*), to the account of the Builder which the Borrower specifies in the Drawdown Notice; and
- (b) in the case of an amount referred to in paragraph (b) of Clause 4.1 *Borrower's irrevocable payment instructions*) to the account of the Borrower which the Borrower shall specify; and
- (c) in the case of an amount referred to in paragraph (c) of Clause 4.1 *Borrower's irrevocable payment instructions*) to the account of SACE which the SACE Agent shall specify.

4.8 Disbursement of Loan to third party

The payment by the Facility Agent under Clause 4.7 (*Disbursement of Loan*) shall constitute the making of the Loan and the Borrower shall at that time become indebted, as principal and direct obligor, to each Lender in an amount equal to that Lender's Contribution.

5 REPAYMENT

5.1 Number of repayment instalments

The Borrower shall repay the Loan by twenty-four (24) consecutive six-monthly instalments from the earlier of (i) the Delivery Date and (ii) the date of actual disbursement of the Loan (the "**Starting Point of Repayment**").

5.2 Repayment Dates

The first repayment instalment shall be repaid on the date falling six (6) months after the Starting Point of Repayment and the last repayment instalment on the date falling one hundred and forty-four (144) months after the Starting Point of Repayment, each date of payment of an instalment being a "**Repayment Date**".

5.3 Amount of repayment instalments

Each repayment instalment of the Loan shall be of an equal amount.

5.4 Final Repayment Date

On the final Repayment Date, the Borrower shall additionally pay to the Facility Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.

6 INTEREST

6.1 Fixed or Floating Interest Rate

The Borrower shall provide notification, signed by a duly authorised signatory of the Borrower, to the SACE Agent (with a copy to the Facility Agent) at least [*] days before the Drawdown Date specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable until the date of payment of the final repayment instalment of the Loan.

6.2 Fixed Interest Rate

If the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the Loan shall bear interest in respect of each Interest Period at the Fixed Interest Rate. Such interest shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid on the last day of each Interest Period.

6.3 Floating Interest Rate

If:

- (a) the Borrower has specified a Floating Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*); or
- (b) the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*) but thereafter for any reason whatsoever the Interest Make-up Agreement is suspended or otherwise ceases to be in effect; or
- (c) SIMEST has requested a change of currency pursuant to the Interest Make-up Agreement and such change of currency is not agreed by the Borrower or Lenders in accordance with Clause 6.16 (*Change of currency*); or
- (d) SIMEST has failed to make a net payment of interest to the Lenders pursuant to the Interest Make-up Agreement,

the rate of interest on the Loan in respect of any Interest Period shall be the Floating Interest Rate applicable for that Interest Period and the following provisions of this Clause 6 (*Interest*) shall apply (in the case of the circumstances referred to in paragraph (b) above, with effect from the date on which the Interest Make-up Agreement ceases to be in effect, with such consequential amendments as shall be necessary to give effect to the switch from a Fixed Interest Rate to a Floating Interest Rate).

6.4 Payment of Floating Interest Rate

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid by the Borrower on the last day of that Interest Period.

6.5 Notification of Interest Periods and Floating Interest Rate

The Facility Agent shall notify the Borrower and each Lender of each Floating Interest Rate and the duration of each Interest Period as soon as reasonably practicable after each is determined and no later than the Quotation Date.

6.6 Unavailability of Screen Rate

- (a) *Market disruption:* If, on a Quotation Date, no Screen Rate is available for LIBOR, LIBOR shall be the rate quoted to the Facility Agent by the Lenders who are able to quote such rate at the request of the Facility Agent as those Lenders' offered rate for deposits of Dollars in an amount approximately equal to the amount in relation to which LIBOR is to be determined for a period equivalent to such period to prime banks in the London interbank eurocurrency market at or about 11 a.m. (London time) on the Quotation Date for such period.
- (b) If:
- (i) no Screen Rate is quoted and the Lenders do not (pursuant to paragraph 6.6 above), before 1.00 p.m. (London time) on the Quotation Date for an Interest Period, provide quotations to the Facility Agent in order to fix LIBOR; or
 - (ii) at least 1 Business Day before the start of an Interest Period, Lenders having Contributions together amounting to more than [*] per cent. of the Loan (or, if the Loan has not been made, Commitments amounting to more than [*] per cent. of the Total Commitments) notify the Facility Agent that LIBOR fixed by the Facility Agent would not accurately reflect the cost to those Lenders of funding their respective Contributions (or any part of them) during the Interest Period in the London Interbank Market at or about 11.00 a.m. (London time) on the Quotation Date for the Interest Period; or
 - (iii) at least 1 Business Day before the start of an Interest Period, the Facility Agent is notified by a Lender (the "**Affected Lender**") that for any reason it is unable to obtain Dollars in the London Interbank Market in order to fund its Contribution (or any part of it) during the Interest Period,

the following provisions of this Clause 6 (*Interest*) apply.

6.7 Notification of market disruption

The Facility Agent shall promptly notify the Borrower and each of the Lenders stating the circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which have caused its notice to be given.

6.8 Suspension of drawdown

If the Facility Agent's notice under Clause 6.6 (*Unavailability of Screen Rate*) is served before the Loan is made:

- (a) in a case falling within sub-paragraphs (i) or (ii) of paragraph (b) of Clause 6.6 *Unavailability of Screen Rate*, the Lenders' obligations to make the Loan;
 - (b) in a case falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 *Unavailability of Screen Rate*, the Affected Lender's obligation to participate in the Loan;
- shall be suspended while the circumstances referred to in the Facility Agent's notice continue.

6.9 Negotiation of alternative rate of interest

If the Facility Agent's notice under Clause 6.7 (*Notification of market disruption*) is served after the Loan is made, the Borrower, the Facility Agent and the Lenders or (as the case may be) the Affected Lender shall use reasonable endeavours to agree, in consultation with SACE and SIMEST, within the 30 days after the date on which the Facility Agent serves its notice under Clause 6.7 (*Notification of market disruption*) (the "**Negotiation Period**"), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.

6.10 Application of agreed alternative rate of interest

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

6.11 Alternative rate of interest in absence of agreement

- (a) If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the Reference Bank Rate for Dollars.
- (b) If, following the end of the Negotiation Period and request by the Facility Agent for a quotation by the Reference Banks pursuant to paragraph (a) above, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period and the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the cost of funding of the Lenders or (as the case may be) the Affected Lender in Dollars or in any available currency of their or its contribution plus the Margin; and the procedure provided for by this Clause 6.11 (*Alternative rate of interest in absence of agreement*) shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Facility Agent.

6.12 Notice of prepayment

If the Borrower does not agree with an interest rate set by the Facility Agent under Clause 6.11 (*Alternative rate of interest in absence of agreement*), the Borrower may give the Facility Agent not less than 15 Business Days', or, if the Fixed Interest Rate has been selected pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), 30 days, notice of its intention to prepay at the end of the interest period set by the Facility Agent.

6.13 Prepayment; termination of Commitments

A notice under Clause 6.12 (*Notice of prepayment*) shall be irrevocable; the Facility Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender and, if the Fixed Interest Rate has been selected by the Borrower, SIMEST of the Borrower's notice of intended prepayment; and:

- (a) on the date on which the Facility Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender shall be cancelled; and 6.6(b)(i)

- (b) on the last Business Day of the Interest Period set by the Facility Agent, the Borrower shall prepay (without premium or penalty subject to the provisions of Clause 20.2 (*Breakage costs and SIMEST arrangements*)) the Loan or, as the case may be, the Affected Lender's Contribution, together with accrued interest thereon at the applicable rate (being either the Floating Interest Rate or the Fixed Interest Rate as specified by the Borrower pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*)).

6.14 Application of prepayment

The provisions of Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) shall apply in relation to the prepayment.

6.15 Certain Circumstances

Notwithstanding anything to the contrary in this Agreement:

- (a) in the event of any circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which might affect the advance of the Loan on the Drawdown Date (the "**Relevant Circumstances**"):
- (i) occurring and being continuing on the date falling ninety (90) days before the Intended Delivery Date (the "**Relevant Date**"), each Lender will notify the Borrower (through the Facility Agent) of the Relevant Circumstances on the Relevant Date or, if the Relevant Date is not a Business Day, on the next following Business Day; and
 - (ii) occurring after the Relevant Date, each Lender will notify the Borrower (through the Facility Agent) immediately upon such Lender becoming aware of the Relevant Circumstances;
- (b) in the event of any Relevant Circumstances falling within sub-paragraphs (i) or (ii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Pricing-Related Relevant Circumstances**") occurring before the Loan is made available and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will fund its respective Contributions by reference to the agreed alternative rate of interest in accordance with Clauses 6.9 (*Negotiation of alternative rate of interest*), 6.10 (*Application of agreed alternative rate of interest*) and 6.11 (*Alternative rate of interest in absence of agreement*) as if the provisions of such Clauses applied not only in the event that the Pricing-Related Relevant Circumstances have been notified by the Facility Agent to the Borrower after the making of the Loan but also before the making of the Loan;
- (c) in the event of any Relevant Circumstances falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Availability-Related Relevant Circumstances**") occurring before the Loan is made and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will enter into good faith discussions with the Borrower for a period not exceeding 10 Business Days in order to discuss a basis on which the Lenders could be able to fund their respective Contributions in Dollars (or, if unavailable in Dollars, then in any available currency). Such discussions shall be without obligation on the Lenders provided that during such discussion period, such circumstances continue.

6.16 Change of currency

- (a) In the event that the SACE Agent notifies the Borrower that SIMEST has requested a change in the currency of the Loan in accordance with clause 6.3 of the Interest Make-up Agreement, the Borrower and the Lenders shall, without obligation, consider such request for a change of currency acting reasonably for a period of not exceeding 10 Business Days. Following such discussions the SACE Agent shall report the decision of the Facility Agent, the Borrower and the Lenders to SIMEST, providing their reason for any negative decision.
- (b) In the event that a change of currency is agreed the Parties agree to negotiate in good faith the necessary changes to this Agreement, the Finance Documents, the SACE Insurance Policy and the Interest Make-up Agreement in order to document the change in currency.
- (c) In the event that a change in currency is not acceptable to the Lenders or the Borrower, the provision of paragraph (c) of Clause 6.3 *Floating Interest Rate* shall apply.

6.17 Modification and/or discontinuation of certain benchmarks

Without prejudice to any other provisions of this Agreement, each Party acknowledges and agrees to the benefit of the other Party that:

- (a) LIBOR benchmarks (i) may be subject to methodological or other changes which could affect their value, (ii) may not comply with applicable laws and regulations (such as the European Benchmark Regulation as far as EURIBOR and EONIA are concerned) and/or (iii) may be permanently discontinued (in particular LIBOR which may be phased out after 2021).
- (b) The occurrence of any of the aforementioned events and/or a Screen Rate Replacement Event may have adverse consequences which may materially impact the economics of the financing transaction contemplated under this Agreement.
- (c) The Parties further acknowledge that if any of the aforementioned events and/or a Screen Rate Replacement Event is forthcoming, they shall enter into negotiations with a view to agreeing the necessary changes to this Agreement in order to preserve the economics of the financing transaction contemplated therein and, in particular, the margin initially agreed between the Parties. Such negotiations shall be carried out by each Party in good faith and in consideration of the then prevailing market practice (without prejudice to the particularities, as the case may be, of the transaction).

6.18 Replacement rate

- (a) If any of the events described in clause 6.17 (including a Screen Rate Replacement Event in relation to the Screen Rate) has occurred, 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 fall back and market disruption provisions for that Replacement Benchmark;
- (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practical, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders) and the Obligor.

- (b) If any Lender fails to respond to a request for an amendment to waiver described in paragraph (a) above, within fifteen (15) Business Days (or such longer period in relation to any request which the Borrower and the Facility Agent may agree) of that request being made:
 - (i) its Commitment shall not be included for the purpose of calculating the Total Commitments under the relevant Loan when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
 - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

7 INTEREST PERIODS

7.1 Commencement of Interest Periods

The first Interest Period applicable to the Loan shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period.

7.2 Duration of Interest Periods

Subject to Clause 7.3 (*Duration of Interest Periods for Repayment Instalments*), each Interest Period shall be 6 months.

7.3 Duration of Interest Periods for Repayment Instalments

Any Interest Period that includes a Repayment Date shall expire on such Repayment Date.

8 SACE PREMIUM AND ITALIAN AUTHORITIES

8.1 SACE Premium

The estimated SACE Premium for an amount equal to [*] (being [*] per cent. ([*]%) of the Maximum Loan Amount), or any other amount communicated by SACE subject to the approval of all Lenders and the Borrower, is due and payable in two instalments as follows:

- (a) the first instalment of the SACE Premium being an amount of [*] per cent. ([*]%) of the SACE Premium (the “**First Instalment**”) shall be paid by the Borrower to SACE (provided that the Borrower and the Lenders have been notified by the SACE Agent that the SACE Insurance Policy has been issued) on the earlier of (i) the date falling 30 days after the issuance of the SACE Insurance Policy and (ii) the date falling 6 months after the date of SACE’s board approval or any other later date as communicated by SACE; and
- (b) the second instalment of the SACE Premium being an amount of [*] per cent. ([*]%) of the SACE Premium (the “**Second Instalment**”) and shall be payable on or prior to the Drawdown Date. For the sake of clarity, no set-off with the First Instalment shall be permitted.

8.2 Reimbursement by the Borrower of the SACE Premium

The Borrower irrevocably agrees to pay the First Instalment, and to instruct the Lenders to pay the Second Instalment on behalf of the Borrower as follows:

- (a) the Borrower has requested and the Lenders have agreed to reimburse the payment of one hundred per cent. (100%) of the First Instalment to the Borrower on the Drawdown Date, it being agreed that such First Instalment shall be paid to SACE by the Borrower in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*) and upon notification by the Facility Agent to the Borrower (i) of the issuance of the SACE Insurance Policy documentation in the form required by paragraph (g) of Clause 3.4 (*No later than ninety (90) days before the Intended Delivery Date*), and (ii) of the amount of the First Instalment; and
- (b) the Borrower has requested and the Lenders have agreed to finance the payment of one hundred per cent. (100%) of the Second Instalment on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement.

Consequently, the Borrower hereby irrevocably instructs the Facility Agent on behalf of the Lenders to pay the Second Instalment to SACE on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement and to reimburse the Borrower by the Borrower drawing under the Loan the amount of the First Instalment in accordance with paragraph (b) of Clause 2.1 (*Amount of facility*) of this Agreement.

The First Instalment and Second Instalment each financed by the Loan will be repayable in any event by the Borrower to the Lenders in the manner specified in Clause 5 (*Repayment*) and under any and all circumstances including but without limitation in the event of prepayment or acceleration of the Loan.

8.3 Italian Authorities

- (a) The Borrower acknowledges and agrees that the Facility Agent, the SACE Agent and the Lenders are entitled to provide the Italian Authorities with any information they may have relative to the Loan and the business of the Group, to allow the Italian Authorities to inspect all their records relating to this Agreement and the other Transaction Documents and to furnish them with copies thereof. Any such information relative to the Loan may also be given by any Italian Authorities to international institutions charged with collecting statistical data.
- (b) The Borrower acknowledges that, in the making of any decision or determination or the exercise of any discretion or the taking or refraining to take any action under this Agreement or any of the other Finance Documents, the Facility Agent, the SACE Agent and the Lenders shall be deemed to have acted reasonably if they have acted on the instructions of either of the Italian Authorities.

- (c) Each Party further undertakes not to act in a manner which is inconsistent with the terms of the SACE Insurance Policy and the Interest Make-up Agreement.

8.4 Refund

- (a) The Borrower shall, at the latest on the date falling sixty (60) days before the Intended Delivery Date, provide a notice in writing to the SACE Agent (who will promptly forward it to other Lenders and SACE), signed by an authorised signatory of the Borrower, indicating the amount of the Loan to be drawn on the Delivery Date less (i) any amount cancelled based on the Conversion Rate and (ii) the Refund (as defined below) to be refunded in accordance with paragraph (b), such amount of the Refund to be confirmed by SACE at least six (6) Business Days prior to the Delivery Date. The Borrower hereby agrees and shall confirm in such notice that the remaining Commitments shall be deemed to be cancelled. The Borrower acknowledges, for the avoidance of doubt, that the shortfall to be paid to the Builder at the Delivery Date shall be funded and paid directly by the Borrower to the Builder.
- (b) If the Loan is less than the Maximum Loan Amount, and provided that no Event of Default has occurred and is then continuing and no loss has occurred under the SACE Insurance Policy, the Borrower shall be entitled to a refund of the Second Instalment of the SACE Premium in an amount calculated by SACE on the undrawn amount (the "**Refund**"). For the avoidance of doubt, the First Instalment of the SACE Premium is non-refundable, irrespective of whether any disbursements have been made under this Agreement and irrespective of whether the SACE Insurance Policy has been terminated.
- (c) Any refund of the Second Instalment of the SACE Premium, whether in whole or in part, must be expressly requested by the SACE Agent to SACE in writing following receipt by the SACE Agent of the Borrower's notice referred to in paragraph (a) above.
- (d) To the extent the Borrower is entitled to the Refund, SACE shall transfer the Refund as soon as practicably possible to the SACE Agent who shall as soon as practicably possible following receipt thereof transfer such amount to the Borrower. The Borrower hereby acknowledges that SACE shall not be liable to pay interest to the Borrower on the amount of the Refund.
- (e) Under the terms of the SACE Insurance Policy, the Parties acknowledge that SACE will withhold an amount of [*] per cent. ([*]%) from the amount of the SACE Premium to be refunded. Such withholding, charged as a lump sum to cover administration and management costs for the SACE Insurance Policy, may not, in any event, amount to less than the equivalent of [*] Euros (€[*]) or more than the equivalent of [*] Euros (€[*]), calculated by SACE at the European Central Bank EUR/USD exchange rate as at the date of the refund request.
- (f) Except as set out in paragraphs (a) to (c) above, no part of the SACE Premium is refundable to any Obligor.
- (g) In no event shall the SACE Agent be liable for any refund of the SACE Premium to be made by SACE or for the calculation of any Refund and/or withholding thereof.

9 FEES

9.1 Fees

The following fees shall be due by the Borrower and payable as required hereunder:

- (a) to the Facility Agent, for the benefit of the Joint Mandated Lead Arrangers, a Joint Mandated Lead Arranger structuring fee (the “**Structuring Fee**”) in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (b) to the Facility Agent, for the benefit of the Lenders, a commitment fee in Dollars for the period from the Effective Date to the Delivery Date of the Ship, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, computed at the rate of:
 - (i) from the Effective Date to and including 31 December 2019, [*] per cent. ([*]%) per annum;
 - (ii) from 1 January 2020 to and including 31 December 2020, [*] per cent. ([*]%) per annum;
 - (iii) from 1 January 2021 to and including 31 January 2024, [*] per cent. ([*]%) per annum; and
 - (iv) from 1 February 2024 to and including the Delivery Date, [*] per cent. ([*]%) per annum,

and calculated on the undrawn amount of the Maximum Loan Amount and payable in arrears on the date falling six (6) months after the Effective Date and on each date falling at the end of each following consecutive six (6) month period, with the exception of the commitment fee due in respect of the last period, which shall be paid on the Delivery Date, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, such commitment fee to be calculated on the actual number of days elapsed divided by three hundred and sixty (360). For the purpose of the computation of the periodical commitment fee payable to the Lenders, the Maximum Loan Amount is assumed to be nine hundred fifty-four million eight hundred fifty-four thousand seven hundred seventy-one Dollars and seventy-eight cents (\$954,854,771.78) provided that the \$954,854,771.78 figure shall be adjusted to the extent the Base Rate is not exactly [*] upon the final determination of such Base Rate subject to all Lenders’ approval);

- (c) to the Facility Agent, for its own account, an agency fee in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (d) to the SACE Agent, a SACE agency fee in the amount and payable at the time separately agreed in writing between the SACE Agent and the Borrower; and
- (e) to the Security Trustee, a security trustee fee in the amount and payable at the time separately agreed in writing between the Security Trustee and the Borrower.

10 TAXES, INCREASED COSTS, COSTS AND RELATED CHARGES

10.1 Definitions

(a) In this Agreement:

“**Protected Party**” means a Secured Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

“**Tax Credit**” means a credit against, relief or remission for, or repayment of any Tax.

“**Tax Deduction**” means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

“**Tax Payment**” means either the increase in a payment made by an Obligor to a Secured Party under Clause 10.2 (*Tax gross-up*) or a payment under Clause 10.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) reference to “**determines**” or “**determined**” means a determination made in the absolute discretion of the person making the determination.

10.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it under the Finance Documents 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 Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the 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 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) A payment shall not be increased under paragraph (c) above if on the date on which the payment falls due the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender (having been given notice of the documentation requested under Clause 10.7 (*Lender Status*)) at least 30 Business Days prior to such payment date) complied with its obligations under Clause 10.7 (*Lender Status*).

(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 thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Secured Party entitled to the payment evidence reasonably satisfactory to that Secured Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

10.3 Tax indemnity

- (a) The Borrower shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Secured Party:
 - (A) under the law of the jurisdiction in which that Secured Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Secured Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction, if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Secured Party; or
 - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) or would have been compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) but was not so compensated solely because an exclusion in paragraph (d) of Clause 10.2 (*Tax gross-up*) applied, or relates to a FATCA Deduction required to be made by a Party; or
 - (iii) with respect to the Taxes in the nature of a branch profits tax imposed by Section 884(a) of the Code that is imposed by any jurisdiction described in paragraph (b)(i)(B) above.
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 10.3 (*Tax indemnity*), notify the Facility Agent.

10.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Creditor Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Creditor Party has obtained, retained and utilised that Tax Credit,

the Creditor Party shall pay an amount to the Obligor which that Creditor 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.

10.5 Stamp taxes

The Borrower shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

10.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Secured 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 Secured Party to any Party under a Finance Document and such Secured Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Secured 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 Secured Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Secured Party (the “**Supplier**”) to any other Secured Party (the “**Recipient**”) under a Finance Document, and any Party other than the Recipient (the “**Relevant Party**”) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Secured Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Secured Party for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that such Secured 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 10.6 (*VAT*) to any Party being required to account to a tax authority for VAT shall, at any time when such Party is treated as a member of a group for VAT purposes, include a reference to another member of that group being required to so account to the relevant tax authority.

- (e) In relation to any supply made by a Secured Party to any Party under a Finance Document, if reasonably requested by such Secured Party, that Party must promptly provide such Secured Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Secured Party's VAT reporting requirements in relation to such supply.

10.7 Lender Status

- (a) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under a Finance Document shall deliver to the Facility Agent and the Borrower, at the time or times reasonably requested by the Facility Agent or the Borrower, such properly completed and executed documentation reasonably requested by the Facility Agent or the Borrower (and which it is reasonable for the Lender to complete and execute) as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Facility Agent or the Borrower, shall deliver such other documentation as prescribed by applicable law and reasonably requested by the Facility Agent or the Borrower as will enable the Facility Agent or the Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements.
- (b) Any Lender shall, to the extent it is legally entitled to do so, and where it is entitled to an exemption from, or reduction of, U.S. federal withholding tax, deliver to the Facility Agent and the Borrower on or prior to the date on which such Lender becomes a Lender under this Agreement or promptly thereafter (and from time to time thereafter as prescribed by applicable law or upon the request of the Facility Agent or the Borrower), duly executed and properly completed copies of Internal Revenue Service Form W-9 or W-8, as applicable, certifying that it is not subject to U.S. federal backup withholding and, in the case of a non-U.S. Lender that is eligible for an exemption from, or reduction of, U.S. federal withholding Tax establishing an exemption from, or reduction of, U.S. federal withholding Tax.

10.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower, the Facility Agent and the other Secured Parties.

10.9 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 Creditor 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 paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) Each Lender shall, within ten Business Days of (i) where the relevant Lender is a Lender at the date of this Agreement, the date of this Agreement and (ii) where the relevant Lender is a Transferee Lender, the effective date of a Transfer Certificate under Clause 24.4 (*Effective Date of Transfer Certificate*), supply to the Facility Agent:
 - (i) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (ii) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.

- (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.
- (i) Each Party acknowledges that CDP is a FATCA Exempt Party pursuant to article 1, paragraph 11.1(e) of the Italian Mef Decree dated 6 August 2015 enacting Italian law of 18 June 2015 no. 95, which ratified the agreement between the Government of the US and the Government of the Republic of Italy to improve international tax compliance and to implement FATCA, signed in Rome in 10 January 2014.

10.10 Increased Costs

- (a) If after the date of this Agreement by reason of (x) any change in law or in its interpretation or administration and/or (y) compliance with any request from or requirement of any central bank or other fiscal, monetary or other authority including but without limitation the Basel Committee on Banking Regulations and Supervisory Practices whether or not having the force of law:
 - (i) any of the Lenders incurs a cost as a result of its performing its obligations under this Agreement and/or its making available its Commitment hereunder; or
 - (ii) there is any increase in the cost to any of the Lenders of funding or maintaining all or any of the advances comprised in a class of advances formed by or including its Commitment advanced or to be advanced by it hereunder; or
 - (iii) any of the Lenders incurs a cost as a result of its having entered into and/or its assuming or maintaining its commitment under this Agreement; or
 - (iv) any of the Lenders becomes liable to make any payment on account of Tax or otherwise (other than Tax on its overall net income) on or calculated by reference to the amount of its Commitment advanced or to be advanced hereunder and/or any sum received or receivable by it hereunder; or
 - (v) any of the Lenders suffers any decrease in its rate of return as a result of any changes in the requirements relating to capital ratios, monetary control ratios, the payment of special deposits, liquidity costs or other similar requirements affecting that Lender,then the Borrower shall on demand pay to the Facility Agent for the account of the relevant Lender or Lenders amounts sufficient to indemnify the relevant Lender or Lenders against, as the case may be, such cost, such increased cost (or such proportion of such increased cost as is in the reasonable opinion of the relevant Lender or Lenders attributable to the funding or maintaining of its or their Commitment(s) hereunder) or such liability.
- (b) This Clause 10.10 (*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 10.3 (*Tax indemnity*) (or would have been compensated for under Clause 10.3 (*Tax indemnity*) but was not compensated solely because any of the exclusions in paragraph (b) of Clause 10.3 (*Tax indemnity*) applied); or

(iv) attributable to the wilful breach by the relevant Creditor Party or its Affiliates of any law of regulation.

In this Clause 10.10 (*Increased Costs*), a reference to a “Tax Deduction” has the same meaning given to the term in Clause 10.1 (*Definitions*).

- (c) A Lender affected by any provision of this Clause 10.10 (*Increased Costs*) shall promptly inform the Facility Agent after becoming aware of the relevant change and its possible results (which notice shall be conclusive evidence of the relevant change and its possible results) and the Facility Agent shall, as soon as reasonably practicable thereafter, notify the Borrower of the change and its possible results. Without affecting the Borrower’s obligations under this Clause 10.10 (*Increased Costs*) and in consultation with the Facility Agent and the Italian Authorities, the affected Lender will then take all such reasonable steps as may be open to it to mitigate the effect of the change (for example (if then possible) by changing its Facility Office or transferring some or all of its rights and obligations under this Agreement to another financial institution reasonably acceptable to the Borrower, the Facility Agent and the Italian Authorities). The reasonable costs of mitigating the effect of any such change shall be borne by the Borrower save where such costs are of an internal administrative nature and are not incurred in dealings by any Lender with third parties.

10.11 Transaction Costs

- (a) The Borrower undertakes to pay to the Facility Agent, the SACE Agent and the Security Trustee as applicable:
- (i) upon demand, all costs and expenses, duties and fees, including, but without limitation, pre-agreed legal costs (which, for avoidance of doubt are exclusive of VAT and disbursements) out of pocket expenses and travel costs, reasonably incurred by the Italian Authorities, the Joint Mandated Lead Arrangers, the Security Trustee, the Facility Agent, the SACE Agent and the Lenders (but not including any bank which becomes a Lender after the date of this Agreement) in connection with the negotiation, preparation, execution and perfection of all agreements, guarantees, security agreements and related documents entered into, or to be entered into, for the purpose of the transaction contemplated hereby; and
 - (ii) all costs and expenses (including legal fees) (together with any applicable VAT), duties and fees incurred by the Facility Agent, the Security Trustee, the Joint Mandated Lead Arrangers, the SACE Agent, the Lenders or the Italian Authorities in connection with the registration, filing, enforcement or discharge of the said guarantees or security interests, including, without limitation, the fees and expenses of legal advisers and insurance experts (provided that such insurance costs are not to exceed ten thousand Dollars (\$10,000)) and the related travel and out of pocket expenses.
- (b) the Borrower further undertakes to pay:
- (i) to the Facility Agent, all costs, expenses, duties and fees incurred by the Facility Agent, the SACE Agent, the Security Trustee, the Lenders and the Italian Authorities in connection with any amendment or variation of this Agreement and the related documents, guarantees and security agreements, any supplements thereto and waiver given in relation thereto and in connection with the investigation of any potential Event of Default;

- (ii) to the Security Trustee the amount of all costs and expenses (together with any applicable VAT) incurred in connection with the enforcement or preservation of any rights under this Agreement and/or the related guarantees and security agreements, (including in each case the fees and expenses of legal advisers) and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security Interest and/or the Security Property or enforcing these rights.

10.12 Costs of delayed Delivery Date

The Borrower undertakes to pay to the Facility Agent, upon demand, any costs incurred by the Lenders and/or the Italian Authorities in funding the Loan in the event that the Delivery Date is later than the Intended Delivery Date unless the Borrower has given the Facility Agent at least three (3) Business Days' notification of such delay in the Delivery Date.

10.13 SACE obligations

To the extent that this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

11 REPRESENTATIONS AND WARRANTIES

11.1 Timing and repetition

The following applies in relation to the time at which representations and warranties are made and repeated:

- (a) the representations and warranties in Clause 11.2 (*Continuing representations and warranties*) are made on the date of this Agreement (apart from the representation at paragraphs (ee) and (ff) of Clause 11.2 (*Continuing representations and warranties*) which shall only be made on the date of this Agreement and the Effective Date and shall not be further repeated) and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents; and
- (b) the representations and warranties in Clause 11.3 (*Representations on the Delivery Date*) are made on the Delivery Date and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made thereafter on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents.

11.2 Continuing representations and warranties

The Borrower represents and warrants to each of the Secured Parties that:

- (a) each Obligor is a company or body corporate duly organised or (as the case may be) incorporated, constituted and validly existing under the laws of the country of its formation or (as the case may be) incorporation, possessing perpetual existence, the capacity to sue and be sued in its own name and the power to own and charge its assets and carry on its business as it is now being conducted;

- (b) the Borrower has an authorised share capital of 12,000 common shares of par value \$1 each all of which have been issued to the Shareholder;
- (c) the legal title to and beneficial interest in the equity in the Borrower is held free of any Security Interest (other than pursuant to the Shares Security Deed) or any other claim by the Shareholder;
- (d) none of the equity in the Borrower is subject to any option to purchase, pre-emption rights or similar rights;
- (e) each Obligor has the power to enter into and perform this Agreement and those of the other Transaction Documents to which it is a party and the transactions contemplated hereby and thereby and has taken all necessary action to authorise the entry into and performance of this Agreement and such other Transaction Documents and such transactions;
- (f) this Agreement and each other Transaction Document constitutes (or will constitute when executed) legal, valid and binding obligations of each Obligor expressed to be a party thereto enforceable in accordance with their respective terms and in entering into this Agreement and borrowing the Loan, the Borrower is acting on its own account;
- (g) the entry into and performance of this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby do not and will not conflict with:
 - (i) any law or regulation or any official or judicial order; or
 - (ii) the constitutional documents of any Obligor; or
 - (iii) any agreement or document to which any Obligor is a party or which is binding upon such Obligor or any of its assets,

nor result in the creation or imposition of any Security Interest on the Borrower or its assets pursuant to the provisions of any such agreement or document, except for Security Interests which qualify as Permitted Security Interests with respect to the Borrower;

- (h) except for:
 - (i) the filing of UCC-1 financing statements against the Borrower in respect of those Finance Documents to which it is a party and which create Security Interests;
 - (ii) the recording of the Mortgage in the office of the Bahamas Maritime Authority Registry; and
 - (iii) the registration of the Ship under an Approved Flag,

all authorisations, approvals, consents, licences, exemptions, filings, registrations, notarisations and other matters, official or otherwise, required in connection with the entry into, performance, validity and enforceability of this Agreement and each of the other Transaction Documents to which any Obligor is a party and the transactions contemplated thereby have been obtained or effected and are in full force and effect except authorisations, approvals, consents, licences, exemptions, filings and registrations required in the normal day to day course of the operation of the Ship and not already obtained by the Borrower;

- (i) it is disregarded as an entity separate from its owner for U.S. federal Tax purposes;

- (j) all written information furnished by any Obligor relating to the business and affairs of any Obligor in connection with this Agreement and the other Transaction Documents (but excluding any forward looking statements and projections) was and remains true and correct in all material respects and there are no other material facts or considerations the omission of which would render any such information misleading;
- (k) each Obligor has fully disclosed to the Facility Agent all facts relating to each Obligor which it knows or should reasonably know and which might reasonably be expected to influence the Lenders in deciding whether or not to enter into this Agreement;
- (l) the obligations of the Borrower, the Shareholder and the Guarantor under the Finance Documents rank at least *pari passu* with all its other present unsecured and unsubordinated indebtedness with the exception of any obligations which are mandatorily preferred by law;
- (m) the Borrower is and shall remain, after the advance to it of the Loan, solvent in accordance with the laws of Bermuda and the United Kingdom and in particular with the provisions of the Insolvency Act 1986 (as from time to time amended) and the requirements thereof;
- (n) neither the Borrower nor any other Obligor has taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against any of them for the reorganisation, winding-up, dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of any of them or any or all of their assets or revenues nor has it sought any other relief under any applicable insolvency or bankruptcy law;
- (o) (in relation to any date on which this representation and warranty is deemed to be repeated pursuant to paragraph (a) of Clause 11.1 (*Timing and repetition*)) the latest available annual consolidated audited accounts of the Guarantor at the date of repetition (which accounts have been prepared in accordance with GAAP) fairly represent the financial condition of the Guarantor as shown in such audited accounts;
- (p) none of the Obligors nor any of their respective assets enjoys any right of immunity (sovereign or otherwise) from set-off, any legal action or proceeding including, without limitation, suit, attachment prior to judgment, execution or other enforcement in respect of their obligations under this Agreement or any of the other Transaction Documents or by any relevant or applicable law;
- (q) all the shares in the Borrower and all shares or membership interest in any Approved Manager which is a member of the Group shall be legally and beneficially owned directly or indirectly by (in the case of the Borrower), the Shareholder and (in the case of such Approved Manager) the Guarantor and such structure shall remain so throughout the Security Period;
- (r) the copy of the Shipbuilding Contract is a true and complete copy of such document constituting valid and binding obligations of the parties thereto enforceable in accordance with its terms and, subject to Clause 12.23 (*Shipbuilding Contract*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable;
- (s) the Borrower is the sole legal and beneficial owner of all rights and interests which the Shipbuilding Contract creates in favour of the Borrower;

- (t) any borrowing by the Borrower under this Agreement, and the performance of its obligations under this Agreement and the other Transaction Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to “money laundering” as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities (as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001); and
- (u) no Obligor:
 - (i) nor to its knowledge, any director, officer or Affiliate of any Obligor or any member of the Group, is a Prohibited Person;
 - (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
 - (iii) owns or controls a Prohibited Person;
- (v) no proceeds of the Loan shall be made available directly or indirectly to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party;
- (w) the choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions and any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions;
- (x) for the purposes of The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast) (the **Regulation**), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated outside of the European Union and it has no “establishment” (as that term is used in Article 2(10) of the Regulation) in a European Union country;
- (y) no investments made and no payments made, received or to be made by the Borrower, the Shareholder or the Guarantor under this Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Borrower, indirectly, out of funds of Illicit Origin or otherwise derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Borrower, the Shareholder or the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business are, whether directly or, to the knowledge of the Borrower, indirectly, of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction;
- (z) no Prohibited Payment has been or will be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Shareholder or the Guarantor (with respect to the Shareholder and the Guarantor, to the best of the Borrower’s knowledge), any of its affiliates or its officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents;

- (aa) no event has occurred which constitutes a default under or in respect of any Transaction Document to which any Obligor or the Builder is a party or by which any Obligor or the Builder may be bound (including (inter alia) this Agreement) and no event has occurred which constitutes a default under or in respect of any agreement or document to which any Obligor is a party or by which any Obligor may be bound to an extent or in a manner which might have a material adverse effect on the ability of that Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (bb) none of the assets or rights of the Borrower is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Borrower or (ii) is permitted by Clause 12.8 (*Negative pledge*) of this Agreement;
- (cc) no litigation, arbitration or administrative proceedings are current or pending or, to its knowledge, threatened, which might, if adversely determined, have a material adverse effect on the ability of an Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (dd) to the best of its knowledge, each of the Obligors has complied in all material respects with all taxation laws in all jurisdictions in which it is subject to taxation and has paid all material Taxes due and payable by it;
- (ee) it is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document to which it is a party with respect to any Lender that provides the documentation described in paragraph (b) of Clause 10.7 (*Lender Status*) indicating that it is not subject to tax withholding;
- (ff) under the laws of its Relevant Jurisdictions it is not necessary that any stamp or similar taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents;
- (gg) each member of the Group has good and marketable title to all its assets which are reflected in the audited accounts referred to in paragraph (o) of Clause 11.2 (*Continuing representations and warranties*);
- (hh) none of the Obligors has a place of business in any jurisdiction (except as already disclosed) which requires any of the Finance Documents to be filed or registered in that jurisdiction to ensure the validity of the Finance Documents to which it is a party;
- (ii) the Borrower does not have a place of business in any country (except as already disclosed) other than that of its Original Jurisdiction;
- (jj) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to it and its business generally;
- (kk) each of the Obligors and each member of the Group:
 - (i) is in compliance with all Environmental Laws and Environmental Approvals provided that any non-compliance would not be expected to result in a Material Adverse Effect;
 - (ii) has not received any notice or threat of any Environmental Claim against any member of the Group and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;

- (iii) confirms that no Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;
- (ll) the Borrower has read and acknowledged the principles provided under the Code of Ethics and Model;
- (mm) the Borrower has implemented adequate internal procedures aimed at preventing commission of crimes provided under Legislative Decree 231/01;
- (nn) no litigation is pending against the Borrower in relation to administrative liability provided under Legislative Decree 231/01;
- (oo) no final judgment under Legislative Decree 231/01 has been issued against the Borrower and no plea bargain (also known as *spatteggiamento* under Italian law) has been agreed by the Borrower pursuant to article 444 of the Italian code of criminal procedure; and
- (pp) neither the Borrower nor any of its assets are subject to any precautionary measure provided under Legislative Decree 231/01.

11.3 Representations on the Delivery Date

The Borrower further represents and warrants to each of the Secured Parties at the Delivery Date that:

- (a) the Ship is in its absolute and unencumbered ownership save as contemplated by the Finance Documents;
- (b) the Ship is registered in its name under the laws and flag of the Maritime Registry;
- (c) the Ship is classed with the highest classification available for a Ship of its type free of all recommendations and qualifications with Lloyd's Register, RINA or Bureau Veritas;
- (d) the Ship is operationally seaworthy and in compliance with all relevant provisions, regulations and requirements (statutory or otherwise) applicable to ships registered under the laws and flag of the Maritime Registry;
- (e) the Ship is in compliance with the ISM Code, the ISPS Code and Annex VI as they relate to the Borrower, any Approved Manager and the Ship;
- (f) the Ship is insured in accordance with the provisions of Clause 14 (*Insurance Undertakings*) and in compliance with the requirements therein in respect of such insurances;
- (g) the Ship is managed by the Approved Manager and, in the event that the Approved Manager is not a member of the Group, on and subject to the terms set out in the Management Agreement;
- (h) there is no agreement or understanding to allow or pay any rebate, premium, inducement, commission, discount or other benefit or payment (however described) to the Borrower or any other member of the Group, the Builder or a third party in connection with the purchase by the Borrower of the Ship, other than as disclosed to the Facility Agent in writing on or before the date of this Agreement;

- (i) no Obligor has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Facility Agent sufficient details to enable an accurate search against it to be undertaken by the Lenders at the Companies Registry;
- (j) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration; and
- (k) the copies of any Management Agreement, any charter and any charter guarantee which require a notice of assignment to be served under the terms of the General Assignment (if any) and any other relevant third party agreements including but without limitation the copies of any documents in respect of the Insurances delivered to the Facility Agent are true and complete copies of each such document constituting valid and binding obligations of the parties thereto enforceable in accordance with their respective terms and, subject to Clause 13.2 (*Management and employment*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable.

12 GENERAL UNDERTAKINGS

12.1 General

The Borrower undertakes with each Secured Party to comply with the following undertakings during the Security Period:

12.2 Information

The Borrower will provide to the Facility Agent for the benefit of the Lenders and SACE (or will procure the provision of):

- (a) as soon as practicable (and in any event within one hundred and twenty (120) days after the close of its financial year) a Certified Copy of the audited consolidated accounts of the Guarantor and its subsidiaries for that year (commencing with accounts made up to 31 December 2018 in the case of the consolidated accounts of the Guarantor);
- (b) as soon as practicable (and in any event within ninety (90) days of the commencement of each financial year) the budgetary forecast (profit and loss statement, balance sheet statement and cash flow statement) for the two following years for the Guarantor;
- (c) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter for the first three quarters in any fiscal year and within 90 days for the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year-to-date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of paragraph (a) and of this paragraph (c));

- (d) promptly, such further information in its possession or control regarding the condition or operations of the Ship and its financial condition and operations of the Borrower and those of any company in the Group as the Facility Agent may reasonably request for the benefit of the Secured Parties; and
- (e) details of any material litigation, arbitration or administrative proceedings (including proceedings relating to any alleged or actual breach of Sanctions, the ISM Code of the ISPS Code) which affect any company in the Group as soon as the same are instituted and served, or, to the knowledge of the Borrower, threatened (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency provided that this threshold shall not apply to any proceedings relating to Sanctions).

All accounts required under this Clause 12.2 (*Information*) shall be prepared in accordance with GAAP and shall fairly represent the financial condition of the relevant company.

12.3 Equator Principles Compliance

Upon the request of the Facility Agent, the Borrower shall provide to the Facility Agent information as may be reasonably requested by the Lenders for the purposes of monitoring that the Borrower conducts its operations in all material respects in accordance with the Equator Principles.

12.4 Sanctions and Illicit Payments

- (a) The Borrower shall not directly or indirectly use or make available any of the proceeds of the Loan to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party.
- (b) No payments made or received by the Borrower, the Shareholder, the Guarantor or any Approved Manager which is a member of the Group under this Agreement or any Finance Document shall be funded directly or, to the knowledge of the Borrower, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Borrower, the Shareholder, the Guarantor or any Approved Manager which is a member of the Group in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Borrower, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (c) Without limiting the generality of the foregoing, no Loan nor any proceeds of the Loan shall be used to finance trade of equipment or any other kind of activity in relation to goods, technologies or sectors in a manner or for a purpose prohibited by Sanctions.

12.5 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Shareholder, the Guarantor or any of their affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents.

12.6 Notification of default

The Borrower will notify the Facility Agent of any Event of Default forthwith upon becoming aware of the occurrence thereof. Upon the Facility Agent's request from time to time the Borrower will issue a certificate stating whether any Obligor is aware of the occurrence of any Event of Default.

12.7 Consents and registrations

The Borrower will procure that (and will promptly furnish Certified Copies to the Facility Agent on the request of the Facility Agent of) all such authorisations, approvals, consents, licences and exemptions as may be required under any applicable law or regulation to enable it or any Obligor to perform its obligations under, and ensure the validity or enforceability of, each of the Transaction Documents are obtained and promptly renewed from time to time and will procure that the terms of the same are complied with at all times. Insofar as such filings or registrations have not been completed on or before the Drawdown Date the Borrower will procure the filing or registration within applicable time limits of each Finance Document which requires filing or registration together with all ancillary documents required to preserve the priority and enforceability of the Finance Documents.

12.8 Negative pledge

The Borrower will not create or permit to subsist any Security Interest on the whole or any part of its present or future assets, except for the following:

- (a) Security Interests created with the prior consent of the Facility Agent and the Security Trustee; or
- (b) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraphs (a) and (b) of the definition of "Permitted Security Interests" in Clause 1.1 (*Definitions*); or
- (c) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraph (C), (E), (H) or (I) of such definition, provided that insofar as they are enforceable against the Ship they do not prevail over the Mortgage.

12.9 Disposals

Except in the case of a sale of the Ship if the completion of the sale is contemporaneous with prepayment of the Loan in accordance with the provisions of Clause 16.3 (*Mandatory prepayment – Sale and Total Loss*) and except for charters and other arrangements complying with Clause 13.1 (*Pooling of earnings and charters*) the Borrower shall not without the consent of the Majority Lenders and SACE, either in a single transaction or in a series of transactions whether related or not and whether voluntarily or involuntarily:

- (a) sell, transfer, lease or otherwise dispose of the Ship or any of the Ship's equipment except in the case of items:
 - (i) being replaced (by an equivalent or superior item) or renewed; or

(ii) that are being disposed of in the ordinary course of business,

provided that in the case of both sub-paragraphs (i) and (ii) above the net impact does not reduce the value of the Ship and, in the case of sub-paragraph (ii), the value of any such disposals during the term of this Agreement do not, in aggregate, exceed ten million Dollars (\$10,000,000);

- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having the same 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.

12.10 Change of business

Except with the prior consent of the Facility Agent, the Borrower shall not make or threaten to make any substantial change in its business as presently conducted, namely that of a single ship owning company for the Ship, or change its place of business to any country other than that of its Original Jurisdiction, or carry on any other business which is substantial in relation to its business as presently conducted so as to affect, in the opinion of the Facility Agent, the Borrower's ability to perform its obligations hereunder.

12.11 Mergers

Except with the prior consent of the Lenders and SACE and subject to compliance with all necessary "know your customer" requirements, the Borrower will not enter into any amalgamation, restructure, substantial reorganisation, merger, de-merger or consolidation or anything analogous to the foregoing nor will it acquire any equity, share capital or obligations of any corporation or other entity.

12.12 Maintenance of status and franchises

The Borrower will do all such things as are necessary to maintain its company existence in good standing and will ensure that it has the right and is duly qualified to conduct its business as it is conducted in all applicable jurisdictions and will obtain and maintain all franchises and rights necessary for the conduct of its business.

12.13 Financial records

The Borrower will keep proper books of record and account, in which proper and correct entries shall be made of all financial transactions and the assets, liabilities and business of the Borrower in accordance with GAAP.

12.14 Financial Indebtedness and subordination of indebtedness

The following restrictions shall apply:

- (a) otherwise than in the ordinary course of business as owner of the Ship, except as contemplated by this Agreement and except any loan, advance or credit extended by the Guarantor or any member of the Group which is a wholly owned Subsidiary of the Guarantor, the Borrower will not create, incur, assume or allow to exist any financial indebtedness, enter into any finance lease or undertake any material capital commitment (including but not limited to the purchase of any capital asset); and

- (b) the Borrower shall procure that:
- (i) any and all indebtedness (and in particular with any other Obligor) is at all times fully subordinated to the Finance Documents and the obligations of the Borrower hereunder; and
 - (ii) if required by any applicable laws, the subordinated liabilities created pursuant to such indebtedness shall be subject to security (in form and substance satisfactory to the Secured Parties) in favour of the Security Trustee (“**Subordinated Debt Security**”) and any related legal opinions shall be issued if so required by the Secured Parties; and
 - (iii) upon the occurrence of an Event of Default, the Borrower shall not make any repayments of principal, payments of interest or of any other costs, fees, expenses or liabilities arising from or representing such indebtedness. In this paragraph (b) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*) “fully subordinated” shall mean that any claim of the lender against the Borrower in relation to such indebtedness shall rank after and be in all respects subordinate to all of the rights and claims of the Secured Parties under this Agreement and the other Finance Documents and that the lender shall not take any steps to enforce its rights to recover any monies owing to it by the Borrower and in particular but without limitation the lender will not institute any legal or quasi-legal proceedings under any jurisdiction at any time against the Ship, her Earnings or Insurances or the Borrower and it will not compete with the Secured Parties or any of them in a liquidation or other winding-up or bankruptcy of the Borrower or in any proceedings in connection with the Ship, her Earnings or Insurances.

12.15 Investments

The Borrower shall not:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Obligor and where such loan or form of credit is Permitted Financial Indebtedness;
- (b) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which the Borrower assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents.
- (c) enter into any material agreement other than:
 - (i) the Transaction Documents;
 - (ii) any other agreement expressly allowed under any other term of this Agreement; and
- (d) enter into any transaction on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms’ length; or

- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks.

12.16 Unlawfulness, invalidity and ranking; security imperilled

No Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest to rank after, or lose its priority to, any other Security Interest; and
- (e) imperil or jeopardise any Security Interest.

12.17 Dividends

The Borrower shall not make or pay any dividend or other distribution (in cash or in kind) in respect of its share capital other than dividends and distributions that are transferred to the Shareholder or the Guarantor provided that no Event of Default has occurred or is continuing or would result from the payment of any dividend.

12.18 Loans and guarantees by the Borrower

Otherwise than in the ordinary course of business in its ownership and operation of the Ship following the Delivery Date, the Borrower will not make any loan or advance or extend credit to any person, firm or corporation (other than as permitted pursuant to paragraph (a) of Clause 12.15 (*Investments*)), or issue or enter into any guarantee or indemnity or otherwise become directly or contingently liable for the obligations of any other person, firm or corporation.

12.19 Acquisition of shares

The Borrower will not:

- (a) acquire any equity, share capital, assets or obligations of any corporation or other entity; or
- (b) permit any of its shares to be directly held other than by the Shareholder.

12.20 Further assurance

The Borrower will, from time to time on being required to do so by the Facility Agent, do or procure the doing of all such acts and/or execute or procure the execution of all such documents in a form satisfactory to the Facility Agent as the Facility Agent may reasonably consider necessary for giving full effect to any of the Transaction Documents, the Interest Make-up Agreement or the SACE Insurance Policy or securing to the Secured Parties the full benefit of the rights, powers and remedies conferred upon the Secured Parties or any of them in any such Transaction Document, the Interest Make-up Agreement or the SACE Insurance Policy.

12.21 Irrevocable payment instructions

The Borrower shall not modify, revoke or withhold the payment instructions set out in Clause 4.1 (*Borrower's irrevocable payment instructions*) without the agreement of the Builder (in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) only), the Facility Agent, SACE and the Lenders.

12.22 "Know your customer" checks

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of the Borrower after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Facility Agent or any Lender (or, in the case of paragraph (a)(iii) of Clause 12.22 ("*Know your customer*" checks), 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 or the Lenders (acting reasonably) require any additional documents to supplement those already provided, the Borrower shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (a)(iii) of Clause 12.22 ("*Know your customer*" checks), on behalf of any prospective new Lender) in order for the Facility Agent and, such Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of a Servicing Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Servicing Party (for itself) in order for that Servicing Party to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

12.23 Shipbuilding Contract

- (a) The Shipbuilding Contract constitutes legal, valid and binding and enforceable obligations of the Builder and accordingly the Borrower shall not modify the Shipbuilding Contract, directly or indirectly, in such a manner that would result in a change of the type, principal dimensions or class of the Ship or decrease the value of the Ship by equal to or greater than 5 per cent. (in aggregate) without the prior written consent of the Lenders and SACE.

- (b) The Borrower will, therefore, submit to the Facility Agent any proposals for any such modification and SACE and the Facility Agent on behalf of the Lenders will indicate in a timely manner whether the modification proposed will allow the Loan to be maintained.
- (c) The Borrower also undertakes to notify the Facility Agent of any change in the Intended Delivery Date as soon as practicable after each change has occurred.
- (d) The Borrower shall notify the Facility Agent promptly, and in any event within ten (10) Business Days of any other changes to the Shipbuilding Contract (other than Minor Modifications) and provide copies of the same to the Facility Agent.
- (e) The Borrower undertakes to notify the Facility Agent promptly of any termination and/or repudiation of the Shipbuilding Contract (including a termination and/or repudiation pursuant to article 32 of the Shipbuilding Contract).
- (f) For the avoidance of doubt, all modifications not falling under paragraph (a) above shall be permitted and the Borrower shall not be obliged to seek or obtain any consent from the Lenders and/or SACE in respect of any such modifications subject to the notification requirements as set out in paragraphs (d) and (e) above.

12.24 FOREX Contracts

The Borrower shall:

- (a) provide the Facility Agent with a copy of all FOREX Contracts together with all relevant details within ten (10) days of their execution; and
- (b) inform the Facility Agent, when requested by the Facility Agent, of its intended hedging policy for purchasing Euro with Dollars.

The Facility Agent shall inform the Lenders within ten (10) days of receipt of such information from the Borrower.

12.25 Compliance with laws etc.

The Borrower shall:

- (a) comply, or procure compliance with:
 - (i) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws and regulations relating to it and its business generally; and
 - (ii) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration,

including the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;

- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals which are applicable to it; and

- (c) without limiting paragraph (a) above, not employ the Ship nor allow its employment, operation or management in any Prohibited Jurisdiction or in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and all Sanctions and applicable anti-corruption laws.

12.26 Most favoured nations

The Borrower shall procure that if at any time after the date of this Agreement the Guarantor enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of Clause 11.2 (*Continuing representations and warranties*) and Clause 18.6 (*Cross default*) respectively, the Borrower or the Guarantor shall immediately notify the Facility Agent of such provisions and the relevant provisions contained in this Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to this Agreement.

12.27 Code of Ethics and Model

- (a) The Borrower shall not behave so as to cause any of the following persons to violate the principles set out in the Code of Ethics and/or Model:
 - (i) persons who are representatives, administrators or managers of CDP or of any of its organizational units with financial and functional independence;
 - (ii) persons who are managed or supervised by one of the persons referred to in paragraph (i) above; or
 - (iii) external advisors of CDP.
- (b) The Borrower shall maintain adequate internal procedures aimed at preventing liabilities provided under Legislative Decree 231/01.
- (c) The Borrower shall inform CDP of any (i) new pending litigation against it in relation to administrative liability provided under Legislative Decree 231/01; (ii) new final judgment under Legislative Decree 231/01, including, without limitation, any plea bargain (also known as *patteggiamento* under Italian law) pursuant to article 444 of the Italian code of criminal procedure; and (iii) new precautionary measures under Legislative Decree 231/01.

13 SHIP UNDERTAKINGS

13.1 Pooling of earnings and charters

The Borrower will not without the prior written consent of the Facility Agent or SACE enter into in respect of the Ship (such consent for the purposes of paragraph (c) of Clause 13.1 (*Pooling of earnings and charters*) shall not be unreasonably withheld or delayed), nor permit to exist at any time following the Delivery Date:

- (a) any pooling agreement or other arrangement for the sharing of any of the Earnings or the expenses of the Ship except with a member of the Group and provided that it does not adversely affect the rights of the Secured Parties under the Finance Documents in the reasonable opinion of the Facility Agent; or

- (b) any demise or bareboat charter, provided however that such consent shall not be unreasonably withheld in the event that the Borrower wishes to enter into a bareboat charter in a form approved by the Facility Agent with another member of the Group on condition that if so requested by the Facility Agent and without limitation:
 - (i) any such bareboat charterer shall enter into such deeds (including but not limited to a full subordination and assignment deed in respect of its rights under the bareboat charter and its interest in the Insurances and earnings payable to it arising out of its use of the Ship), agreements and indemnities as the Majority Lenders and SACE shall require prior to entering into the bareboat charter with the Borrower; and
 - (ii) the Borrower shall assign the benefit of any such bareboat charter and its interest in the Insurances to the Secured Parties by way of further security for the Borrower's obligations under the Finance Documents; or
- (c) any charter whereunder two (2) months' charterhire (or the equivalent thereof) is payable in advance in respect of the Ship; or
- (d) any charter of the Ship or employment which, with the exercise of options for extension, could be for a period longer than [*]; or
- (e) any time charter of the Ship with a company outside the Group (other than a time charter entered into in the ordinary course of business which does not exceed [*] **provided that** (x) any such time charter is assigned to the Security Trustee and (y) during the period of such time charter, the Ship continues to be managed by the existing Approved Manager), provided however that such consent shall not be unreasonably withheld in the event that:
 - (i) such time charter is assigned to the Security Trustee and the Borrower agrees to:
 - (A) serve a notice of assignment of any time charter, the Earnings therefrom and any guarantee of the charterer's obligations on the time charterer and any time charter guarantor; and
 - (B) use commercially reasonable endeavours to obtain an acknowledgement of such assignment,and each of the notice of assignment and acknowledgement of assignment being substantially in the form appended to the General Assignment;
- (ii) the Facility Agent is satisfied that the income from such time charter will be sufficient to cover the expenses of the Ship and to service repayment of the Loan and all other amounts from time to time outstanding under this Agreement; and
- (iii) during the term of such time charter, the Ship continues to be managed by the existing Approved Manager.

13.2 Management and employment

The Borrower will not as from the Delivery Date:

- (a) permit any person other than an Approved Manager to be the manager of, including providing crewing services to, the Ship, at all times acting upon terms approved in writing by the Facility Agent and having entered into (in the case of the Approved Manager) an Approved Manager's Undertaking;

- (b) permit any amendment to be made to the terms of any Management Agreement unless the amendment is advised by the Borrower's tax counsel or is deemed necessary by the parties thereto to reflect the prevailing circumstances but provided that the amendment does not imperil the security to be provided pursuant to the Finance Documents or adversely affect the ability of any Obligor to perform its obligations under the Transaction Documents; or
- (c) permit the Ship to be employed other than within the Norwegian Cruise Line brand unless the Borrower notifies the Lenders that they intend to employ the Ship within another brand of the Group and the ship remains employed within the Group.

13.3 Trading with the United States of America

The Borrower shall in respect of the Ship take all reasonable precautions as from the Delivery Date to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America (as the same may be amended and/or re-enacted from time to time hereafter) or any similar legislation applicable to the Ship in any other jurisdiction in which the Ship shall trade (a "**Trading Jurisdiction**") where the Ship trades in the territorial waters of the United States of America or a Trading Jurisdiction.

13.4 Valuation of the Ship

The following shall apply in relation to the valuation of the Ship:

- (a) the Borrower will on or before 31 May of each year that commences after the delivery of the Ship, unless an Event of Default has occurred and remains unremedied, at the Borrower's expense, procure that the Ship is valued by an Approved Broker (such valuation to be made without taking into account the benefit or otherwise of any fixed employment relating to the Ship);
- (b) the Borrower shall procure that forthwith upon the issuance of any valuation obtained pursuant to this Clause 13.4 (*Valuation of the Ship*) a copy thereof is sent directly to the Facility Agent and the Security Trustee for review; and
- (c) in the event that the Borrower fails to procure a valuation in accordance with paragraph (a) of Clause 13.4 (*Valuation of the Ship*), the Facility Agent shall be entitled to procure a valuation of the Ship on the same basis.

13.5 Earnings

The Borrower will procure that the Earnings (if any) are paid in full without set off and free and clear of and without deduction for any taxes, levies, duties, imposts, charges, fees, restrictions or conditions of any nature whatsoever.

13.6 Operation and maintenance of the Ship

From the Delivery Date until the end of the Security Period at its own expense the Borrower will keep the Ship in a good and efficient state of repair so as to maintain it to the highest classification notation available for the Ship of its age and type free of all recommendations and qualifications with Bureau Veritas. On the Delivery Date and annually thereafter, it will furnish to the Facility Agent (with copy to the Security Trustee) a statement by such classification society that such classification notation is maintained. It will comply with all recommendations, regulations and requirements (statutory or otherwise) from time to time applicable to the Ship and shall have on board as and when required thereby valid certificates showing compliance therewith and shall procure that all repairs to or replacements of any damaged, worn or lost parts or equipment are carried out (both as regards workmanship and quality of materials) so as not to diminish the value or class of the Ship. It will not make any substantial modifications or alterations to the Ship or any part thereof which would reduce the market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*).

13.7 Surveys and inspections

The Borrower will:

- (a) submit the Ship to continuous survey in respect of its machinery and hull and such other surveys as may be required for classification purposes and, if so required by the Facility Agent, supply to the Facility Agent (with copy to the Security Trustee) copies in English of the survey reports;
- (b) permit surveyors or agents appointed by the Facility Agent to board the Ship to inspect its condition or satisfy themselves as to repairs proposed or already carried out and afford all proper facilities for such inspections **provided that**, unless an Event of Default has occurred or there is an accident to the Ship involving repairs the cost of which will or is likely to exceed [*], such inspections shall be limited to one year and shall all be at reasonable times.

13.8 ISM Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISM Code (as the same may be amended from time to time) or any replacement of the ISM Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISM Code and at all times thereafter:

- (a) hold, or procure that the Approved Manager holds, a valid Document of Compliance duly issued to the Borrower or the Approved Manager (as the case may be) pursuant to the ISM Code and a valid Safety Management Certificate duly issued to the Ship pursuant to the ISM Code;
- (b) provide the Facility Agent (with copy to the Security Trustee) with copies of any such Document of Compliance and Safety Management Certificate as soon as the same are issued; and
- (c) keep, or procure that there is kept, on board the Ship a copy of any such Document of Compliance and the original of any such Safety Management Certificate.

13.9 ISPS Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISPS Code (as the same may be amended from time to time) or any replacement of the ISPS Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISPS Code and at all times thereafter:

- (a) keep, or procure that there is kept, on board the Ship the original of the International Ship Security Certificate required by the ISPS Code; and
- (b) keep, or procure that there is kept, on board the Ship a copy of the ship security plan prepared pursuant to the ISPS Code.

13.10 Annex VI

The Borrower will comply with Annex VI (as the same may be amended from time to time) or any replacement of Annex VI (as the same may be amended from time to time) and in particular, without limitation, to:

- (a) procure that the Ship's master and crew are familiar with, and that the Ship complies with, Annex VI; and
- (b) maintain for the Ship throughout the Security Period a valid and current IAPPC and provide a copy to the Facility Agent (with copy to the Security Trustee); and
- (c) notify the Facility Agent (with copy to the Security Trustee) immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the IAPPC.

13.11 Employment of Ship

The Borrower shall:

- (a) not employ the Ship or permit its employment in any trade or business which is forbidden by any applicable law or is otherwise illicit or in carrying illicit or prohibited goods or in any manner whatsoever which may render it liable to condemnation in a prize court or to destruction, seizure or confiscation or that may expose the Ship to penalties. In the event of hostilities in any part of the world (whether war be declared or not) it will not employ the Ship or permit its employment in carrying any contraband goods; and
- (b) promptly provide the Facility Agent (with copy to the Security Trustee) with (i) all information which the Facility Agent may reasonably require regarding the Ship, its employment, earnings, position and engagements (ii) particulars of all towages and salvages and (iii) copies of all charters and other contracts for its employment and otherwise concerning it.

13.12 Provision of information

The Borrower shall give notice to the Facility Agent and the Security Trustee promptly and in reasonable detail upon the Borrower or any other Obligor becoming aware of:

- (a) accidents to the Ship involving repairs the cost of which will or is likely to exceed [*];
- (b) the Ship becoming or being likely to become a Total Loss;
- (c) any recommendation or requirement made by any insurer or classification society or by any competent authority which is not complied with, or cannot be complied with, within any time limit relating thereto and that might reasonably affect the maintenance of either the Insurances or the classification of the Ship;
- (d) any writ or claim served against or any arrest of the Ship or the exercise of any lien or purported lien on the Ship, her Earnings or Insurances;

- (e) the Ship ceasing to be registered under the flag of the Maritime Registry or anything which is done or not done whereby such registration may be imperilled;
- (f) it becoming impossible or unlawful for it to fulfil any of its obligations under the Finance Documents; and
- (g) anything done or permitted or not done in respect of the Ship by any person which is likely to imperil the security created by the Finance Documents.

13.13 Payment of liabilities

The Borrower shall promptly pay and discharge:

- (a) all debts, damages and liabilities, taxes, assessments, charges, fines, penalties, tolls, dues and other outgoings in respect of the Ship and keep proper books of account in respect thereof provided always that the Borrower shall not be obliged to compromise any debts, damages and liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested debt, damage or liability which, either individually or in aggregate exceeds [*] shall forthwith be provided to the Facility Agent (with copy to the Security Trustee). As and when the Facility Agent may so require the Borrower will make such books available for inspection on behalf of the Facility Agent and provide evidence satisfactory to the Facility Agent that the wages and allotments and the insurance and pension contributions of the master and crew are being regularly paid, that all deductions of crew's wages in respect of any tax liability are being properly accounted for and that the master has no claim for disbursements other than those incurred in the ordinary course of trading on the voyage then in progress or completed prior to such inspection;
- (b) all liabilities which have given rise, or may give rise, to liens or claims enforceable against the Ship under the laws of all countries to whose jurisdiction the Ship may from time to time be subject and in particular the Borrower hereby agrees to indemnify and hold the Secured Parties, their successors, assigns, directors, officers, shareholders, employees and agents harmless from and against any and all claims, losses, liabilities, damages, expenses (including attorneys, fees and expenses and consultant fees) and injuries of any kind whatsoever asserted against the Secured Parties, with respect to or as a result of the presence, escape, seepage, spillage, release, leaking, discharge or migration from the Ship or other properties owned or operated by the Borrower of any hazardous substance, including without limitation, any claims asserted or arising under any applicable environmental, health and safety laws, codes and ordinances, and all rules and regulations promulgated thereunder of all governmental agencies, regardless of whether or not caused by or within the control of the Borrower subject to the following:
 - (i) it is the parties' understanding that the Secured Parties do not now, have never and do not intend in the future to exercise any operational control or maintenance over the Ship or any other properties and operations owned or operated by the Borrower, nor in the past, presently, or intend in the future to, maintain an ownership interest in the Ship or any other properties owned or operated by the Borrower except as may arise upon enforcement of the Lenders' rights under the Mortgage;
 - (ii) unless and until an Event of Default shall have occurred and without prejudice to the right of each Lender to be indemnified pursuant to this paragraph (b) of Clause 13.13 (*Payment of liabilities*):

- (A) each Lender will, if it is reasonably practicable to do so, notify the Borrower upon receiving a claim in respect of which the relevant Lender is or may become entitled to an indemnity under this paragraph (b) of Clause 13.13 (*Payment of liabilities*); and
- (B) subject to the prior written approval of the relevant Lender which the Lender shall have the right to withhold, the Borrower will be entitled to take, in the name of the relevant Lender, such action as the Borrower may see fit to avoid, dispute, resist, appeal, compromise or defend any such claims, losses, liabilities, damages, expenses and injuries as are referred to above in this paragraph (b) of Clause 13.13 (*Payment of liabilities*) or to recover the same from any third party, subject to the Borrower first ensuring that the relevant Lender is secured to its reasonable satisfaction against all expenses thereby incurred or to be incurred,

provided always that the Borrower shall not be obliged to compromise any liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested liabilities which, either individually or in aggregate, exceed [*] shall be forthwith provided to the Facility Agent (with copy to the Security Trustee). If the Ship is arrested or detained for any reason it will procure its immediate release by providing bail or taking such other steps as the circumstances may require.

13.14 Certificate as to liabilities

The Borrower shall give to the Facility Agent (with copy to the Security Trustee) at such times as it may from time to time reasonably require a certificate, duly signed on its behalf, as to the total amount of any debts, damages and liabilities relating to the Ship and details of such of those debts, damages and liabilities as are over a certain amount to be specified by the Facility Agent at the relevant time and, if so required by the Facility Agent, forthwith discharge such of those debts, damages and liabilities as the Facility Agent shall require other than those being contested in good faith.

13.15 Modifications

The Borrower shall maintain the type of the Ship as at the Delivery Date and not put the Ship into the possession of any person for the purpose of work being done on it in an amount exceeding or likely to exceed [*] unless such person shall first have given to the Facility Agent a written undertaking addressed to the Facility Agent in terms satisfactory to the Facility Agent agreeing not to exercise a lien on the Ship or her Earnings for the cost of such work or for any other reason (or the Borrower is able to demonstrate to the reasonable satisfaction of the Facility Agent that the Borrower or the relevant Group company has set aside and will have funds readily available for payment when due of the cost of the work (to the extent not fully covered by insurance proceeds in the case of a partial loss)).

13.16 Registration of Ship

The Borrower shall maintain the registration of the Ship under and fly the flag of the Maritime Registry and not do or permit anything to be done whereby such registration may be forfeited or imperilled.

13.17 Environmental Law

The Borrower shall comply with all Environmental Laws, obtain, maintain and ensure compliance with all requisite Environmental Approvals, and implement procedures to monitor compliance with and to prevent liability under any Environmental Law.

13.18 Notice of Mortgage

The Borrower shall keep the Mortgage registered against the Ship as a valid first preferred mortgage, carry on board the Ship a certified copy of the Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of the Ship a framed printed notice stating that the Ship is mortgaged by the Borrower to the Security Trustee.

13.19 Environmental claims

Each Obligor shall, (through the Guarantor), promptly upon becoming aware of the same, inform the Facility Agent in writing of:

- (a) any Environmental Claim which is likely to result in a Material Adverse Effect against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group which is likely to result in a Material Adverse Effect.

13.20 Trading in war zones

In the event of hostilities in any part of the world (whether war is declared or not), the Borrower shall not cause or permit the Ship to enter or trade to any zone which is declared a war zone by the Ship's war risks insurers unless:

- (a) the prior written consent of the Security Trustee has been given; and
- (b) the Borrower has (at its expense) effected any special, additional or modified insurance cover which the Security Trustee may require.

14 INSURANCE UNDERTAKINGS

14.1 General

The undertakings in this Clause 14 (*Insurance Undertakings*) remain in force on and from the Delivery Date and throughout the rest of the Security Period except as the Facility Agent may otherwise permit.

14.2 Maintenance of obligatory insurances

The Borrower shall insure the Ship in its name and keep the Ship insured on an agreed value basis for an amount in the currency in which the Loan is denominated approved by the Facility Agent (acting on the instructions of the Majority Lenders) but not being less than the greater of (x) [*] per cent. ([*]%) of the amount of the Loan; and (y) the full market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*) from time to time through internationally recognised independent first class insurance companies, underwriters, war risks and protection and indemnity associations acceptable to the Facility Agent (acting on the instruction of the Majority Lenders), acting reasonably, in each instance on terms and conditions approved by the Facility Agent including as to deductibles but at least in respect of:

- (a) fire and marine risks including but without limitation hull and machinery and all other risks customarily and usually covered by first-class and prudent shipowners in the global insurance markets under English or Norwegian marine policies or Facility Agent-approved policies containing the ordinary conditions applicable to similar Ships;
- (b) war risks (including terrorism, piracy, blocking and trapping and protection and indemnity war risks) up to the insured amount;
- (c) excess risks that is to say the proportion of claims for general average and salvage charges and under the running down clause not recoverable in consequence of the value at which the Ship is assessed for the purpose of such claims exceeding the insured value;
- (d) protection and indemnity risks with full standard coverage as offered by first-class protection and indemnity associations which are a member of the International Group of P&I Association and up to the highest limit of liability available (for oil pollution risk the highest limit currently available is one billion Dollars (\$1,000,000,000) and this to be increased if reasonably requested by the Facility Agent and the increase is possible in accordance with the standard protection and indemnity cover for Ships of its type and is compatible with prudent insurance practice for first class cruise shipowners or operators in waters where the Ship trades from time to time from the Delivery Date until the end of the Security Period);
- (e) when and while the Ship is laid-up, in lieu of hull insurance, normal port risks; and
- (f) such other risks as the Facility Agent may from time to time reasonably require;

and in any event in respect of those risks and at those levels covered by first class and prudent owners and/or financiers in the international market in respect of similar tonnage provided that if any of such insurances are also effected in the name of any other person (other than the Borrower and/or a Secured Party) such person shall if so required by the Facility Agent execute a first priority assignment of its interest in such insurances in favour of the Secured Parties in similar terms *mutatis mutandis* to the relevant provisions of the General Assignment.

14.3 Mortgagee's interest and pollution risks insurances

The Facility Agent shall take out mortgagee interest insurance on such conditions as the Facility Agent may reasonably require and mortgagee interest insurance for pollution risks as from time to time agreed each for an amount in the currency in which the Loan is denominated of [*] per cent. ([*]%) of the amount of the Loan, the Borrower having no interest or entitlement in respect of such policies; the Borrower shall upon demand of the Facility Agent reimburse the Facility Agent for the costs of effecting and/or maintaining any such insurance(s).

14.4 Trading in the United States of America

If the Ship shall trade in the United States of America and/or the Exclusive Economic Zone of the United States of America (the "EEZ") as such term is defined in the US Oil Pollution Act 1990 ("OPA"), to comply strictly with the requirements of OPA and any similar legislation which may from time to time be enacted in any jurisdiction in which the Ship presently trades or may or will trade at any time during the existence of this Agreement and in particular before such trade is commenced and during the entire period during which such trade is carried on:

- (a) to pay any additional premiums required to maintain full standard protection and indemnity cover for oil pollution up to the highest limit available to it for the Ship in the market;
- (b) to make all such quarterly or other voyage declarations as may from time to time be required by the Ship's protection and indemnity association and to comply with all obligations in order to maintain such cover, and promptly to deliver to the Facility Agent (with copy to the Security Trustee) copies of such declarations;
- (c) to submit the Ship to such additional periodic, classification, structural or other surveys which may be required by the Ship's protection and indemnity insurers to maintain cover for such trade and promptly to deliver to the Facility Agent copies of reports made in respect of such surveys;
- (d) to implement any recommendations contained in the reports issued following the surveys referred to in paragraph (c) of Clause 14.4 (*Trading in the United States of America*) within the time limit specified therein and to provide evidence satisfactory to the Facility Agent that the protection and indemnity insurers are satisfied that this has been done;
- (e) in particular strictly to comply with the requirements of any applicable law, convention, regulation, proclamation or order with regard to financial responsibility for liabilities imposed on the Borrower or the Ship with respect to pollution by any state or nation or political subdivision thereof, including but not limited to OPA, and to provide the Facility Agent on demand with such information or evidence as it may reasonably require of such compliance;
- (f) to procure that the protection and indemnity insurances do not contain a clause excluding the Ship from trading in waters of the United States of America and the EEZ or any other provision analogous thereto and to provide the Facility Agent with evidence that this is so; and
- (g) strictly to comply with any operational or structural regulations issued from time to time by any relevant authorities under OPA so that at all times the Ship falls within the provisions which limit strict liability under OPA for oil pollution.

14.5 Protections for Secured Parties

- (a) The Borrower shall give notice forthwith of any assignment of its interest in the Insurances to the relevant brokers, insurance companies, underwriters and/or associations in the form approved by the Facility Agent.
- (b) The Borrower shall execute and deliver all such documents and do all such things as may be necessary to confer upon the Secured Parties legal title to the Insurances in respect of the Ship and to procure that the interest of the Secured Parties is at all times filed with all slips, cover notes, policies and certificates of entry and to procure (a) that a loss payable clause in the form approved by the Facility Agent shall be filed with all the hull, machinery and equipment and war risks policies in respect of the Ship and (b) that a loss payable clause in the form approved by the Facility Agent shall be endorsed upon the protection and indemnity certificates of entry in respect of the Ship.

- (c) In the event of the Borrower making default in insuring and keeping insured the Ship as hereinbefore provided then the Facility Agent may (but shall not be bound to) insure the Ship or enter the Ship in such manner and to such extent as the Facility Agent in its discretion thinks fit and in such case all the cost of effecting and maintaining such insurance together with interest thereon at the interest rate shall be paid on demand by the Borrower to the Facility Agent.

14.6 Copies of policies; letters of undertaking

The Borrower will procure that each of the relevant brokers and associations furnishes the Facility Agent with a letter of undertaking in the standard form available in the relevant insurance market or otherwise in such form as may be required by the Facility Agent and waives any lien for premiums or calls except in relation to premiums or calls solely attributable to the Ship.

14.7 Payment of premiums

The Borrower shall punctually pay all premiums, calls, contributions or other sums payable in respect of the Insurances on the Ship and to produce all relevant receipts when so required by the Facility Agent.

14.8 Renewal of obligatory insurances

The Borrower shall notify the Facility Agent (with copy to the Security Trustee) of the renewal of the obligatory insurances at least five (5) days before the expiry thereof and shall procure that the relevant brokers or associations shall promptly confirm in writing to the Facility Agent (with copy to the Security Trustee) that such renewal is effected, it being understood by the Borrower that any failure to renew the Insurances on the Ship at least two (2) days before the expiry thereof or to give or procure the relevant notices of such renewal shall constitute an Event of Default.

14.9 Guarantees

The Borrower shall arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity and/or war risks association.

14.10 Provision of insurances information

The Borrower will furnish the Facility Agent (with copy to the Security Trustee) from time to time on request with full information about all Insurances maintained on the Ship and the names of the offices, companies, underwriters, associations or clubs with which such Insurances are placed.

14.11 Alteration to terms of insurances

The Borrower shall not make or agree to any variation in the terms of any of the Insurances on the Ship without the prior approval of the Facility Agent nor to do any act or voluntarily suffer or permit any act to be done whereby any Insurances shall or may be rendered invalid, void, voidable, suspended, defeated or unenforceable and not to suffer or permit the Ship to engage in any voyage nor to carry any cargo not permitted under any of the Insurances without first obtaining the consent of the insurers or reinsurers concerned and complying with such requirements as to payment of extra premiums or otherwise as the insurers or reinsurers may impose.

14.12 Settlement of claims

The Borrower shall not settle, compromise or abandon any claim in respect of any of the Insurances on the Ship other than a claim of less than [*] Dollars (\$[*]) or the equivalent in any other currency and not being a claim arising out of a Total Loss.

14.13 Application of insurance proceeds

The Borrower shall apply or ensure the appliance of all such sums receivable in respect of the Insurances on the Ship for the purpose of making good the loss and fully repairing all damage in respect whereof the insurance monies shall have been received.

14.14 Insurance advisers

The Facility Agent shall be entitled, immediately prior to the Delivery Date and thereafter no more frequently than annually on renewals but also additionally at any time when there is a proposed change of underwriters or the terms of any Insurances, to instruct independent reputable insurance advisers for the purpose of obtaining any advice or information regarding any matter concerning the Insurances which the Facility Agent shall deem necessary, it being hereby specifically agreed that the Borrower shall reimburse the Facility Agent on demand for the costs and expenses incurred by the Facility Agent in connection with the instruction of such advisers subject to a limit of ten thousand Dollars (\$10,000) at the time of delivery of the Ship or in the event of a change of underwriters or of terms of any Insurances and otherwise ten thousand Dollars (\$10,000) annually thereafter.

15 SECURITY VALUE MAINTENANCE

15.1 Security Shortfall

If, upon receipt of a valuation of the Ship in accordance with Clause 13.4 (*Valuation of the Ship*), the Security Value shall be less than the Security Requirement, the Facility Agent may give notice to the Borrower requiring that such deficiency be remedied and then the Borrower shall (unless the Ship has become a Total Loss) either:

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

Clauses 15.2 (*Costs*) and 15.4 (*Documents and evidence*) and paragraph (c) of Clause 16.2 (*Voluntary prepayment*) shall apply to prepayments under paragraph (a) of Clause 15.1 (*Security Shortfall*).

15.2 Costs

All costs in connection with the Facility Agent obtaining any valuation of the Ship referred to in Clause 13.4 (*Valuation of the Ship*), and obtaining any valuation either of any additional security for the purposes of ascertaining the Security Value at any time or necessitated by the Borrower electing to constitute additional security pursuant to paragraph (b) of Clause 15.1 (*Security Shortfall*) shall be borne by the Borrower.

15.3 Valuation of additional security

For the purpose of this Clause 15 (*Security Value Maintenance*), the market value of any additional security provided or to be provided to the Facility Agent and/or the Security Trustee shall be determined by the Facility Agent and the Security Trustee in their absolute discretion without any necessity for the Facility Agent or the Security Trustee assigning any reason thereto.

15.4 Documents and evidence

In connection with any additional security provided in accordance with this Clause 15 (*Security Value Maintenance*), the Facility Agent shall be entitled to receive such evidence and documents of the kind referred to in Clause 3 (*Conditions Precedent*) in respect of other Finance Documents as may in the Facility Agent's opinion be appropriate.

15.5 Valuations binding

Any valuation under this Clause 15 (*Security Value Maintenance*) shall be binding and conclusive as regards the Borrower.

15.6 Provision of information

- (a) The Borrower shall promptly provide the Facility Agent (with copy to the Security Trustee) and any shipbroker acting under this Clause 15 (*Security Value Maintenance*) with any information which the Facility Agent or the shipbroker may reasonably request for the purposes of the valuation.
- (b) If the Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the shipbroker or the Facility Agent considers prudent.

16 CANCELLATION, PREPAYMENT AND MANDATORY PREPAYMENT

16.1 Cancellation

- (a) Subject to paragraph (b) below, at any time between the Effective Date and prior to the end of the Availability Period, the Borrower may give notice to the Facility Agent in writing that it wishes to cancel the whole or any part of the available Commitments whereupon (without penalty to the Borrower but without prejudice to any liabilities of the Borrower including, without limitation, in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such cancellation) such available Commitments shall terminate upon the date specified in such notice. Any cancellation under this Clause 16.1(a) shall reduce the remaining Commitments of the Lenders rateably.

- (b) If the SBC Effective Date has not occurred by 31 January 2019, then at any time thereafter, the Borrower may, by written notice (signed by the Borrower, the Shareholder and the Guarantor) to the Facility Agent, terminate this Agreement and the other Finance Documents and, except for this Clause, Clause 10.11 (*Transaction Costs*), Clause 33 (*Confidentiality*) and the Fee Letter in relation to the Structuring Fee, this Agreement and the other Finance Documents shall, with effect from such termination, be null and void and no party nor any of its respective parents, subsidiaries, affiliates, officers or employees of any of the foregoing shall have any further liability or obligation whatsoever (including payment of fees and expenses other than in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such termination) under or in connection with this Agreement and/or any other Finance Document or their termination and clause 4(c) of the Fee Letter in relation to the Structuring Fee shall apply.

16.2 Voluntary prepayment

- (a) The Borrower may prepay all or part of the Loan (but if in part being an amount that reduces the Loan by a minimum amount of one (1) repayment instalment of principal of the Loan) together with interest thereon. Such prepayment shall, regardless of the date on which such prepayment is made, be made together with all of the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the Interest Make-up Agreement and Clause 20.2 (*Breakage costs and SIMEST arrangements*) but without any other penalty provided that the prepayment is made on the last day of an Interest Period and thirty-five (35) days prior written notice indicating the intended date of prepayment is given to the Facility Agent and the SACE Agent. However, the following amounts shall be payable to the Facility Agent if any prepayment made pursuant to this Clause 16.2 (*Voluntary prepayment*) is not made on the last day of an Interest Period:
- (i) for the account of the Lenders, whether the Borrower elected a Floating Interest Rate or a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the difference (if positive), calculated by the Lenders and notified by them to the Facility Agent, between the actual cost for the Lenders of the funding for the Loan and the rate of interest for the monies to be invested by the Lenders, applied to the amounts so prepaid for the period from the said prepayment until the last day of the Interest Period during which the prepayment occurs (if prepayment does not occur on the last day of that Interest Period), details of any such calculation being supplied to the Borrower by the Facility Agent on behalf of the Lenders; or
 - (ii) for the account of SIMEST, if the Borrower elected a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the sum of charges (if any) imposed by SIMEST representing funding or breakage costs of the Italian Authorities as more specifically set out in Clause 20 (*Indemnities*).
- (b) For the avoidance of doubt, regardless of the date on which a voluntary prepayment is made, such prepayment shall be paid together with all amounts payable in accordance with Clause 20.2 (*Breakage costs and SIMEST arrangements*) and if a voluntary prepayment is made other than on the last day of an Interest Period, the prepayment shall be paid together with such other amounts payable in accordance with Clauses 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and 20.2 (*Breakage costs and SIMEST arrangements*).

- (c) If the Borrower has selected the Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the SACE Agent shall give SIMEST thirty (30) days written notice of the intended date of prepayment.

16.3 Mandatory prepayment – Sale and Total Loss

The Borrower shall be obliged to prepay the whole of the Loan if the Ship is sold (without prejudice to Clause 12.9 *Disposals*)) or becomes a Total Loss:

- (a) in the case of a sale, on or before the date on which the sale is completed by delivery of the Ship to the buyer; or
- (b) in the case of a Total Loss, on the earlier of the date falling 120 days after the Total Loss Date and the date of receipt by the Facility Agent or the Security Trustee (as the case may be) of the proceeds of insurance relating to such Total Loss.

16.4 Mandatory prepayment – SACE Insurance Policy

- (a) The Borrower shall be obliged to prepay the whole of the Loan if it is or becomes unlawful for SACE to perform or comply with any or all of its payment obligations pursuant to the SACE Insurance Policy, if the SACE Insurance Policy is revoked, rescinded, cancelled, terminated, suspended or otherwise becomes unenforceable or ceases to be valid, binding or in full force and effect.
- (b) In the event that any other event occurs or any other circumstances arise or develop which would have a material adverse effect on SACE's ability to perform its obligations under the SACE Insurance Policy, the Borrower and the Lenders shall, provided that no Event of Default has occurred and is continuing, negotiate in good faith for a period of not less than 30 days with a view to agreeing such revised terms and conditions as the Lenders may require to enable the Lenders to maintain the entire Loan (and during such 30 day period, no Lender shall be obliged to make available to the Borrower their portion of the Loan to the extent such amounts have not already been drawn). In the event that following such negotiations the Borrower and the Lenders fail to agree on such revised terms, the Borrower shall be obliged to prepay, on demand by the Facility Agent, the outstanding principal amount of the Loan to the extent of the amount covered pursuant to the SACE Insurance Policy. If, during the period while negotiations are on-going pursuant to this paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) the events described in paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) should occur, the Borrower shall be obliged to prepay the Loan in full as required by paragraph (a) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*).

16.5 Other amounts

Any prepayment of the whole of the Loan shall be made together with all other sums due under this Agreement (including, without limitation, the compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*)).

16.6 Application of partial prepayment

Amounts prepaid shall be applied in accordance with paragraph (b) of Clause 19.1 (*Receipts*).

16.7 No reborrowing

Amounts prepaid may not be reborrowed.

17 INTEREST ON LATE PAYMENTS

17.1 Default rate of interest

Without prejudice to the provisions of Clause 18 (*Events of Default*) and without this Clause in any way constituting a waiver of terms of payment, all sums due by the Borrower under this Agreement will automatically bear interest on a day to day basis from the date when they are payable until the date of actual payment at a rate per annum equal to the higher of:

(a) where the Floating Interest Rate is applicable, the aggregate of:

- (i) Overnight LIBOR;
- (ii) the applicable Margin; and
- (iii) [*] per cent. ([*]%) per annum; or

(b) where the Fixed Interest Rate is applicable, the higher of:

- (i) the Fixed Interest Rate plus [*] per cent. ([*]%) per annum; and
- (ii) Overnight LIBOR plus the applicable Margin plus [*] per cent. ([*]%) per annum.

17.2 Compounding of default interest

To the extent permitted by applicable law, any such interest will itself bear interest at the above rate if it is due for at least three (3) months and thereafter at three monthly intervals.

18 EVENTS OF DEFAULT

18.1 Events of Default

An Event of Default occurs if any of the events or circumstances described in Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*) occur.

18.2 Non-payment

Any Obligor fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document and such failure is not remedied within three (3) Business Days of the due date or (if payable on demand) within three (3) Business Days of receiving the demand.

18.3 Non-remediable breaches

The Borrower fails to comply with the provisions of Clauses 12.4 (*Sanctions and Illicit payments*), 12.5 (*Prohibited payments*) 12.8 (*Negative pledge*), 12.9 (*Disposals*), 12.11 (*Mergers*) or 12.18 (*Loans and guarantees by the Borrower*).

18.4 Breach of other obligations

- (a) Any Obligor fails to comply with any provision of any Finance Document (other than a failure to comply covered by any of the other provisions of Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*)) and in particular but without limitation the Guarantor fails to comply with the provisions of clause 11 (*Undertakings*) of its Guarantee or there is any material breach in the opinion of the Majority Lenders and SACE of any of the Underlying Documents provided that (save in respect of Clause 12.27 (*Code of Ethics and Model*)) no Event of Default shall be deemed to have occurred if, in the opinion of the Majority Lenders and SACE, such failure or material breach is capable of remedy and is remedied within the Relevant Period (as defined below) from the date of its occurrence, if the failure or material breach was known to that Obligor, or from the date the relevant Obligor is notified by the Facility Agent of the failure or material breach, if the failure or material breach was not known to that Obligor, unless in any such case as aforesaid the Majority Lenders and SACE consider that the failure or material breach is or could reasonably be expected to become materially prejudicial to the interests, rights or position of the Lenders, “**Relevant Period**” meaning for the purposes of this Clause fifteen (15) days in respect of a remedy period commencing after the date of this Agreement.
- (b) There is a repudiation or termination of any Transaction Document (save for the Shipbuilding Contract and, to the extent replaced, any Management Agreement and any charter) or any of the parties thereto becomes entitled to terminate or repudiate any of them and evidences an intention so to do.

18.5 Misrepresentation

Any representation, warranty or statement made or repeated in, or in connection with, any Transaction Document or the SACE Insurance Policy or in any accounts, certificate, statement or opinion delivered by or on behalf of any Obligor thereunder or in connection therewith is materially incorrect or misleading when made or would, if repeated at any time hereafter by reference to the facts subsisting at such time, no longer be materially correct.

18.6 Cross default

- (a) Any event of default occurs under any financial contract or financial document relating to any Financial Indebtedness of the Borrower.
- (b) Any such Financial Indebtedness or any sum payable in respect thereof is not paid when due (after the expiry of any applicable grace period(s)) whether by acceleration or otherwise.
- (c) Any other Financial Indebtedness of any member of the Group is not paid when due or is or becomes capable of being declared due prematurely by reason of default or any Security Interest securing the same becomes enforceable by reason of default provided that no Event of Default will arise if the aggregate amount of the relevant Financial Indebtedness and liabilities secured by the relevant Security Interests is less than [*] Dollars (\$[*]) or its equivalent in other currencies.
- (d) Any other Security Interest over any assets of any member of the Group securing any alleged liability that does not qualify as Financial Indebtedness becomes enforceable where the alleged liability is in respect of a sum of, or sum aggregating, [*] Dollars (\$[*]) or its equivalent in other currencies, unless the alleged liability is being contested in good faith by appropriate means by the relevant Group member and the Facility Agent is reasonably satisfied that the relevant member of the Group has reasonable grounds for succeeding in its action.

18.7 Winding-up

Any order is made or an effective resolution passed or other action taken for the suspension of payments or reorganisation, dissolution, termination of existence, liquidation, winding-up or bankruptcy of any Obligor.

18.8 Appointment of liquidators etc.

A liquidator, trustee, administrator, receiver, administrative receiver, manager or similar officer is appointed in respect of any Obligor or in respect of all or any substantial part of the assets of any Obligor.

18.9 Enforcement of any security

Any corporate action, legal proceeding or other procedure or step is taken in relation to enforcement of any security interests over any assets of the Borrower.

18.10 Insolvency

- (a) An Obligor is unable or admits inability to pay its debts as they fall due, is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts.
- (b) The value of the assets of any Obligor is less than its liabilities (taking into account contingent liabilities).
- (c) A moratorium in respect of all or any debts of any Obligor or a compromise, composition, assignment or an arrangement with creditors of any Obligor or any similar proceeding or arrangement by which the assets of any Obligor are submitted to the control of its creditors is applied for, ordered or declared or any Obligor commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of all or a significant part of its Financial Indebtedness. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

18.11 Legal process

Any corporate action, legal proceeding, distress, execution, attachment or other process affects the whole or any substantial part of the assets of any Obligor and remains undischarged for a period of thirty (30) days, any step is taken in relation to enforcement of any security interests over any assets of any Obligor (other than the Borrower) or any uninsured judgment which, in each case, is in excess of [*] Dollars (\$[*]) following final appeal, remains unsatisfied for a period of ten (10) days.

18.12 Analogous events

Anything analogous to or having a substantially similar effect to any of the events specified in Clauses 18.7 (*Winding-up*) to 18.11 (*Legal process*) shall occur under the laws of any applicable jurisdiction.

18.13 Cessation of business

Any Obligor ceases to carry on all or a substantial part of its business.

18.14 Revocation of consents

Any authorisation, approval, consent, licence, exemption, filing, registration or notarisation or other requirement necessary to enable any Obligor to comply with any of its obligations under any of the Transaction Documents is materially adversely modified, revoked or withheld or does not remain in full force and effect and within ninety (90) days of the date of its occurrence such event is not remedied to the satisfaction of the Facility Agent consider that such failure is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the modification, revocation or withholding of the authorisation, approval or consent is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interests might reasonably be expected to be materially adversely affected.

18.15 Unlawfulness

At any time it is unlawful or impossible for any Obligor to perform any of its material (to the Secured Parties or any of them) obligations under any Transaction Document to which it is a party or it is unlawful or impossible for the Secured Parties or any Lender to exercise any of their or its rights under any of the Transaction Documents provided that no Event of Default shall be deemed to have occurred where the unlawfulness or impossibility does not relate to the payment obligation of any Obligor under any Transaction Document and is cured within the period of twenty one (21) days of the date of occurrence of the event giving rise to the unlawfulness or impossibility and the affected Obligor performs its obligation within such period.

18.16 Insurances

The Borrower fails to insure the Ship in the manner specified in Clause 14 (*Insurance Undertakings*) or fails to renew the Insurances at least five (5) days prior to the date of expiry thereof and produce prompt confirmation of such renewal to the Facility Agent provided that if the insurers withdraw their cover an Event of Default shall be deemed to have occurred upon issue of the insurer's notice of withdrawal.

18.17 Disposals

If the Borrower or any other Obligor shall have concealed, removed, or permitted to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or made or suffered a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of its property to or for the benefit of a creditor with the intention of preferring such creditor over any other creditor.

18.18 Prejudice to security

Anything is done or suffered or omitted to be done by any Obligor which in the reasonable opinion of the Facility Agent would or might be expected to imperil the security created by any of the Finance Documents.

18.19 Governmental intervention

The authority of any Obligor in the conduct of its business is wholly or substantially curtailed by any seizure or intervention by or on behalf of any authority and within ninety (90) days of the date of its occurrence any such seizure or intervention is not relinquished or withdrawn and the Facility Agent reasonably considers that the relevant occurrence is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the seizure or intervention executed by any authority is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interest might reasonably be expected to be materially adversely affected.

18.20 Material Adverse Change

- (a) Any event or circumstance occurs which results in a Material Adverse Effect.
- (b) Any event or circumstance occurs (including, without limitation, following the sending of a notice by the Borrower under paragraph (c) of Clause 12.27 *Code of Ethics and Model*), which results in a material adverse effect on the ability of the Borrower, also under an economic and/or financial standpoint, to perform its obligations under this Agreement.

18.21 Actions following an Event of Default

On, or at any time after, the occurrence of an Event of Default the Facility Agent may, and if so instructed by the Majority Lenders and SACE (acting through the SACE Agent), the Facility Agent shall:

- (a) serve on the Borrower a notice stating that the Commitments and all other obligations of each Lender to the Borrower under this Agreement are terminated; and/or
- (b) serve on the Borrower a notice stating that the Loan (including but without limitation the amount representing the financed First Instalment and Second Instalment of the SACE Premium), all accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
- (c) take any other action which, as a result of the Event of Default or any notice served under paragraph (a) or (b), the Facility Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law.

18.22 Termination of Commitments

On the service of a notice under paragraph (a) of Clause 18.21 (*Actions following an Event of Default*), the Commitments and all other obligations of each Lender to the Borrower under this Agreement shall terminate.

18.23 Acceleration of Loan

On the service of a notice under paragraph (b) of Clause 18.21 (*Actions following an Event of Default*), the Loan, all accrued interest and all other amounts accrued or owing from the Borrower or any Obligor under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

18.24 Further amounts payable

Upon an acceleration of repayment of the Loan following an Event of Default the Borrower shall be liable to pay compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*).

18.25 Multiple notices; action without notice

The Facility Agent may serve notices under paragraphs (a) and (b) of Clause 18.21 (*Actions following an Event of Default*) simultaneously or on different dates and it may take any action referred to in paragraph (c) of Clause 18.21 (*Actions following an Event of Default*) if no such notice is served simultaneously with or at any time after the service of both or either of such notices.

18.26 Notification of Secured Parties and Obligors

The Facility Agent shall send to the Italian Authorities, each Lender and each Obligor a copy or the text of any notice which the Facility Agent serves on the Borrower under Clause 18.21 (*Actions following an Event of Default*); but the notice shall become effective when it is served on the Borrower, and no failure or delay by the Facility Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide any Obligor with any form of claim or defence.

18.27 Lender's rights unimpaired

Nothing in this Clause 18 (*Events of Default*) shall be taken to impair or restrict the exercise of any right given to individual Lenders under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clauses 2.4 (*Creditor Parties' rights and obligations*) and 2.6 (*Obligations of Lenders several*).

18.28 Exclusion of Secured Party liability

No Secured Party, and no receiver or manager appointed by the Facility Agent, shall have any liability to an Obligor:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset.

19 APPLICATION OF SUMS RECEIVED

19.1 Receipts

- (a) Except as any Finance Document may otherwise provide, all sums received under this Agreement or any other Finance Document by the Facility Agent, on behalf of the Lenders, the SACE Agent, the Security Trustee, Receiver, Delegate or by any of the Lenders for any reason whatsoever will be applied in the following order of priority:
- (i) first, in discharging any unpaid fees, costs and expenses of, and any amounts owed to the Facility Agent, SACE Agent, Security Trustee, any Receiver or any Delegate on a pro rata basis;
 - (ii) second, to payments of any kind due or in arrears in the order of their due payment dates due to the Lenders and Joint Mandated Lead Arrangers in the following order of priority:
 - (A) first, to interest payable pursuant to Clause 17 (*Interest on Late Payments*);
 - (B) second, to interest payable pursuant to Clause 6 (*Interest*);
 - (C) third, to the principal of the Loan payable pursuant to Clause 5 (*Repayment*);
 - (D) fourth, to any sums due pursuant to Clause 20.2 (*Breakage costs and SIMEST arrangements*); and
 - (E) fifth, to any other sums due under this Agreement or any other Finance Document,and, if relevant, payments under paragraphs (a)(ii)(A) to (a)(ii)(E) above, shall be made *pro rata* to each of the Lenders and Joint Mandated Lead Arrangers as applicable.
- (b) if no payments are in arrears or if these payments have been discharged as set out above, then and to sums remaining due under this Agreement or any other Finance Document and, if relevant, pro rata to each of the Lenders and in each case in inverse order of maturity, the interest being recalculated accordingly.
- (c) The Facility Agent shall, if so directed by the Lenders and subject to SACE's prior written consent, vary the order set out in paragraphs (a)(ii)(A) to (a)(ii)(D) above.
- (d) Paragraphs (a), (b) and (c) above will override any appropriation made by an Obligor.

20 INDEMNITIES

20.1 Indemnities regarding borrowing and repayment of Loan

- (a) The Borrower shall fully indemnify the Facility Agent, SACE Agent, Security Trustee, any Delegate, any Receiver, each Lender, SACE and SIMEST (but without double counting to the extent that a Lender is making a claim in respect of amounts owing to SIMEST) on the Facility Agent's demand in respect of all costs, claims, expenses, liabilities and losses which are made or brought against or incurred by that Secured Party, or which that Secured Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:
- (i) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity;
 - (ii) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
 - (iii) any failure (for whatever reason) by the Borrower to comply with its obligations to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 17 (*Interest on Late Payments*));

- (iv) the occurrence and/or continuance of an Event of Default and/or the acceleration of repayment of the Loan under Clause 18 (*Events of Default*);
 - (v) the taking, holding, protection or enforcement of a Security Interest;
 - (vi) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Trustee, each Receiver and each Delegate by a Finance Document or by law;
 - (vii) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; and
 - (viii) acting as Facility Agent, SACE Agent, Security Trustee, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Interests or Security Property (otherwise, in each case, excluding sub-paragraphs (v) and (vi) above, than by reason of the relevant Facility Agent's, Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct).
- (b) The Security Trustee and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Security Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and shall have a lien on the Security Interests and the proceeds of the enforcement of the Security Interests for all moneys payable to it.

20.2 Breakage costs and SIMEST arrangements

Without limiting its generality, Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) covers:

- (a) any claim, expense, liability or loss, including a loss of a prospective profit, incurred by a Lender in liquidating or employing deposits from third parties acquired or arranged to fund or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount);
- (b) if the Borrower has selected the Fixed Interest Rate in accordance with Clause 6.1 (*Fixed or Floating Interest Rate*), the CIRR Break Costs; and
- (c) any other costs whatsoever or howsoever arising under or in respect of the Interest Make-up Agreement which are passed to the SACE Agent, and any such costs imposed by SIMEST shall be paid by the Borrower to SIMEST through the SACE Agent.

20.3 Miscellaneous indemnities

The Borrower shall fully indemnify each Secured Party severally on their respective demands in respect of all claims, expenses, liabilities and losses which may be made or brought against or incurred by a Secured Party, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Facility Agent or any other Secured Party or by any receiver appointed under a Finance Document;
- (b) any other Pertinent Matter,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the relevant Secured Party's (or its officers' or employees') Gross Negligence or wilful misconduct.

Without prejudice to its generality, this Clause 20.3 (*Miscellaneous indemnities*) covers (i) any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code or any Environmental Laws or any Sanctions and (ii) any claims, expenses, liabilities (including, without limitation, under a reputational standpoint) and losses which arise, or are asserted, against CDP under or in connection with any breach by the Borrower of any of the provisions of paragraphs (ll) to (pp) of Clause 11.2 (*Continuing representations and warranties*) and/or of Clause 12.27 (*Code of Ethics and Model*).

20.4 Currency indemnity

If any sum due from an Obligor to a Secured Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- (a) making or lodging any claim or proof against an Obligor, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrower shall indemnify the Secured Party concerned against the loss arising when the amount of the payment actually received by that Secured Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 20.4 (*Currency indemnity*) the "**available rate of exchange**" means the rate at which the Secured Party concerned is able at the opening of business (Paris time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 20.4 (*Currency indemnity*) creates a separate liability of the Borrower which is distinct from its other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

20.5 Certification of amounts

A notice which is signed by 2 officers of a Secured Party, which states that a specified amount, or aggregate amount, is due to that Secured Party under this Clause 20 (*Indemnities*) and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

20.6 Sums deemed due to a Lender

For the purposes of this Clause 20 (*Indemnities*), a sum payable by the Borrower to the Facility Agent for distribution to a Lender shall be treated as a sum due to that Lender.

20.7 SACE obligations

To the extent that this Clause 20 (*Indemnities*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

21 ILLEGALITY, ETC.

21.1 Illegality and Sanctions

This Clause 21 (*Illegality, etc.*) applies if:

- (a) a Lender (the “**Notifying Lender**”) notifies the Facility Agent that:
 - (i) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to perform any of its obligations as contemplated by the Finance Documents or to fund its participation in the Loan; and/or
 - (ii) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to maintain its participation in the Loan; or
- (b) an Obligor is or becomes a Prohibited Person,
(such event, an “**Illegality or Sanctions Event**”).

21.2 Notification of illegality

The Borrower shall promptly notify the Facility Agent of the occurrence of an event under Clause 21.1(b) above and the Facility Agent shall promptly notify the Lenders. The Facility Agent shall promptly notify the Borrower, the Obligors and the other Lenders of the notice under Clause 21.1(a) which the Facility Agent receives from the Notifying Lender.

21.3 Prepayment; termination of Commitment

- (a) Upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(i) above, the Notifying Lender’s Commitment will be immediately suspended and that Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*) within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event), the Notifying Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment;

- (b) upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(ii) above, the Notifying Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) the Notifying Lender may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;
- (c) upon the Borrower notifying the Facility Agent and the Facility Agent notifying the Lenders of an event under Clause 21.1(b) above, the Lenders shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) any Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment and may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;
- (d) The date for repayment or prepayment of a Lender's share in the Loan will be:
 - (i) the date specified by the Facility Agent in the notification under Clause 21.2 above; or
 - (ii) the last day of the current Interest Period for the Loan or, if earlier, the date specified by the Lender in the notification under paragraph (a) above and which must not be earlier than the last day of any applicable grace period allowed by law.

21.4 Mitigation

- (a) Each Creditor Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to Clause 21.1 (*Illegality and Sanctions*) or Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) 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.

22 SET-OFF

22.1 Application of credit balances

Each Creditor Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from the Borrower to that Creditor Party under any of the Finance Documents; and

- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars;
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

22.2 Existing rights unaffected

No Creditor Party shall be obliged to exercise any of its rights under Clause 22.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

22.3 Sums deemed due to a Lender

For the purposes of this Clause 22 (*Set-Off*), a sum payable by the Borrower to the Facility Agent for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to such Lender.

22.4 No Security Interest

This Clause 22 (*Set-Off*) gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

23 BAIL-IN

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each Party acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-in Action in relation to any such liability.

24 CHANGES TO THE LENDERS

24.1 Transfer by a Lender

Subject to Clause 24.2 (*Conditions of assignment or transfer*), Clause 24.5 (*No transfer without Transfer Certificate*), Clause 24.17 (*Assignment or transfer to SACE*) and Clause 24.14 (*Change of Facility Office*), a Lender (the “**Transferor Lender**”) may at any time provided they have obtained the prior written consent of the Italian Authorities cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or
- (c) a combination of (a) and (b),

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, in whole or in part any of its Affiliates or another bank or financial institution or a trust, fund, insurance or reinsurance company or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a “**Transferee Lender**”) by delivering to the Facility Agent a completed certificate in the form set out in Schedule 4 (*Form of Transfer Certificate*) with any modifications approved or required by the Facility Agent (a “**Transfer Certificate**”) executed by the Transferor Lender and the Transferee Lender.

However any rights and obligations of the Transferor Lender in its capacity as Facility Agent or Security Trustee will have to be dealt with separately in accordance with the provisions of Clauses 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*) and 27 (*The Security Trustee*) respectively.

24.2 Conditions of assignment or transfer

- (a) The consent of the Borrower is required at all times (subject to the provisions of Clauses 24.5 (*No transfer without Transfer Certificate*) and 24.17 (*Assignment or transfer to SACE*)) for an assignment or transfer by an Transferor Lender, unless (i) there is an Event of Default or (ii) the assignment or transfer is to another Lender or an Affiliate of a Lender or a vehicle (including trusts or funds) whose majority shares or notes are held by a Lender or an Affiliate of a Lender.
- (b) The consent of the Borrower to an assignment or transfer must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent ten (10) Business Days after the Transferor Lender has requested it unless consent is expressly refused by that Borrower within that time.
- (c) The assignment or transfer must be with respect to a minimum Commitment of [*] Dollars (\$[*]) or, if less, the Transferor Lender’s full Commitment.

24.3 Transfer Certificate, delivery and notification

As soon as reasonably practicable after a Transfer Certificate is delivered to the Facility Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrower, any other Obligors, the Security Trustee and each of the other Lenders;

- (b) on behalf of the Transferee Lender, send to the Borrower and each Obligor letters or faxes notifying them of the Transfer Certificate and attaching a copy of it; and
- (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above,

but the Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Transferor Lender and the Transferee Lender once it is satisfied that itself and the Security Trustee have complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the transfer to that Transferee Lender.

24.4 Effective Date of Transfer Certificate

A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date, provided that it is signed by the Facility Agent under Clause 24.3 (*Transfer Certificate, delivery and notification*) on or before that date.

24.5 No transfer without Transfer Certificate

Except as provided in Clause 24.16 (*Security over Lenders’ rights*), no assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, the Borrower, any Obligor, the Facility Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

24.6 Lender re-organisation; waiver of Transfer Certificate

However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the “**successor**”), the Facility Agent may, if it sees fit, by notice to the successor and the Borrower and the Security Trustee waive the need for the execution and delivery of a Transfer Certificate; and, upon service of the Facility Agent’s notice, the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender.

24.7 Effect of Transfer Certificate

A Transfer Certificate takes effect in accordance with English law as follows:

- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender’s title and of any rights or equities which the Borrower or any Obligor had against the Transferor Lender;
- (b) the Transferor Lender’s Commitment is discharged to the extent specified in the Transfer Certificate;
- (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
- (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Facility Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;

- (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate's effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the Transferor Lender, assuming that any defects in the Transferor Lender's title and any rights or equities of the Borrower or any Obligor against the Transferor Lender had not existed;
- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) and Clause 9 (*Fees*), and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and
- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of the Borrower or any Obligor referred to above include, but are not limited to, any right of set off and any other kind of cross-claim.

24.8 Maintenance of register of Lenders

During the Security Period the Facility Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the Facility Office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 24.4 (*Effective Date of Transfer Certificate*)) of the Transfer Certificate; and the Facility Agent shall make the register available for inspection by any Lender, the Security Trustee and the Borrower during normal banking hours, subject to receiving at least 3 Business Days' prior notice.

24.9 Reliance on register of Lenders

The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Facility Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.

24.10 Authorisation of Facility Agent to sign Transfer Certificates

The Borrower, the Security Trustee and each Lender irrevocably authorise the Facility Agent to sign Transfer Certificates on its behalf.

24.11 Fees and Costs

In respect of any Transfer Certificate:

- (a) the Facility Agent shall be entitled to recover a registration fee of five thousand Euros (€5,000) from the Transferor Lender or (at the Facility Agent's option) the Transferee Lender;

- (b) the Transferee Lender shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation legal costs and out of pocket expenses, incurred by the Facility Agent or the Lenders in connection with any necessary amendment to or supplementing of the Transaction Documents or any of them or the SACE Insurance Policy as a consequence of the assignment or transfer; and
- (c) the Transferee Lender shall pay to the Facility Agent, upon demand, such amount as is payable to the Italian Authorities to cover its costs of giving its approval under Clause 24.1 (*Transfer by a Lender*).

24.12 Sub-participation; subrogation assignment

A Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the Borrower, any Obligor, the Facility Agent or the Security Trustee but with the prior written consent of SACE.

24.13 Disclosure of information

A Lender may disclose to a potential Transferee Lender or sub participant any information which the Lender has received in relation to the Borrower, any Obligor or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature.

24.14 Change of Facility Office

Subject to the prior written consent of SACE, a Lender may change its Facility Office by giving notice to the Facility Agent and the change shall become effective on the later of:

- (a) the date on which the Facility Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect, provided that 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 or an increased payment to the new Lender or Lender acting through its new Facility Office under Clause 10 (*Taxes, Increased Costs, Costs and related Charges*), 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.

24.15 Notification

On receiving such a notice, the Facility Agent shall notify the Borrower and the Security Trustee; and, until the Facility Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the Facility Office of which the Facility Agent last had notice.

24.16 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 24 (*Changes to the Lenders*) each Lender may without consulting with or obtaining consent from the Borrower or any Obligor but subject to the prior written consent of SACE, 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 (i) to the benefit of any Affiliate and/or (ii) within the framework of its, or its Affiliates', direct or indirect funding operations including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve, central bank or a multilateral development bank (including the European Investment Bank and the European Investment Fund); and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities;

except that no such charge, assignment or Security Interest shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
- (ii) alter the obligations of the Obligor or require any payments to be made by the Borrower or any Obligor 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.

Notwithstanding any provision to the contrary, upon the enforcement of any charge, assignment or other Security Interest referred to in paragraph (a) above, the beneficiary thereof (the "Beneficiary") shall deliver a notice of that enforcement to the Facility Agent (such notice to take effect in accordance with its terms) and the Beneficiary shall, upon fulfilment of the conditions referred to in Clauses 24.2 and 24.3, become party as a new Lender in respect of the rights which are subject to that charge, assignment or Security Interest.

The Borrower shall comply with all necessary formalities, if any, and take all steps necessary in order to ensure the enforceability, recognition, priority and enforcement of the charge, assignment or Security Interest granted pursuant to this Clause 24.16.

24.17 Assignment or transfer to SACE or as directed by SACE

- (a) Notwithstanding the above provisions of this Clause 24 (*Changes to the Lenders*) each Lender and the Facility Agent may, if so requested by SACE in accordance with the provisions of the SACE Insurance Policy and without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights and obligations to SACE or to any person specified by SACE (but for the avoidance of doubt, SACE will not assume any of the Lenders' obligations (if any) under this Agreement), which assignment or transfer shall take effect upon the date stated in the relevant documentation subject to the relevant parties being satisfied that they have complied with all necessary "know your customer" requirements in relation to such assignment or transfer.
- (b) The Facility Agent shall promptly notify the Borrower of any such assignment or transfer to SACE (or as directed by SACE) and, following an Event of Default, the Borrower shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.18 Assignment or transfer by SACE

- (a) SACE may, without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights under this Agreement, the Finance Documents or the SACE Insurance Policy to:
 - (i) providers of reinsurance, counter-guarantee or any form of risk enhancement (in each case, in favour of SACE);
 - (ii) pursuant to article 32 of the Italian law decree no. 91/2014 converted into law 116/2014; or
 - (iii) following any payment under the SACE Insurance Policy, any person.
- (b) The Facility Agent shall promptly notify the Obligors of such assignment or transfer by SACE and, following an Event of Default, the Obligors shall pay to the Facility Agent, within three (3) Business Days of a demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.19 No prejudice to SACE rights

Nothing in the Finance Documents shall prejudice or otherwise limit:

- (a) the rights of any Lender to assign its rights or transfer its rights and obligations, under or in connection with, any Finance Document, to SACE or as directed by SACE, or the rights of SACE to assign its rights or (as the case may be) transfer its rights and obligations pursuant to Clause 24.18 (*Assignment or transfer by SACE*); and
- (b) the right of SACE to be subrogated to any Lender's rights under, or in connection with, any Finance Document.

24.20 SACE's power to direct

- (a) The Creditor Parties agree and the Obligors acknowledge that SACE has the right to direct the decision making of the Facility Agent, including (without limitation) following an Event of Default; and
- (b) to the extent SACE makes any payment to the Creditor Parties under the SACE Insurance Policy in respect of principal and/or following an assignment or transfer pursuant to Clause 24.17 (*Assignment or transfer to SACE or as directed by SACE*) or Clause 24.18 (*Assignment or transfer by SACE*), SACE shall be entitled to exercise all voting rights with respect to the relevant principal as if the relevant corresponding Commitment had been transferred to it.

24.21 Definition of Affiliate

For the purposes of this Clause 24 (*Changes to the Lenders*), the definition of “Affiliate” in respect of Crédit Agricole Corporate and Investment Bank shall, for the avoidance of doubt, include any other member of Crédit Agricole Group, and in particular:

- (a) Crédit Agricole S.A.;
- (b) Caisses Régionales de Crédit Agricole;
- (c) Crédit Agricole Assurances;
- (d) LCL SA; and/or
- (e) any company or legal entity in which one or more of the companies or entities referred to in paragraphs (a) to (d) above, together or separately, owns a direct majority interest.

25 CHANGES TO THE OBLIGORS

25.1 No change without consent

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

26 ROLE OF THE FACILITY AGENT, THE JOINT MANDATED LEAD ARRANGERS, THE SACE AGENT AND THE REFERENCE BANKS

26.1 Appointment of the Facility Agent

- (a) Each other Creditor Party appoints the Facility Agent to act as its agent under and in connection with this Agreement, the other Finance Documents and the Interest Make-Up Agreement.
- (b) Each other Creditor Party authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

26.2 Duties of the Facility Agent

- (a) The Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Facility Agent receives notice from a Party referring to this Agreement, describing an Event of Default and stating that the circumstance described is an Event of Default, it shall promptly notify the other Secured Parties.
- (d) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Secured Party (other than the Facility Agent or a Joint Mandated Lead Arranger) under this Agreement it shall promptly notify the other Secured Parties.
- (e) The Facility Agent’s duties under the Finance Documents are solely administrative in nature.

26.3 Role of Joint Mandated Lead Arrangers

None of the Joint Mandated Lead Arrangers has any obligations of any kind to any other Party under or in connection with any Transaction Document, the Interest Make-Up Agreement or the SACE Insurance Policy.

26.4 No fiduciary duties

- (a) Nothing in this Agreement constitutes the Facility Agent or any of the Joint Mandated Lead Arrangers as a trustee or fiduciary of any other person.
- (b) Neither the Facility Agent nor any of the Joint Mandated Lead Arrangers shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

26.5 Business with the Guarantor

The Facility Agent and each of the Joint Mandated Lead Arrangers may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Affiliate or Subsidiary of the Guarantor.

26.6 Rights and discretions of the Facility Agent

- (a) The Facility Agent may rely on:
 - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and
 - (ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Event of Default has occurred (unless it has actual knowledge of an Event of Default); and
 - (ii) any right, power, authority or discretion vested in any Party or the Lenders has not been exercised.
- (c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as the Facility Agent under this Agreement.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor any of the Joint Mandated Lead Arrangers 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.

26.7 Lenders' and SACE's instructions

- (a) Unless a contrary indication appears in a Finance Document, the Facility Agent (and in the case of SACE, the SACE Agent) shall:
- (i) exercise any right, power, authority or discretion vested in it as Facility Agent (or as SACE Agent as the case may be) in accordance with any instructions given to it by the Majority Lenders (or in the case of the SACE Agent, by SACE) (or, if so instructed by the Majority Lenders or, in the case of the SACE Agent, by SACE, refrain from exercising any right, power, authority or discretion vested in it as the Facility Agent or as the SACE Agent (as the case may be)); and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders and/or SACE (as applicable).
- (b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders and SACE will be binding on all the Secured Parties.
- (c) The Facility Agent (and the SACE Agent as regards SACE) may refrain from acting in accordance with the instructions of the Majority Lenders and SACE until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.
- (d) In the absence of instructions from the Majority Lenders and SACE, the Facility Agent (or the SACE Agent as the case may be) may act (or refrain from taking action) as it considers to be in the best interest of the Secured Parties.
- (e) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.
- (f) Notwithstanding anything to the contrary, the Lenders agree that if the Facility Agent (acting in its sole discretion) is of the opinion that or if any Lender notifies the Facility Agent that it is of the opinion that, the prior approval of the Italian Authorities should be obtained in relation to the exercise or non-exercise by the Facility Agent or the Lenders of any power, authority or discretion specifically given to them under or in connection with the Finance Documents or in relation to any other incidental rights, powers, authorities or discretions, then the SACE Agent shall seek such approval of the Italian Authorities prior to such exercise or non-exercise.

26.8 Responsibility for documentation

The Facility Agent is not responsible for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, a Joint Mandated Lead Arranger, an Obligor or any other person given in or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-Up Agreement; nor for
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document the SACE Insurance Policy or the Interest Make-Up Agreement or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-up Agreement.

26.9 Exclusion of liability

- (a) Without limiting paragraph (b) of Clause 26.9 (*Exclusion of liability*), the Facility Agent will not be liable for any action taken by it under or in connection with any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement, unless directly caused by its Gross Negligence or wilful misconduct.
- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents, the SACE Insurance Policy or the Interest Make-Up Agreement to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or a Joint Mandated Lead Arranger to carry out any “know your customer” or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent and the Joint Mandated Lead 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 Facility Agent or a Joint Mandated Lead Arranger.

26.10 Lenders’ indemnity to the Facility Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three (3) Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent’s Gross Negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).

26.11 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Creditor Parties, the Borrower and SACE and with the consent of SACE.
- (b) Alternatively the Facility Agent may resign by giving notice to the other Secured Parties and the Borrower, in which case the Lenders (after consultation with the Borrower and the prior consent of SACE) may appoint a successor Facility Agent.
- (c) If the Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) within thirty (30) days after notice of resignation was given, the Facility Agent (after consultation with the Borrower and SACE) may appoint a successor Facility Agent.

- (d) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arranger*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Italian Authorities, the Majority Lenders may, subject to the prior consent of the Italian Authorities, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*). In this event, the Facility Agent shall resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The appointment of a successor Facility Agent pursuant to this Clause 26.11 (*Resignation of the Facility Agent*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

26.12 Confidentiality

- (a) In acting as agent for the Secured Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

26.13 Relationship with the Lenders

The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

26.14 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and each of the Joint Mandated Lead 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 the Guarantor and each Subsidiary of the Guarantor;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the 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;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by 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; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Charged Property, the priority of any Security Interests or the existence of any Security Interest affecting the Charged Property.

26.15 Deduction from amounts payable by the Facility Agent

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

26.16 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Facility Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Facility Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

26.17 SACE Agent, SACE Insurance Policy and Interest Make-Up Agreement

With the prior written consent of each of the Lenders, the SACE Agent (with a copy to the Facility Agent) may require SACE or SIMEST to amend or modify the SACE Insurance Policy and the Interest Make-up Agreement provided that such amendments are not inconsistent with the commercial terms of this Agreement, otherwise, the SACE Agent (with a copy to the Facility Agent) undertakes not to require SACE or SIMEST to amend or modify the SACE Insurance Policy or the Interest Make-up Agreement.

26.18 Resignation of the Facility Agent in relation to FATCA

The Facility Agent shall resign in accordance with Clause 26.11 (*Resignation of the Facility Agent*) (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) of Clause 26.11 (*Resignation of the Facility Agent*)) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:

- (a) the Facility Agent fails to respond to a request under Clause 10.9 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
- (b) the information supplied by the Facility Agent pursuant to Clause 10.9 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (c) the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

26.19 No duty to monitor

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Event of 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.

26.20 Appointment of the SACE Agent

- (a) Each Lender and each Joint Mandated Lead Arranger irrevocably appoints the SACE Agent to act as its agent under and in connection with:
 - (i) the SACE Insurance Policy; and
 - (ii) the Finance Documents in relation to matters involving SACE, SIMEST and the SACE Insurance Policy.
- (b) Each Lender and each Joint Mandated Lead Arranger irrevocably authorises the SACE Agent to:
 - (i) perform the duties, obligation and responsibilities and exercise the rights, powers, authorities and discretions specifically given to the SACE Agent under or in connection with the Finance Documents and the SACE Insurance Policy, together with any other incidental rights, powers, authorities and discretions; and
 - (ii) execute the SACE Insurance Policy.

26.21 Application of certain Clauses

The provisions of Clauses 26.2 (*Duties of the Facility Agent*), 26.4 (*No fiduciary duties*), 26.6 (*Rights and discretions of the Facility Agent*), 26.7 (*Lenders' and SACE's instructions*), 26.8 (*Responsibility for documentation*), 26.9 (*Exclusion of liability*), 26.10 (*Lenders' indemnity to the Facility Agent*), 26.11 (*Resignation of the Facility Agent*), 26.12 (*Confidentiality*), 26.13 (*Relationship with the Lenders*), 26.14 (*Credit appraisal by the Lenders*), 26.16 (*Full freedom to enter into transactions*), 26.19 (*No duty to monitor*) and 27.23 (*Business with the Group*) shall apply in respect of the SACE Agent in its capacity as such as if each reference to the Facility Agent (or Security Trustee in the case of Clause 27.23 (*Business with the Group*)) were a reference to the SACE Agent and each reference to the Finance Documents or Transaction Documents included a reference to the SACE Insurance Policy.

26.22 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 26.22 (*Role of Reference Banks*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

26.23 Third Party Reference Banks

A Reference Bank which is not a Party may rely on Clause 26.22 (*Role of Reference Banks*) and Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

27 THE SECURITY TRUSTEE

27.1 Trust

- (a) The Security Trustee declares that it shall hold the Security Property on trust for the Secured Parties on the terms contained in this Agreement and shall deal with the Security Property in accordance with this Clause 27 (*The Security Trustee*) and the other provisions of the Finance Documents.
- (b) Each of the parties to this Agreement agrees that the Security Trustee shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Finance Documents (and no others shall be implied).
- (c) The Security Trustee shall not have any liability to any person in respect of its duties, obligations and responsibilities under this Agreement or the other Finance Documents except as expressly set out in paragraph (a) of Clause 27.1 (*Trust*) and as excluded or limited by this Clause 27 (*The Security Trustee*) including in particular Clause 27.8 (*Instructions to Security Trustee and exercise of discretion*), Clause 27.13 (*Responsibility for documentation*), Clause 27.14 (*Exclusion of liability*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*), Clause 27.23 (*Business with the Group*) and Clause 27.28 (*Full freedom to enter into transactions*).

27.2 Parallel Debt (Covenant to pay the Security Trustee)

- (a) Each Obligor irrevocably and unconditionally undertakes to pay to the Security Trustee its Parallel Debt which shall be amounts equal to, and in the currency or currencies of, its Corresponding Debt.
- (b) The Parallel Debt of an Obligor:
 - (i) shall become due and payable at the same time as its Corresponding Debt;
 - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For purposes of this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*), the Security Trustee:
 - (i) is the independent and separate creditor of each Parallel Debt;
 - (ii) acts in its own name and not as agent, representative or trustee of the Secured Parties and its claims in respect of each Parallel Debt shall not be held on trust; and
 - (iii) shall have the independent and separate right to demand payment of each Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).

- (d) The Parallel Debt of an Obligor shall be:
- (i) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged; and
 - (ii) increased to the extent that its Corresponding Debt has increased,
- and the Corresponding Debt of an Obligor shall be:
- (A) decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged; and
 - (B) increased to the extent that its Parallel Debt has increased,
- in each case provided that the Parallel Debt of an Obligor shall never exceed its Corresponding Debt.
- (e) All amounts received or recovered by the Security Trustee in connection with this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) to the extent permitted by applicable law, shall be applied in accordance with Clause 19 (*Application of sums received*).
- (f) This Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) shall apply, with any necessary modifications, to each Finance Document.

27.3 No independent power

The Secured Parties shall not have any independent power to enforce, or have recourse to, any Security Interest created by any of the Finance Documents or to exercise any rights or powers arising under the Finance Documents creating the Security Interest except through the Security Trustee.

27.4 Application of receipts

- (a) Except as expressly stated to the contrary in any Finance Document, any moneys which the Security Trustee receives or recovers and which are, or are attributable to, Security Property (for the purposes of this Clause 27 (*The Security Trustee*), the “**Recoveries**”) shall be transferred to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*).
- (b) Paragraph (a) above is without prejudice to the rights of the Security Trustee, any Receiver or any Delegate:
- (i) under Clause 26.10 (*Lenders’ indemnity to the Facility Agent*) to be indemnified out of the Charged Property; and
 - (ii) under any Finance Document to credit any moneys received or recovered by it to any suspense account.
- (c) Any transfer by the Security Trustee to the Facility Agent in accordance with paragraph (a) above shall be a good discharge, to the extent of that payment, by the Security Trustee.

- (d) The Security Trustee is under no obligation to make the payments to the Facility Agent under paragraph (a) of this Clause 27.4 (*Application of receipts*) in the same currency as that in which the obligations and liabilities owing to the relevant Secured Party are denominated.

27.5 Deductions from receipts

- (a) Before transferring any moneys to the Facility Agent under Clause 27.4 (*Application of receipts*), the Security Trustee may, in its discretion:
- (i) deduct any sum then due and payable under this Agreement or any other Finance Documents to the Security Trustee or any receiver and retain that sum for itself or, as the case may require, pay it to another person to whom it is then due and payable;
 - (ii) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
 - (iii) pay all Taxes which may be assessed against it in respect of any of the Security Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).
- (b) For the purposes of paragraph (a)(i) above, if the Security Trustee has become entitled to require a sum to be paid to it on demand, that sum shall be treated as due and payable, even if no demand has yet been served.

27.6 Prospective liabilities

Following acceleration of any Security Interest, the Security Trustee may, in its discretion, or at the request of the Facility Agent, hold any recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) for later payment to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*) in respect of:

- (a) any sum to the Security Trustee, any Receiver or Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Trustee or, in the case of paragraph (b) only, the Facility Agent, reasonably considers, in each case, might become due or owing at any time in the future.

27.7 Investment of proceeds

Prior to the payment of the proceeds of the recoveries to the Facility Agent for application in accordance with Clause 27.4 (*Application of receipts*) the Security Trustee may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) pending the payment from time to time of those moneys in the Security Trustee's discretion in accordance with the provisions of this Clause 27.7 (*Investment of proceeds*).

27.8 Instructions to Security Trustee and exercise of discretion

- (a) Subject to paragraph (d) below, the Security Trustee shall act in accordance with any instructions given to it by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) or, if so instructed by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)), refrain from exercising any right, power, authority or discretion vested in it as Security Trustee and shall be entitled to assume that:
- (i) any instructions received by it from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) are duly given in accordance with the terms of the Finance Documents; and
 - (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.
- (b) The Security Trustee shall be entitled to request instructions, or clarification of any direction, from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Trustee may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Any instructions given to the Security Trustee by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) shall override any conflicting instructions given by any other Party.
- (d) Paragraph (a) above shall not apply:
- (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement requires the Security Trustee to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Trustee's own position in its personal capacity as opposed to its role of Security Trustee for the Secured Parties including, without limitation, the provisions set out in Clauses 27.10 (*Security Trustee's discretions*) to Clause 27.28 (*Full freedom to enter into transactions*); and
 - (iv) in respect of the exercise of the Security Trustee's discretion to exercise a right, power or authority under any of Clause 27.5 (*Deductions from receipts*) and Clause 27.6 (*Prospective liabilities*).

27.9 Security Trustee's Actions

Without prejudice to the provisions of Clause 27.4 (*Application of receipts*), the Security Trustee may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.

27.10 Security Trustee's discretions

- (a) The Security Trustee may:
- (i) assume (unless it has received actual notice to the contrary from the Facility Agent) that (i) no Event of Default has occurred and no Obligor is in breach of or default under its obligations under any of the Finance Documents and (ii) any right, power, authority or discretion vested by any Finance Document in any person has not been exercised;
 - (ii) assume that any notice or request made by the Borrower (other than a Drawdown Notice) is made on behalf of and with the consent and knowledge of all the Obligors;
 - (iii) if it receives any instructions or directions to take any action in relation to a Security Interest under the Finance Documents, assume that all applicable conditions under the Finance Documents for taking that action have been satisfied;
 - (iv) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Trustee or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;
 - (v) act in relation to the Finance Documents through its personnel and agents;
 - (vi) disclose to any other Party any information it reasonably believes it has received as Security Trustee under this Agreement;
 - (vii) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party or an Obligor, upon a certificate signed by or on behalf of that person; and
 - (viii) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received any indemnification and/or security that it may in its discretion require (which may be greater than that contained in the Finance Documents and which may include payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting.
- (b) Notwithstanding any other provision of any Finance Document to the contrary, the Security Trustee is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (c) Notwithstanding any provision of any Finance Document to the contrary, the Security Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion, if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not assured to it.

27.11 Security Trustee's obligations

The Security Trustee shall promptly:

- (a) copy to the Facility Agent the contents of any notice or document received by it from any Obligor under any Finance Document;

- (b) forward to a Party the original or a copy of any document which is delivered to the Security Trustee for that Party by any other Party provided that the Security Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform the Facility Agent of the occurrence of any Event of Default or any default by an Obligor in the due performance of or compliance with its obligations under any Finance Document of which the Security Trustee has received notice from any other party to this Agreement.

27.12 Excluded obligations

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee shall not:

- (a) be bound to enquire as to (i) whether or not any Event of Default has occurred or (ii) the performance, default or any breach by an Obligor of its obligations under any of the Finance Documents;
- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (d) be or be deemed to be an agent, trustee or fiduciary of any Obligor.

27.13 Responsibility for documentation

None of the Security Trustee, any Receiver or Delegate shall accept responsibility or be liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Trustee or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

27.14 Exclusion of liability

- (a) Without limiting Clause 27.15 (*No proceedings*), (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate), none of the Security Trustee or any Receiver nor any Delegate will be liable for:
- (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of any action taken by it or not taken by it under or in connection with any Finance Document or any Security Interest, 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 of the Finance Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Finance Documents or the Security Property;
 - (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
 - (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,
- including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) Nothing in this Agreement shall oblige the Security Trustee to carry out any “know your customer” or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Security Trustee that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Trustee.
- (c) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate, any liability of the Security Trustee, any Receiver or Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Trustee, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Trustee, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Trustee, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Trustee, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

27.15 No proceedings

No Party (other than the Security Trustee or that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Trustee, Receiver or Delegate in respect of any claim it might have against the Security Trustee, Receiver or Delegate in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Property and any officer, employee or agent of the Security Trustee, Receiver or Delegate may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.

27.16 Lenders' indemnity to the Security Trustee

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Security Trustee and every Receiver and every Delegate within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct) in acting as Security Trustee, Receiver or Delegate under the Finance Documents (unless the relevant Security Trustee, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).

27.17 Own responsibility

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Creditor Party confirms to the Security Trustee that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Finance Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) whether that Creditor Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Trustee or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Security Interests created by the Finance Documents or the existence of any Security Interest affecting the Charged Property,

and each Creditor Party warrants to the Security Trustee that it has not relied on and will not at any time rely on the Security Trustee in respect of any of these matters.

27.18 No responsibility to perfect Security Interests

The Security Trustee shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Finance Documents or any Security Interest;
- (c) register, file or record or otherwise protect any Security Interests (or the priority of any of Security Interest) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Finance Documents or of any Security Interest;
- (d) take, or to require any of the Obligors to take, any steps to perfect its title to any of the Charged Property or to render any Security Interest effective or to secure the creation of any ancillary Security Interest under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Finance Documents creating the Security Interests.

27.19 Insurance by Security Trustee

- (a) The Security Trustee shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Finance Documents. The Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.
- (b) Where the Security Trustee is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Facility Agent shall have requested it to do so in writing and the Security Trustee shall have failed to do so within fourteen (14) days after receipt of that request.

27.20 Custodians and nominees

The Security Trustee may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Trustee 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 Trustee 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.

27.21 Acceptance of title

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the 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.

27.22 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Trustee may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

27.23 Business with the Group

The Security Trustee may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

27.24 Winding up of trust

If the Security Trustee, with the approval of the Facility Agent determines that (a) all of the Secured Liabilities and all other obligations secured by the Finance Documents creating the Security Interests have been fully and finally discharged and (b) none of the Secured Parties 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:

- (a) the trusts set out in this Agreement shall be wound up and the Security Trustee shall release, without recourse or warranty, all of the Security Interests and the rights of the Security Trustee under each of the Finance Documents creating the Security Interests; and
- (b) any Retiring Security Trustee shall release, without recourse or warranty, all of its rights under each of the Finance Documents creating the Security Interests.

27.25 Powers supplemental

The rights, powers and discretions conferred upon the Security Trustee by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Trustee by general law or otherwise.

27.26 Trustee division separate

- (a) In acting as trustee for the Secured Parties, the Security Trustee shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Trustee, it may be treated as confidential to that division or department and the Security Trustee shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.

27.27 Disapplication

In addition to its rights under or by virtue of this Agreement and the other Finance Documents, the Security Trustee shall have all the rights conferred on a trustee by the Trustee Act 1925, the Trustee Delegation Act 1999, the Trustee Act 2000 and by general law or otherwise, provided that:

- (a) section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by this Agreement and the other Finance Documents; and
- (b) where there are any inconsistencies between (i) the Trustee Acts 1925 and 2000 and (ii) the provisions of this Agreement and any other Finance Document, the provisions of this Agreement and any other Finance Document shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, such provisions shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000.

27.28 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Security Trustee shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security trustee for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, each Servicing Party shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

27.29 Resignation of the Security Trustee

- (a) The Security Trustee may resign and appoint one of its affiliates as successor by giving notice to the Borrower and each Secured Party.
- (b) Alternatively the Security Trustee may resign by giving notice to the other Parties in which case the Majority Lenders (with the prior consent of SACE) may appoint a successor Security Trustee.

- (c) If the Majority Lenders have not appointed a successor Security Trustee in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Trustee (after consultation with the Facility Agent and SACE) may appoint a successor Security Trustee.
- (d) The retiring Security Trustee (the “**Retiring Security Trustee**”) shall, at its own cost, make available to the successor Security Trustee such documents and records and provide such assistance as the successor Security Trustee may reasonably request for the purposes of performing its functions as Security Trustee under the Finance Documents.
- (e) The Security Trustee’s resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer, by way of a document expressed as a deed, of all of the Security Property to that successor.
- (f) Upon the appointment of a successor, the Retiring Security Trustee shall be discharged, by way of a document executed as a deed, from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 27.24 (*Winding up of trust*) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Trustee, remain entitled to the benefit of Clause 27 (*The Security Trustee*), Clause 27.5 (*Deductions from receipts*), Clause 27.16 (*Lenders’ indemnity to the Security Trustee*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability in acting as Security Trustee. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Majority Lenders may, by notice to the Security Trustee, require it to resign in accordance with paragraph (b) above. In this event, the Security Trustee shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The consent of the Borrower (or any other Obligor) is not required for an assignment or transfer of rights and/or obligations by the Security Trustee.
- (i) The appointment of a successor Security Trustee pursuant to this Clause 27.29 (*Resignation of the Security Trustee*) shall be subject to compliance with all necessary “know your customer” requirements of the Lenders.

27.30 Delegation

- (a) Each of the Security Trustee, any Receiver or any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Finance Documents.
- (b) That delegation may be made upon any terms and conditions and subject to any restrictions that the Security Trustee, that Receiver or that Delegate (as the case may be) considers in its discretion to be appropriate and it shall not be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct or default on the part of any such delegate or sub delegate.
- (c) The Security Trustee shall exercise reasonable care in the selection of any such delegate or sub delegate.

27.31 Additional Security Trustee

- (a) The Security Trustee 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 appropriate; or
 - (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Trustee deems to be relevant; or
 - (iii) for obtaining or enforcing any judgment in any jurisdiction,and the Security Trustee shall give prior notice to the Borrower and the Facility Agent of that appointment.
- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Trustee by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Trustee 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 Trustee.

27.32 Financial Services and Markets Act 2000

- (a) Notwithstanding anything in any Finance Document to the contrary, the Security Trustee shall not do, or be authorised or required to do, anything which might constitute a regulated activity for the purpose of the Financial Services and Markets Act 2000 (“**FSMA**”), unless it is authorised under FSMA to do so.
- (b) The Security Trustee shall have the discretion at any time:
 - (i) to delegate any of the functions which fall to be performed by an authorised person under FSMA to any other agent or person which also has the necessary authorisations and licences; and
 - (ii) to apply for authorisation under FSMA and perform any or all such functions itself if, in its absolute discretion, it considers it necessary, desirable or appropriate to do so.

28 CONDUCT OF BUSINESS BY THE CREDITOR PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Creditor Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Creditor 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 Creditor Party to disclose any information relating to its affairs (Tax or otherwise) or any computations in respect of Tax.

29 SHARING AMONG THE CREDITOR PARTIES

29.1 Payments to Creditor Parties

If a Creditor Party (a “**Recovering Creditor Party**”) receives or recovers any amount from an Obligor other than in accordance with Clause 29 *Sharing among the Creditor Parties*) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Creditor Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Facility Agent;
- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Creditor Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Creditor Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the “**Sharing Payment**”) equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Creditor Party as its share of any payment to be made, in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Creditor Parties (other than the Recovering Creditor Party) in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.3 Recovering Creditor Party’s rights

- (a) On a distribution by the Facility Agent under Clause 29.2 (*Redistribution of payments*), the Recovering Creditor Party will, if possible under the relevant applicable laws, be subrogated to the rights of the Creditor Parties which have shared in the redistribution.
- (b) If and to the extent that the Recovering Creditor Party is not able to rely on its rights under paragraph (a) of Clause 29.3 *Recovering Creditor Party’s rights*), the relevant Obligor shall be liable to the Recovering Creditor Party for a debt equal to the Sharing Payment which is immediately due and payable.

29.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Creditor Party becomes repayable and is repaid by that Recovering Creditor Party, then:

- (a) each Lender which has received a share of the relevant Sharing Payment pursuant to Clause 29.2 *Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Creditor 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 Creditor Party for its proportion of any interest on the Sharing Payment which that Recovering Creditor Party is required to pay); and

- (b) that Recovering Creditor Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Creditor Party for the amount so reimbursed.

29.5 Exceptions

- (a) This Clause 29 (*Sharing among the Creditor Parties*) shall not apply to the extent that the Recovering Creditor Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Creditor Party is not obliged to share with any other Creditor Party any amount which the Recovering Creditor Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Creditor Party of the legal or arbitration proceedings; and
 - (ii) that other Creditor 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.
- (c) Following full indemnification by SACE of the SACE Agent (on behalf of the Lenders) under the SACE Insurance Policy, the provisions relating to the sharing of proceeds among the Creditor Parties in this Clause 29 (*Sharing among the Creditor Parties*) shall not apply to any payment made to SACE by a Lender or the Borrower following a payment by SACE to any Lender under the SACE Insurance Policy.

30 PAYMENT MECHANICS

30.1 Payments to the Facility 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 Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to Euro, in a principal financial centre in a Participating Member State or London) with such bank as the Facility Agent specifies.
- (c) Payment shall be made before 11.00 a.m. New York time or 11.00 a.m. Paris time (in the case of a payment in Euro).
- (d) For each payment by the Borrower, it shall notify the Facility Agent on the third Business Day prior to the due date for payment that it will issue to its bank (which shall be named in such notification) to make the payment.

30.2 Distributions by the Facility Agent or the SACE Agent

Each payment received by the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party shall, subject to Clause 30.3 (*Distributions to an Obligor*), Clause 30.4 (*Clawback*) be made available by the Facility Agent or SACE Agent (as the case may be) as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent (following which the Facility Agent shall promptly notify the SACE Agent, if relevant to it) by not less than five (5) Business Days' notice with a bank in the principal financial centre of the country of that currency.

30.3 Distributions to an Obligor

The Facility Agent may in accordance with Clause 22 (*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.

30.4 Clawback

- (a) Where a sum is to be paid to the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

30.5 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.

30.6 Business Days

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (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.

30.7 Currency of account

- (a) Subject to paragraphs (b) and (c) of Clause 30.7 (*Currency of account*) Dollars is the currency of account and payment for any sum from an Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than Dollars shall be paid in that other currency.

30.8 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
- (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Lenders and 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 Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Lenders and the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

30.9 Distributions under the Interest Make-up Agreement

Each payment received by the Facility Agent under the Interest Make-up Agreement for a Lender shall be made available by the Facility Agent as soon as practicable after receipt to the Lender entitled to receive such payment in accordance with this Agreement (for the account of its Facility Office), to such account as that Lender may notify to the Facility Agent by not less than five (5) Business Days' notice with a bank 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).

31 VARIATIONS AND WAIVERS

31.1 Variations, waivers etc. by Majority Lenders

Subject to Clause 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), a document shall be effective to vary, waive, amend, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by fax, by the Borrower, by the Facility Agent on behalf of the Majority Lenders, by the Facility Agent and the Security Trustee in their own rights, and, if the document relates to a Finance Document to which an Obligor is party, by an Obligor (provided that no amendment or variation may be made to this Agreement or any other Finance Document without the consent of the Italian Authorities); provided, further, that no amendment or variation may be made before the date falling ten Business Days after the terms of that amendment or variation have been notified by the Facility Agent to the Lenders. The Facility Agent shall notify the Lenders reasonably promptly of any amendments or variations proposed by the Borrower.

31.2 Variations, waivers etc. requiring agreement of all Lenders

However, as regards the following, Clause 31.1 (*Variations, waivers etc. by Majority Lenders*) applies as if the words “by the Facility Agent on behalf of the Majority Lenders” were replaced by the words “by or on behalf of every Lender”:

- (a) a reduction in the Margin;
- (b) a postponement to the date for, or a reduction in the amount of, any payment of principal, interest, fees, commission or other sum payable under this Agreement;
- (c) an increase in or extension of any Lender’s Commitment, including, for the avoidance of doubt, any increase arising pursuant to the provisions of Clause 8.1 *FACE Premium*), any increase arising pursuant to the definition of Base Rate in Clause 1.1 (*Definitions*), any increase arising pursuant to the definition of Maximum Loan Amount in Clause 1.1 (*Definitions*) or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Loan;
- (d) a change to the definition of “**Majority Lenders**”;
- (e) a change to Clause 2 (*Facility*), Clause 6 (*Interest*), Clause 24 (*Changes to the Lenders*) or this Clause 31 (*Variations and Waivers*);
- (f) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
- (g) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender’s consent is required.

31.3 Exclusion of other or implied variations

Except for a document which satisfies the requirements of Clauses 31.1 (*Variations, waivers etc. by Majority Lenders*) and 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower or an Obligor of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

32 NOTICES

32.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

32.2 Addresses for communications

A notice shall be sent:

- (a) to the Borrower: 7665 Corporate Center Drive
Miami FL 33126 USA
Fax No: (00) 1 305 436 4140
- (b) to a Lender: At the address below its name in Schedule 1 (*Lenders and Commitments*) or (as the case may require) in the relevant Transfer Certificate.
- (c) to the Facility Agent: CIB- COO Office-TMEF
Millénaire 4
35 rue de la gare
75019 Paris
Fax No. (33) 1 43 16 81 84
Email: sylvie.casetcarricaburu@bnpparibas.com;
beatrice.sohier@bnpparibas.com
Attn: Attention: S. CASET-CARRICABURU/B. SOHIER
- (d) to the SACE Agent: 12, place des Etats-Unis
CS 70052
92547 Montrouge cedex
Paris
Fax No. (33) 1 41 89 19 34
Email: clementine.costil@ca-cib.com; romy.rousseau@ca-cib.com
Attn: Shipping Middle Office – Ms Clémentine Costil and Romy Roussel
- (e) to the Security Trustee: 8 Canada Square
London
E14 5HQ
Fax: +44 20 7991 4350
Email: Ctla.trustee.admin@hsbc.com
Attention: CTLA Trustee Services Administration

or to such other address as the relevant party may notify the Facility Agent or, if the relevant party is the Facility Agent, the Borrower and the Lenders.

32.3 Effective date of notices

Subject to Clauses 32.4 (*Service outside business hours*) and 32.5 (*Electronic communication*):

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered;
- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.

32.4 Service outside business hours

However, if under Clause 32.3 (*Effective date of notices*) a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
- (b) on such a business day, but after 6 p.m. local time;

the notice shall (subject to Clause 32.5 (*Electronic communication*)) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

32.5 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means, to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

32.6 Illegible notices

Clauses 32.3 (*Effective date of notices*) and 32.4 (*Service outside business hours*) do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

32.7 Valid notices

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

32.8 English language

Any notice under or in connection with a Finance Document shall be in English.

32.9 Meaning of “notice”

In this Clause 32 (*Notices*), “notice” includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

33 CONFIDENTIALITY

33.1 Confidential Information

Each Creditor Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 (*Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

33.2 Disclosure of Confidential Information

Any Creditor Party may disclose:

- (a) to the Italian Authorities, to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Creditor Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person’s Affiliates, Representatives and professional advisers;
 - (ii) who is an insurer or reinsurer of any Creditor Party and requests such information;

- (iii) 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, Representatives and professional advisers;
- (iv) appointed by any Creditor Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
- (v) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
- (vi) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (viii) who is a Party, a member of the Group or any related entity of an Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document; or
- (x) with the consent of the Guarantor; or
- (xi) any employee, officer, director or Representative of any Italian Authorities to whom information is required to be disclosed in the course of such person's employment or duties;
- (xii) to whom or for whose benefit that Creditor Party charges, assigns or otherwise creates a Security Interest (or may do so) pursuant to Clause 24.16 *Security over Lenders' rights*).

in each case, such Confidential Information as that Creditor Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii) and (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to paragraph (b)(v) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;

- (C) in relation to paragraphs (b)(vi), (b)(vii) and (b)(xii) 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 Creditor Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Creditor Party or by a person to whom sub-paragraphs (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Creditor Party;
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the 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.

33.3 Entire agreement

This Clause 33 (*Confidentiality*) constitutes the entire agreement between the Parties in relation to the obligations of the Creditor Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

33.4 Disclosure to information services

- (a) Any Creditor Party may disclose to any national or international information service company such as Dealogic, TF, GTR, TXF, IFR and any other similar information service company appointed by that Creditor Party, the following information:
- (i) names of Parties;
 - (ii) country of domicile of Obligors;
 - (iii) place of incorporation of Obligors;
 - (iv) date of this Agreement and Effective Date;
 - (v) Clause 38 (*Governing Law*);
 - (vi) the name of the Facility Agent;
 - (vii) amount of Total Commitments;

- (viii) currency of the Facility;
- (ix) type of Facility;
- (x) ranking of Facility; and
- (xi) duration of Facility,

to enable such information service company to provide its usual services.

- (b) Each Obligor represents that none of the information set out in sub-paragraphs (i) to (xi) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.

33.5 Inside information

Each of the Creditor Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Creditor Parties undertakes not to use any Confidential Information for any unlawful purpose.

33.6 Notification of disclosure

Each of the Creditor Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(vi) of Clause 33.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 33 (*Confidentiality*).

33.7 Continuing obligations

The obligations in this Clause 33 (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each Creditor Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Creditor Party otherwise ceases to be a Creditor Party.

33.8 Disclosure by SACE

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information:

- (a) as required to be disclosed by applicable law, regulation, rule or order of a competent authority in the context of litigation, arbitration or administrative proceedings to which SACE is subject or as required to be disclosed as a consequence of the participation of SACE and/or the Republic of Italy to an international organisation of which SACE and/or the Republic of Italy is a member (and in such event, upon notification from SACE, the SACE Agent shall inform the Obligors of such requirement as soon as reasonably practicable to the extent permitted by law, regulation, rule or order of a competent authority and the person to whom such Confidential Information is to be given is informed of its confidential nature);
- (b) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (c) to any providers of any reinsurance, counter-guarantee or any form of risk enhancement (including but not limited to SACE's agents, brokers and consultants) subject to such persons entering into confidentiality arrangements with SACE unless such persons are subject to professional obligations of confidentiality;
- (d) if required for the purposes of the state guarantee in favour of SACE pursuant to article 32 of law-decree no. 91/2014 converted into law 116/2014 in the Republic of Italy;
- (e) following any payment due under the SACE Insurance Policy; or
- (f) with the consent of the Borrower, such consent not to be unreasonably withheld.

33.9 Disclosure by SIMEST

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information to SIMEST provided that SIMEST may, in turn, disclose such Confidential Information:

- (a) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (b) to its professional advisers provided that such advisers are under a professional duty to keep such information confidential;
- (c) to providers of hedging arrangements entered into by SIMEST in connection with the Facility (including their agents, brokers and consultants) subject to such persons undertaking confidentiality obligations with SIMEST (unless they are subject to professional duties of confidentiality) and with the written consent of the Borrower (such consent not to be unreasonably withheld); or
- (d) with the consent of the Borrower.

33.10 Press release

Neither SACE nor the Borrower will issue any press release or make any public announcement in relation to the SACE Insurance Policy without the prior consent of the other party (such consent not to be unreasonably withheld).

34 CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

34.1 Confidentiality and disclosure

- (a) The Facility Agent and the Borrower agree to keep each Funding Rate (and, in case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.

- (b) The Facility Agent may disclose any Funding Rate or Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation and the Borrower may disclose any Funding Rate to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives, if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this sub-paragraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
 - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
 - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
 - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.

34.2 Related obligations

- (a) The Facility Agent and the Borrower acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and the Borrower undertake not to use any Funding Rate (or, in the case of the Facility Agent, any Reference Bank Quotation) for any unlawful purpose.

- (b) The Facility Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (c) of Clause 34.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

35 LEGAL INDEPENDENCE AND UNCONDITIONAL OBLIGATIONS OF THE BORROWER

35.1 Legal independence and Unconditional Obligations of the Borrower

This Agreement is legally independent from the Shipbuilding Contract. The obligations of the Borrower to make payments and to observe and perform its obligations under the Transaction Documents are absolute, unconditional, irrevocable and several and such obligations shall not:

- (a) in any way be affected or discharged by reason of any matter affecting the Shipbuilding Contract including its performance, frustration or validity, the insolvency or dissolution of any party to the Shipbuilding Contract or the destruction, non-completion or non-functioning of the goods and equipment supplied under the Shipbuilding Contract;
- (b) in any way be affected or discharged by reason of any dispute under the Shipbuilding Contract or any claim which it or any other person may have against, or consider that it has against, any person under the Shipbuilding Contract;
- (c) in any way be affected or discharged by reason of unenforceability, illegality or invalidity of any obligation of the Borrower or any other person under the Shipbuilding Contract or any documents or agreements relating to the Shipbuilding Contract;
- (d) in any way be affected by the fact that all or any part of the amount requested referred to in the Drawdown Notice is not or was not due or payable to the Builder;
- (e) be conditional on the performance by the Creditor Parties of any obligations (except as otherwise stated herein) in order to give rise to a relevant obligation of the Borrower hereunder; or
- (f) in any way be affected or discharged by the insolvency or dissolution of the Borrower.

36 SACE SUBROGATION AND REIMBURSEMENT

36.1 Acknowledgement of Subrogation

Each of the Parties acknowledges that, upon any payment being made by or on behalf of SACE of any amount under the SACE Insurance Policy, SACE will be immediately and automatically subrogated to the rights of the Lenders in the amount of such payment under the Finance Documents in accordance with the SACE Insurance Policy. Following such subrogation, the Creditor Parties shall provide all assistance required by SACE to enforce its rights under this Agreement and the other Finance Documents.

36.2 Reimbursement

- (a) Without prejudice to Clause 36.1 (*Acknowledgement of Subrogation*), each Obligor, jointly and severally undertakes to pay to SACE, and keep SACE indemnified from and against, each and every amount paid (whether by direct payment or set-off) by SACE to the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy;
- (b) Each Obligor undertakes to pay SACE an amount in Dollars equal to:
 - (i) for each payment made by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such payment; and
 - (ii) for each deduction or withholding imposed, levied, collected, withheld or assessed on any payment by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such deduction or withholding,

in each case together with interest thereon (calculated in accordance with Clause 17.1 *Default rate of interest*) of this Agreement).

- (c) Each Obligor further agrees that its obligations under this Clause 36.2 (*Reimbursement*) are separate from and in no way conditional upon the Obligor's obligations under this Agreement or any of the other Finance Documents and will not be affected or discharged by any matter relating thereto including, but not limited to, whether or not the Obligor is itself liable to make payment, or is disputing its liability to make payment, under this Agreement or any of the other Finance Documents.
- (d) SACE will promptly inform the Obligors of any amounts to be reimbursed and indemnified under this Clause 36.2 (*Reimbursement*).
- (e) Each amount that is payable by the Obligors pursuant to Clause 36.2 (*Reimbursement*) is due and payable to SACE in Dollars within five (5) Business Days of demand by SACE to the Obligors.

36.3 Obligations Absolute

The obligations of the Obligors under this Clause 36.2 (*Reimbursement*), to the extent permitted by applicable law:

- (a) are absolute and unconditional;
- (b) are to be discharged and/or performed strictly in accordance with this Agreement under all circumstances;
- (c) are continuing obligations and will extend to the ultimate balance of sums payable by SACE to any Creditor Party or any person on any of their behalf under the SACE Insurance Policy, regardless of any intermediate payment or discharge in whole or in part;
- (d) will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under Clause 36.2 (*Reimbursement*) (without limitation and whether or not known to it or any Creditor Party) including:
 - (i) any time, waiver or consent granted to, or composition with any Obligor;

- (ii) any lack of validity or enforceability of, or any amendment or other modifications of, or waiver with respect to, any of the Finance Documents;
- (iii) any reduction or release of any other obligations under this Agreement;
- (iv) the release of any Obligor or any other person under the terms of any composition or arrangement;
- (v) the taking, variation, compromise, exchange, renewal, discharge, substitution or release of, or refusal or neglect to perfect, take up, realise or enforce, any rights against, or security over assets of, any Obligor or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (vi) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor, any Creditor Party or any other person;
- (vii) any amendment (however fundamental) or replacement of a Finance Document, the SACE Insurance Policy or any other document or security;
- (viii) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, the SACE Insurance Policy or any other document or security;
- (ix) any insolvency or similar proceedings;
- (x) the existence of any claim, set-off, defence, reduction, abatement or other right which any Obligor may have at any time against SACE;
- (xi) any document presented in connection with the SACE Insurance Policy proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
- (xii) any payment by SACE against presentation of a demand for payment substantially, on its face, in the form of a claim under the SACE Insurance Policy where any certificate or other document required to be provided with such claim in accordance with the terms of the SACE Insurance Policy either is not provided or does not comply with the terms of the SACE Insurance Policy; and
- (xiii) any other circumstances which might otherwise constitute a defence available to, or discharge of any Obligor.

37 SUPPLEMENTAL

37.1 Rights cumulative, non-exclusive

The rights and remedies which the Finance Documents give to each Secured Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and

- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

37.2 Severability of provisions

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

37.3 Counterparts

A Finance Document may be executed in any number of counterparts.

37.4 Third party rights

- (a) Except for SACE, SIMEST and their successors, transferees and assignees or as otherwise provided in a Finance Document, a person who is not a Party has no right under the Third Party Act to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any provision of any Finance Document, the consent of any person (other than SACE, SIMEST or their successors, transferees and assignees) who is not a party to a Finance Document is not required to rescind, vary or terminate any Finance Document at any time.
- (c) Subject to the provisions of the Third Party Act, and without prejudice to the provisions of paragraphs (a) and (b) above, each of SACE and/or SIMEST (as applicable) has the right to enforce and to enjoy the benefit of Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clause 20.2 (*Breakage costs and SIMEST arrangements*), Clause 20.3 (*Miscellaneous indemnities*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 10.6 (*VAT*), Clause 10.13 (*SACE obligations*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), 33.10 (*Press release*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable).
- (d) Any amendment or waiver which relates to the rights of SACE and/or SIMEST (as applicable) under this Agreement, including under Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 20.3 (*Miscellaneous indemnities*), Clause 10.6 (*VAT*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), 33.10 (*Press release*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable) may not be effected without the consent of SACE and/or SIMEST (as applicable).

37.5 No waiver

No failure or delay on the part of a Secured Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise thereof preclude any other or further exercise thereof by the Secured Parties or the exercise by the Secured Parties of any other right, power or privilege. The rights and remedies of the Secured Parties herein provided are cumulative and not exclusive of any rights or remedies provided by law.

37.6 Writing required

This Agreement shall not be capable of being modified otherwise than by an express modification in writing signed by the Borrower, the Facility Agent and the Lenders.

37.7 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under paragraph (e) of Clause 12.2 (*Information*), Clause 12.4 (*Sanctions and Illicit Payments*), Clause 12.5 (*Prohibited Payments*), Clause 12.25 (*Compliance with laws etc.*) or provisions contained in Clause 20.3 (*Miscellaneous indemnities*) or Clause 21.1 (*Illegality and Sanctions*) and the representations and warranties given under paragraphs (u), (v), (y), (z) and (jj) of Clause 11.2 (*Continuing representations and warranties*) and paragraph (j) of Clause 11.3 (*Representations on the Delivery Date*) respectively (the “**Sanctions Provisions**”) shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.
- (b) If a Creditor Party elects to be a Restricted Creditor Party, in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a “**Relevant Action**”), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

38 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with English law.

39 ENFORCEMENT

39.1 Jurisdiction of English Courts

The courts of England have exclusive jurisdiction to settle any Dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a “**Dispute**”). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

39.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.

If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within 15 days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

40 WAIVER OF IMMUNITY

40.1 To the fullest extent permitted by applicable law, the Borrower hereby irrevocably and unconditionally:

- (a) submits to the jurisdiction of the English courts in accordance with Clause 38 (Enforcement) and agrees not to claim any sovereign or other immunity from the jurisdiction of any such court;
- (b) submits to the jurisdiction of the English courts in respect of any proceedings arising out of or connected with the enforcement and/or execution of any judgment made against it and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to the recognition of any such judgment or court order and agrees to ensure that no such claim is made on its behalf;
- (c) consents generally in respect of any such proceedings to the giving of any relief in the English courts and the courts of any other jurisdiction whether before or after a final judgment including, without limitation: suit, relief by way of interim or final injunction or order for specific performance or recovery of any property, attachment of its assets prior to judgment, other attachment, the obtaining of judgment and enforcement or execution against any property, revenues or other assets whatsoever (irrespective of their use or intended use) and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to such enforcement and the giving of such relief (including to the extent that such immunity may be attributed to it) against itself or with respect to its assets, and agrees to ensure that no such claim is made on its behalf or with respect to its assets;
- (d) waives any right of immunity which it or its assets now has or may subsequently acquire; and
- (e) agrees not to claim any sovereign or other immunity from service of process against its assets or revenues for the enforcement of a judgment or an action in rem, for the arrest, detention or sale of any of its assets and revenues.

40.2 The Borrower agrees that in any proceedings in the English courts this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 (the "Act") and that this waiver is intended to be irrevocable for the purposes of such Act.

41 EFFECTIVE DATE

This Agreement and the other Finance Documents shall not come into force or have any legal effect until the occurrence of the Effective Date.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

LENDERS AND COMMITMENTS

| Lender | Facility Office | Commitment (%) | Amount (USD) |
|---|---|-----------------------|---------------------|
| Banco Santander S.A. | Avda. Cantabria s/n. 28660 Boadilla del Monte, Madrid, Spain | [*]% | [*] |
| BNP Paribas Fortis S.A./N.V. | 3, Montagne du Parc, 1 KA1E 1000 Brussels, Belgium | [*]% | [*] |
| Cassa Depositi e Prestiti S.p.A. | Via Goito, 4 – 00185, Rome, Italy | [*]% | [*] |
| Crédit Agricole Corporate and Investment Bank | 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France | [*]% | [*] |
| HSBC Bank plc | Level 2, 8 Canada Square, London E14 5HQ, United Kingdom | [*]% | [*] |
| KfW IPEX-Bank GmbH | Palmengartenstr. 5-9 60325 Frankfurt Germany | [*]% | [*] |
| Société Générale | 29, boulevard Haussmann 75009 Paris France | [*]% | [*] |

SCHEDULE 2

FORM OF DRAWDOWN NOTICE

To: BNP Paribas
Attention: Loans Administration

[.]

DRAWDOWN NOTICE

- 1 We refer to the loan agreement (the “**Loan Agreement**”) dated [.] 2018 and made between, *inter alios*, ourselves, as Borrower, the Lenders, and the Joint Mandated Lead Arrangers referred to therein and yourselves as Facility Agent in connection with a facility of the Dollar Equivalent of up to € [.] . Terms defined in the Loan Agreement have their defined meanings when used in this Drawdown Notice.
- 2 We request to borrow as follows:-
- (a) Amount:
- (i) [\$.] in respect of the payment of part of the Eligible Amount of the Final Contract Price to be paid to the Builder to the account specified in paragraph (d) below;]
 - (ii) [\$.] in respect of the First Instalment of the SACE Premium to be reimbursed to the Borrower to the account specified in paragraph (d) below;]
 - (iii) [\$.] in respect of the Second Instalment of the SACE Premium to be paid, in accordance with paragraph (d) below to SACE.]
- (b) Drawdown Date: [.] ;
- (c) Duration of the first Interest Period shall be 6 months;
- (d) Payment instructions:
- (i) [in respect of Clause 2(a)(i) above and for the countervalue in EUR at the Conversion Rate:
Beneficiary: FINCANTIERI S.p.A.
[account details to be completed]
 - (ii) [in respect of Clause 2(a)(ii) above:
Beneficiary: LEONARDO FIVE, LTD.
[account details to be completed]
 - (iii) [in respect of Clause 2(a)(iii) above:
Beneficiary: SACE S.p.A.
[account details to be completed]

- 3 We represent and warrant that:
- (a) the representations and warranties in Clauses 11.2 (*Continuing representations and warranties*) and 11.3 (*Representations on the Delivery Date*) of the Loan Agreement would remain true and not misleading if repeated on the date of this notice with reference to the circumstances now existing;
 - (b) no Event of Default has occurred or will result from the borrowing of the Loan.
- 4 This notice cannot be revoked without the prior consent of the Facility Agent.

[Name of Signatory]

Director

for and on behalf of
LEONARDO FIVE, LTD.

SCHEDULE 3

DOCUMENTS TO BE PRODUCED BY THE BUILDER TO THE FACILITY AGENT ON DELIVERY

- 1 Qualifying Certificate, duly signed by the Builder, and the related attachments:
 - 1.1 a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined under the Shipbuilding Contract), as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - 1.2 a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract);
 - 1.3 a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract; and
 - 1.4 a duly executed Exporter Declaration.
 - 2 Certified copy of the acknowledgement of the notice of assignment of the Borrower's rights under the post-delivery warranty given by the Builder under the Shipbuilding Contract pursuant to the Post-Delivery Assignment.
 - 3 Certified Copy of the power of attorney pursuant to which the authorised signatory of the Builder signed the documents referred to in this Schedule 3 *Documents to be produced by the Builder to the Facility Agent on Delivery*) and a specimen of his signature.
 - 4 Evidence that, at the time of delivery of the Ship on the Delivery Date, no encumbrances whatsoever are registered against the Ship in the competent Italian registry of ships under construction.
-

SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

The Transferor and the Transferee accept exclusive responsibility for ensuring that this Certificate and the transaction to which it relates comply with all legal and regulatory requirements applicable to them respectively.

To: [Name of Facility Agent] for itself and for and on behalf of the Borrower, any other Obligor, the Security Trustee and each Lender, as defined in the Loan Agreement referred to below.

[·]

- 1 This Certificate relates to Loan Agreement (the "**Loan Agreement**") dated [·] 2018 and made between (1) LEONARDO FIVE, LTD. (the "**Borrower**"), (2) the banks and financial institutions named therein as lenders (3) BNP Paribas as Facility Agent and (4) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a loan facility of up to \$[·].
- 2 In this Certificate, terms defined in the Loan Agreement shall, unless the contrary intention appears, have the same meanings and:
"Relevant Parties" means the Facility Agent, the Borrower, any other Obligor, the Security Trustee and each Lender.
"Transferee" means [full name] of [facility office].
"Transferor" means [full name] of [facility office].
- 3 The effective date of this Certificate is [·], **provided that** this Certificate shall not come into effect unless it is signed by the Facility Agent on or before that date.
- 4 The Transferor assigns to the Transferee absolutely all rights and interests (present, future or contingent) which the Transferor has as Lender under or by virtue of the Loan Agreement and every other Finance Document in relation to [·] per cent. of its Contribution, which percentage represents \$[·].
- 5 By virtue of this Certificate and clause 24 (*Changes to the Lender*) of the Loan Agreement, the Transferor is discharged [entirely from its Commitment which amounts to \$[·] [from [·] per cent. of its Commitment, which percentage represents \$[·]] and the Transferee acquires a Commitment of [\$][[·].]
- 6 The Transferee undertakes with the Transferor and each of the Relevant Parties that the Transferee will observe and perform all the obligations under the Finance Documents which clause 24 (*Changes to the Lender*) of the Loan Agreement provides will become binding on it upon this Certificate taking effect.
- 7 The Facility Agent, at the request of the Transferee (which request is hereby made) accepts, for the Facility Agent itself and for and on behalf of every other Relevant Party, this Certificate as a Transfer Certificate taking effect in accordance with clause 24 (*Changes to the Lender*) of the Loan Agreement.

- 8 The Transferor:
- (a) warrants to the Transferee and each Relevant Party that:
 - (i) the Transferor has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which are in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferor;
 - (b) warrants to the Transferee that the Transferor is absolutely entitled, free of encumbrances, to all the rights and interests covered by the assignment in paragraph 4 above; and
 - (c) undertakes with the Transferee that the Transferor will, at its own expense, execute any documents which the Transferee reasonably requests for perfecting in any relevant jurisdiction the Transferee's title under this Certificate or for a similar purpose.
- 9 The Transferee:
- (a) confirms that it has received a copy of the Loan Agreement and each of the other Finance Documents;
 - (b) agrees that it will have no rights of recourse on any ground against either the Transferor, the Facility Agent, the Security Trustee or any Lender in the event that:
 - (i) any of the Finance Documents prove to be invalid or ineffective;
 - (ii) the Borrower or any Obligor fails to observe or perform its obligations, or to discharge its liabilities, under any of the Finance Documents;
 - (iii) it proves impossible to realise any asset covered by a Security Interest created by a Finance Document, or the proceeds of such assets are insufficient to discharge the liabilities of the Borrower or other Obligors under the Finance Documents;
 - (c) agrees that it will have no rights of recourse on any ground against the Facility Agent, the Security Trustee or any Lender in the event that this Certificate proves to be invalid or ineffective;
 - (d) warrants to the Transferor and each Relevant Party that:
 - (i) it has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which it needs to take or obtain in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferee; and
 - (e) confirms the accuracy of the administrative details set out below regarding the Transferee.
- 10 The Transferor and the Transferee each undertake with the Facility Agent and the Security Trustee severally, on demand, fully to indemnify the Facility Agent and/or the Security Trustee in respect of any claim, proceeding, liability or expense (including all legal expenses) which they or either of them may incur in connection with this Certificate or any matter arising out of it, except such as are shown to have been mainly and directly caused by the gross and culpable negligence or dishonesty of the Facility Agent's or the Security Trustee's own officers or employees.

11 The Transferee shall repay to the Transferor on demand so much of any sum paid by the Transferor under paragraph 10 as exceeds one-half of the amount demanded by the Facility Agent or the Security Trustee in respect of a claim, proceeding, liability or expense which was not reasonably foreseeable at the date of this Certificate; but nothing in this paragraph shall affect the liability of each of the Transferor and the Transferee to the Facility Agent or the Security Trustee for the full amount demanded by it.

[Name of Transferor]

[Name of Transferee]

By:

By:

Date:

Date:

Facility Agent

Signed for itself and for and on behalf of itself

as Facility Agent and for every other Relevant Party

[Name of Facility Agent]

By:

Date:

Administrative Details of Transferee

Name of Transferee:

Facility Office:

Contact Person

(Loan Administration Department):

Telephone:

Fax:

Contact Person

(Credit Administration Department):

Telephone:

Fax:

Account for payments:

Note: This Transfer Certificate alone may not be sufficient to transfer a proportionate share of the Transferor's interest in the security constituted by the Finance Documents in the Transferor's or Transferee's jurisdiction. It is the responsibility of each Lender to ascertain whether any other documents are required for this purpose.

SCHEDULE 5
QUALIFYING CERTIFICATE

To: BNP Paribas as Facility Agent (the “**Facility Agent**”)

cc: LEONARDO FIVE, LTD. as Borrower

From: Fincantieri S.p.A (the “**Builder**”)

Date: [-]

Dear Sirs,

- 1 We refer to the SACE backed term facility agreement dated [-] 2018 (as supplemented, amended and/or restated from time to time, the “**Facility Agreement**”) and entered into between, among others, the Facility Agent, the Borrower and the financial institutions named therein as Lenders. Terms defined in the Facility Agreement shall have the same meaning when used herein.
- 2 This is a Qualifying Certificate.
- 3 This Qualifying Certificate relates to the Drawdown Notice dated [-].
- 4 We attach hereto the following documents in respect of the Ship to be delivered on the Delivery Date under the Shipbuilding Contract:
 - (a) a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined in the Shipbuilding Contract) as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - (b) a copy (certified as a true copy by the Builder) of the Builder’s Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract) duly executed by the Builder;
 - (c) a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract duly executed by the Builder and the Borrower; and
 - (d) a duly executed Exporter Declaration.
- 5 We hereby certify that the cumulative total amount invoiced by us pursuant to the Contract Price (as defined in the Shipbuilding Contract) paid by the Borrower as direct payment is as follows: €[-] corresponding to not less than twenty per cent. (20)% of the Final Contract Price of the Ship.
- 6 We hereby warrant that:
 - (a) the amount claimed does not include any sum in respect of any matter currently the subject of arbitration or other proceeding nor to the best of our knowledge and belief will it be the subject of arbitration or other proceeding;

- (b) the Shipbuilding Contract has not been terminated, suspended or amended and to the best of our knowledge and belief no action is proceeding which might lead to the termination or suspension thereof;
- (c) all relevant authorisations (if any) in respect of the Ship intended to be financed by the proposed Loan have been obtained and are in full force and effect;
- (d) all documents supplied by us in support of this Qualifying Certificate are in all material respect in conformity with the Shipbuilding Contract and SACE's requirements; you may rely on the accuracy and completeness of all information and documents contained in or supplied with this Qualifying Certificate or delivered pursuant thereto:
 - (i) the goods incorporated in and used for the construction of the Ship have the origin set out in the table below and complies with the requirements of the SACE Insurance Policy; and

| Origin of the goods incorporated in the Ship | Value in percentage of the total Contract Price of the Ship | Relevant portion of the Contract Price of the Ship |
|---|--|---|
| Italian goods | [·]% | € [·] |
| Other EU goods | [·]% | € [·] |
| Extra EU goods (if any) | [·]% | € [·] |
| | Total Contract Price of the Ship (in percentage) = 100% | Total Contract Price of the Ship = € [·] |

- (ii) the aggregate amounts transferred abroad (*importi trasferiti all'estero*) up to the date hereof and to be transferred abroad following the Drawdown Date for any reason connected to the performance of the Shipbuilding Contract, are equal to € [·].

Yours faithfully,

Fincantieri S.p.A
 For and on behalf of the Builder
 (the Authorised Signatory of the Builder)

EXECUTION PAGES

BORROWER

SIGNED by

for and on behalf of
LEONARDO FIVE, LTD.
in the presence of:

) /s/Paul A. Turner

) Paul A. Turner

) Attorney-in-Fact

)

) /s/Ioanna Tsekoura

Ioanna Tsekoura

Solicitor

Clyde & Co LLP

The St. Botolph Building

138 Houndsditch

London EC3A 7AR

United Kingdom

LENDERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND

)

) /s/ Anne-Laure ORANGE

) Anne-Laure ORANGE

/s/Julie AGNÉS

Julie AGNÉS

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

) /s/Véronique DE BLIC

) Véronique DE BLIC

) Head of Export Finance EMEA

)

) /s/Bruno CLOQUET

Bruno CLOQUET

Global Head of Exporters and ECAs Origination

/s/Scheerlinck Lieve

Scheerlinck Lieve

SIGNED by

for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

) /s/Parit Patani

) Parit Patani

) Attorney-in-Fact

)

) /s/Pierre Welch

Pierre Welch

SIGNED by

for and on behalf of
HSBC BANK PLC
in the presence of:

) /s/Philip E Lewis

) Phillip E Lewis

)

) /s/Kirstie Moore

) Kirstie Moore

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

) /s/Francesco De Bartolo

) Francesco De Bartolo
) Head of Execution Export Banca
)
) /s/Giulio Dal Margo

Giulio Dal Margo
Head of International Financing

) /s/Matteo Primicerio

Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

) /s/Jose Luis Vicent

) Jose Luis Vicent
)
) /s/Antonio Sala

) Antonio Sala

) /s/Juan Carlos García Rosas

Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

) /s/Konstantina Kyprianidou

) Konstantina Kyprianidou
) Attorney-in-Fact
)
) /s/Natasha Seel

Natasha Seel
Solicitor
Watson Farley & Williams LLP
28 avenue Victor Hugo
75116 Paris

JOINT MANDATED LEAD ARRANGERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND
)
) /s/Anne-Laure ORANGE

) Anne-Laure ORANGE

) /s/Julie AGNÉS

Julie AGNÉS

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

) /s/Véronique DE BLIC

) Véronique DE BLIC
) Head of Export Finance EMEA

)
) /s/Bruno CLOQUET

Bruno CLOQUET
Global Head of Exporters and ECAs Origination

/s/Scheerlinck Lieve

Scheerlinck Lieve

SIGNED by

for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

) /s/Parit Patani

) Parit Patani
) Attorney-in-Fact
)
) /s/Pierre Welch

Pierre Welch

SIGNED by

for and on behalf of
HSBC BANK PLC
in the presence of:

) /s/Philip E Lewis

) Philip E Lewis
)
) /s/Kirstie Moore

) Kirstie Moore

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

) /s/Francesco De Bartolo

) Francesco De Bartolo
) Head of Execution Export Banca
)
) /s/Giulio Dal Margo

Giulio Dal Margo
Head of International Financing

) /s/Matteo Primicerio

Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

) /s/Jose Luis Vicent

) Jose Luis Vicent
)
) /s/ Antonio Sala

) Antonio Sala

) /s/Juan Carlos García Rosas

Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

) /s/Konstantina Kyprianidou

) Konstantina Kyprianidou
) Attorney-in-Fact
)
) /s/Natasha Seel

Solicitor
Watson Farley & Williams LLP
28 avenue Victor Hugo
75115 Paris

FACILITY AGENT

SIGNED by

for and on behalf of
BNP PARIBAS
in the presence of:

) /s/Luca Lunari

) Luca Lunari
) Head of Export Finance Italy BNP-Paribas
)
) /s/Stefano Leo

) Stefano Leo
) Deputy Head of Export Finance Italy BNP-Paribas

Witness' signature:
Witness' name:
Witness' address:

) /s/Eddie Giraud

) Eddie Giraud
)

SACE AGENT

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND
)
) /s/Anne-Laure ORANGE

) Anne-Laure ORANGE
)

Witness' signature:
Witness' name:
Witness' address:

) /s/Julie AGNÉS

) Julie AGNÉS
)

SECURITY TRUSTEE

SIGNED by

for and on behalf of
**HSBC CORPORATE TRUSTEE
COMPANY (UK) LIMITED**
in the presence of:

) /s/Andrea Stevenson

) Andrea Stevenson
) Authorised Signatory
)
)

Witness' signature:
Witness' name:
Witness' address:

) /s/Hanish Bhatt

) Hanish Bhatt
)

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution version

Dated 19 DECEMBER 2018

NCL CORPORATION LTD.
as Guarantor

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

GUARANTEE

relating to a Loan Agreement dated 19 DECEMBER 2018 in respect of
the passenger cruise ship newbuilding presently designated as Hull No. [*]

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THIS GUARANTEE is made on 19 DECEMBER 2018

PARTIES

- (1) **NCL CORPORATION LTD.**, an exempted company incorporated under the laws of Bermuda with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda (the "**Guarantor**")
- (2) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, a company incorporated in England and Wales (with registered number 06447555) whose registered office is at 8 Canada Square, London E14 5HQ as security trustee on behalf of the Secured Parties (the "**Security Trustee**", which expression includes its successors, transferees and assigns)

BACKGROUND

- (A) By a shipbuilding contract dated 21 October 2016 (as amended from time to time including on 26 July 2018) (the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A, a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) Leonardo Five, Ltd. (the "**Borrower**"), the Builder has agreed to design, construct and deliver, and the Borrower has agreed to purchase, a 3,300 passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
- (B) By a loan agreement dated 19 DECEMBER 2018 (as amended from time to time), and made between (i) the Borrower, (ii) the Lenders, (iii) the Joint Mandated Lead Arrangers, (iv) the Facility Agent, (v) the SACE Agent and (vi) the Security Trustee, it was agreed that the Lenders would make available to the Borrower, a facility of the Dollar Equivalent of up to six hundred and forty million euros (€ 640,000,000) and the amount of the SACE Premium (but not exceeding nine hundred and fifty four million, eight hundred and fifty four thousand, seven hundred and seventy one Dollars and seventy eight cents (\$ 954,854,771.78)) for the purpose of assisting the Borrower, in financing (a) payment or reimbursement under the Shipbuilding Contract of all or part of 80% of the Final Contract Price up to the Eligible Amount and (b) reimbursement to the Borrower of 100% of the First Instalment of the SACE Premium paid by it to SACE and payment to SACE of 100% of the Second Instalment of the SACE Premium (as defined therein).
- (C) The execution and delivery to the Security Trustee of this Guarantee is one of the conditions precedent to the availability of the facility under the Loan Agreement.

OPERATIVE PROVISIONS

1 Interpretation

1.1 Defined expressions

Words and expressions defined in the Loan Agreement shall have the same meanings when used in this Guarantee unless the context otherwise requires.

1.2 Construction of certain terms

In this Guarantee:

"**Bankruptcy**" includes a liquidation, receivership or administration and any form of suspension of payments, arrangement with creditors or reorganisation under any corporate or insolvency law of any country.

"**Capital Stock**" means:

- (a) in the case of a corporation or company, corporate stock or shares;
- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person.

"**First Financial Quarter**" means the financial quarter ending immediately prior to or on the date falling forty five (45) days before the Intended Delivery Date.

"**Loan Agreement**" means the loan agreement dated 19 DECEMBER 2018 referred to in Recital (B) and includes any existing or future amendments, restatements, or supplements, whether made with the Guarantor's consent or otherwise.

"**Management**" means the employees of the Guarantor and its subsidiaries or their dependants or any trust for which such persons are the intended beneficiary.

"**Party**" means a party to this Guarantee.

1.3 Application of construction and interpretation provisions of Loan Agreement

Clauses 1.2 (*Construction of certain terms*) to 1.5 (*General Interpretation*) of the Loan Agreement apply, with any necessary modifications, to this Guarantee.

1.4 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under any of Clause 10.12 (*Sanctions*) or any undertakings in Clause 11.19 (*Sanctions and Illicit Payments*), Clause 11.20 (*Prohibited Payments*) and Clause 11.21 (*Sanctions*) of this Guarantee respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.
- (b) If a Creditor Party elects to be a Restricted Creditor Party pursuant to the foregoing paragraph (a), in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

2 GUARANTEE

2.1 Guarantee and indemnity

The Guarantor unconditionally and irrevocably:

- (a) guarantees to the Security Trustee (acting on behalf of the Secured Parties) punctual performance by the Borrower of all the Borrower's obligations under or in connection with the Loan Agreement and every other Finance Document;
- (b) undertakes to the Security Trustee that whenever the Borrower does not pay any amount when due under or in connection with the Loan Agreement and the other Finance Documents, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor;
- (c) agrees that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Security Trustee and each other Secured Party immediately on demand by the Security Trustee against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Loan Agreement or any other Finance Document on the date when it would have been due. Any such demand for indemnification shall be made through the Security Trustee, for itself or on behalf of the Secured Parties. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 2.1 (*Guarantee and indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

2.2 No limit on number of demands

The Security Trustee may serve any number of demands under Clause 2.1 (*Guarantee and indemnity*).

3 LIABILITY AS PRINCIPAL AND INDEPENDENT DEBTOR

3.1 Principal and independent debtor

The Guarantor shall be liable under this Guarantee as a principal and independent debtor and accordingly it shall not have, as regards this Guarantee, any of the rights or defences of a surety.

3.2 Waiver of rights and defences

Without limiting the generality of Clause 3.1 (*Principal and independent debtor*), the obligations of the Guarantor under this Guarantee will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Borrower or other person;
- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of any affiliate of the Borrower;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any insolvency or similar proceedings;
- (g) any arrangement or concession (including a rescheduling or acceptance of partial payments) relating to, or affecting, the Finance Documents;
- (h) any release or loss whatsoever of any guarantee, right or Security Interest created by the Finance Documents;
- (i) any failure whatsoever promptly or properly to exercise or enforce any such right or Security Interest, including a failure to realise for its full market value an asset covered by such a Security Interest; or
- (j) any other Finance Document or any Security Interest now being or later becoming void, unenforceable, illegal or invalid or otherwise defective for any reason, including a neglect to register it.

4 EXPENSES

4.1 Costs of preservation of rights, enforcement etc.

The Guarantor shall pay to the Security Trustee on its demand the amount of all expenses incurred by the Security Trustee or any other Secured Party in connection with any matter arising out of this Guarantee or any Security Interest connected with it, including any advice, claim or proceedings relating to this Guarantee or such a Security Interest.

4.2 Fees and expenses payable under Loan Agreement

Clause 4.1 (*Costs of preservation of rights, enforcement etc.*) is without prejudice to the Guarantor's liabilities in respect of the Borrower's obligations under clauses 9 (*Fees*) and 10 (*Taxes, Increased Costs, Costs and Related Charges*) of the Loan Agreement and under similar provisions of other Finance Documents.

5 ADJUSTMENT OF TRANSACTIONS

5.1 Reinstatement of obligation to pay

The Guarantor shall pay to the Security Trustee on its demand any amount which any Secured Party is required, or agrees, to pay pursuant to any claim by, or settlement with, a trustee in bankruptcy of the Borrower or of any other Obligor (or similar person) on the ground that the Loan Agreement or any other Finance Document, or a payment by the Borrower or of such other Obligor, was invalid or on any similar ground.

6 PAYMENTS

6.1 Method of payments

Any amount due under this Guarantee shall be paid:

- (a) in immediately available funds;
- (b) to such account as the Security Trustee may from time to time notify to the Guarantor;
- (c) without any form of set-off, cross-claim or condition; and
- (d) free and clear of any Tax Deduction except a Tax Deduction which the Guarantor is required by law to make.

6.2 Grossing-up for taxes

If the Guarantor is required by law to make a Tax Deduction, the amount due to the Security Trustee shall be increased by the amount necessary to ensure that the Security Trustee and (if the payment is not due to the Security Trustee for its own account) the Secured Party beneficially interested in the payment receives and retains a net amount which, after the Tax Deduction, is equal to the full amount that it would otherwise have received; provided that a payment shall not be increased under this Clause 6.2 if clause 10.2(d) of the Loan Agreement applies *mutatis mutandis*.

6.3 Tax Credits

If an additional payment is made by the Guarantor under this Clause and any Secured Party determines that it has received or been granted a credit against or relief of or calculated with reference to the deduction giving rise to such additional payment, such Secured Party shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment and provided that it has received the cash benefit of such credit, relief or remission, pay to the Guarantor such amount as such Secured Party shall in its reasonable opinion have concluded to be attributable to the relevant deduction. Any such payment shall be conclusive evidence of the amount due to the Guarantor hereunder and shall be accepted by the Guarantor in full and final settlement of its rights of reimbursement hereunder in respect of such deduction. Nothing herein contained shall interfere with the right of each Secured Party to arrange its tax affairs in whatever manner it thinks fit.

6.4 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, the Facility Agent and the other Secured Parties.

6.5 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 the Security Trustee to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

6.6 No obligations on SACE

To the extent that this Clause 6 (*Payments*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

7 INTEREST

7.1 Accrual of interest

Any amount due under this Guarantee shall carry interest after the date on which the Security Trustee demands payment of it until it is actually paid, unless interest on that same amount also accrues under the Loan Agreement.

7.2 Calculation of interest

Interest on sums payable under this Guarantee shall be calculated and accrue in the same way as interest under clause 6 (*Interest*) of the Loan Agreement.

7.3 Guarantee extends to interest payable under Loan Agreement

For the avoidance of doubt, it is confirmed that this Guarantee covers all interest payable under the Loan Agreement, including that payable under clause 17 (*Interest on Late Payments*) of the Loan Agreement.

8 SUBORDINATION

8.1 Subordination of rights of Guarantor

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, all rights which the Guarantor at any time has (whether in respect of this Guarantee or any other transaction) against the Borrower, any other Obligor or their respective assets shall be fully subordinated to the rights of the Secured Parties under the Finance Documents; and in particular, the Guarantor shall not:

- (a) claim, or in a bankruptcy of the Borrower or any other Obligor prove for, any amount payable to the Guarantor by the Borrower or any other Obligor, whether in respect of this Guarantee or any other transaction;
- (b) take or enforce any Security Interest for any such amount;
- (c) exercise any right to be indemnified by an Obligor;
- (d) bring legal or other proceedings for an order requiring the Borrower or any other Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under this Guarantee;
- (e) claim to set-off any such amount against any amount payable by the Guarantor to the Borrower or any other Obligor; or

- (f) claim any subrogation or right of contribution or other right in respect of any Finance Document or any sum received or recovered by any Secured Party under a Finance Document.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with the Loan Agreement and the Finance Documents.

9 ENFORCEMENT

9.1 No requirement to commence proceedings against Borrower

The Guarantor waives any right it may have of first requiring the Security Trustee or any other Secured Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Guarantee. Neither the Security Trustee nor any other Secured Party will need to make any demand under, commence any proceedings under, or enforce any guarantee or any Security Interest contained in or created by, the Loan Agreement or any other Finance Document before claiming or commencing proceedings under this Guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

9.2 Conclusive evidence of certain matters

However, as against the Guarantor:

- (a) any judgment or order of a court in England or the jurisdiction of the Approved Flag or Bermuda or the United States of America in connection with the Loan Agreement; and
 - (b) any statement or admission by the Borrower in connection with the Loan Agreement,
- shall be binding and conclusive as to all matters of fact and law to which it relates.

9.3 Suspense account

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, the Security Trustee and any Secured Party may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by it (or any trustee or agent on its behalf which, in the case of a Secured Party, shall include the Facility Agent and the Security Trustee) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Guarantee.

10 REPRESENTATIONS AND WARRANTIES

10.1 General

The Guarantor represents and warrants to the Security Trustee as follows on the Effective Date, which representations and warranties shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day from the Effective Date to the end of the Security Period.

10.2 Status

The Guarantor is duly incorporated and validly existing and in good standing under the laws of Bermuda as an exempted company.

10.3 Corporate power

The Guarantor has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute this Guarantee; and
- (b) to make all the payments contemplated by, and to comply with, this Guarantee.

10.4 Consents in force

All the consents referred to in Clause 10.3 (*Corporate power*) remain in force and nothing has occurred which makes any of them liable to revocation.

10.5 Legal validity

This Guarantee constitutes the Guarantor's legal, valid and binding obligations enforceable against the Guarantor in accordance with its terms subject to any relevant insolvency laws affecting creditors' rights generally.

10.6 No conflicts

The execution by the Guarantor of this Guarantee and its compliance with this Guarantee will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of the Guarantor; or
- (c) any contractual or other obligation or restriction which is binding on the Guarantor or any of its assets.

10.7 No withholding taxes

All payments which the Guarantor is liable to make under this Guarantee may be made without deduction or withholding for or on account of any tax payable under any law of Bermuda or the United States of America (other than a FATCA Deduction).

10.8 No default

To the knowledge of the Guarantor, no Event of Default has occurred which is continuing.

10.9 Information

All information which has been provided in writing by or on behalf of the Guarantor to the Security Trustee or any other Secured Party in connection with any Finance Document satisfied the requirements of Clause 11.2 (*Information provided to be accurate*); all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 11.4 (*Form of financial statements*); and there has been no material adverse change in the financial position or state of affairs of the Guarantor from that disclosed in the latest of those accounts.

10.10 No litigation

No legal or administrative action involving the Guarantor has been commenced or taken or, to the Guarantor's knowledge, is likely to be commenced or taken which, in either case, would be likely to have a material adverse effect on the Guarantor's ability to perform its obligations under this Guarantee.

10.11 No Security Interests

None of the assets or rights of the Guarantor is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Guarantor or (ii) is permitted by Clause 11.11 (*Negative pledge*).

10.12 Sanctions

- (a) No investments made and no payments made, received or to be made by the Guarantor under the Loan Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business, whether directly or, to the knowledge of the Guarantor, indirectly, are of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (b) No Prohibited Payment has been or will be made, received or provided, directly or indirectly, by (or on behalf of) it or the Borrower (to the best of the Guarantor's knowledge), any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or any public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, the Loan Agreement and/or the Finance Documents.
- (c) The Guarantor:
 - (i) nor to its knowledge any director, officer, or Affiliate of any Obligor or member of the Group, is not a Prohibited Person;

- (ii) is not owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
- (iii) does not own or control a Prohibited Person.

11 UNDERTAKINGS

11.1 General

The Guarantor undertakes with the Security Trustee to comply with the following provisions of this Clause 11 (*Undertakings*) at all times from the Effective Date to the end of the Security Period, except as the Security Trustee may otherwise permit.

11.2 Information provided to be accurate

All financial and other information (but, in respect of information relating to the business and affairs of the Guarantor, excluding any forward looking statements and projections) which is provided in writing by or on behalf of the Guarantor under or in connection with this Guarantee will be true and not misleading and will not omit any material fact or consideration.

11.3 Provision of financial statements

The Guarantor will send to the Security Trustee:

- (a) as soon as practicable, but in no event later than 120 days after the end of each financial year of the Guarantor beginning with the year ending 31 December 2018, the audited consolidated accounts of the Guarantor and its subsidiaries;
- (b) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter in respect of the first three quarters of each fiscal year and 90 days in respect of the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year to date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor certified as to their correctness by the chief financial officer of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of this paragraph (b));
- (c) a compliance certificate in the form set out in Schedule 1 (*Form of Compliance Certificate*) to this Guarantee or in such other form as the Security Trustee may reasonably require (each a "**Compliance Certificate**"):
 - (i) for the first time, no later than the First Financial Quarter on the basis of the latest available quarterly financial statements, and
 - (ii) at the same time as there is delivered to the Security Trustee, and together with, each set of unaudited consolidated quarterly management accounts under paragraph (b) and, if applicable, audited consolidated accounts under paragraph (a), duly signed by the chief financial officer of the Guarantor and certifying whether or not the requirements of Clause 11.15 (*Financial Covenants*) are then complied with;

- (d) such additional financial or other relevant information regarding the Guarantor and the Group as the Security Trustee may reasonably request;
- (e) as soon as practicable (and in any event within 120 days after the close of each fiscal year), commencing with the fiscal year ending 31 December 2018, annual cash flow projections on a consolidated basis of the Group showing on a monthly basis advance ticket sales (for at least 12 months following the date of such statement) for the Group;
- (f) as soon as practicable (and in any event not later than January 31 of each fiscal year):
 - (i) a budget for the Group for such new fiscal year including a 12 month liquidity budget for such new fiscal year;
 - (ii) updated financial projections of the Group for at least the next five years (including an income statement, balance sheet statement and cash flow statement and quarterly break downs for the first of those five years); and
 - (iii) an outline of the assumptions supporting such budget and financial projections including but without limitation any scheduled drydockings.

11.4 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 11.3 (*Provision of financial statements*) will:

- (a) be prepared in accordance with GAAP;
- (b) when required to be audited, be audited by the auditors which are the Guarantor's auditors at the Effective Date or other auditors approved by the Security Trustee, provided that, such approval by the Security Trustee shall not be unreasonably withheld or delayed;
- (c) give a true and fair view of the state of affairs of the Guarantor and its subsidiaries at the date of those accounts and of their profit for the period to which those accounts relate; and
- (d) fully disclose or provide for all significant liabilities of the Guarantor and its subsidiaries.

11.5 Shareholder and creditor notices

The Guarantor will send the Security Trustee, at the same time as they are despatched, copies of all communications which are despatched to the Guarantor's shareholders or creditors generally or any class of them.

11.6 Consents

The Guarantor will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Security Trustee of, all consents required:

- (a) for the Guarantor to perform its obligations under this Guarantee;
- (b) for the validity or enforceability of this Guarantee,

and the Guarantor will comply with the terms of all such consents.

11.7 Notification of litigation

The Guarantor will provide the Security Trustee with details of any material legal or administrative action involving the Guarantor as soon as such action is instituted or it becomes apparent to the Guarantor that it is likely to be instituted (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency).

11.8 Domicile and principal place of business

The Guarantor:

- (a) will maintain its domicile and registered office at the address stated at the commencement of this Guarantee or at such other address in Bermuda as is notified beforehand to the Security Trustee;
- (b) will maintain its principal place of business and keep its corporate documents and records in the United States of America at 7665 Corporate Center Drive, Miami, 33126, Florida (Fax: (305) 436 4140) or at such other address in the United States of America as is notified beforehand to the Security Trustee; and
- (c) will not move its domicile out of Bermuda nor its principal place of business out of the United States of America without the prior agreement of the Security Trustee, acting with the authorisation of the Secured Parties, such agreement not to be unreasonably withheld.

11.9 Notification of default

The Guarantor will notify the Security Trustee as soon as the Guarantor becomes aware of the occurrence of an Event of Default and will thereafter keep the Security Trustee fully up-to-date with all developments.

11.10 Maintenance of status

The Guarantor will maintain its separate corporate existence and remain in good standing under the laws of Bermuda.

11.11 Negative pledge

The Guarantor shall not, and shall procure that the Borrower will not, create or permit to arise any Security Interest over any asset present or future except Security Interests created or permitted by the Finance Documents and except for the following:

- (a) Security Interests created with the prior consent of the Security Trustee or otherwise permitted by the Finance Documents;
- (b) in the case of the Guarantor, Security Interests which qualify as Permitted Security Interests with respect to the Guarantor;
- (c) in the case of the Borrower, Security Interests permitted under clause 12.8 (*Negative pledge*) of the Loan Agreement;

- (d) Security Interests provided in favour of lenders under and in connection with any refinancing of the Existing Indebtedness or any financing arrangements entered into by any member of the Group for the acquisition of additional or replacement ship(s) (including any refinancing of any such arrangement) but limited to:
 - (i) pledges of the share capital of the relevant ship owning subsidiary(/ies); and/or
 - (ii) ship mortgages and other securities over the financed ship(s).

11.12 No disposal of assets, change of business

The Guarantor will:

- (a) not, and shall procure that its subsidiaries, as a group, shall not, transfer all or substantially all of the cruise vessels owned by them and shall procure that any cruise vessels which are disposed of in compliance with the foregoing shall be disposed on a willing seller willing buyer basis at or about market rate and at arm's length subject always to the provisions of any pertinent loan documentation, and
- (b) continue to be a holding company for a group of companies whose main business is the operation of cruise vessels as well as the marketing of cruises on board such vessels and the Guarantor will not change its main line of business so as to affect any Obligor's ability to perform its obligations under the Finance Documents or to imperil, in the opinion of the Security Trustee, the security created by any of the Finance Documents or the SACE Insurance Policy.

11.13 No merger etc.

The Guarantor shall not enter into any form of merger, sub-division, amalgamation, restructuring, consolidation, winding-up, dissolution or anything analogous thereto or acquire any entity, share capital or obligations of any corporation or other entity (each of the foregoing being a "**Transaction**") unless:

- (a) the Guarantor has notified the Security Trustee in writing of the agreed terms of the relevant Transaction promptly after such terms have been agreed as heads of terms (or similar) and thereafter notified the Security Trustee in writing of any significant amendments to such terms during the course of the negotiation of the relevant Transaction; and
- (b) the relevant Transaction does not require or involve or result in any dissolution of the Guarantor so that at all times the Guarantor remains in existence; and
- (c) each notice delivered to the Security Trustee pursuant to paragraph (a) above is accompanied by a certificate signed by the chief financial officer of the Guarantor whereby the Guarantor represents and warrants to the Security Trustee that the relevant Transaction will not:
 - (i) adversely affect the ability of any Obligor to perform its obligations under the Finance Documents;
 - (ii) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; or

- (iii) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 (*Financial Covenants*); and
- (d) if the merger or analogous transaction involves the Guarantor or the Borrower, all the necessary "Know your customer requirements" have been complied with.

11.14 Maintenance of ownership of Borrower and Guarantor.

- (a) The Guarantor shall remain the direct or indirect beneficial owner of the entire issued and allotted share capital of the Shareholder, free from any Security Interest and the Shareholder shall remain the legal holder and direct beneficial owner of all shares in the Borrower, free from any Security Interest, except that created in favour of the Security Trustee.
- (b) No person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934 (15 USC §78a et seq.) as in effect on the date of this Guarantee) shall acquire beneficial ownership of 35% or more on a fully diluted basis of the voting interest in the Guarantor's equity interests unless the Management shall own directly or indirectly, more than such person or "group" on a fully diluted basis of the voting interest in the Guarantor's equity interests.

11.15 Financial Covenants

- (a) The Guarantor will not permit the Free Liquidity to be less than fifty million Dollars (\$50,000,000) at any time.
- (b) The Guarantor will not permit the ratio of Total Net Funded Debt to Total Capitalization to be greater than 0.70:1.00 at any time.
- (c) The Guarantor will not permit the ratio of Consolidated EBITDA to Consolidated Debt Service for the Group at the end of any fiscal quarter, computed for the period of the four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter, to be less than 1.25:1.00 unless the Free Liquidity of the Group at all times during such period of four consecutive fiscal quarters ending as at the end of such fiscal quarter was equal to or greater than one hundred million Dollars (\$100,000,000).

11.16 Financial definitions

For the purposes of Clause 11.15 (*Financial Covenants*):

- (a) "**Cash Balance**" shall mean, at any date of determination, the unencumbered and otherwise unrestricted cash and Cash Equivalents of the Group;
- (b) "**Cash Equivalents**" shall mean (i) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one year from the date of acquisition, (ii) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company having capital, surplus and undivided profits aggregating in excess of two hundred million Dollars (\$200,000,000), with maturities of not more than one year from the date of acquisition by any person, (iii) repurchase obligations with a term of not more than 90 days for underlying securities of the types described in clause (i) above entered into with any bank meeting the qualifications specified in clause (ii) above, (iv) commercial paper issued by any person incorporated in the United States rated at least A-1 or the equivalent thereof by S&P or at least P-1 or the equivalent thereof by Moody's and in each case maturing not more than one year after the date of acquisition by any other person, and (v) investments in money market funds substantially all of whose assets are comprised of securities of the types described in clauses (i) through (iv) above;

- (c) **"Consolidated Debt Service"** shall mean, for any relevant period, the sum (without double counting), determined in accordance with GAAP, of:
- (i) the aggregate principal payable or paid during such period on any Indebtedness for Borrowed Money of any member of the Group, other than:
 - (A) principal of any such Indebtedness for Borrowed Money prepaid at the option of the relevant member of the Group or by virtue of "cash sweep" or "special liquidity" cash sweep provisions (or analogous provisions) in any debt facility of the Group;
 - (B) principal of any such Indebtedness for Borrowed Money prepaid upon a sale or a Total Loss of any ship (as if references in that definition were to all ships and not just the Ship) owned or leased under a capital lease by any member of the Group; and
 - (C) balloon payments of any such Indebtedness for Borrowed Money payable during such period (and for the purpose of this paragraph (c) a "balloon payment" shall not include any scheduled repayment instalment of such Indebtedness for Borrowed Money which forms part of the balloon);
 - (ii) Consolidated Interest Expense for such period;
 - (iii) the aggregate amount of any dividend or distribution of present or future assets, undertakings, rights or revenues to any shareholder of any member of the Group (other than the Guarantor, or one of its wholly owned Subsidiaries) or any dividends or distributions other than tax distributions in each case paid during such period; and
 - (iv) all rent under any capital lease obligations by which the Guarantor or any consolidated Subsidiary is bound which are payable or paid during such period and the portion of any debt discount that must be amortized in such period;
- as calculated in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 *Provision of financial statements*);
- (d) **"Consolidated EBITDA"** shall mean, for any relevant period, the aggregate of:
- (i) Consolidated Net Income from the Guarantor's operations for such period; and
 - (ii) the aggregate amounts deducted in determining Consolidated Net Income for such period in respect of gains and losses from the sale of assets or reserves relating thereto, Consolidated Interest Expense, depreciation and amortization, impairment charges and any other non-cash charges and deferred income tax expense for such period.

- (e) **"Consolidated Interest Expense"** shall mean, for any relevant period, the consolidated interest expense (excluding capitalized interest) of the Group for such period;
 - (f) **"Consolidated Net Income"** shall mean, for any relevant period, the consolidated net income (or loss) of the Group for such period as determined in accordance with GAAP;
 - (g) **"Free Liquidity"** shall mean, at any date of determination, the aggregate of the Cash Balance or any other amounts available for drawing under other revolving or other credit facilities of the Group, which remain undrawn, could be drawn for general working capital purposes or other general corporate purposes and would not, if drawn, be repayable within six months;
 - (h) **"Indebtedness"** shall mean any obligation for the payment or repayment of money, whether as principal or as surety and whether present or future, actual or contingent including, without limitation, pursuant to an Interest Rate Protection Agreement or Other Hedging Agreement;
 - (i) **"Indebtedness for Borrowed Money"** shall mean Indebtedness (whether present or future, actual or contingent, long-term or short-term, secured or unsecured) in respect of:
 - (i) moneys borrowed or raised;
 - (ii) the advance or extension of credit (including interest and other charges on or in respect of any of the foregoing);
 - (iii) the amount of any liability in respect of leases which, in accordance with GAAP, are capital leases;
 - (iv) the amount of any liability in respect of the purchase price for assets or services payment of which is deferred for a period in excess of 180 days;
 - (v) all reimbursement obligations whether contingent or not in respect of amounts paid under a letter of credit or similar instrument; and
 - (vi) (without double counting) any guarantee of Indebtedness falling within paragraphs (i) to (v) above;
- PROVIDED THAT** the following shall not constitute Indebtedness for Borrowed Money:
- (A) loans and advances made by other members of the Group which are subordinated to the rights of the Secured Parties;
 - (B) loans and advances made by any shareholder of the Guarantor which are subordinated to the rights of the Secured Parties on terms reasonably satisfactory to the Facility Agent; and
 - (C) any liabilities of the Guarantor or any other member of the Group under any Interest Rate Protection Agreement or any Other Hedging Agreement or other derivative transactions of a non-speculative nature;
- (j) **"Interest Rate Protection Agreement"** shall mean any interest rate swap agreement, interest rate cap agreement, interest collar agreement, interest rate hedging agreement, interest rate floor agreement or other similar agreement or arrangement entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliate, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement;

- (k) "**Other Hedging Agreement**" shall mean any foreign exchange contracts, currency swap agreements, commodity agreements or other similar agreements or arrangements entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliates, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement and designed to protect against the fluctuations in currency or commodity values;
- (l) "**Total Capitalization**" means, at any date of determination, the Total Net Funded Debt plus the consolidated stockholders' equity of the Group at such date determined in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 (*Provision of financial statements*); provided it is understood that the effect of any impairment of intangible assets shall be added back to stockholders' equity; and
- (m) "**Total Net Funded Debt**" shall mean, as at any relevant date:
 - (i) Indebtedness for Borrowed Money of the Group on a consolidated basis; and
 - (ii) the amount of any Indebtedness for Borrowed Money of any person which is not a member of the Group but which is guaranteed by a member of the Group as at such date;

less an amount equal to any Cash Balance as at such date; provided that any Commitments and other amounts available for drawing under other revolving or other credit facilities of the Group which remain undrawn shall not be counted as cash or indebtedness for the purposes of this Guarantee.

11.17 Negative Undertakings

- (a) The Guarantor may:
 - (i) at any time prior to the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee;
 - (ii) at any time after the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee, subject to it on each such occasion satisfying the Security Trustee acting on behalf of the Secured Parties that it will continue to meet all the requirements of Clause 11.15 (*Financial Covenants*), if such covenants were to be tested immediately following the payment of any such dividend; and
 - (iii) pay dividends (x) to persons responsible for paying the tax liability in respect of consolidated, combined, unitary or affiliated tax returns for each relevant jurisdiction of the Group, or (y) to holders of the Guarantor's Capital Stock with respect to income taxable as a result of a member of the Group being taxed as a pass-through entity for U.S. Federal, state and local income tax purposes or attributable to any member of the Group,

provided that the actions in paragraphs (ii) and (iii) above shall only be permitted if there is no Event of Default which is continuing under the Loan Agreement and no Event of Default would arise from the payment of such dividend.

(b) The Guarantor shall not, and shall procure that none of its subsidiaries shall:

- (i) make loans to any person that is not the Guarantor or a direct or indirect subsidiary of the Guarantor; or
- (ii) issue or enter into one or more guarantees covering the obligations of any person which is not the Guarantor or a direct or indirect subsidiary of the Guarantor, except if such loan is granted to a non subsidiary or such guarantee is issued in the ordinary course of business covering the obligations of a non subsidiary and the aggregate amount of all such loans and guarantees made or issued by the Guarantor and its subsidiaries does not exceed [*] Dollars (\$[*]) or is otherwise approved by the Security Trustee which approval shall not be unreasonably withheld if such loan or guarantee in respect of a non subsidiary would neither:
 - (A) affect the ability of any Obligor to perform its obligations under the Finance Documents; nor
 - (B) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; nor
 - (C) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 (*Financial Covenants*) if such covenants were to be tested immediately following the grant of such loan or the issuance of such guarantee, as demonstrated by evidence satisfactory to the Security Trustee.

11.18 Most favoured nations

The Guarantor undertakes that if at any time after the Effective Date it enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of clause 11.2 (*Continuing representations and warranties*) of the Loan Agreement and clause 18.6 (*Cross default*) of the Loan Agreement respectively, the Guarantor shall immediately notify the Borrower and the Facility Agent of such provisions and the relevant provisions contained in the Loan Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to the Loan Agreement.

11.19 Sanctions and Illicit Payments

No payments made or received by the Guarantor under the Loan Agreement or any Finance Document shall be funded directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Guarantor, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.

11.20 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Guarantor or any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, this Agreement, the Loan Agreement and/or the other Finance Documents.

11.21 Sanctions

The Guarantor shall comply, or procure compliance by the entities and persons referred to in Clause 11.20, with all Sanctions and shall provide details of any material litigation, arbitration or administrative proceedings relating to any alleged or actual breach of Sanctions.

11.22 Additional Undertakings

The Guarantor shall not and shall procure that no Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest created under the Finance Documents to lose its priority or ranking; and
- (e) imperil or jeopardise any Security Interest created under the Finance Documents.

12 JUDGMENTS AND CURRENCY INDEMNITY

12.1 Judgments relating to Loan Agreement

This Guarantee shall cover any amount payable by the Borrower under or in connection with any judgment relating to the Loan Agreement.

12.2 Currency indemnity

In addition, clause 20.4 (*Currency indemnity*) of the Loan Agreement shall apply, with any necessary adaptations, in relation to this Guarantee.

13 SET-OFF

13.1 Application of credit balances

Each Secured Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Guarantor at any office in any country of that Secured Party in or towards satisfaction of any sum then due from the Guarantor to that Secured Party under this Guarantee; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Guarantor;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; or
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Secured Party concerned considers appropriate.

13.2 Existing rights unaffected

No Secured Party shall be obliged to exercise any of its rights under Clause 13.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Secured Party is entitled (whether under the general law or any document).

13.3 Sums deemed due to a Lender

For the purposes of this Clause 13 (*Set-Off*), a sum payable by the Guarantor to the Security Trustee for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to that Lender.

14 SUPPLEMENTAL

14.1 Continuing guarantee

This Guarantee shall remain in force as a continuing security at all times during the Security Period, regardless of any intermediate payment or discharge in whole or in part.

14.2 Rights cumulative, non-exclusive

The Security Trustee's rights under and in connection with this Guarantee are cumulative, may be exercised as often as appears expedient and shall not be taken to exclude or limit any right or remedy conferred by law.

14.3 No impairment of rights under Guarantee

If the Security Trustee omits to exercise, delays in exercising or invalidly exercises any of its rights under this Guarantee, that shall not impair that or any other right of the Security Trustee under this Guarantee.

14.4 Severability of provisions

If any provision of this Guarantee is or subsequently becomes void, illegal, unenforceable or otherwise invalid, that shall not affect the validity, legality or enforceability of its other provisions.

14.5 Guarantee not affected by other security

This Guarantee is in addition to and shall not impair, nor be impaired by, any other guarantee, any Security Interest or any right of set-off or netting or to combine accounts which the Security Trustee or any Secured Party may now or later hold in connection with the Loan Agreement.

14.6 Guarantor bound by Loan Agreement

The Guarantor agrees with the Security Trustee to be bound by all provisions of the Loan Agreement which are applicable to the Obligors in the same way as if those provisions had been set out (with any necessary modifications) in this Guarantee.

14.7 Applicability of provisions of Guarantee to other Security Interests

Any Security Interest which the Guarantor creates (whether at the time at which it signs this Guarantee or at any later time) to secure any liability under this Guarantee shall be a principal and independent security, and Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall, with any necessary modifications, apply to it, notwithstanding that the document creating the Security Interest neither describes it as a principal or independent security nor includes provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*).

14.8 Applicability of provisions of Guarantee to other rights

Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall also apply to any right of set-off or netting or to combine accounts which the Guarantor creates by an agreement entered into at the time of this Guarantee or at any later time (notwithstanding that the agreement does not include provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*)), being an agreement referring to this Guarantee.

14.9 Third party rights

Other than a Secured Party or the Italian Authorities, no person who is not a party to this Guarantee has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Guarantee.

14.10 Waiver of rights against SACE

Nothing in this Guarantee or any of the Finance Documents is intended to grant to the Guarantor or any other person any right of contribution from or any other right or claim against SACE and the Guarantor hereby waives irrevocably any right of contribution or other right or claim as between itself and SACE.

14.11 Certification or determination

Any certification or determination by the Security Trustee of a rate or amount under any Finance Document or this Guarantee is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

14.12 SACE subrogation

The Guarantor acknowledges that immediately upon any payment by SACE of any amount due under the SACE Insurance Policy, SACE shall be automatically subrogated to the extent of such payment to the rights of the Security Trustee under this Guarantee in accordance with the SACE Insurance Policy.

15 ASSIGNMENT AND TRANSFER

15.1 Assignment and transfer by Security Trustee

- (a) The Security Trustee may assign or transfer its rights under and in connection with this Guarantee to the same extent as it may assign or transfer its rights under the Loan Agreement.
- (b) The Guarantor may not assign or transfer its rights under and in connection with this Guarantee.

16 NOTICES

16.1 Notices to Guarantor

Any notice or demand to the Guarantor under or in connection with this Guarantee shall be given by letter or fax at:

NCL Corporation Ltd.
7665 Corporate Center Drive
Miami
Florida, 33126
Fax: (305) 436 4140

or to such other address which the Guarantor may notify to the Security Trustee.

16.2 Application of certain provisions of Loan Agreement

Clauses 32.3 (*Effective date of notices*) to 32.9 (*Meaning of "notice"*) of the Loan Agreement apply to any notice or demand under or in connection with this Guarantee.

16.3 Validity of demands

A demand under this Guarantee shall be valid notwithstanding that it is served:

- (a) on the date on which the amount to which it relates is payable by the Borrower under the Loan Agreement; or

- (b) at the same time as the service of a notice under clause 18.21 (*Actions following an Event of Default*) of the Loan Agreement; and a demand under this Guarantee may refer to all amounts payable under or in connection with the Loan Agreement without specifying a particular sum or aggregate sum.

16.4 Notices to Security Trustee

Any notice to the Security Trustee under or in connection with this Guarantee shall be sent to the same address and in the same manner as notices to the Security Trustee under the Loan Agreement.

17 INVALIDITY OF LOAN AGREEMENT

17.1 Invalidity of Loan Agreement

In the event of:

- (a) the Loan Agreement or any provision thereof now being or later becoming, with immediate or retrospective effect, void, illegal, unenforceable or otherwise invalid for any reason whatsoever; or
- (b) without limiting the scope of paragraph (a) above, a bankruptcy of the Borrower, the introduction of any law or any other matter resulting in the Borrower being discharged from liability under the Loan Agreement, or the Loan Agreement ceasing to operate (for example, by interest ceasing to accrue);

this Guarantee shall cover any amount which would have been or become payable under or in connection with the Loan Agreement if the Loan Agreement had been and remained entirely valid, legal and enforceable, or the Borrower had not suffered bankruptcy, or any combination of such events or circumstances, as the case may be, and the Borrower had remained fully liable under it for liabilities whether invalidly incurred or validly incurred but subsequently retrospectively invalidated; and references in this Guarantee to amounts payable by the Borrower under or in connection with the Loan Agreement shall include references to any amount which would have so been or become payable as aforesaid.

17.2 Invalidity of Finance Documents

Clause 17.1 (*Invalidity of Loan Agreement*) also applies to each of the other Finance Documents to which the Borrower is a party.

18 GOVERNING LAW AND JURISDICTION

18.1 English law

This Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

18.2 Exclusive English jurisdiction

The courts of England shall have exclusive jurisdiction to settle any Dispute.

18.3 Process agent

The Guarantor irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

18.4 Secured Parties' rights unaffected

Nothing in this Clause 18 (*Governing Law and Jurisdiction*) shall exclude or limit any right which any Secured Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

18.5 Meaning of "proceedings"

In this Clause 18 (*Governing Law and Jurisdiction*), "**proceedings**" means proceedings of any kind, including an application for a provisional or protective measure and a "**Dispute**" means any dispute arising out of or in connection with this Guarantee (including a dispute relating to the existence, validity or termination of this Guarantee) or any non-contractual obligation arising out of or in connection with this Guarantee.

THIS GUARANTEE has been entered into on the date stated at the beginning of this Guarantee.

SCHEDULE 1

FORM OF COMPLIANCE CERTIFICATE

To: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**
8 Canada Square
London
E14 5HQ

Attn: [●]

[●] 20[●]

Dear Sirs

Loan Agreement dated [●] 2018 (as amended from time to time, the "Loan Agreement") made between (1) Leonardo Five, Ltd. (the "Borrower"), (2) the banks and financial institutions named at schedule 1 therein as lenders, (3) Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-BANK GmbH, Cassa Depositi e Prestiti S.p.A., Banco Santander S.A. and Société Générale as Joint Mandated Lead Arrangers, (4) Crédit Agricole Corporate and Investment Bank as SACE Agent (5) BNP Paribas as Facility Agent and (6) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a facility of up to the aggregate of the Dollar Equivalent of up to six hundred and forty million euros (€ 640,000,000) and the amount of the SACE Premium (but not exceeding nine hundred and fifty four million, eight hundred and fifty four thousand, seven hundred and seventy one Dollars and seventy eight cents (\$ 954,854,771.78)) and Guarantee dated [●] 2018 (the "Guarantee") made between (1) us as guarantor and (2) HSBC Corporate Trustee Company (UK) Limited as Security Trustee.

We refer to the Loan Agreement and the Guarantee. Terms defined in the Loan Agreement and the Guarantee have their defined meanings when used in this Compliance Certificate.

We also refer to the financial covenants set out in Clause 11.15 (*Financial Covenants*) of the Guarantee.

We certify that in relation to such covenants and by reference to the latest accounts provided under Clause 11.3[(11.3(a))/(11.3(b))] of the Guarantee:

- (a) Free Liquidity is \$[●] and [was / was not] less than fifty million Dollars (\$50,000,000) at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided;
- (b) the ratio of Total Net Funded Debt to Total Capitalization is [●] and therefore [was/was not] greater than 0.70:1.00 at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided; and
- (c) [the Free Liquidity of the Group at all times during the period of four consecutive fiscal quarters ending as at the end of the fiscal quarter for which the latest accounts have been provided was equal to or greater than one hundred million Dollars (\$100,000,000)] [as at the end of the fiscal quarter for which the latest accounts have been provided, computed for the period of four consecutive fiscal quarters ending at the end of such fiscal quarter, Consolidated EBITDA to Consolidated Debt Service is [●] and therefore [is/is not] less than 1.25:1.00].

To evidence compliance with the terms of Clause 11.15 (*Financial Covenants*), we attach:

a copy of the latest quarterly consolidated accounts of the Group as Appendix A [and a copy of the latest annual consolidated accounts of the Group as Appendix B].

No Event of Default has occurred in relation to the Borrower or the Guarantor.

Signed: _____

Chief Financial Officer of
NCL Corporation Ltd.

EXECUTION PAGE

GUARANTOR

SIGNED by

for and on behalf of
NCL CORPORATION LTD.
as its duly appointed attorney-in-fact
in the presence of:

) /s/ Paul A. Turner

_____) Paul A. Turner

) Attorney-in-Fact

)

) /s/ Ioanna Tsekoura

_____ Ioanna Tsekoura

Solicitor

Clyde & Co LLP

The St. Botolph Building

138 Houndsditch

London EC3A 7AR

United Kingdom

SECURITY TRUSTEE

SIGNED by

for and on behalf of
HSBC CORPORATE TRUSTEE COMPANY
(UK) LIMITED
acting by its attorney/director
in the presence of:

) /s/ Andrea Stevenson

_____) Andrea Stevenson

) Authorised Signatory

)

) /s/ Hanish Bhatt

_____) Hanish Bhatt

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution Version

DATED 19 December 2018

LEONARDO SIX, LTD.
as Borrower

and

**THE BANKS AND FINANCIAL INSTITUTIONS
LISTED IN SCHEDULE 1**
as Lenders

and

**CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
BNP PARIBAS FORTIS S.A./N.V.
HSBC BANK PLC
KFW IPEX-BANK GMBH
CASSA DEPOSITI E PRESTITI S.P.A.
BANCO SANTANDER, S.A.
SOCIÉTÉ GÉNÉRALE**
as Joint Mandated Lead Arrangers

and

BNP PARIBAS
as Facility Agent

and

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
as SACE Agent

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

with the support of

SACE S.P.A.

LOAN AGREEMENT

relating to
the part financing of the 3,300 passenger cruise ship
newbuilding presently designated as
Hull No. [*] at Fincantieri S.p.A.

**WATSON FARLEY
&
WILLIAMS**

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THIS AGREEMENT is made on 19 December 2018.

PARTIES

- (1) **LEONARDO SIX, LTD.**, an exempted company incorporated under the laws of Bermuda whose registered office is at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda as borrower (the "**Borrower**")
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1 (*Lenders and Commitments*) as lenders (the "**Lenders**")
- (3) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK, BNP PARIBAS FORTIS S.A./N.V., KFW IPEX-BANK GMBH, HSBC BANK PLC, CASSA DEPOSITI E PRESTITI S.P.A., SOCIÉTÉ GÉNÉRALE and BANCO SANTANDER S.A.** as joint mandated lead arrangers (the "**Joint Mandated Lead Arrangers**")
- (4) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK**, as SACE agent (the "**SACE Agent**")
- (5) **BNP PARIBAS**, as facility agent (the "**Facility Agent**")
- (6) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, as security trustee (the "**Security Trustee**")

BACKGROUND

- (A) By a shipbuilding contract dated as of 21 October 2016 (as amended or supplemented from time to time, including on 26 July 2018, the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A., a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) the Borrower, the Builder agreed to design, construct and deliver, and the Borrower agreed to purchase, a 3,300 - passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on or about [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
 - (B) The total price payable by the Borrower to the Builder under the Shipbuilding Contract is eight hundred million euros (€800,000,000) (the "**Initial Contract Price**"). The Initial Contract Price is payable on the following terms and:
 - (i) as to [*], being [*], by an initial payment which is to be within 5 Business Days after the effective date of the Shipbuilding Contract in accordance with Article 10.1(A) of the Shipbuilding Contract ("**First Shipbuilding Contract Instalment**");
 - (ii) as to [*], being [*], on the later of the date of commencement of steel cutting and the date falling 24 months prior to the Intended Delivery Date;
 - (iii) as to [*], being [*], on the later of keel laying in dry-dock and the date falling 18 months prior to the Intended Delivery Date;
 - (iv) as to [*], being [*], on the later of launching and the date falling 12 months prior to the Intended Delivery Date; and
 - (v) as to [*], being [*], on delivery of the Ship on the Delivery Date,
-

as each such event is described in the Shipbuilding Contract.

- (C) The Initial Contract Price may be decreased at delivery of the Ship under Articles 13, 14, 16, 17, 19 and 20 of the Shipbuilding Contract (in aggregate the **Liquidated Damages**) or by mutual agreement between the parties (the Initial Contract Price adjusted as aforesaid being the **Final Contract Price**). For the avoidance of doubt, under the Shipbuilding Contract the price of the Ship may be increased or decreased pursuant to Article 24 thereof but, for the purposes of this Agreement, the Final Contract Price will not include any increase in the price under Article 24.
- (D) The Lenders have agreed to make available to the Borrower a Euro loan facility for the purpose of assisting the Borrower in financing, up to eighty per cent. (80%) of the Final Contract Price (and subject to an aggregate amount no greater than the Eligible Amount) and one hundred per cent. (100%) of the SACE Premium.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Definitions

Subject to Clause 1.5 (*General Interpretation*), in this Agreement:

"**Affected Lender**" has the meaning given in Clause 6.6 (*Unavailability of Screen Rate*).

"**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.

"**Annex VI**" means Annex VI (Regulations for the Prevention of Air Pollution from Ships, entered into on 19 May, 2005) to the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 (MARPOL) and as further revised in October 2008 with such revised version having entered into force on 1 July 2010.

"**Approved Broker**" means Clarkson plc, Barry Rogliano Salles, Fearnleys, Rocca & Partners, Brax Shipbrokers AS (or any Affiliate of such person through which valuations are commonly issued) or such other shipbroker or ship valuer experienced in valuing cruise ships nominated by the Borrower and approved by the Facility Agent.

"**Approved Flag**" means the Bermuda flag, the Marshall Islands flag, the Bahamas flag or such other flag as the Facility Agent may, with the approval of the Italian Authorities and at least four Lenders representing as a minimum the Majority Lenders, approve from time to time.

"**Approved Manager**" means any of the Borrower, NCL Corporation Ltd., NCL (Bahamas) Ltd. or other member of the Group, or any company which is not a member of the Group which the Facility Agent may, with the authorisation of the Majority Lenders, approve from time to time as manager of the Ship.

"**Approved Manager's Undertaking**" means, in the event that the Approved Manager is a company other than the Borrower, a letter of undertaking executed or to be executed by the Approved Manager in favour of the Facility Agent, which will include, without limitation, an agreement by the Approved Manager to subordinate its rights against the Ship and the Borrower to the rights of the Secured Parties under the Finance Documents, in the agreed form.

"**Availability Period**" means the period commencing on the Effective Date and ending on:

- (a) the earlier to occur of (i) the Delivery Date and (ii) 25 February 2028 (or such later date as the Facility Agent may, with the authorisation of the Lenders, agree with the Borrower); or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated.

"**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.

"**Bermuda Obligors**" means the Borrower, the Shareholder and the Guarantor.

"**Builder**" has the meaning given in Recital (A).

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open in New York, Milan, Frankfurt, Brussels, Madrid, Paris, Rome and (in relation to any payment or purchase of Euros) which is a TARGET Day; and

"**CDP**" means Cassa Depositi e Prestiti S.p.A.

"**Certified Copy**" means in relation to any document delivered or issued by or on behalf of any company, a copy of such document certified as a true, complete and up-to-date copy of the original by any of the directors or the secretary or assistant secretary or any attorney-in-fact for the time being of that company.

"**Charged Property**" means all of the assets which from time to time are, or are expressed to be, the subject of Security Interests pursuant to the Finance Documents.

"**CIRR**" means, in relation to the Loan, the applicable Commercial Interest Reference Rate determined in accordance with the OECD Arrangement on Guidelines for Officially Supported Export Credits, to be notified by SIMEST to the Facility Agent (through the SACE Agent) and expected to be one point zero six per cent. (1.06%) per annum.

"**CIRR Break Costs**" means, in respect of the Loan, all the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the relevant Interest Make-up Agreement, including without limitation, as a result of any prepayment of all or any part of the Loan under this Agreement (whether voluntary, following acceleration of the Loan or otherwise), as a result of an Interest Make-up Event and/or as a result of the Borrower deciding to switch from the Fixed Interest Rate to another interest rate after the Drawdown Date. Such amounts include, without limitation, (i) breakage costs calculated on the basis of the net present value referred to in the relevant Interest Make-up Agreement, (ii) any amount due as a consequence of the close-out of any hedging arrangement entered into by SIMEST in relation to this Agreement, (iii) default interest and penalties (*maggiorazioni*) whenever applicable, and (iv) all amounts (if any) to be returned by the SACE Agent or the Facility Agent (as applicable) to SIMEST under and pursuant to the Interest Make-up Agreement.

"**Code**" means the United States Internal Revenue Code of 1986.

"**Code of Ethics**" means the code of ethics adopted by CDP, available on CDP's website (http://www.cdp.it/static/upload/cdp/cdp_code_ethics.pdf).

"**Commitment**" means, in relation to a Lender, the amount equal to the percentage of the Maximum Loan Amount set opposite its name in Schedule 1 (*Lenders and Commitments*), or, as the case may require, the amount specified in the relevant Transfer Certificate, in each case as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and "**Total Commitments**" means the aggregate of the Commitments of all the Lenders).

"**Compliance Certificate**" has the meaning given to the term "Compliance Certificate" in the Guarantee.

"**Confidential Information**" means all information relating to any Obligor, the Group, the Finance Documents or the Loan of which a Creditor Party becomes aware in its capacity as, or for the purpose of becoming, a Creditor Party or which is received by a Creditor Party from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Creditor Party, if the information was obtained by that Creditor Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Creditor Party of Clause 33 (*Confidentiality*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Creditor Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Creditor Party after that date, from a source which is, as far as that Creditor Party is aware, unconnected with the Group and which, in either case, as far as that Creditor Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or
- (iv) any Reference Bank Quotation.

"**Confidentiality Undertaking**" means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrower and the Facility Agent.

"**Contribution**" means, in relation to a Lender, the amount of the Loan which is owing to that Lender.

"**Corresponding Debt**" means any amount, other than any Parallel Debt, which an Obligor owes to a Creditor Party under or in connection with the Finance Documents.

"**Creditor Party**" means the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender, whether as at the date of this Agreement or at any later time.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee

"**Delivery Date**" means the date and time of delivery of the Ship by the Builder to the Borrower as stated in the Protocol of Delivery and Acceptance.

"**Document of Compliance**" has the meaning given to it in the ISM Code.

"**Dollars**", "\$" and "**USD**" means the lawful currency for the time being of the United States of America.

"**Drawdown Date**" means the date on which the Loan is drawn down and applied in accordance with Clause 2 *(Facility)*.

"**Drawdown Notice**" means a notice in the form set out in Schedule 2 *(Form of Drawdown Notice)* (or in any other form which the Facility Agent approves or reasonably requires).

"**Earnings**" means all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower and which arise out of the use or operation of the Ship, including (but not limited to):

- (a) all freight, hire, fare and passage moneys, compensation payable to the Borrower, the Facility Agent or the Security Trustee (as the case may be) in the event of requisition of the Ship for hire, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of the Ship;
- (b) all moneys which are at any time payable under Insurances in respect of loss of earnings;
- (c) all moneys which are at any time payable to the Borrower in respect of the general average contribution; and
- (d) if and whenever the Ship is employed on terms whereby any moneys falling within paragraphs (a) or (b) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Ship.

"**EEA Member Country**" means any member state of the European Union, Iceland, Liechtenstein and Norway.

"**Effective Date**" means the earlier of:

- (a) the Guarantor providing the Facility Agent with written notice stating that this Agreement and the other Finance Documents signed on or about the date hereof have become effective; and
- (b) 16.00 Central European time on 31 January 2019.

"**Eligible Amount**" means eighty per cent. (80%) of the lesser of:

- (a) eight hundred million Euros (€800,000,000); and
- (b) the Final Contract Price.

"**Environmental Approval**" means any present or future permit, ruling, variance or other authorisation required under Environmental Laws.

"**Environmental Claim**" means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, "claim" includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

"**Environmental Incident**" means:

- (a) any release, emission, spill or discharge into the Ship or into or upon the air, sea, land or soils (including the seabed) or surface water of Environmentally Sensitive Material within or from the Ship; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or the Ship and/or any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water otherwise than from the Ship and in connection with which the Ship is actually or potentially liable to be arrested and/or where any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

"**Environmental Law**" means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

"**Environmentally Sensitive Material**" means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

"**EONIA**" means, on any date, the effective overnight reference rate for the Euro administered by the European Money Markets Institute (or any other person which takes over the administration of that rate), computed as a weighted average of all overnight unsecured lending transactions in the European interbank market, undertaking in the European Union and European Free Trade Association countries, provided that if the rate is less than zero, EONIA shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

"**Equator Principles**" means the standards entitled "A financial industry benchmark for determining, assessing and managing environmental and social risk in projects" dated June 2013 and adopted by certain financial institutions, as the same may be amended or supplemented from time to time.

"**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.

"**EU Blocking Regulation**" means EU Regulation (EC) 2271/96 of 22 November 1996.

"**EURIBOR**" means, in relation to the Loan or any part of the Loan:

- (a) the applicable Screen Rate as of the Quotation Date for Euros and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or
- (b) as otherwise determined pursuant to Clause 6.6 (*Unavailability of Screen Rate*).

and if in either case, that rate is less than zero, EURIBOR shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

"**Euro**", "**Euros**" and "**EUR**" means the single currency of the Participating Member States.

"**Event of Default**" means any of the events or circumstances described in Clause 18.1 (*Events of Default*).

"**Existing Indebtedness**" means Financial Indebtedness referred to in the financial statements of the Guarantor delivered to the Facility Agent prior to the date of this Agreement.

"**Exporter Declaration**" means a declaration in the form required by SIMEST at the relevant time duly signed by an authorised signatory of the Builder.

"**Facility**" means the term loan facility made available under this Agreement as described in Clause 2.1 (*Amount of facility*).

"**Facility Agent**" means BNP Paribas, a French *'société anonyme'*, having a share capital of two billion four hundred ninety-nine million five hundred ninety-seven thousand one hundred and twenty-two Euros (€2,499,597,122) and its registered office located at 16 Boulevard des Italiens, 75009, Paris, France, registered under the n° Siren 662.042.449 at the *Registre du Commerce et des Sociétés* of Paris or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

"**Facility Office**" means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**FATCA**" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"**FATCA Application Date**" means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

"**FATCA Deduction**" means a deduction or withholding from a payment under a Finance Document required by FATCA.

"**FATCA Exempt Party**" means a Party that is entitled to receive payments free from any FATCA Deduction.

"**Fee Letter**" means any letter dated on or about the date of this Agreement between:

- (a) the Facility Agent and the Borrower setting out the fees referred to in paragraph (a) of Clause 9.1 (*Fees*);

- (b) the Facility Agent and the Borrower setting out the fees referred to in paragraph (c) of Clause 9.1 (*Fees*);
- (c) the SACE Agent and the Borrower setting out the fees referred to in paragraph (d) of Clause 9.1 (*Fees*);
- (d) the Security Trustee and the Borrower setting out the fees referred to in paragraph (e) of Clause 9.1 (*Fees*); or
- (e) the Borrower and a Creditor Party setting out the fees payable to such Creditor Party pursuant to the terms of this Agreement.

"Finance Documents" means:

- (a) this Agreement;
- (b) any Fee Letter;
- (c) the Guarantee;
- (d) the General Assignment;
- (e) the Mortgage;
- (f) the Post-Delivery Assignment;
- (g) any Subordinated Debt Security;
- (h) the Shares Security Deed;
- (i) the Approved Manager's Undertaking;
- (j) any Transfer Certificate;
- (k) any Compliance Certificate;
- (l) any Drawdown Notice;
- (m) any other document (whether creating a Security Interest or not) which is executed as security for, or for the purpose of establishing any priority or subordination arrangement in relation to, the Secured Liabilities; and
- (n) any other document (whether creating a Security Interest or not) which is designated as a Finance Document by agreement between the Borrower, SACE and the Facility Agent.

"Final Contract Price" has the meaning given in Recital (C).

"Financial Indebtedness" means, in relation to a person (the **"debtor"**), an indebtedness of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;

- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount;
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person; or
- (g) arising from receivables sold or discounted (other than receivables to the extent they are sold on a non-recourse basis).

"First Instalment" means the first instalment of the SACE Premium as more particularly described in paragraph (a) of Clause 8.1 *SACE Premium*).

"Fixed Interest Rate" means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) the CIRR.

"Fixed Rate Margin" means the difference between the Floating Rate Margin and the SIMEST Margin Contribution.

"Floating Interest Rate" means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) EURIBOR for the relevant period.

"Floating Rate Margin" means one point twenty per cent. (1.20%).

"Funding Rate" means any individual rate notified by a Lender to the Facility Agent pursuant to Clause 6.11(b).

"GAAP" means generally accepted accounting principles in the United States of America consistently applied (or, if not consistently applied, accompanied by details of the inconsistencies) including, without limitation, those set forth in the opinion and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

"**General Assignment**" means an assignment of, *inter alia*, any Management Agreement, the Earnings, the Insurances, any charter and any Requisition Compensation, executed or to be executed by the Borrower and, in the event that the Approved Manager is not a member of the Group and is named as a co-assured in the Insurances, the Approved Manager in favour of the Security Trustee in the agreed form.

"**German Blocking Provisions**" means section 7 of the German Foreign Trade Regulation (AWV) (*Außenwirtschaftsverordnung*) (in connection with section 4 paragraph 1 a no. 3 German Foreign Trade Law (AWG) (*Außenwirtschaftsgesetz*)).

"**Gross Negligence**" means any act or omission, whether deliberate or not, which in the circumstances (including both the probability and seriousness of the consequences likely to result) would reasonably be regarded by those familiar with the nature of the activity in question and with the surrounding circumstances, as amounting to the reckless disregard of, or serious indifference to, the consequences, being in any case more than a negligent failure to exercise proper skill and care.

"**Group**" means the Guarantor and its Subsidiaries.

"**Guarantee**" means a guarantee issued by the Guarantor in favour of the Security Trustee in the agreed form.

"**Guarantor**" means NCL Corporation Ltd., a Bermuda company with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda.

"**Holding Company**" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"**IAPPC**" means a valid international air pollution prevention certificate for the Ship issued under Annex VI.

"**Illicit Origin**" means any origin which is illicit, fraudulent or in breach of Sanctions including, without limitation, drug trafficking, corruption, organised criminal activities, terrorism, money laundering or fraud.

"**Initial Contract Price**" has the meaning given in Recital (B).

"**Insurances**" means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are effected in respect of the Ship, its Earnings or otherwise in relation to it; and
- (b) all rights and other assets relating to, or derived from any of such policies, contracts or entries, including any rights to a return of a premium.

"**Intended Delivery Date**" means [*] (the date on which the Ship will be ready for delivery pursuant to the Shipbuilding Contract as at the date of this Agreement) or any other date notified by the Borrower to the Facility Agent in accordance with paragraph (a) of Clause 3.5 (*No later than sixty (60) days before the Intended Delivery Date*) or paragraph (c) of Clause 3.9 (*No later than five (5) Business Days before the Intended Delivery Date*) as being the date on which the Builder and the Borrower have agreed that the Ship will be ready for delivery pursuant to the Shipbuilding Contract.

"**Interest Make-up Agreement**" means an agreement on interest stabilisation (*Capitolato per il Contributo Interessi*) to be entered into between SIMEST and the SACE Agent on behalf of the Lenders and in form and substance acceptable to the SACE Agent, the Facility Agent and the Lenders, which provides, *inter alia*, for the applicable CIRR to be subsidised in relation to the Loan made available under this Agreement and to which the CIRR applies.

"**Interest Make-up Event**" means the occurrence of any circumstances which result in the termination, cancellation, revocation, cessation or suspension (in each case, in whole or in part) of the Interest Make-up Agreement or the Interest Make-up Agreement otherwise ceases or may cease to be in full force and effect or the SACE Agent notifies the Borrower that the Fixed Interest Rate is not available for any reason, in each case, in accordance with the terms of the Interest Make-up Agreement.

"**Interest Period**" means a period determined in accordance with Clause 7 (*Interest Periods*).

"**ISM Code**" means the International Safety Management Code for the safe operation of ships and for pollution prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation as the same may be amended or supplemented from time to time.

"**ISPS Code**" means the International Ship and Port Facility Security (ISPS) Code adopted by the International Maritime Organisation (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

"**Italian Authorities**" means SACE and/or SIMEST and any other relevant Italian authorities involved in the implementation of the Loan.

"**Legislative Decree 231/01**" means the Italian legislative decree of 8 June 2001, no. 231 (*Disciplina della responsabilità amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica, a norma dell'articolo 11 della legge 29 settembre 2000, n.300*) as amended from time to time, on administrative vicarious liability of corporate entities.

"**Lender**" means a bank, financial institution, trust, fund or other entity listed in Schedule 1 (*Lenders and Commitments*) and acting through its Facility Office or its transferee, successor or assign.

"**Loan**" means the principal amount for the time being outstanding under this Agreement.

"**Majority Lenders**" means:

- (a) before the Loan has been made, Lenders whose Commitments total [*] per cent. of the Total Commitments; and
- (b) after the Loan has been made, Lenders whose Contributions total [*] per cent. of the Loan.

"**Management Agreement**" means the management agreement (if any) entered or to be entered into between the Borrower and an Approved Manager which is not a member of the Group with respect to the Ship on terms reasonably acceptable to the Majority Lenders and SACE.

"Margin" means:

- (a) in relation to the Fixed Interest Rate, the Fixed Rate Margin; and
- (b) in relation to the Floating Interest Rate, the Floating Rate Margin.

"Maritime Registry" means the maritime registry which the Borrower will specify to the Lenders no later than 90 days before the Intended Delivery Date, being that of Bermuda, the Marshall Islands, Bahamas or such other registry as the Facility Agent may, with the approval of the Italian Authorities and at least three Lenders representing as a minimum the Majority Lenders, approve.

"Material Adverse Effect" means the occurrence of any event or circumstance which reasonably would be expected to have a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) of any Obligor or the Group as a whole;
- (b) the ability of any Obligor to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Secured Party under any of the Finance Documents.

"Maximum Loan Amount" means the aggregate of:

- (a) six hundred and forty million Euros (€640,000,000); and
- (b) one hundred per cent. (100%) of the SACE Premium to be paid in accordance with Clause 8.1 *SACE Premium*),

provided that such amount shall not, at any time, exceed six hundred sixty-three million nine hundred thousand four hundred fourteen Euros and ninety-four cents (€663,900,414.94).

"Minor Modification" means a modification of the plans or the specification or the construction of the Ship under Article 24 of the Shipbuilding Contract, resulting in a contract price increase or decrease of less than [*] Euros (€[*]).

"Model" means the principles of the compliance system adopted by CDP pursuant to Legislative Decree 231/01, available on CDP's website (https://en.cdp.it/kdocs/1896656/Organization_Management_and_Control_Model_pursuant_to_Italian_Legislative_Decree_No._231-01_EN.pdf).

"Mortgage" means the first priority mortgage on the Ship acceptable for registration on the Approved Flag and, if applicable, deed of covenant, executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

"Negotiation Period" has the meaning given in Clause 6.9 (*Negotiation of alternative rate of interest*).

"Obligors" means the Borrower, the Guarantor, the Shareholder and (in the event that the Approved Manager is a member of the Group) the Approved Manager.

"**Original Jurisdiction**" means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the date of this Agreement.

"**Parallel Debt**" means any amount which an Obligor owes to the Security Trustee under Clause 27.2 *Parallel Debt (Covenant to pay the Security Trustee)*.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement from time to time.

"**Permitted Financial Indebtedness**" means any Financial Indebtedness:

- (a) incurred under the Finance Documents; or
- (b) permitted pursuant to Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

"**Permitted Security Interests**" means:

- (a) in the case of the Borrower:
 - (i) any of the Security Interests referred to in paragraph (b)(ii)(A) below; and
 - (ii) any of the Security Interests referred to in paragraphs (b)(ii)(B), (b)(ii)(C), (b)(ii)(E), (b)(ii)(H) and (b)(ii)(I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Borrower in the case of paragraphs (b)(ii)(C) or (b)(ii)(E) or incurred by the Borrower in the case of paragraphs (b)(ii)(B), (b)(ii)(H) or (b)(ii)(I); and
- (b) in the case of the Guarantor:
 - (i) any of the Security Interests referred to in paragraphs (ii)(A), (ii)(D), (ii)(F) and (ii)(G) below; and
 - (ii) any of the Security Interests referred to in paragraphs (C), (E), (H) and (I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Guarantor in the case of paragraph (C) or (E) or incurred by the Guarantor in the case of paragraph (H) or (I);
 - (A) any Security Interest created by or pursuant to the Finance Documents and any deposits or other Security Interests placed or incurred in connection with any bond or other surety from time to time provided to the US Federal Maritime Commission in order to comply with laws, regulations and rules applicable to the operators of passenger vessels operating to or from ports in the United States of America;

- (B) liens on the Ship up to an aggregate amount at any time not exceeding [*] for current crew's wages and salvage and liens incurred in the ordinary course of trading the Ship;
- (C) any deposits or pledges up to an aggregate amount at any time not exceeding [*] to secure the performance of bids, tenders, bonds or contracts required in the ordinary course of business;
- (D) any other Security Interest including in relation to the Existing Indebtedness over the assets of any Obligor other than the Borrower notified by the Borrower or any of the Obligors to the Facility Agent and accepted by it prior to the date of this Agreement;
- (E) (without prejudice to the provisions of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*)) liens on assets leased, acquired or upgraded after the date of this Agreement or assets newly constructed or converted after the date of this Agreement provided that (i) such liens secure Financial Indebtedness otherwise permitted under this Agreement, (ii) such liens are incurred at the time of such lease, acquisition, upgrade, construction or conversion and (iii) the Financial Indebtedness secured by such liens does not exceed the cost of such upgrade or the cost of such assets acquired or leased;
- (F) other liens arising in the ordinary course of business of the Group unrelated to Financial Indebtedness and securing obligations not yet delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established provided that (i) the aggregate amount of all cash and the fair market value of all other property subject to such liens as are described in this paragraph (F) does not exceed [*] and (ii) such cash and/or other property is not an asset of the Borrower;
- (G) subject to the other provisions of this Agreement and the Guarantee, any Security Interest in respect of existing Financial Indebtedness of a person which becomes a Subsidiary of the Guarantor or is merged with or into the Guarantor or any of its subsidiaries;
- (H) liens in favour of credit card companies on unearned customer deposits pursuant to agreements therewith; and
- (I) liens in favour of customers on unearned customer deposits.

"Pertinent Document" means:

- (a) any Finance Document;
- (b) any policy or contract of insurance contemplated by or referred to in Clause 12 (*General Undertakings*) or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and

- (d) any document which has been or is at any time sent by or to the Facility Agent in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraph (b) or (c).

"Pertinent Matter" means:

- (a) any transaction or matter contemplated by, arising out of, or in connection with a Pertinent Document; or
- (b) any statement relating to a Pertinent Document or to a transaction or matter falling within paragraph (a);

and covers any such transaction, matter or statement, whether entered into, arising or made at any time before the signing of this Agreement or on or at any time after that signing.

"Post-Delivery Assignment" means an assignment of the rights of the Borrower in respect of the post-delivery guarantee liability of the Builder under Article 25 of the Shipbuilding Contract executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

"Prohibited Jurisdiction" means any country or territory which is, or whose government is, the target of country-wide or territory-wide Sanctions.

"Prohibited Payment" means:

- (a) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would constitute bribery or an improper gift or payment under, or a breach of Sanctions, any laws of the Republic of Italy, England and Wales, Bermuda, the Council of the European Union, Germany, the United States of America or any other applicable jurisdiction; or
- (b) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would or might constitute bribery within the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997.

"Prohibited Person" means any person that (i) appears on any Sanctions list of prohibited persons, (ii) is directly or indirectly owned 50 percent or more by, or directly or indirectly controlled by, one or more persons covered by sub-section (i) above, or (iii) is located, is resident in or is incorporated under the laws of a Prohibited Jurisdiction.

"Protocol of Delivery and Acceptance" means the protocol of delivery and acceptance of the Ship to be signed by the Borrower and the Builder in accordance with Article 8 of the Shipbuilding Contract.

"Quotation Date" means, in relation to any Interest Period (or any period for which an interest rate is to be determined under any provision of a Finance Document), two TARGET Days before the first day of that period, unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Date will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Date will be the last of those days).

"**Qualifying Certificate**" means the certificate to be issued by the Builder on the Delivery Date and issued to the Facility Agent and copied to the Borrower substantially in the form set out in Schedule 5 (*Qualifying Certificate*).

"**Receiver**" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property

"**Reference Bank Quotation**" means any quotation supplied to the Facility Agent by a Reference Bank.

"**Reference Bank Rate**" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks:

- (a) (other than where paragraph (b) below applies) as the rate at which the relevant Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States for the relevant period; or
- (b) if different, as the rate (if any and applied to the relevant Reference Bank and the relevant period) which contributors to the Screen Rate are asked to submit to the relevant administrator.

"**Reference Banks**" means such entities as may be appointed by the Facility Agent in consultation with the Borrower.

"**Relevant Interbank Market**" means the European Interbank Market.

"**Relevant Jurisdiction**" means, in relation to an Obligor:

- (a) its jurisdiction of incorporation;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party.

"**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 (or any successor organization).

"**Repayment Date**" means a date on which a repayment is required to be made under Clause 5 (*Repayment*).

"**Replacement Benchmark**" means a benchmark rate which is:

- (a) a formally designated, nominated or recommended as the replacement for the Screen Rate by:

- (i) the administrator of the Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by the 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" shall be the replacement under paragraph (ii) above;

- (b) in the opinion of the Majority Lenders and the Obligors, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor of that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Obligors, an appropriate successor to that Screen Rate.

"**Representative**" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

"**Requisition Compensation**" includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of "**Total Loss**".

"**Restricted Creditor Party**" means a Creditor Party which serves a notice pursuant to paragraph (a) of Clause 37.7 (*Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation*).

"**Resolution Authority**" means any body which has authority to exercise any Write-down and Conversion Powers.

"**SACE**" means SACE S.p.A.

"**SACE Agent**" means Crédit Agricole Corporate and Investment Bank, a French '*société anonyme*', having a share capital of seven billion eight hundred and fifty one million six hundred and thirty six thousand three hundred and forty two Euros (€7,851,636,342) and its registered office located at 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France, registered under the n° Siren 304 187 701 at the Registre du Commerce et des Sociétés of Nanterre or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

"**SACE Insurance Policy**" means the insurance policy in respect of this Agreement (which, in all material respects, is not inconsistent with the commercial terms of this Agreement) to be issued by SACE for the benefit of the Lenders in respect of one hundred per cent. (100%) of the Loan together with interest thereon in form and substance satisfactory to the Facility Agent, the SACE Agent and all the Lenders.

"**SACE Premium**" means the amount payable by the Borrower to SACE directly or through the SACE Agent in two instalments in respect of the SACE Insurance Policy as set out in Clause 8 (*SACE Premium and Italian Authorities*).

"**SACE Premium Instalments**" means each of the First Instalment and Second Instalment.

"**SACE Required Documents**" means in relation to the Drawdown Notice:

- (a) a duly completed and executed Qualifying Certificate; and
- (b) each of the other documents, information and other evidence specified in or required to be enclosed with such Qualifying Certificate.

"**Safety Management Certificate**" has the meaning given to it in the ISM Code.

"**Sanctions**" means any financial, economic or trade sanctions, embargoes or other restrictions relating to trading, doing business, investment, exporting, importing, travelling, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Hong Kong Monetary Authority, the European Union or the Council of the European Union, the United Nations or its Security Council or imposed by any member state of the European Union or Switzerland;
- (b) imposed by the US, including the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC); or
- (c) otherwise imposed by any law or regulation.

"**SBC Effective Date**" means the effective date under the Shipbuilding Contract.

"**Screen Rate**" means, in relation to a particular period, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate at or about 11 a.m (CET time) for spot value on the Quotation Date for such period as displayed on page EURIBOR01 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 (and if such page ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consulting with the Borrower).

"**Screen Rate Replacement Event**" means, in relation to the Screen Rate:

- (a) the methodology, formula or other means of determining the Screen Rate has, in the opinion of the Majority Lenders and the Obligors materially changed;

(b)

(i)

- (A) the administrator of the Screen Rate or its supervisor publicly announces that such administrator is insolvent;
- (B) information is published in any order, decree, notice, petition or filing, however, described of or filed with a court, tribunal, exchange, regulatory authority or judicial body which reasonably confirms that the administrator of the Screen Rate is insolvent,

provided that in each case, at that time, there is no successor or administrator to continue to provide the Screen Rate;

- (ii) the administrator of the Screen Rate publicly announces that it has ceased or will cease, to provide the Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the Screen Rate;
 - (iii) the supervisor of the administrator of the Screen Rate publicly announces that the Screen Rate has been or will be permanently or indefinitely discontinued;
 - (iv) the administrator of the Screen Rate or its supervisor announces that the Screen Rate may no longer be used;
- (c) the administrator of the Screen Rate determines that the Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
- (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Obligors) temporary; or
 - (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the period of fifteen (15) Business Days;
- (d) in the opinion of the Majority Lenders and the Obligors, the Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

"Second Instalment" means the second instalment of the SACE Premium as more particularly described in paragraph (b) of Clause 8.1 *SACE Premium*).

"Secured Liabilities" means all liabilities which the Borrower, the Obligors or any of them have, at the Effective Date or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country.

"Secured Party" means SACE, the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender whether at the date of this Agreement or any later time, a Receiver or any Delegate.

"Security Interest" means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien, assignment, hypothecation or any other security interest of any kind or other agreement or arrangement having the effect of conferring security;
- (b) the security rights of a plaintiff under an action *in rem*; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution.

"**Security Period**" means the period commencing on the Effective Date and ending on the date on which:

- (a) all amounts which have become due for payment by the Borrower or any Obligor under the Finance Documents have been fully and irrevocably paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) neither the Borrower nor any other Obligor has any future or contingent liability under Clause 19 (*Application of sums received*) below or any other provision of this Agreement or another Finance Document; and
- (d) the Facility Agent does not consider that there is a significant risk that any payment or transaction under a Finance Document would be set aside, or would have to be reversed or adjusted, in any present or possible future bankruptcy of the Borrower or an Obligor or in any present or possible future proceeding relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created by a Finance Document.

"**Security Property**" means:

- (a) the Security Interests expressed to be granted in favour of the Security Trustee as trustee for the Secured Parties and all proceeds received or recovered by or on behalf of the Security Trustee under or by virtue of any Security Interest including any money or other assets which are received or recovered by it as a result of the enforcement or exercise by it of such a Security Interest or right;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Trustee as trustee for the Secured Parties and secured by the Security Interests together with all representations and warranties expressed to be given by an Obligor in favour of the Security Trustee as trustee for the Secured Parties;
- (c) the Security Trustee's interest in any turnover trust created under the Finance Documents;
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Trustee is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties,

except:

- (i) rights intended for the sole benefit of the Security Trustee; and
- (ii) any moneys or other assets which the Security Trustee has transferred to the Facility Agent or (being entitled to do so) has retained in accordance with the provisions of this Agreement.

"**Security Requirement**" means the amount in Euros (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which is at any relevant time one hundred and twenty-five per cent. (125%) of the Loan.

"**Security Trustee**" means HSBC Corporate Trustee Company (UK) Limited, a company incorporated in England and Wales (with registered number 6447555) whose registered office is located at 8 Canada Square, London, E14 5HQ or any successor of it appointed under Clause 27 (*The Security Trustee*).

"**Security Value**" means the amount in Euros (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which, at any relevant time, is the aggregate of (i) the charter free market value of the Ship as most recently determined in accordance with Clause 13.4 (*Valuation of the Ship*); and (ii) the market value of any additional security for the time being actually provided to the Facility Agent pursuant to Clause 15 (*Security Value Maintenance*).

"**Servicing Party**" means the Facility Agent or the Security Trustee.

"**Shares Security Deed**" means a document creating security over the share capital in the Borrower in the agreed form.

"**Shareholder**" means NCL International Ltd., a Bermuda company with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda.

"**Ship**" means the passenger cruise ship currently designated with Hull No.[*] (as more particularly described in the Shipbuilding Contract) to be constructed under the Shipbuilding Contract and to be delivered to, and purchased by, the Borrower and registered in its name under an Approved Flag.

"**Shipbuilding Contract**" has the meaning given in Recital (A).

"**SIMEST**" means Società Italiana per Le Imprese all'Estero - SIMEST S.p.A., which grants export subsidies in Italy under and according to the Italian Legislative Decree n. 143/98 and its amendments.

"**SIMEST Margin Contribution**" means the margin contribution approved and granted by SIMEST to the Lenders under the Interest Make-up Agreement as communicated by the SACE Agent to the Creditor Parties and the Borrower following the date of this Agreement as soon as the SACE Agent is made aware of it.

"**Structuring Fee**" has the meaning given in paragraph 9.1(a) of Clause 9.1 (*Fees*).

"**Subordinated Debt Security**" has the meaning given in paragraph (b)(ii) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

"**Subsidiary**" has the following meaning:

A company (S) is a subsidiary of another company (P) if:

- (a) a majority of the issued shares in S (or a majority of the issued shares in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; or
- (b) P has direct or indirect control over a majority of the voting rights attaching to the issued shares of S; or

- (c) P has the direct or indirect power to appoint or remove a majority of the directors of S; or
- (d) P otherwise has the direct or indirect power to ensure that the affairs of S are conducted in accordance with the wishes of P;

and any company of which S is a subsidiary is a parent company of S.

"**TARGET2**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payment in Euros.

"**Tax**" means any tax, levy, impost, duty, assessment, fee, deduction or other charge or withholding of a similar nature imposed by any governmental authority (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Third Party Act**" means the Contracts (Rights of Third Parties) Act 1999.

"**Total Loss**" means:

- (a) actual, constructive, compromised, agreed or arranged total loss of the Ship;
- (b) any expropriation, confiscation, requisition or acquisition of the Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority, (excluding a requisition for hire for a fixed period not exceeding 1 year without any right to an extension) unless it is within 1 month redelivered to the Borrower's full control;
- (c) any arrest, capture, seizure or detention of the Ship (including any hijacking or theft) unless it is within 1 month redelivered to the Borrower's full control.

"**Total Loss Date**" means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earliest of:
 - (i) the date on which a notice of abandonment is given to the insurers (or deemed or agreed to be given); and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower with the Ship's insurers in which the insurers agree to treat the Ship as a total loss; and

- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Facility Agent acting reasonably and in consultation with the Borrower that the event constituting the total loss occurred.

"Transaction Documents" means the Finance Documents and the Underlying Documents.

"Transfer Certificate" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrower.

"Underlying Documents" means the Shipbuilding Contract, any Management Agreement, any bareboat charter and any charter and associated guarantee in respect of which a notice of assignment is required to be served under the terms of the General Assignment.

"Unpaid Sum" means (i) any sum due and payable but unpaid by an Obligor under the Finance Documents and (ii) any part of the SACE Premium unpaid by the Borrower.

"US" means the United States of America.

"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 of certain terms

In this Agreement:

"**Facility Agent**", the "**SACE Agent**", the "**Joint Mandated Lead Arranger**", the "**Security Trustee**", "**SACE**", any "**Creditor Party**", any "**Secured Party**", any "**Lender**", any "**Obligor**" or any other "**person**", shall be construed so as to include its successors in title, permitted assigns and permitted transferees.

"**approved by the Lenders**" (or any similar determination or instruction by the Lenders) means approved in writing by the Facility Agent acting on the instructions of all the Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and any requirement for approval by all the Lenders shall mean prior approval.

"**approved by the Majority Lenders**" (or any similar determination or instruction by the Majority Lenders) means approved in writing by the Facility Agent acting on the instructions of the Majority Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Majority Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and otherwise "approved" means approved in writing by the Facility Agent (on such conditions as the Facility Agent may impose) and "approval" and "approve" shall be construed accordingly and any requirement for approval by the Facility Agent, the SACE Agent or the Majority Lenders shall mean prior approval.

"**asset**" includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment.

"**company**" includes any partnership, joint venture and unincorporated association.

"**consent**" includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation.

"**contingent liability**" means a liability which is not certain to arise and/or the amount of which remains unascertained.

"**date of this Agreement**" means 19 December 2018.

"**document**" includes a deed; also a letter, fax or electronic mail.

"**expense**" means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Taxes including VAT.

"**including**" and "**in particular**" (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.

"**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;

"**law**" includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council.

"**legal or administrative action**" means any legal proceeding or arbitration and any administrative or regulatory action or investigation.

"**liability**" includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise.

"**months**" shall be construed in accordance with Clause 1.4 (*Meaning of "month"*).

"**parent company**" has the meaning given in the definition of "Subsidiary".

"**person**" includes any individual, firm, company, corporation, government, any state, political sub-division of a state and local or municipal authority, agency of a state or any association, trust, joint venture, consortium or partnership; and any international organisation (whether or not having a separate legal personality).

"**proceedings**" means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure.

"**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Construction of Insurance Terms

"**approved**" means, for the purposes of Clause 14 (*Insurance Undertakings*), approved in writing by the Facility Agent.

"**excess risks**" means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims.

"**obligatory insurances**" means all insurances effected, or which the Borrower is obliged to effect, under Clause 14 (*Insurance Undertakings*) or any other provision of this Agreement or another Finance Document.

"**policy**" in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms.

"**protection and indemnity risks**" means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02) (1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/10/83) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision.

"**war risks**" includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24 of the Institute Time Clauses (Hulls) (1/11/95) or clause 23 of the Institute Time Clauses (Hulls)(1/10/83).

1.4 Meaning of "month"

A period of one or more "**months**" ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started ("**the numerically corresponding day**"), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;

and "month" and "monthly" shall be construed accordingly.

1.5 General Interpretation

In this Agreement:

- (a) references in Clause 1.1 (*Definitions*) to a Finance Document or any other document being an "agreed form" are to the form agreed between the Facility Agent (acting with the authorisation of each of the Creditor Parties and SACE) and the Borrower with any modifications to that form which the Facility Agent (with the authorisation of the Majority Lenders and SACE in the case of substantial modifications) approves or reasonably requires;
- (b) references to, or to a provision of, a Finance Document or any other document are references to it as amended, amended and restated or supplemented, whether before the date of this Agreement or otherwise;
- (c) references to Sanctions, for the purposes of Clause 11 (*Representations and Warranties*), Clause 12 (*General Undertakings*), Clause 20 (*Indemnities*), Clause 21 (*Illegality, etc.*) and the Finance Documents shall mean "Sanctions" as defined in Clause 1.1 (*Definitions*), by which any Obligor, any Creditor Party or any party involved in the transactions contemplated in the Finance Documents is bound or to which it is subject or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of any Obligor or any Creditor Party;
- (d) references to, or to a provision of, any law or regulation include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (e) references to Dollar amounts in Clause 10.11 (*Transaction Costs*), Clause 12 (*General Undertakings*), Clause 13 (*Ship Undertakings*), Clause 14 (*Insurance Undertakings*) and Clause 18 (*Events of Default*) shall be a reference to Dollars (or the equivalent amount in any other currency);
- (f) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;
- (g) words denoting the singular number shall include the plural and vice versa; and
- (h) Clauses 1.1 (*Definitions*) to 1.5 (*General Interpretation*) apply unless the contrary intention appears.

1.6 Headings

In interpreting a Finance Document or any provision of a Finance Document, all clauses, sub-clauses and other headings in that and any other Finance Document shall be entirely disregarded.

1.7 Schedules

The schedules form an integral part of this Agreement.

2 FACILITY

2.1 Amount of facility

Subject to the other provisions of this Agreement, the Lenders agree to make available to the Borrower a loan not exceeding the Maximum Loan Amount intended to be applied as follows:

- (a) in payment to the Builder, up to the Eligible Amount, of all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) in reimbursement to the Borrower of the amount of the First Instalment of the SACE Premium paid by it to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (c) in payment to SACE of the amount of the Second Instalment of the SACE Premium payable by the Borrower to SACE in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.2 Lenders' participations in Loan

Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

2.3 Purpose of Loan

The Borrower undertakes with each Secured Party to use the Loan only to pay for:

- (a) goods and services of Italian origin incorporated in the design, construction or delivery of the Ship;
- (b) subject to the limits and conditions fixed by the Italian Authorities, goods and services incorporated in the design, construction or delivery of the Ship and originating from countries other than Italy where the provision of such goods or services has been sub-contracted by the Builder and therefore remains the Builder's responsibility under the Shipbuilding Contract;
- (c) all or part of eighty per cent. (80%) of the Final Contract Price;
- (d) reimbursement to the Borrower of the First Instalment of the SACE Premium paid by the Borrower direct to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (e) the Second Instalment of the SACE Premium payable in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.4 Creditor Parties' rights and obligations

- (a) The obligations of each Creditor Party under the Finance Documents are several. Failure by a Creditor Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Creditor Party is responsible for the obligations of any other Creditor Party under the Finance Documents.
- (b) The rights of each Creditor Party and SACE under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Creditor Party and SACE from an Obligor shall be a separate and independent debt.
- (c) A Creditor Party and SACE may not, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.
- (d) Notwithstanding any other provision of the Finance Documents and subject to the prior written consent of SACE, a Creditor Party may separately sue for any Unpaid Sum due to it without the consent of any other Creditor Party or joining any other Creditor Party to the relevant proceedings (it being understood that a Creditor Party may file a claim noting the amounts due to it in the event insolvency proceedings are commenced against the Borrower by a third party).

2.5 Monitoring

No Creditor Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

2.6 Obligations of Lenders several

The obligations of the Lenders under this Agreement are several; and a failure of a Lender to perform its obligations under this Agreement shall not result in:

- (a) the obligations of the other Lenders being increased; nor
 - (b) any Obligor or any other Lender being discharged (in whole or in part) from its obligations under any Finance Document,
- and in no circumstances shall a Lender have any responsibility for a failure of another Lender to perform its obligations under this Agreement or any other Finance Document.

3 CONDITIONS PRECEDENT

3.1 General

The Borrower may only draw the Loan when the following conditions have been fulfilled to the satisfaction of the Facility Agent and provided no Event of Default shall have occurred and remains unremedied or is likely to occur as a consequence of the drawing of the Loan:

3.2 No later than the Effective Date

The Facility Agent shall have received no later than the Effective Date:

- (a) an opinion from legal counsel to the Secured Parties as to Bermuda law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Bermuda Obligors' execution of any Finance Documents to which they are party on the Effective Date;
- (b) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of this Agreement and the Guarantee;
- (c) an opinion from legal counsel to the Secured Parties as to Bermuda law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the Shares Security Deed;
- (d) a Certified Copy of the executed Shipbuilding Contract;
- (e) such documentary evidence as the Facility Agent and its legal advisers may require in relation to the due authorisation and execution by the Borrower and the Builder of the Shipbuilding Contract and of all documents to be executed by the Borrower and the Builder;
- (f) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom that it will act for the Borrower and the Guarantor as agent for service of process in England in respect of this Agreement and any other Finance Document;
- (g) duly executed originals of the Guarantee and the Shares Security Deed and of each document to be submitted pursuant to it;
- (h) such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender or SACE) or any Lender or SACE (for itself) in order for the Facility Agent and such Lender or SACE 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;
- (i) payment of the initial portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter; and
- (j) payment of the initial portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the initial portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the initial portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter.

3.3 No later than four (4) years before the Intended Delivery Date

The Facility Agent shall have received no later than four (4) years before the Intended Delivery Date, payment of the remaining portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter.

3.4 No later than ninety (90) days before the Intended Delivery Date

The Facility Agent (or the SACE Agent in respect of paragraphs (c), (e) and (f) below) shall have received no later than ninety (90) days before the Intended Delivery Date:

- (a) notification from the Borrower of its chosen Maritime Registry;

- (b) notification of the Approved Manager;
- (c) the SACE Insurance Policy documentation relating to the transaction contemplated by this Agreement issued on terms whereby the SACE Insurance Policy will enter into full force and effect upon fulfilment of the conditions specified therein to be fulfilled on or before the Drawdown Date;
- (d) evidence that the First Instalment has been paid;
- (e) an original of the Interest Make-up Agreement relative to the Loan and in full force and effect;
- (f) an original of the SACE Insurance Policy; and
- (g) an opinion from legal counsel to the Creditor Parties as to Italian law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of SACE's issuance of the SACE Insurance Policy and compliance with the principles governing the eligibility of credit risk mitigation techniques as per Article 194, paragraph 1, of the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013.

3.5 No later than sixty (60) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than sixty (60) days before the Intended Delivery Date:

- (a) notification of the Intended Delivery Date;
- (b) a notice from the Borrower as described in paragraph (a) of Clause 8.4 (*Refund*); and
- (c) a Bermuda tax opinion from legal counsel to the Secured Parties in respect of the tax treatment of the entry by the Bermuda incorporated Borrower into this Agreement and the other Finance Documents substantially in the form notified to the Borrower on or around the Effective Date and updated to reflect any changes in law.

3.6 No later than forty-five (45) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than forty five (45) days before the Intended Delivery Date (and on each subsequent date on which a Compliance Certificate is to be received by the Security Trustee pursuant to clause 11.3(c) of the Guarantee) a duly completed Compliance Certificate from the Guarantor;

3.7 No later than [*] ([*]) days before the Intended Delivery Date

The SACE Agent (with a copy to the Facility Agent) shall have received from the Borrower no later than [*] ([*]) days before the Intended Delivery Date notification, signed by a duly authorised signatory of the Borrower, specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable to the Loan until the date of payment of the final repayment instalment of the Loan.

3.8 No later than fifteen (15) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than fifteen (15) Business Days before the Intended Delivery Date insurance documents in form and substance satisfactory to the Lenders confirming that the Insurances have been effected and will be in full force and effect on the Delivery Date.

3.9 No later than five (5) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than five (5) Business Days before the Intended Delivery Date:

- (a) the Drawdown Notice from the Borrower, signed by a duly authorised signatory of the Borrower, specifying the amount of the Loan to be drawn down;
- (b) a Certified Copy of any amendments to the Shipbuilding Contract which are not Minor Modifications and of the power of attorney pursuant to which the authorised signatory of the Borrower signed the Drawdown Notice and a specimen of his signature; and
- (c) a final confirmation of the Intended Delivery Date signed by a duly authorised signatory of the Borrower, and counter-signed by a duly authorised signatory of the Builder.

3.10 No later than the Delivery Date

The Facility Agent shall have received no later than the Delivery Date:

- (a) if applicable, a duly executed original of the Subordinated Debt Security;
- (b) any opinions from legal counsel to the Secured Parties relating to the due execution, validity and enforceability of the Subordinated Debt Security, in form and substance satisfactory to the Facility Agent and the Secured Parties;
- (c) evidence of payment to and receipt by the Builder of:
 - (i) the four (4) pre-delivery instalments of the Final Contract Price; and
 - (ii) any other part of the Final Contract Price as at the Delivery Date not being financed hereunder;
- (d) payment of the relevant portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the relevant portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the relevant portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter;
- (e) evidence of payment of all amounts which are due and payable hereunder by the Borrower on or prior to the Delivery Date;
- (f) a certificate from the Borrower, signed by an authorised representative of the Borrower, confirming that:
 - (i) the representations and warranties contained in Clause 11 (*Representations and Warranties*) are true and correct as of the Delivery Date in consideration of the facts and circumstances existing as of the Delivery Date; and
 - (ii) no mandatory prepayment event pursuant to Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) is continuing or would result from the Loan;

- (g) an original or a certified copy of each of the SACE Required Documents and the Facility Agent and the SACE Agent shall be satisfied that the SACE Required Documents on their face appear properly completed and comply with the requirements of this Agreement and the requirements of the SACE Insurance Policy; and
- (h) provided always that the obligations of the Lenders to make the Loan available on the Delivery Date are subject to the Lenders remaining satisfied that each of the SACE Insurance Policy and the Interest Make-up Agreement will cover the Loan following the advance of the Loan, payment of the Second Instalment and delivery to the Facility Agent of the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.11 At Delivery

Immediately prior to the delivery of the Ship by the Builder to the Borrower, the Facility Agent shall have received:

- (a) evidence that immediately following delivery:
 - (i) the Ship will be registered in the name of the Borrower in the Maritime Registry;
 - (ii) title to the Ship will be held by the Borrower free of all Security Interests other than any maritime lien in respect of crew's wages and trade debts arising out of equipment, consumable and other stores placed on board the Ship prior to or concurrently with delivery, none of which is overdue;
 - (iii) the Mortgage will be duly registered in the Maritime Registry and constitutes a first priority security interest over the Ship and that all taxes and fees payable to the Maritime Registry in respect of the Ship have been paid in full; and
 - (iv) the opinions mentioned in paragraphs (b), (c) and (d) of Clause 3.12 (*Immediately following Delivery*), in draft form immediately prior to the delivery of the Ship, and the documents mentioned in paragraph (e) of Clause 3.12 (*Immediately following Delivery*) will be issued to and received by the Facility Agent;
- (b) a Certified Copy of a classification certificate (or interim classification certificate) showing the Ship to be classed in accordance with paragraph (c) of Clause 11.3 (*Representations on the Delivery Date*).
- (c) duly executed originals of the General Assignment, any Approved Manager's Undertaking and the Post-Delivery Assignment together with relevant notices of assignment and the acknowledgement of the notice of assignment to be issued pursuant to the General Assignment and the Post-Delivery Assignment;
- (d) a Certified Copy of any executed Management Agreement, any bareboat charter and any related security pursuant to paragraph (b) of Clause 13.1 (*Pooling of earnings and charters*) (if applicable) and any time charterparty in respect of the Ship;
- (e) a Certified Copy of any current certificate of financial responsibility in respect of the Ship issued under OPA, a valid Safety Management Certificate (or interim Safety Management Certificate) issued to the Ship in respect of its management by the Approved Manager pursuant to the ISM Code, a valid Document of Compliance (or interim Document of Compliance) issued to the Approved Manager in respect of ships of the same type as the Ship pursuant to the ISM Code, a valid International Ship Security Certificate issued to the Ship in accordance with the ISPS Code and a valid IAPPC issued to the Ship in accordance with Annex VI and, if entered into, any carrier initiative agreement with the United States' Customs and Border Protection under the Customs-Trade Partnership Against Terrorism (C-TPAT) programme along with any other documents required under the ISM Code and the ISPS Code;

- (f) a Certified Copy of the power of attorney pursuant to which the authorised signatory(ies) of the Borrower signed the documents referred to in this Clause 3.11 *(at Delivery)* and to which the Borrower is a party and a specimen of his or their signature(s); and
- (g) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom (or any replacement process agent satisfactory to the Facility Agent acting reasonably) that it will act for each of the relevant Obligors as agent for service of process in England in respect of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment and the Post-Delivery Assignment.

3.12 Immediately following Delivery

Immediately following the delivery of the Ship by the Builder to the Borrower, the Facility Agent (with copy to the Security Trustee), or, in the case of paragraph (a) below, the Security Trustee (with copy to the Facility Agent), shall receive:

- (a) a duly executed original of the Mortgage;
- (b) an opinion from legal counsel acceptable to the Secured Parties as to the law of the Maritime Registry in form and substance satisfactory to the Facility Agent and the Secured Parties confirming:
 - (i) the valid registration of the Ship in the Maritime Registry; and
 - (ii) the Mortgage over the Ship is a first priority security and has been validly registered in the Maritime Registry;
- (c) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and any other relevant security document entered into at delivery;
- (d) an opinion from legal counsel acceptable to the Secured Parties as to the laws of the state of Bermuda in form and substance satisfactory to the Facility Agent and the Secured Parties together with the company documentation of the Borrower and a certificate of a competent officer or manager of the Borrower containing specimen signatures of the persons authorised to sign the documents on behalf of the Borrower, confirming that, without limitation:
 - (i) the Mortgage, the deed of covenants constituting part of the Mortgage, the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) fall within the scope of the Borrower's company purpose as defined by its Memorandum of Association and By-laws and are binding on it; and
 - (ii) the Borrower's representatives are fully empowered to sign the Protocol of Delivery and Acceptance, the Mortgage, the deed of covenants constituting part of the Mortgage, the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) and any related security pursuant to paragraph (b) of Clause 13.1 *(Pooling of earnings and charters)*; and

- (e) the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.13 Notification of satisfaction of conditions precedent

The Facility Agent shall notify the Lenders and SACE promptly upon being satisfied as to the satisfaction of the conditions precedent referred to in this Clause 3 (*Conditions Precedent*).

3.14 Waiver of conditions precedent

If the Majority Lenders, at their discretion, subject to the prior written consent of SACE, permit the Loan to be borrowed before any of the conditions precedent referred to in Clause 3 (*Conditions Precedent*) has been satisfied, the Borrower shall ensure that that condition is satisfied within five (5) Business Days after the date (as specified in the relevant part of Clause 3 (*Conditions Precedent*)) or such later date as the Facility Agent may agree in writing with the Borrower.

3.15 Changes to SACE's or SIMEST's requirements

- (a) If SACE or SIMEST notifies the SACE Agent in writing of a change of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), or gives instructions to the SACE Agent with the effect that, in the opinion of the SACE Agent, this Agreement or certain documents which the Borrower is or may be required to provide for the purpose of drawing the Loan under this Agreement shall be amended to comply with such change or instructions, then the SACE Agent shall promptly notify the Borrower of such a change in SACE's or SIMEST's requirements (as applicable) and of the relevant amendments to be made to this Agreement or any such documents as the SACE Agent considers appropriate.
- (b) If the SACE Agent notifies the Borrower of any proposed changes to this Agreement under paragraph (a) above, and provided that:
 - (i) all the Lenders and the Borrower agree with such changes; and
 - (ii) the Borrower indemnifies and holds harmless the SACE Agent, the Facility Agent and the Lenders for any reasonable costs that it may incur arising from or in connection with any such amendments (including legal fees),

then such changes will be made to this Agreement in accordance with the terms hereof.

- (c) If, in the opinion of the Lenders, there are any provisions of this Agreement that contradict or conflict with any provision of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), such that compliance by any Creditor Party with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) may result in a breach by such Creditor Party of the any of the terms of this Agreement or to an extent that the same may have the effect of rendering all or any part of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) void, voidable or otherwise not in full force and effect, the Borrower agrees that any relevant terms of this Agreement will be amended to the extent agreed in writing between the Borrower, the Facility Agent and the SACE Agent to ensure compliance with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable).

3.16 No claim against the Creditor Parties

The Borrower agrees that the Creditor Parties may act on the instructions of the Italian Authorities in relation to this Agreement.

3.17 Examination and reliance on documents by the Facility Agent

- (a) The SACE Agent shall ensure that an officer or employee or other person designated by it as its authorised representative is present at the Builder on the Delivery Date for the purpose of examining originals (or certified copies) of the SACE Required Documents duly signed by the parties thereto and collecting copies thereof (which copies shall be certified as true copies by an authorised signatory of the Builder and/or the Borrower, as applicable).
- (b) The Facility Agent shall be entitled (but not obliged) to rely and act upon any documentation or information provided under this Clause 3 (*Conditions Precedent*), which appears on its face to have been duly completed.
- (c) The Facility Agent's responsibility to the Borrower and the Lenders for the examination of the Drawdown Notice, and, when applicable, the documents provided by any person other than the Borrower in connection with the Drawdown Notice, shall be limited to the examination of their apparent compliance with the terms and conditions thereof in accordance with Articles 14 (Standard of examination of documents) and 34 (Disclaimer on effectiveness of documents) of the "Uniform Customs and Practice for Documentary Credits" (currently publication number 600 of the International Chamber of Commerce, latest edition) (except that no time limit for examination of documents shall apply).
- (d) The Facility Agent and the Lenders shall not be obliged to enquire as to, or be responsible for, the validity, truthfulness and genuineness and (where the relevant document is a conformed copy) conformity to the original of the Drawdown Notice or any other document which appears on its face to be in order, or of any signatures thereon or any of the statements set out therein and shall be entitled to rely on the accuracy of any such statements.
- (e) In case of any discrepancy in any such documents, the Facility Agent shall notify the Borrower in writing thereof and shall request its approval of such discrepancy in writing.
- (f) The Facility Agent and the Lenders shall not be responsible for any delay in making available the Loan resulting from any requirement for the delivery of further information or documents reasonably required by the Facility Agent for the relevant conditions precedent in this Agreement to be satisfied.

4 DRAWDOWN

4.1 Borrower's irrevocable payment instructions

The Lenders shall not be obliged to fulfil their obligation to make the Loan available other than (i) by paying the Builder all or part of eighty per cent. (80%) of the Final Contract Price on behalf of and in the name of the Borrower, (ii) by reimbursing the Borrower for the First Instalment of the SACE Premium which was paid by the Borrower to SACE on the earlier of (A) the date falling 30 days after the issuance of the SACE Insurance Policy and (B) the date falling 6 months after the date of SACE's board approval and (iii) by payment to SACE of the Second Instalment of the SACE Premium payable on the Drawdown Date. For the avoidance of doubt, the amount of the Loan shall not exceed the Maximum Loan Amount.

The Borrower hereby instructs the Lenders in accordance with this Clause 4.1 (*Borrower's irrevocable payment instructions*):

- (a) to pay to the Builder, up to the Eligible Amount, all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) to reimburse the Borrower the amount of the First Instalment of the SACE Premium already paid by the Borrower to SACE on the date specified in paragraph (a) of Clause 8.1; and
- (c) to pay to the Facility Agent on behalf of the Lenders for onward payment to SACE (such payment to SACE to be made for value on the Drawdown Date), by drawing under this Agreement, the amount of the Second Instalment of the SACE Premium.

Payment to the Builder of the amount drawn under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) above shall be made on the Drawdown Date during usual banking hours in Italy to the Builder's account as specified by the Builder in accordance with the Shipbuilding Contract after receipt and verification by the Facility Agent of the documents provided under Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

Save as contemplated in Clause 4.2 (*Modification of payment terms*) below, the payment instruction contained in this Clause 4.1 (*Borrower's irrevocable payment instructions*) is irrevocable.

4.2 Modification of payment terms

The Borrower expressly acknowledges that the payment terms set out in this Clause may only be modified with the agreement of the Italian Authorities, the Facility Agent, the Security Trustee, the Lenders and the Borrower in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) and with the agreement of the Italian Authorities, the Facility Agent, the Lenders and the Borrower in the case of paragraphs (b) and (c) of Clause 4.1 (*Borrower's irrevocable payment instructions*).

4.3 Availability and conditions

- (a) Drawing may not be made under this Agreement (and the Loan shall not be available) after the expiry of the Availability Period.
- (b) There will be only one drawing under this Agreement.
- (c) The aggregate amount of the Loan cannot exceed the Maximum Loan Amount.

4.4 Notification to Lenders of receipt of a Drawdown Notice

The Facility Agent shall promptly and, in any case, by no later than three (3) Business Days before the Drawdown Date, notify the Lenders that it has received a Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;

- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the first Interest Period.

4.5 Lenders to make available Contributions

Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Facility Agent the amount due from that Lender under Clause 2.2 (*Lenders' participations in Loan*).

4.6 Disbursement of Loan

Subject to the provisions of this Agreement, the Facility Agent shall on the Drawdown Date pay the amounts which the Facility Agent receives from the Lenders under Clause 4.5 (*Lenders to make available Contributions*) in the like funds as the Facility Agent received the payments from the Lenders:

- (a) in the case of the amount referred to in paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*), to the account of the Builder which the Borrower specifies in the Drawdown Notice; and
- (b) in the case of an amount referred to in paragraph (b) of Clause 4.1 (*Borrower's irrevocable payment instructions*) to the account of the Borrower which the Borrower shall specify; and
- (c) in the case of an amount referred to in paragraph (c) of Clause 4.1 (*Borrower's irrevocable payment instructions*) to the account of SACE which the SACE Agent shall specify.

4.7 Disbursement of Loan to third party

The payment by the Facility Agent under Clause 4.6 (*Disbursement of Loan*) shall constitute the making of the Loan and the Borrower shall at that time become indebted, as principal and direct obligor, to each Lender in an amount equal to that Lender's Contribution.

5 REPAYMENT

5.1 Number of repayment instalments

The Borrower shall repay the Loan by twenty-four (24) consecutive six-monthly instalments from the earlier of (i) the Delivery Date and (ii) the date of actual disbursement of the Loan (the "**Starting Point of Repayment**").

5.2 Repayment Dates

The first repayment instalment shall be repaid on the date falling six (6) months after the Starting Point of Repayment and the last repayment instalment on the date falling one hundred and forty-four (144) months after the Starting Point of Repayment, each date of payment of an instalment being a "**Repayment Date**".

5.3 Amount of repayment instalments

Each repayment instalment of the Loan shall be of an equal amount.

5.4 Final Repayment Date

On the final Repayment Date, the Borrower shall additionally pay to the Facility Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.

6 INTEREST

6.1 Fixed or Floating Interest Rate

The Borrower shall provide notification, signed by a duly authorised signatory of the Borrower, to the SACE Agent (with a copy to the Facility Agent) at least [*] days before the Drawdown Date specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable until the date of payment of the final repayment instalment of the Loan.

6.2 Fixed Interest Rate

If the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the Loan shall bear interest in respect of each Interest Period at the Fixed Interest Rate. Such interest shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid on the last day of each Interest Period.

6.3 Floating Interest Rate

If:

- (a) the Borrower has specified a Floating Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*); or
- (b) the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*) but thereafter for any reason whatsoever the Interest Make-up Agreement is suspended or otherwise ceases to be in effect; or
- (c) SIMEST has requested a change of currency pursuant to the Interest Make-up Agreement and such change of currency is not agreed by the Borrower or Lenders in accordance with Clause 6.16 (*Change of currency*); or
- (d) SIMEST has failed to make a net payment of interest to the Lenders pursuant to the Interest Make-up Agreement,

the rate of interest on the Loan in respect of any Interest Period shall be the Floating Interest Rate applicable for that Interest Period and the following provisions of this Clause 6 (*Interest*) shall apply (in the case of the circumstances referred to in paragraph (b) above, with effect from the date on which the Interest Make-up Agreement ceases to be in effect, with such consequential amendments as shall be necessary to give effect to the switch from a Fixed Interest Rate to a Floating Interest Rate).

6.4 Payment of Floating Interest Rate

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid by the Borrower on the last day of that Interest Period.

6.5 Notification of Interest Periods and Floating Interest Rate

The Facility Agent shall notify the Borrower and each Lender of each Floating Interest Rate and the duration of each Interest Period as soon as reasonably practicable after each is determined and no later than the Quotation Date.

6.6 Unavailability of Screen Rate

- (a) *Market disruption:* If, on a Quotation Date, no Screen Rate is available for EURIBOR, EURIBOR shall be the rate quoted to the Facility Agent by the Lenders who are able to quote such rate at the request of the Facility Agent as those Lenders' offered rate for deposits of Euros in an amount approximately equal to the amount in relation to which EURIBOR is to be determined for a period equivalent to such period to prime banks in the European interbank eurocurrency market at or about 11 a.m. (CET time) on the Quotation Date for such period.
- (b) If:
- (i) no Screen Rate is quoted and the Lenders do not (pursuant to paragraph 6.6 above), before 1.00 p.m. (CET) on the Quotation Date for an Interest Period, provide quotations to the Facility Agent in order to fix EURIBOR; or
 - (ii) at least 1 Business Day before the start of an Interest Period, Lenders having Contributions together amounting to more than [*] per cent. of the Loan (or, if the Loan has not been made, Commitments amounting to more than [*] per cent. of the Total Commitments) notify the Facility Agent that EURIBOR fixed by the Facility Agent would not accurately reflect the cost to those Lenders of funding their respective Contributions (or any part of them) during the Interest Period in the Relevant Interbank Market at or about 11.00 a.m. (CET) on the Quotation Date for the Interest Period; or
 - (iii) at least 1 Business Day before the start of an Interest Period, the Facility Agent is notified by a Lender (the "**Affected Lender**") that for any reason it is unable to obtain Euros in the Relevant Interbank Market in order to fund its Contribution (or any part of it) during the Interest Period,

the following provisions of this Clause 6 (*Interest*) apply.

6.7 Notification of market disruption

The Facility Agent shall promptly notify the Borrower and each of the Lenders stating the circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which have caused its notice to be given.

6.8 Suspension of drawdown

If the Facility Agent's notice under Clause 6.6 (*Unavailability of Screen Rate*) is served before the Loan is made:

- (a) in a case falling within sub-paragraphs 6.6(b)(i) or (ii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*), the Lenders' obligations to make the Loan;
- (b) in a case falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*), the Affected Lender's obligation to participate in the Loan;

shall be suspended while the circumstances referred to in the Facility Agent's notice continue.

6.9 Negotiation of alternative rate of interest

If the Facility Agent's notice under Clause 6.7 (*Notification of market disruption*) is served after the Loan is made, the Borrower, the Facility Agent and the Lenders or (as the case may be) the Affected Lender shall use reasonable endeavours to agree, in consultation with SACE and SIMEST, within the 30 days after the date on which the Facility Agent serves its notice under Clause 6.7 (*Notification of market disruption*) (the "**Negotiation Period**"), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.

6.10 Application of agreed alternative rate of interest

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

6.11 Alternative rate of interest in absence of agreement

- (a) If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the Reference Bank Rate for Euros.
- (b) If, following the end of the Negotiation Period and request by the Facility Agent for a quotation by the Reference Banks pursuant to paragraph (a) above, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period and the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the cost of funding of the Lenders or (as the case may be) the Affected Lender in Euros or in any available currency of their or its contribution plus the Margin; and the procedure provided for by this Clause 6.11 (*Alternative rate of interest in absence of agreement*) shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Facility Agent.

6.12 Notice of prepayment

If the Borrower does not agree with an interest rate set by the Facility Agent under Clause 6.11 (*Alternative rate of interest in absence of agreement*), the Borrower may give the Facility Agent not less than 15 Business Days', or, if the Fixed Interest Rate has been selected pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), 30 days, notice of its intention to prepay at the end of the interest period set by the Facility Agent.

6.13 Prepayment; termination of Commitments

A notice under Clause 6.12 (*Notice of prepayment*) shall be irrevocable; the Facility Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender and, if the Fixed Interest Rate has been selected by the Borrower, SIMEST of the Borrower's notice of intended prepayment; and:

- (a) on the date on which the Facility Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender shall be cancelled; and 6.6(b)(i)
- (b) on the last Business Day of the Interest Period set by the Facility Agent, the Borrower shall prepay (without premium or penalty subject to the provisions of Clause 20.2 (*Breakage costs and SIMEST arrangements*)) the Loan or, as the case may be, the Affected Lender's Contribution, together with accrued interest thereon at the applicable rate (being either the Floating Interest Rate or the Fixed Interest Rate as specified by the Borrower pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*)).

6.14 Application of prepayment

The provisions of Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) shall apply in relation to the prepayment.

6.15 Certain Circumstances

Notwithstanding anything to the contrary in this Agreement:

- (a) in the event of any circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which might affect the advance of the Loan on the Drawdown Date (the "**Relevant Circumstances**"):
 - (i) occurring and being continuing on the date falling ninety (90) days before the Intended Delivery Date (the "**Relevant Date**"), each Lender will notify the Borrower (through the Facility Agent) of the Relevant Circumstances on the Relevant Date or, if the Relevant Date is not a Business Day, on the next following Business Day; and
 - (ii) occurring after the Relevant Date, each Lender will notify the Borrower (through the Facility Agent) immediately upon such Lender becoming aware of the Relevant Circumstances;
- (b) in the event of any Relevant Circumstances falling within sub-paragraphs 6.6(b)(i) or (ii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Pricing-Related Relevant Circumstances**") occurring before the Loan is made available and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will fund its respective Contributions by reference to the agreed alternative rate of interest in accordance with Clauses 6.9 (*Negotiation of alternative rate of interest*), 6.10 (*Application of agreed alternative rate of interest*) and 6.11 (*Alternative rate of interest in absence of agreement*) as if the provisions of such Clauses applied not only in the event that the Pricing-Related Relevant Circumstances have been notified by the Facility Agent to the Borrower after the making of the Loan but also before the making of the Loan;
- (c) in the event of any Relevant Circumstances falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Availability-Related Relevant Circumstances**") occurring before the Loan is made and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will enter into good faith discussions with the Borrower for a period not exceeding 10 Business Days in order to discuss a basis on which the Lenders could be able to fund their respective Contributions in Euros (or, if unavailable in Euros, then in any available currency). Such discussions shall be without obligation on the Lenders provided that during such discussion period, such circumstances continue.

6.16 Change of currency

- (a) In the event that the SACE Agent notifies the Borrower that SIMEST has requested a change in the currency of the Loan in accordance with clause 6.3 of the Interest Make-up Agreement, the Borrower and the Lenders shall, without obligation, consider such request for a change of currency acting reasonably for a period of not exceeding 10 Business Days. Following such discussions the SACE Agent shall report the decision of the Facility Agent, the Borrower and the Lenders to SIMEST, providing their reason for any negative decision.
- (b) In the event that a change of currency is agreed the Parties agree to negotiate in good faith the necessary changes to this Agreement, the Finance Documents, the SACE Insurance Policy and the Interest Make-up Agreement in order to document the change in currency.
- (c) In the event that a change in currency is not acceptable to the Lenders or the Borrower, the provision of paragraph (c) of Clause 6.3 *Floating Interest Rate* shall apply.

6.17 Modification and/or discontinuation of certain benchmarks

Without prejudice to any other provisions of this Agreement, each Party acknowledges and agrees to the benefit of the other Party that:

- (a) EURIBOR and EONIA benchmarks (i) may be subject to methodological or other changes which could affect their value, (ii) may not comply with applicable laws and regulations (such as the European Benchmark Regulation as far as EURIBOR and EONIA are concerned) and/or (iii) may be permanently discontinued (in particular LIBOR which may be phased out after 2021).
- (b) The occurrence of any of the aforementioned events and/or a Screen Rate Replacement Event may have adverse consequences which may materially impact the economics of the financing transaction contemplated under this Agreement.
- (c) The Parties further acknowledge that if any of the aforementioned events and/or a Screen Rate Replacement Event is forthcoming, they shall enter into negotiations with a view to agreeing the necessary changes to this Agreement in order to preserve the economics of the financing transaction contemplated therein and, in particular, the margin initially agreed between the Parties. Such negotiations shall be carried out by each Party in good faith and in consideration of the then prevailing market practice (without prejudice to the particularities, as the case may be, of the transaction).

6.18 Replacement rate

- (a) If any of the events described in clause 6.17 (including a Screen Rate Replacement Event in relation to the Screen Rate) has occurred, 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 fall back and market disruption provisions for that Replacement Benchmark;
- (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practical, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders) and the Obligors.

- (b) If any Lender fails to respond to a request for an amendment to waiver described in paragraph (a) above, within fifteen (15) Business Days (or such longer period in relation to any request which the Borrower and the Facility Agent may agree) of that request being made:
 - (i) its Commitment shall not be included for the purpose of calculating the Total Commitments under the relevant Loan when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
 - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

7 INTEREST PERIODS

7.1 Commencement of Interest Periods

The first Interest Period applicable to the Loan shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period.

7.2 Duration of Interest Periods

Subject to Clause 7.3 (*Duration of Interest Periods for Repayment Instalments*), each Interest Period shall be 6 months.

7.3 Duration of Interest Periods for Repayment Instalments

Any Interest Period that includes a Repayment Date shall expire on such Repayment Date.

8 SACE PREMIUM AND ITALIAN AUTHORITIES

8.1 SACE Premium

The estimated SACE Premium for an amount equal to [*] (being [*] per cent. ([*]%) of the Maximum Loan Amount), or any other amount communicated by SACE subject to the approval of all Lenders and the Borrower, is due and payable in two instalments as follows:

- (a) the first instalment of the SACE Premium being an amount of [*] per cent. ([*]%) of the SACE Premium (the "**First Instalment**") shall be paid by the Borrower to SACE (provided that the Borrower and the Lenders have been notified by the SACE Agent that the SACE Insurance Policy has been issued) on the earlier of (i) the date falling 30 days after the issuance of the SACE Insurance Policy and (ii) the date falling 6 months after the date of SACE's board approval or any other later date as communicated by SACE; and
- (b) the second instalment of the SACE Premium being an amount of [*] per cent. ([*]%) of the SACE Premium (the "**Second Instalment**") and shall be payable on or prior to the Drawdown Date. For the sake of clarity, no set-off with the First Instalment shall be permitted.

8.2 Reimbursement by the Borrower of the SACE Premium

The Borrower irrevocably agrees to pay the First Instalment, and to instruct the Lenders to pay the Second Instalment on behalf of the Borrower as follows:

- (a) the Borrower has requested and the Lenders have agreed to reimburse the payment of one hundred per cent. (100%) of the First Instalment to the Borrower on the Drawdown Date, it being agreed that such First Instalment shall be paid to SACE by the Borrower in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*) and upon notification by the Facility Agent to the Borrower (i) of the issuance of the SACE Insurance Policy documentation in the form required by paragraph (g) of Clause 3.4 (*No later than ninety (90) days before the Intended Delivery Date*), and (ii) of the amount of the First Instalment; and
- (b) the Borrower has requested and the Lenders have agreed to finance the payment of one hundred per cent. (100%) of the Second Instalment on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement.

Consequently, the Borrower hereby irrevocably instructs the Facility Agent on behalf of the Lenders to pay the Second Instalment to SACE on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement and to reimburse the Borrower by the Borrower drawing under the Loan the amount of the First Instalment in accordance with paragraph (b) of Clause 2.1 (*Amount of facility*) of this Agreement.

The First Instalment and Second Instalment each financed by the Loan will be repayable in any event by the Borrower to the Lenders in the manner specified in Clause 5 (*Repayment*) and under any and all circumstances including but without limitation in the event of prepayment or acceleration of the Loan.

8.3 Italian Authorities

- (a) The Borrower acknowledges and agrees that the Facility Agent, the SACE Agent and the Lenders are entitled to provide the Italian Authorities with any information they may have relative to the Loan and the business of the Group, to allow the Italian Authorities to inspect all their records relating to this Agreement and the other Transaction Documents and to furnish them with copies thereof. Any such information relative to the Loan may also be given by any Italian Authorities to international institutions charged with collecting statistical data.

- (b) The Borrower acknowledges that, in the making of any decision or determination or the exercise of any discretion or the taking or refraining to take any action under this Agreement or any of the other Finance Documents, the Facility Agent, the SACE Agent and the Lenders shall be deemed to have acted reasonably if they have acted on the instructions of either of the Italian Authorities.
- (c) Each Party further undertakes not to act in a manner which is inconsistent with the terms of the SACE Insurance Policy and the Interest Make-up Agreement.

8.4 Refund

- (a) The Borrower shall, at the latest on the date falling sixty (60) days before the Intended Delivery Date, provide a notice in writing to the SACE Agent (who will promptly forward it to other Lenders and SACE), signed by an authorised signatory of the Borrower, indicating the amount of the Loan to be drawn on the Delivery Date less (i) any amount cancelled and (ii) the Refund (as defined below) to be refunded in accordance with paragraph (b), such amount of the Refund to be confirmed by SACE at least six (6) Business Days prior to the Delivery Date. The Borrower hereby agrees and shall confirm in such notice that the remaining Commitments shall be deemed to be cancelled. The Borrower acknowledges, for the avoidance of doubt, that the shortfall to be paid to the Builder at the Delivery Date shall be funded and paid directly by the Borrower to the Builder.
- (b) If the Loan is less than the Maximum Loan Amount, and provided that no Event of Default has occurred and is then continuing and no loss has occurred under the SACE Insurance Policy, the Borrower shall be entitled to a refund of the Second Instalment of the SACE Premium in an amount calculated by SACE on the undrawn amount (the "**Refund**"). For the avoidance of doubt, the First Instalment of the SACE Premium is non-refundable, irrespective of whether any disbursements have been made under this Agreement and irrespective of whether the SACE Insurance Policy has been terminated.
- (c) Any refund of the Second Instalment of the SACE Premium, whether in whole or in part, must be expressly requested by the SACE Agent to SACE in writing following receipt by the SACE Agent of the Borrower's notice referred to in paragraph (a) above.
- (d) To the extent the Borrower is entitled to the Refund, SACE shall transfer the Refund as soon as practicably possible to the SACE Agent who shall as soon as practicably possible following receipt thereof transfer such amount to the Borrower. The Borrower hereby acknowledges that SACE shall not be liable to pay interest to the Borrower on the amount of the Refund.
- (e) Under the terms of the SACE Insurance Policy, the Parties acknowledge that SACE will withhold an amount of [*] per cent. ([*]%) from the amount of the SACE Premium to be refunded. Such withholding, charged as a lump sum to cover administration and management costs for the SACE Insurance Policy, may not, in any event, amount to less than [*] Euros (€[*]) or more than [*] Euros (€[*]), calculated by SACE as at the date of the refund request.
- (f) Except as set out in paragraphs (a) to (e) above, no part of the SACE Premium is refundable to any Obligor.

- (g) In no event shall the SACE Agent be liable for any refund of the SACE Premium to be made by SACE or for the calculation of any Refund and/or withholding thereof.

9 FEES

9.1 Fees

The following fees shall be due by the Borrower and payable as required hereunder:

- (a) to the Facility Agent, for the benefit of the Joint Mandated Lead Arrangers, a Joint Mandated Lead Arranger structuring fee (the ‘**Structuring Fee**’) in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (b) to the Facility Agent, for the benefit of the Lenders, a commitment fee in Euros for the period from the Effective Date to the Delivery Date of the Ship, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, computed at the rate of:
- (i) from the Effective Date to and including 31 December 2019, [*] per cent. ([*]%) per annum;
 - (ii) from 1 January 2020 to and including 31 December 2020, [*] per cent. ([*]%) per annum;
 - (iii) from 1 January 2021 to and including 31 August 2024, [*] per cent. ([*]%) per annum; and
 - (iv) from 1 September 2024 to and including the Delivery Date, [*] per cent. ([*]%) per annum;

and calculated on the undrawn amount of the Maximum Loan Amount and payable in arrears on the date falling six (6) months after the Effective Date and on each date falling at the end of each following consecutive six (6) month period, with the exception of the commitment fee due in respect of the last period, which shall be paid on the Delivery Date, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, such commitment fee to be calculated on the actual number of days elapsed divided by three hundred and sixty (360). For the purpose of the computation of the periodical commitment fee payable to the Lenders, the Maximum Loan Amount is assumed to be six hundred sixty-three million nine hundred thousand four hundred fourteen Euros and ninety-four cents (€663,900,414.94);

- (c) to the Facility Agent, for its own account, an agency fee in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (d) to the SACE Agent, a SACE agency fee in the amount and payable at the time separately agreed in writing between the SACE Agent and the Borrower; and
- (e) to the Security Trustee, a security trustee fee in the amount and payable at the time separately agreed in writing between the Security Trustee and the Borrower.

10 TAXES, INCREASED COSTS, COSTS AND RELATED CHARGES

10.1 Definitions

(a) In this Agreement:

"Protected Party" means a Secured Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"Tax Credit" means a credit against, relief or remission for, or repayment of any Tax.

"Tax Deduction" means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

"Tax Payment" means either the increase in a payment made by an Obligor to a Secured Party under Clause 10.2 (*tax gross-up*) or a payment under Clause 10.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) reference to **"determines"** or **"determined"** means a determination made in the absolute discretion of the person making the determination.

10.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it under the Finance Documents 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 Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the 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 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) A payment shall not be increased under paragraph (c) above if on the date on which the payment falls due the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender (having been given notice of the documentation requested under Clause 10.7 (*Lender Status*)) at least 30 Business Days prior to such payment date) complied with its obligations under Clause 10.7 (*Lender Status*).

(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 thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Secured Party entitled to the payment evidence reasonably satisfactory to that Secured Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

10.3 Tax indemnity

- (a) The Borrower shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Secured Party:
 - (A) under the law of the jurisdiction in which that Secured Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Secured Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction, if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Secured Party; or
 - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) or would have been compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) but was not so compensated solely because an exclusion in paragraph (d) of Clause 10.2 (*Tax gross-up*) applied, or relates to a FATCA Deduction required to be made by a Party; or
 - (iii) with respect to the Taxes in the nature of a branch profits tax imposed by Section 884(a) of the Code that is imposed by any jurisdiction described in paragraph (b)(i)(B) above.
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 10.3 (*Tax indemnity*), notify the Facility Agent.

10.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Creditor Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Creditor Party has obtained, retained and utilised that Tax Credit,

the Creditor Party shall pay an amount to the Obligor which that Creditor 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.

10.5 Stamp taxes

The Borrower shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

10.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Secured 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 Secured Party to any Party under a Finance Document and such Secured Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Secured 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 Secured Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Secured Party (the "**Supplier**") to any other Secured Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Secured Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Secured Party for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that such Secured 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 10.6 (*VAT*) to any Party being required to account to a tax authority for VAT shall, at any time when such Party is treated as a member of a group for VAT purposes, include a reference to another member of that group being required to so account to the relevant tax authority.

- (e) In relation to any supply made by a Secured Party to any Party under a Finance Document, if reasonably requested by such Secured Party, that Party must promptly provide such Secured Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Secured Party's VAT reporting requirements in relation to such supply.

10.7 Lender Status

- (a) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under a Finance Document shall deliver to the Facility Agent and the Borrower, at the time or times reasonably requested by the Facility Agent or the Borrower, such properly completed and executed documentation reasonably requested by the Facility Agent or the Borrower (and which it is reasonable for the Lender to complete and execute) as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Facility Agent or the Borrower, shall deliver such other documentation as prescribed by applicable law and reasonably requested by the Facility Agent or the Borrower as will enable the Facility Agent or the Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements.
- (b) Any Lender shall, to the extent it is legally entitled to do so, and where it is entitled to an exemption from, or reduction of, U.S. federal withholding tax, deliver to the Facility Agent and the Borrower on or prior to the date on which such Lender becomes a Lender under this Agreement or promptly thereafter (and from time to time thereafter as prescribed by applicable law or upon the request of the Facility Agent or the Borrower), duly executed and properly completed copies of Internal Revenue Service Form W-9 or W-8, as applicable, certifying that it is not subject to U.S. federal backup withholding and, in the case of a non-U.S. Lender that is eligible for an exemption from, or reduction of, U.S. federal withholding Tax establishing an exemption from, or reduction of, U.S. federal withholding Tax.

10.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower, the Facility Agent and the other Secured Parties.

10.9 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 Creditor 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 paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) Each Lender shall, within ten Business Days of (i) where the relevant Lender is a Lender at the date of this Agreement, the date of this Agreement and (ii) where the relevant Lender is a Transferee Lender, the effective date of a Transfer Certificate under Clause 24.4 (*Effective Date of Transfer Certificate*), supply to the Facility Agent:
 - (i) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (ii) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.

- (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.
- (i) Each Party acknowledges that CDP is a FATCA Exempt Party pursuant to article 1, paragraph 11.1(e) of the Italian Mef Decree dated 6 August 2015 enacting Italian law of 18 June 2015 no. 95, which ratified the agreement between the Government of the US and the Government of the Republic of Italy to improve international tax compliance and to implement FATCA, signed in Rome in 10 January 2014.

10.10 Increased Costs

- (a) If after the date of this Agreement by reason of (x) any change in law or in its interpretation or administration and/or (y) compliance with any request from or requirement of any central bank or other fiscal, monetary or other authority including but without limitation the Basel Committee on Banking Regulations and Supervisory Practices whether or not having the force of law:
 - (i) any of the Lenders incurs a cost as a result of its performing its obligations under this Agreement and/or its making available its Commitment hereunder; or
 - (ii) there is any increase in the cost to any of the Lenders of funding or maintaining all or any of the advances comprised in a class of advances formed by or including its Commitment advanced or to be advanced by it hereunder; or
 - (iii) any of the Lenders incurs a cost as a result of its having entered into and/or its assuming or maintaining its commitment under this Agreement; or
 - (iv) any of the Lenders becomes liable to make any payment on account of Tax or otherwise (other than Tax on its overall net income) on or calculated by reference to the amount of its Commitment advanced or to be advanced hereunder and/or any sum received or receivable by it hereunder; or
 - (v) any of the Lenders suffers any decrease in its rate of return as a result of any changes in the requirements relating to capital ratios, monetary control ratios, the payment of special deposits, liquidity costs or other similar requirements affecting that Lender,

then the Borrower shall on demand pay to the Facility Agent for the account of the relevant Lender or Lenders amounts sufficient to indemnify the relevant Lender or Lenders against, as the case may be, such cost, such increased cost (or such proportion of such increased cost as is in the reasonable opinion of the relevant Lender or Lenders attributable to the funding or maintaining of its or their Commitment(s) hereunder) or such liability.

- (b) This Clause 10.10 (*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 10.3 (*Tax indemnity*) (or would have been compensated for under Clause 10.3 (*Tax indemnity*) but was not compensated solely because any of the exclusions in paragraph (b) of Clause 10.3 (*Tax indemnity*) applied); or

(iv) attributable to the wilful breach by the relevant Creditor Party or its Affiliates of any law of regulation.

In this Clause 10.10 (*Increased Costs*), a reference to a "Tax Deduction" has the same meaning given to the term in Clause 10.1 (*Definitions*).

(c) A Lender affected by any provision of this Clause 10.10 (*Increased Costs*) shall promptly inform the Facility Agent after becoming aware of the relevant change and its possible results (which notice shall be conclusive evidence of the relevant change and its possible results) and the Facility Agent shall, as soon as reasonably practicable thereafter, notify the Borrower of the change and its possible results. Without affecting the Borrower's obligations under this Clause 10.10 (*Increased Costs*) and in consultation with the Facility Agent and the Italian Authorities, the affected Lender will then take all such reasonable steps as may be open to it to mitigate the effect of the change (for example (if then possible) by changing its Facility Office or transferring some or all of its rights and obligations under this Agreement to another financial institution reasonably acceptable to the Borrower, the Facility Agent and the Italian Authorities). The reasonable costs of mitigating the effect of any such change shall be borne by the Borrower save where such costs are of an internal administrative nature and are not incurred in dealings by any Lender with third parties.

10.11 Transaction Costs

(a) The Borrower undertakes to pay to the Facility Agent, the SACE Agent and the Security Trustee as applicable:

- (i) upon demand, all costs and expenses, duties and fees, including, but without limitation, pre-agreed legal costs (which, for avoidance of doubt are exclusive of VAT and disbursements) out of pocket expenses and travel costs, reasonably incurred by the Italian Authorities, the Joint Mandated Lead Arrangers, the Security Trustee, the Facility Agent, the SACE Agent and the Lenders (but not including any bank which becomes a Lender after the date of this Agreement) in connection with the negotiation, preparation, execution and perfection of all agreements, guarantees, security agreements and related documents entered into, or to be entered into, for the purpose of the transaction contemplated hereby; and
- (ii) all costs and expenses (including legal fees) (together with any applicable VAT), duties and fees incurred by the Facility Agent, the Security Trustee, the Joint Mandated Lead Arrangers, the SACE Agent, the Lenders or the Italian Authorities in connection with the registration, filing, enforcement or discharge of the said guarantees or security interests, including, without limitation, the fees and expenses of legal advisers and insurance experts (provided that such insurance costs are not to exceed ten thousand Dollars (\$10,000)) and the related travel and out of pocket expenses.

(b) the Borrower further undertakes to pay:

- (i) to the Facility Agent, all costs, expenses, duties and fees incurred by the Facility Agent, the SACE Agent, the Security Trustee, the Lenders and the Italian Authorities in connection with any amendment or variation of this Agreement and the related documents, guarantees and security agreements, any supplements thereto and waiver given in relation thereto and in connection with the investigation of any potential Event of Default;

- (ii) to the Security Trustee the amount of all costs and expenses (together with any applicable VAT) incurred in connection with the enforcement or preservation of any rights under this Agreement and/or the related guarantees and security agreements, (including in each case the fees and expenses of legal advisers) and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security Interest and/or the Security Property or enforcing these rights.

10.12 Costs of delayed Delivery Date

The Borrower undertakes to pay to the Facility Agent, upon demand, any costs incurred by the Lenders and/or the Italian Authorities in funding the Loan in the event that the Delivery Date is later than the Intended Delivery Date unless the Borrower has given the Facility Agent at least three (3) Business Days' notification of such delay in the Delivery Date.

10.13 SACE obligations

To the extent that this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

11 REPRESENTATIONS AND WARRANTIES

11.1 Timing and repetition

The following applies in relation to the time at which representations and warranties are made and repeated:

- (a) the representations and warranties in Clause 11.2 (*Continuing representations and warranties*) are made on the date of this Agreement (apart from the representation at paragraphs (ee) and (ff) of Clause 11.2 (*Continuing representations and warranties*) which shall only be made on the date of this Agreement and the Effective Date and shall not be further repeated) and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents; and
- (b) the representations and warranties in Clause 11.3 (*Representations on the Delivery Date*) are made on the Delivery Date and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made thereafter on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents.

11.2 Continuing representations and warranties

The Borrower represents and warrants to each of the Secured Parties that:

- (a) each Obligor is a company or body corporate duly organised or (as the case may be) incorporated, constituted and validly existing under the laws of the country of its formation or (as the case may be) incorporation, possessing perpetual existence, the capacity to sue and be sued in its own name and the power to own and charge its assets and carry on its business as it is now being conducted;

- (b) the Borrower has an authorised share capital of 12,000 common shares of par value \$1 each all of which have been issued to the Shareholder;
- (c) the legal title to and beneficial interest in the equity in the Borrower is held free of any Security Interest (other than pursuant to the Shares Security Deed) or any other claim by the Shareholder;
- (d) none of the equity in the Borrower is subject to any option to purchase, pre-emption rights or similar rights;
- (e) each Obligor has the power to enter into and perform this Agreement and those of the other Transaction Documents to which it is a party and the transactions contemplated hereby and thereby and has taken all necessary action to authorise the entry into and performance of this Agreement and such other Transaction Documents and such transactions;
- (f) this Agreement and each other Transaction Document constitutes (or will constitute when executed) legal, valid and binding obligations of each Obligor expressed to be a party thereto enforceable in accordance with their respective terms and in entering into this Agreement and borrowing the Loan, the Borrower is acting on its own account;
- (g) the entry into and performance of this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby do not and will not conflict with:
 - (i) any law or regulation or any official or judicial order; or
 - (ii) the constitutional documents of any Obligor; or
 - (iii) any agreement or document to which any Obligor is a party or which is binding upon such Obligor or any of its assets,

nor result in the creation or imposition of any Security Interest on the Borrower or its assets pursuant to the provisions of any such agreement or document, except for Security Interests which qualify as Permitted Security Interests with respect to the Borrower;

- (h) except for:
 - (i) the filing of UCC-1 financing statements against the Borrower in respect of those Finance Documents to which it is a party and which create Security Interests;
 - (ii) the recording of the Mortgage in the office of the Bahamas Maritime Authority Registry; and
 - (iii) the registration of the Ship under an Approved Flag,

all authorisations, approvals, consents, licences, exemptions, filings, registrations, notarisations and other matters, official or otherwise, required in connection with the entry into, performance, validity and enforceability of this Agreement and each of the other Transaction Documents to which any Obligor is a party and the transactions contemplated thereby have been obtained or effected and are in full force and effect except authorisations, approvals, consents, licences, exemptions, filings and registrations required in the normal day to day course of the operation of the Ship and not already obtained by the Borrower;

- (i) it is disregarded as an entity separate from its owner for U.S. federal Tax purposes;

- (j) all written information furnished by any Obligor relating to the business and affairs of any Obligor in connection with this Agreement and the other Transaction Documents (but excluding any forward looking statements and projections) was and remains true and correct in all material respects and there are no other material facts or considerations the omission of which would render any such information misleading;
- (k) each Obligor has fully disclosed to the Facility Agent all facts relating to each Obligor which it knows or should reasonably know and which might reasonably be expected to influence the Lenders in deciding whether or not to enter into this Agreement;
- (l) the obligations of the Borrower, the Shareholder and the Guarantor under the Finance Documents rank at least *pari passu* with all its other present unsecured and unsubordinated indebtedness with the exception of any obligations which are mandatorily preferred by law;
- (m) the Borrower is and shall remain, after the advance to it of the Loan, solvent in accordance with the laws of Bermuda and the United Kingdom and in particular with the provisions of the Insolvency Act 1986 (as from time to time amended) and the requirements thereof;
- (n) neither the Borrower nor any other Obligor has taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against any of them for the reorganisation, winding-up, dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of any of them or any or all of their assets or revenues nor has it sought any other relief under any applicable insolvency or bankruptcy law;
- (o) (in relation to any date on which this representation and warranty is deemed to be repeated pursuant to paragraph (a) of Clause 11.1 (*Timing and repetition*)) the latest available annual consolidated audited accounts of the Guarantor at the date of repetition (which accounts have been prepared in accordance with GAAP) fairly represent the financial condition of the Guarantor as shown in such audited accounts;
- (p) none of the Obligors nor any of their respective assets enjoys any right of immunity (sovereign or otherwise) from set-off, any legal action or proceeding including, without limitation, suit, attachment prior to judgment, execution or other enforcement in respect of their obligations under this Agreement or any of the other Transaction Documents or by any relevant or applicable law;
- (q) all the shares in the Borrower and all shares or membership interest in any Approved Manager which is a member of the Group shall be legally and beneficially owned directly or indirectly by (in the case of the Borrower), the Shareholder and (in the case of such Approved Manager) the Guarantor and such structure shall remain so throughout the Security Period;
- (r) the copy of the Shipbuilding Contract is a true and complete copy of such document constituting valid and binding obligations of the parties thereto enforceable in accordance with its terms and, subject to Clause 12.23 (*Shipbuilding Contract*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable;
- (s) the Borrower is the sole legal and beneficial owner of all rights and interests which the Shipbuilding Contract creates in favour of the Borrower;

- (t) any borrowing by the Borrower under this Agreement, and the performance of its obligations under this Agreement and the other Transaction Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to "money laundering" as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities (as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001); and
- (u) no Obligor:
 - (i) nor to its knowledge, any director, officer or Affiliate of any Obligor or any member of the Group, is a Prohibited Person;
 - (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
 - (iii) owns or controls a Prohibited Person;
- (v) no proceeds of the Loan shall be made available directly or indirectly to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party;
- (w) the choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions and any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions;
- (x) for the purposes of The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast) (the **Regulation**), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated outside of the European Union and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in a European Union country;
- (y) no investments made and no payments made, received or to be made by the Borrower, the Shareholder or the Guarantor under this Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Borrower, indirectly, out of funds of Illicit Origin or otherwise derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Borrower, the Shareholder or the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business are, whether directly or, to the knowledge of the Borrower, indirectly, of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction;
- (z) no Prohibited Payment has been or will be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Shareholder or the Guarantor (with respect to the Shareholder and the Guarantor, to the best of the Borrower's knowledge), any of its affiliates or its officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents;

- (aa) no event has occurred which constitutes a default under or in respect of any Transaction Document to which any Obligor or the Builder is a party or by which any Obligor or the Builder may be bound (including (inter alia) this Agreement) and no event has occurred which constitutes a default under or in respect of any agreement or document to which any Obligor is a party or by which any Obligor may be bound to an extent or in a manner which might have a material adverse effect on the ability of that Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (bb) none of the assets or rights of the Borrower is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Borrower or (ii) is permitted by Clause 12.8 (*Negative pledge*) of this Agreement;
- (cc) no litigation, arbitration or administrative proceedings are current or pending or, to its knowledge, threatened, which might, if adversely determined, have a material adverse effect on the ability of an Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (dd) to the best of its knowledge, each of the Obligors has complied in all material respects with all taxation laws in all jurisdictions in which it is subject to taxation and has paid all material Taxes due and payable by it;
- (ee) it is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document to which it is a party with respect to any Lender that provides the documentation described in paragraph (b) of Clause 10.7 (*Lender Status*) indicating that it is not subject to tax withholding;
- (ff) under the laws of its Relevant Jurisdictions it is not necessary that any stamp or similar taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents;
- (gg) each member of the Group has good and marketable title to all its assets which are reflected in the audited accounts referred to in paragraph (o) of Clause 11.2 (*Continuing representations and warranties*);
- (hh) none of the Obligors has a place of business in any jurisdiction (except as already disclosed) which requires any of the Finance Documents to be filed or registered in that jurisdiction to ensure the validity of the Finance Documents to which it is a party;
- (ii) the Borrower does not have a place of business in any country (except as already disclosed) other than that of its Original Jurisdiction;
- (jj) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to it and its business generally;
- (kk) each of the Obligors and each member of the Group:
 - (i) is in compliance with all Environmental Laws and Environmental Approvals provided that any non-compliance would not be expected to result in a Material Adverse Effect;
 - (ii) has not received any notice or threat of any Environmental Claim against any member of the Group and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;

- (iii) confirms that no Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;
- (ll) the Borrower has read and acknowledged the principles provided under the Code of Ethics and Model;
- (mm) the Borrower has implemented adequate internal procedures aimed at preventing commission of crimes provided under Legislative Decree 231/01;
- (nn) no litigation is pending against the Borrower in relation to administrative liability provided under Legislative Decree 231/01;
- (oo) no final judgment under Legislative Decree 231/01 has been issued against the Borrower and no plea bargain (also known as *spatteggiamento* under Italian law) has been agreed by the Borrower pursuant to article 444 of the Italian code of criminal procedure; and
- (pp) neither the Borrower nor any of its assets are subject to any precautionary measure provided under Legislative Decree 231/01.

11.3 Representations on the Delivery Date

The Borrower further represents and warrants to each of the Secured Parties at the Delivery Date that:

- (a) the Ship is in its absolute and unencumbered ownership save as contemplated by the Finance Documents;
- (b) the Ship is registered in its name under the laws and flag of the Maritime Registry;
- (c) the Ship is classed with the highest classification available for a Ship of its type free of all recommendations and qualifications with Lloyd's Register, RINA or Bureau Veritas;
- (d) the Ship is operationally seaworthy and in compliance with all relevant provisions, regulations and requirements (statutory or otherwise) applicable to ships registered under the laws and flag of the Maritime Registry;
- (e) the Ship is in compliance with the ISM Code, the ISPS Code and Annex VI as they relate to the Borrower, any Approved Manager and the Ship;
- (f) the Ship is insured in accordance with the provisions of Clause 14 (*Insurance Undertakings*) and in compliance with the requirements therein in respect of such insurances;
- (g) the Ship is managed by the Approved Manager and, in the event that the Approved Manager is not a member of the Group, on and subject to the terms set out in the Management Agreement;
- (h) there is no agreement or understanding to allow or pay any rebate, premium, inducement, commission, discount or other benefit or payment (however described) to the Borrower or any other member of the Group, the Builder or a third party in connection with the purchase by the Borrower of the Ship, other than as disclosed to the Facility Agent in writing on or before the date of this Agreement;

- (i) no Obligor has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Facility Agent sufficient details to enable an accurate search against it to be undertaken by the Lenders at the Companies Registry;
- (j) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration; and
- (k) the copies of any Management Agreement, any charter and any charter guarantee which require a notice of assignment to be served under the terms of the General Assignment (if any) and any other relevant third party agreements including but without limitation the copies of any documents in respect of the Insurances delivered to the Facility Agent are true and complete copies of each such document constituting valid and binding obligations of the parties thereto enforceable in accordance with their respective terms and, subject to Clause 13.2 (*Management and employment*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable.

12 GENERAL UNDERTAKINGS

12.1 General

The Borrower undertakes with each Secured Party to comply with the following undertakings during the Security Period:

12.2 Information

The Borrower will provide to the Facility Agent for the benefit of the Lenders and SACE (or will procure the provision of):

- (a) as soon as practicable (and in any event within one hundred and twenty (120) days after the close of its financial year) a Certified Copy of the audited consolidated accounts of the Guarantor and its subsidiaries for that year (commencing with accounts made up to 31 December 2018 in the case of the consolidated accounts of the Guarantor);
- (b) as soon as practicable (and in any event within ninety (90) days of the commencement of each financial year) the budgetary forecast (profit and loss statement, balance sheet statement and cash flow statement) for the two following years for the Guarantor;
- (c) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter for the first three quarters in any fiscal year and within 90 days for the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year-to-date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of paragraph (a) and of this paragraph (c));
- (d) promptly, such further information in its possession or control regarding the condition or operations of the Ship and its financial condition and operations of the Borrower and those of any company in the Group as the Facility Agent may reasonably request for the benefit of the Secured Parties; and

- (e) details of any material litigation, arbitration or administrative proceedings (including proceedings relating to any alleged or actual breach of Sanctions, the ISM Code of the ISPS Code) which affect any company in the Group as soon as the same are instituted and served, or, to the knowledge of the Borrower, threatened (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency provided that this threshold shall not apply to any proceedings relating to Sanctions).

All accounts required under this Clause 12.2 (*Information*) shall be prepared in accordance with GAAP and shall fairly represent the financial condition of the relevant company.

12.3 Equator Principles Compliance

Upon the request of the Facility Agent, the Borrower shall provide to the Facility Agent information as may be reasonably requested by the Lenders for the purposes of monitoring that the Borrower conducts its operations in all material respects in accordance with the Equator Principles.

12.4 Sanctions and Illicit Payments

- (a) The Borrower shall not directly or indirectly use or make available any of the proceeds of the Loan to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party.
- (b) No payments made or received by the Borrower, the Shareholder, the Guarantor or any Approved Manager which is a member of the Group under this Agreement or any Finance Document shall be funded directly or, to the knowledge of the Borrower, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Borrower, the Shareholder, the Guarantor or any Approved Manager which is a member of the Group in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Borrower, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (c) Without limiting the generality of the foregoing, no Loan nor any proceeds of the Loan shall be used to finance trade of equipment or any other kind of activity in relation to goods, technologies or sectors in a manner or for a purpose prohibited by Sanctions.

12.5 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Shareholder, the Guarantor or any of their affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents.

12.6 Notification of default

The Borrower will notify the Facility Agent of any Event of Default forthwith upon becoming aware of the occurrence thereof. Upon the Facility Agent's request from time to time the Borrower will issue a certificate stating whether any Obligor is aware of the occurrence of any Event of Default.

12.7 Consents and registrations

The Borrower will procure that (and will promptly furnish Certified Copies to the Facility Agent on the request of the Facility Agent of) all such authorisations, approvals, consents, licences and exemptions as may be required under any applicable law or regulation to enable it or any Obligor to perform its obligations under, and ensure the validity or enforceability of, each of the Transaction Documents are obtained and promptly renewed from time to time and will procure that the terms of the same are complied with at all times. Insofar as such filings or registrations have not been completed on or before the Drawdown Date the Borrower will procure the filing or registration within applicable time limits of each Finance Document which requires filing or registration together with all ancillary documents required to preserve the priority and enforceability of the Finance Documents.

12.8 Negative pledge

The Borrower will not create or permit to subsist any Security Interest on the whole or any part of its present or future assets, except for the following:

- (a) Security Interests created with the prior consent of the Facility Agent and the Security Trustee; or
- (b) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraphs (a) and (b) of the definition of "Permitted Security Interests" in Clause 1.1 (*Definitions*); or
- (c) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraph (C), (E), (H) or (I) of such definition, provided that insofar as they are enforceable against the Ship they do not prevail over the Mortgage.

12.9 Disposals

Except in the case of a sale of the Ship if the completion of the sale is contemporaneous with prepayment of the Loan in accordance with the provisions of Clause 16.3 (*Mandatory prepayment – Sale and Total Loss*) and except for charters and other arrangements complying with Clause 13.1 (*Pooling of earnings and charters*) the Borrower shall not without the consent of the Majority Lenders and SACE, either in a single transaction or in a series of transactions whether related or not and whether voluntarily or involuntarily:

- (a) sell, transfer, lease or otherwise dispose of the Ship or any of the Ship's equipment except in the case of items:
 - (i) being replaced (by an equivalent or superior item) or renewed; or
 - (ii) that are being disposed of in the ordinary course of business,

provided that in the case of both sub-paragraphs (i) and (ii) above the net impact does not reduce the value of the Ship and, in the case of sub-paragraph (ii), the value of any such disposals during the term of this Agreement do not, in aggregate, exceed ten million Dollars (\$10,000,000);

- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having the same 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.

12.10 Change of business

Except with the prior consent of the Facility Agent, the Borrower shall not make or threaten to make any substantial change in its business as presently conducted, namely that of a single ship owning company for the Ship, or change its place of business to any country other than that of its Original Jurisdiction, or carry on any other business which is substantial in relation to its business as presently conducted so as to affect, in the opinion of the Facility Agent, the Borrower's ability to perform its obligations hereunder.

12.11 Mergers

Except with the prior consent of the Lenders and SACE and subject to compliance with all necessary "know your customer" requirements, the Borrower will not enter into any amalgamation, restructure, substantial reorganisation, merger, de-merger or consolidation or anything analogous to the foregoing nor will it acquire any equity, share capital or obligations of any corporation or other entity.

12.12 Maintenance of status and franchises

The Borrower will do all such things as are necessary to maintain its company existence in good standing and will ensure that it has the right and is duly qualified to conduct its business as it is conducted in all applicable jurisdictions and will obtain and maintain all franchises and rights necessary for the conduct of its business.

12.13 Financial records

The Borrower will keep proper books of record and account, in which proper and correct entries shall be made of all financial transactions and the assets, liabilities and business of the Borrower in accordance with GAAP.

12.14 Financial Indebtedness and subordination of indebtedness

The following restrictions shall apply:

- (a) otherwise than in the ordinary course of business as owner of the Ship, except as contemplated by this Agreement and except any loan, advance or credit extended by the Guarantor or any member of the Group which is a wholly owned Subsidiary of the Guarantor, the Borrower will not create, incur, assume or allow to exist any financial indebtedness, enter into any finance lease or undertake any material capital commitment (including but not limited to the purchase of any capital asset); and

- (b) the Borrower shall procure that:
- (i) any and all indebtedness (and in particular with any other Obligor) is at all times fully subordinated to the Finance Documents and the obligations of the Borrower hereunder; and
 - (ii) if required by any applicable laws, the subordinated liabilities created pursuant to such indebtedness shall be subject to security (in form and substance satisfactory to the Secured Parties) in favour of the Security Trustee ("**Subordinated Debt Security**") and any related legal opinions shall be issued if so required by the Secured Parties; and
 - (iii) upon the occurrence of an Event of Default, the Borrower shall not make any repayments of principal, payments of interest or of any other costs, fees, expenses or liabilities arising from or representing such indebtedness. In this paragraph (b) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*) "fully subordinated" shall mean that any claim of the lender against the Borrower in relation to such indebtedness shall rank after and be in all respects subordinate to all of the rights and claims of the Secured Parties under this Agreement and the other Finance Documents and that the lender shall not take any steps to enforce its rights to recover any monies owing to it by the Borrower and in particular but without limitation the lender will not institute any legal or quasi-legal proceedings under any jurisdiction at any time against the Ship, her Earnings or Insurances or the Borrower and it will not compete with the Secured Parties or any of them in a liquidation or other winding-up or bankruptcy of the Borrower or in any proceedings in connection with the Ship, her Earnings or Insurances.

12.15 Investments

The Borrower shall not:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Obligor and where such loan or form of credit is Permitted Financial Indebtedness;
- (b) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which the Borrower assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents.
- (c) enter into any material agreement other than:
 - (i) the Transaction Documents;
 - (ii) any other agreement expressly allowed under any other term of this Agreement; and
- (d) enter into any transaction on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms' length; or
- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks.

12.16 Unlawfulness, invalidity and ranking; security imperilled

No Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest to rank after, or lose its priority to, any other Security Interest; and
- (e) imperil or jeopardise any Security Interest.

12.17 Dividends

The Borrower shall not make or pay any dividend or other distribution (in cash or in kind) in respect of its share capital other than dividends and distributions that are transferred to the Shareholder or the Guarantor provided that no Event of Default has occurred or is continuing or would result from the payment of any dividend.

12.18 Loans and guarantees by the Borrower

Otherwise than in the ordinary course of business in its ownership and operation of the Ship following the Delivery Date, the Borrower will not make any loan or advance or extend credit to any person, firm or corporation (other than as permitted pursuant to paragraph (a) of Clause 12.15 (*Investments*)), or issue or enter into any guarantee or indemnity or otherwise become directly or contingently liable for the obligations of any other person, firm or corporation.

12.19 Acquisition of shares

The Borrower will not:

- (a) acquire any equity, share capital, assets or obligations of any corporation or other entity; or
- (b) permit any of its shares to be directly held other than by the Shareholder.

12.20 Further assurance

The Borrower will, from time to time on being required to do so by the Facility Agent, do or procure the doing of all such acts and/or execute or procure the execution of all such documents in a form satisfactory to the Facility Agent as the Facility Agent may reasonably consider necessary for giving full effect to any of the Transaction Documents, the Interest Make-up Agreement or the SACE Insurance Policy or securing to the Secured Parties the full benefit of the rights, powers and remedies conferred upon the Secured Parties or any of them in any such Transaction Document, the Interest Make-up Agreement or the SACE Insurance Policy.

12.21 Irrevocable payment instructions

The Borrower shall not modify, revoke or withhold the payment instructions set out in Clause 4.1 (*Borrower's irrevocable payment instructions*) without the agreement of the Builder (in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) only), the Facility Agent, SACE and the Lenders.

12.22 "Know your customer" checks

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of the Borrower after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Facility Agent or any Lender (or, in the case of paragraph (a)(iii) of Clause 12.22 (*"Know your customer" checks*), 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 or the Lenders (acting reasonably) require any additional documents to supplement those already provided, the Borrower shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (a)(iii) of Clause 12.22 (*"Know your customer" checks*), on behalf of any prospective new Lender) in order for the Facility Agent and, such Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of a Servicing Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Servicing Party (for itself) in order for that Servicing Party to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

12.23 Shipbuilding Contract

- (a) The Shipbuilding Contract constitutes legal, valid and binding and enforceable obligations of the Builder and accordingly the Borrower shall not modify the Shipbuilding Contract, directly or indirectly, in such a manner that would result in a change of the type, principal dimensions or class of the Ship or decrease the value of the Ship by equal to or greater than 5 per cent. (in aggregate) without the prior written consent of the Lenders and SACE.

- (b) The Borrower will, therefore, submit to the Facility Agent any proposals for any such modification and SACE and the Facility Agent on behalf of the Lenders will indicate in a timely manner whether the modification proposed will allow the Loan to be maintained.
- (c) The Borrower also undertakes to notify the Facility Agent of any change in the Intended Delivery Date as soon as practicable after each change has occurred.
- (d) The Borrower shall notify the Facility Agent promptly, and in any event within ten (10) Business Days of any other changes to the Shipbuilding Contract (other than Minor Modifications) and provide copies of the same to the Facility Agent.
- (e) The Borrower undertakes to notify the Facility Agent promptly of any termination and/or repudiation of the Shipbuilding Contract (including a termination and/or repudiation pursuant to article 32 of the Shipbuilding Contract).
- (f) For the avoidance of doubt, all modifications not falling under paragraph (a) above shall be permitted and the Borrower shall not be obliged to seek or obtain any consent from the Lenders and/or SACE in respect of any such modifications subject to the notification requirements as set out in paragraphs (d) and (e) above.

12.24 Compliance with laws etc.

The Borrower shall:

- (a) comply, or procure compliance with:
 - (i) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws and regulations relating to it and its business generally; and
 - (ii) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration,

including the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;

- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals which are applicable to it; and
- (c) without limiting paragraph (a) above, not employ the Ship nor allow its employment, operation or management in any Prohibited Jurisdiction or in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and all Sanctions and applicable anti-corruption laws.

12.25 Most favoured nations

The Borrower shall procure that if at any time after the date of this Agreement the Guarantor enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of Clause 11.2 (*Continuing representations and warranties*) and Clause 18.6 (*Cross default*) respectively, the Borrower or the Guarantor shall immediately notify the Facility Agent of such provisions and the relevant provisions contained in this Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to this Agreement.

12.26 Code of Ethics and Model

- (a) The Borrower shall not behave so as to cause any of the following persons to violate the principles set out in the Code of Ethics and/or Model:
 - (i) persons who are representatives, administrators or managers of CDP or of any of its organizational units with financial and functional independence;
 - (ii) persons who are managed or supervised by one of the persons referred to in paragraph (i) above; or
 - (iii) external advisors of CDP.
- (b) The Borrower shall maintain adequate internal procedures aimed at preventing liabilities provided under Legislative Decree 231/01.
- (c) The Borrower shall inform CDP of any (i) new pending litigation against it in relation to administrative liability provided under Legislative Decree 231/01; (ii) new final judgment under Legislative Decree 231/01, including, without limitation, any plea bargain (also known as *patteggiamento* under Italian law) pursuant to article 444 of the Italian code of criminal procedure; and (iii) new precautionary measures under Legislative Decree 231/01.

13 SHIP UNDERTAKINGS

13.1 Pooling of earnings and charters

The Borrower will not without the prior written consent of the Facility Agent or SACE enter into in respect of the Ship (such consent for the purposes of paragraph (e) of Clause 13.1 (*Pooling of earnings and charters*) shall not be unreasonably withheld or delayed), nor permit to exist at any time following the Delivery Date:

- (a) any pooling agreement or other arrangement for the sharing of any of the Earnings or the expenses of the Ship except with a member of the Group and provided that it does not adversely affect the rights of the Secured Parties under the Finance Documents in the reasonable opinion of the Facility Agent; or
- (b) any demise or bareboat charter, provided however that such consent shall not be unreasonably withheld in the event that the Borrower wishes to enter into a bareboat charter in a form approved by the Facility Agent with another member of the Group on condition that if so requested by the Facility Agent and without limitation:
 - (i) any such bareboat charterer shall enter into such deeds (including but not limited to a full subordination and assignment deed in respect of its rights under the bareboat charter and its interest in the Insurances and earnings payable to it arising out of its use of the Ship), agreements and indemnities as the Majority Lenders and SACE shall require prior to entering into the bareboat charter with the Borrower; and

- (ii) the Borrower shall assign the benefit of any such bareboat charter and its interest in the Insurances to the Secured Parties by way of further security for the Borrower's obligations under the Finance Documents; or
- (c) any charter whereunder two (2) months' charterhire (or the equivalent thereof) is payable in advance in respect of the Ship; or
- (d) any charter of the Ship or employment which, with the exercise of options for extension, could be for a period longer than [*]; or
- (e) any time charter of the Ship with a company outside the Group (other than a time charter entered into in the ordinary course of business which does not exceed [*] **provided that** (x) any such time charter is assigned to the Security Trustee and (y) during the period of such time charter, the Ship continues to be managed by the existing Approved Manager), provided however that such consent shall not be unreasonably withheld in the event that:
 - (i) such time charter is assigned to the Security Trustee and the Borrower agrees to:
 - (A) serve a notice of assignment of any time charter, the Earnings therefrom and any guarantee of the charterer's obligations on the time charterer and any time charter guarantor; and
 - (B) use commercially reasonable endeavours to obtain an acknowledgement of such assignment,and each of the notice of assignment and acknowledgement of assignment being substantially in the form appended to the General Assignment;
- (ii) the Facility Agent is satisfied that the income from such time charter will be sufficient to cover the expenses of the Ship and to service repayment of the Loan and all other amounts from time to time outstanding under this Agreement; and
- (iii) during the term of such time charter, the Ship continues to be managed by the existing Approved Manager.

13.2 Management and employment

The Borrower will not as from the Delivery Date:

- (a) permit any person other than an Approved Manager to be the manager of, including providing crewing services to, the Ship, at all times acting upon terms approved in writing by the Facility Agent and having entered into (in the case of the Approved Manager) an Approved Manager's Undertaking;
- (b) permit any amendment to be made to the terms of any Management Agreement unless the amendment is advised by the Borrower's tax counsel or is deemed necessary by the parties thereto to reflect the prevailing circumstances but provided that the amendment does not imperil the security to be provided pursuant to the Finance Documents or adversely affect the ability of any Obligor to perform its obligations under the Transaction Documents; or
- (c) permit the Ship to be employed other than within the Norwegian Cruise Line brand unless the Borrower notifies the Lenders that they intend to employ the Ship within another brand of the Group and the ship remains employed within the Group.

13.3 Trading with the United States of America

The Borrower shall in respect of the Ship take all reasonable precautions as from the Delivery Date to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America (as the same may be amended and/or re-enacted from time to time hereafter) or any similar legislation applicable to the Ship in any other jurisdiction in which the Ship shall trade (a "**Trading Jurisdiction**") where the Ship trades in the territorial waters of the United States of America or a Trading Jurisdiction.

13.4 Valuation of the Ship

The following shall apply in relation to the valuation of the Ship:

- (a) the Borrower will on or before 31 May of each year that commences after the delivery of the Ship, unless an Event of Default has occurred and remains unremedied, at the Borrower's expense, procure that the Ship is valued by an Approved Broker (such valuation to be made without taking into account the benefit or otherwise of any fixed employment relating to the Ship);
- (b) the Borrower shall procure that forthwith upon the issuance of any valuation obtained pursuant to this Clause 13.4 (*Valuation of the Ship*) a copy thereof is sent directly to the Facility Agent and the Security Trustee for review; and
- (c) in the event that the Borrower fails to procure a valuation in accordance with paragraph (a) of Clause 13.4 (*Valuation of the Ship*), the Facility Agent shall be entitled to procure a valuation of the Ship on the same basis.

13.5 Earnings

The Borrower will procure that the Earnings (if any) are paid in full without set off and free and clear of and without deduction for any taxes, levies, duties, imposts, charges, fees, restrictions or conditions of any nature whatsoever.

13.6 Operation and maintenance of the Ship

From the Delivery Date until the end of the Security Period at its own expense the Borrower will keep the Ship in a good and efficient state of repair so as to maintain it to the highest classification notation available for the Ship of its age and type free of all recommendations and qualifications with Bureau Veritas. On the Delivery Date and annually thereafter, it will furnish to the Facility Agent (with copy to the Security Trustee) a statement by such classification society that such classification notation is maintained. It will comply with all recommendations, regulations and requirements (statutory or otherwise) from time to time applicable to the Ship and shall have on board as and when required thereby valid certificates showing compliance therewith and shall procure that all repairs to or replacements of any damaged, worn or lost parts or equipment are carried out (both as regards workmanship and quality of materials) so as not to diminish the value or class of the Ship. It will not make any substantial modifications or alterations to the Ship or any part thereof which would reduce the market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*).

13.7 Surveys and inspections

The Borrower will:

- (a) submit the Ship to continuous survey in respect of its machinery and hull and such other surveys as may be required for classification purposes and, if so required by the Facility Agent, supply to the Facility Agent (with copy to the Security Trustee) copies in English of the survey reports;
- (b) permit surveyors or agents appointed by the Facility Agent to board the Ship to inspect its condition or satisfy themselves as to repairs proposed or already carried out and afford all proper facilities for such inspections **provided that**, unless an Event of Default has occurred or there is an accident to the Ship involving repairs the cost of which will or is likely to exceed [*], such inspections shall be limited to one year and shall all be at reasonable times.

13.8 ISM Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISM Code (as the same may be amended from time to time) or any replacement of the ISM Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISM Code and at all times thereafter:

- (a) hold, or procure that the Approved Manager holds, a valid Document of Compliance duly issued to the Borrower or the Approved Manager (as the case may be) pursuant to the ISM Code and a valid Safety Management Certificate duly issued to the Ship pursuant to the ISM Code;
- (b) provide the Facility Agent (with copy to the Security Trustee) with copies of any such Document of Compliance and Safety Management Certificate as soon as the same are issued; and
- (c) keep, or procure that there is kept, on board the Ship a copy of any such Document of Compliance and the original of any such Safety Management Certificate.

13.9 ISPS Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISPS Code (as the same may be amended from time to time) or any replacement of the ISPS Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISPS Code and at all times thereafter:

- (a) keep, or procure that there is kept, on board the Ship the original of the International Ship Security Certificate required by the ISPS Code; and
- (b) keep, or procure that there is kept, on board the Ship a copy of the ship security plan prepared pursuant to the ISPS Code.

13.10 Annex VI

The Borrower will comply with Annex VI (as the same may be amended from time to time) or any replacement of Annex VI (as the same may be amended from time to time) and in particular, without limitation, to:

- (a) procure that the Ship's master and crew are familiar with, and that the Ship complies with, Annex VI; and

- (b) maintain for the Ship throughout the Security Period a valid and current IAPPC and provide a copy to the Facility Agent (with copy to the Security Trustee); and
- (c) notify the Facility Agent (with copy to the Security Trustee) immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the IAPPC.

13.11 Employment of Ship

The Borrower shall:

- (a) not employ the Ship or permit its employment in any trade or business which is forbidden by any applicable law or is otherwise illicit or in carrying illicit or prohibited goods or in any manner whatsoever which may render it liable to condemnation in a prize court or to destruction, seizure or confiscation or that may expose the Ship to penalties. In the event of hostilities in any part of the world (whether war be declared or not) it will not employ the Ship or permit its employment in carrying any contraband goods; and
- (b) promptly provide the Facility Agent (with copy to the Security Trustee) with (i) all information which the Facility Agent may reasonably require regarding the Ship, its employment, earnings, position and engagements (ii) particulars of all towages and salvages and (iii) copies of all charters and other contracts for its employment and otherwise concerning it.

13.12 Provision of information

The Borrower shall give notice to the Facility Agent and the Security Trustee promptly and in reasonable detail upon the Borrower or any other Obligor becoming aware of:

- (a) accidents to the Ship involving repairs the cost of which will or is likely to exceed [*];
- (b) the Ship becoming or being likely to become a Total Loss;
- (c) any recommendation or requirement made by any insurer or classification society or by any competent authority which is not complied with, or cannot be complied with, within any time limit relating thereto and that might reasonably affect the maintenance of either the Insurances or the classification of the Ship;
- (d) any writ or claim served against or any arrest of the Ship or the exercise of any lien or purported lien on the Ship, her Earnings or Insurances;
- (e) the Ship ceasing to be registered under the flag of the Maritime Registry or anything which is done or not done whereby such registration may be imperilled;
- (f) it becoming impossible or unlawful for it to fulfil any of its obligations under the Finance Documents; and
- (g) anything done or permitted or not done in respect of the Ship by any person which is likely to imperil the security created by the Finance Documents.

13.13 Payment of liabilities

The Borrower shall promptly pay and discharge:

- (a) all debts, damages and liabilities, taxes, assessments, charges, fines, penalties, tolls, dues and other outgoings in respect of the Ship and keep proper books of account in respect thereof provided always that the Borrower shall not be obliged to compromise any debts, damages and liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested debt, damage or liability which, either individually or in aggregate exceeds [*] shall forthwith be provided to the Facility Agent (with copy to the Security Trustee). As and when the Facility Agent may so require the Borrower will make such books available for inspection on behalf of the Facility Agent and provide evidence satisfactory to the Facility Agent that the wages and allotments and the insurance and pension contributions of the master and crew are being regularly paid, that all deductions of crew's wages in respect of any tax liability are being properly accounted for and that the master has no claim for disbursements other than those incurred in the ordinary course of trading on the voyage then in progress or completed prior to such inspection;
- (b) all liabilities which have given rise, or may give rise, to liens or claims enforceable against the Ship under the laws of all countries to whose jurisdiction the Ship may from time to time be subject and in particular the Borrower hereby agrees to indemnify and hold the Secured Parties, their successors, assigns, directors, officers, shareholders, employees and agents harmless from and against any and all claims, losses, liabilities, damages, expenses (including attorneys, fees and expenses and consultant fees) and injuries of any kind whatsoever asserted against the Secured Parties, with respect to or as a result of the presence, escape, seepage, spillage, release, leaking, discharge or migration from the Ship or other properties owned or operated by the Borrower of any hazardous substance, including without limitation, any claims asserted or arising under any applicable environmental, health and safety laws, codes and ordinances, and all rules and regulations promulgated thereunder of all governmental agencies, regardless of whether or not caused by or within the control of the Borrower subject to the following:
- (i) it is the parties' understanding that the Secured Parties do not now, have never and do not intend in the future to exercise any operational control or maintenance over the Ship or any other properties and operations owned or operated by the Borrower, nor in the past, presently, or intend in the future to, maintain an ownership interest in the Ship or any other properties owned or operated by the Borrower except as may arise upon enforcement of the Lenders' rights under the Mortgage;
- (ii) unless and until an Event of Default shall have occurred and without prejudice to the right of each Lender to be indemnified pursuant to this paragraph (b) of Clause 13.13 (*Payment of liabilities*):
- (A) each Lender will, if it is reasonably practicable to do so, notify the Borrower upon receiving a claim in respect of which the relevant Lender is or may become entitled to an indemnity under this paragraph (b) of Clause 13.13 (*Payment of liabilities*); and
- (B) subject to the prior written approval of the relevant Lender which the Lender shall have the right to withhold, the Borrower will be entitled to take, in the name of the relevant Lender, such action as the Borrower may see fit to avoid, dispute, resist, appeal, compromise or defend any such claims, losses, liabilities, damages, expenses and injuries as are referred to above in this paragraph (b) of Clause 13.13 (*Payment of liabilities*) or to recover the same from any third party, subject to the Borrower first ensuring that the relevant Lender is secured to its reasonable satisfaction against all expenses thereby incurred or to be incurred,

provided always that the Borrower shall not be obliged to compromise any liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested liabilities which, either individually or in aggregate, exceed [*] shall be forthwith provided to the Facility Agent (with copy to the Security Trustee). If the Ship is arrested or detained for any reason it will procure its immediate release by providing bail or taking such other steps as the circumstances may require.

13.14 Certificate as to liabilities

The Borrower shall give to the Facility Agent (with copy to the Security Trustee) at such times as it may from time to time reasonably require a certificate, duly signed on its behalf, as to the total amount of any debts, damages and liabilities relating to the Ship and details of such of those debts, damages and liabilities as are over a certain amount to be specified by the Facility Agent at the relevant time and, if so required by the Facility Agent, forthwith discharge such of those debts, damages and liabilities as the Facility Agent shall require other than those being contested in good faith.

13.15 Modifications

The Borrower shall maintain the type of the Ship as at the Delivery Date and not put the Ship into the possession of any person for the purpose of work being done on it in an amount exceeding or likely to exceed [*] unless such person shall first have given to the Facility Agent a written undertaking addressed to the Facility Agent in terms satisfactory to the Facility Agent agreeing not to exercise a lien on the Ship or her Earnings for the cost of such work or for any other reason (or the Borrower is able to demonstrate to the reasonable satisfaction of the Facility Agent that the Borrower or the relevant Group company has set aside and will have funds readily available for payment when due of the cost of the work (to the extent not fully covered by insurance proceeds in the case of a partial loss)).

13.16 Registration of Ship

The Borrower shall maintain the registration of the Ship under and fly the flag of the Maritime Registry and not do or permit anything to be done whereby such registration may be forfeited or imperilled.

13.17 Environmental Law

The Borrower shall comply with all Environmental Laws, obtain, maintain and ensure compliance with all requisite Environmental Approvals, and implement procedures to monitor compliance with and to prevent liability under any Environmental Law.

13.18 Notice of Mortgage

The Borrower shall keep the Mortgage registered against the Ship as a valid first preferred mortgage, carry on board the Ship a certified copy of the Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of the Ship a framed printed notice stating that the Ship is mortgaged by the Borrower to the Security Trustee.

13.19 Environmental claims

Each Obligor shall, (through the Guarantor), promptly upon becoming aware of the same, inform the Facility Agent in writing of:

- (a) any Environmental Claim which is likely to result in a Material Adverse Effect against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group which is likely to result in a Material Adverse Effect.

13.20 Trading in war zones

In the event of hostilities in any part of the world (whether war is declared or not), the Borrower shall not cause or permit the Ship to enter or trade to any zone which is declared a war zone by the Ship's war risks insurers unless:

- (a) the prior written consent of the Security Trustee has been given; and
- (b) the Borrower has (at its expense) effected any special, additional or modified insurance cover which the Security Trustee may require.

14 INSURANCE UNDERTAKINGS

14.1 General

The undertakings in this Clause 14 (*Insurance Undertakings*) remain in force on and from the Delivery Date and throughout the rest of the Security Period except as the Facility Agent may otherwise permit.

14.2 Maintenance of obligatory insurances

The Borrower shall insure the Ship in its name and keep the Ship insured on an agreed value basis for an amount in the currency in which the Loan is denominated approved by the Facility Agent (acting on the instructions of the Majority Lenders) but not being less than the greater of (x) [*] per cent. ([*]%) of the amount of the Loan; and (y) the full market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*) from time to time through internationally recognised independent first class insurance companies, underwriters, war risks and protection and indemnity associations acceptable to the Facility Agent (acting on the instruction of the Majority Lenders), acting reasonably, in each instance on terms and conditions approved by the Facility Agent including as to deductibles but at least in respect of:

- (a) fire and marine risks including but without limitation hull and machinery and all other risks customarily and usually covered by first-class and prudent shipowners in the global insurance markets under English or Norwegian marine policies or Facility Agent-approved policies containing the ordinary conditions applicable to similar Ships;
- (b) war risks (including terrorism, piracy, blocking and trapping and protection and indemnity war risks) up to the insured amount;

- (c) excess risks that is to say the proportion of claims for general average and salvage charges and under the running down clause not recoverable in consequence of the value at which the Ship is assessed for the purpose of such claims exceeding the insured value;
- (d) protection and indemnity risks with full standard coverage as offered by first-class protection and indemnity associations which are a member of the International Group of P&I Association and up to the highest limit of liability available (for oil pollution risk the highest limit currently available is one billion Dollars (\$1,000,000,000) and this to be increased if reasonably requested by the Facility Agent and the increase is possible in accordance with the standard protection and indemnity cover for Ships of its type and is compatible with prudent insurance practice for first class cruise shipowners or operators in waters where the Ship trades from time to time from the Delivery Date until the end of the Security Period);
- (e) when and while the Ship is laid-up, in lieu of hull insurance, normal port risks; and
- (f) such other risks as the Facility Agent may from time to time reasonably require;

and in any event in respect of those risks and at those levels covered by first class and prudent owners and/or financiers in the international market in respect of similar tonnage provided that if any of such insurances are also effected in the name of any other person (other than the Borrower and/or a Secured Party) such person shall if so required by the Facility Agent execute a first priority assignment of its interest in such insurances in favour of the Secured Parties in similar terms *mutatis mutandis* to the relevant provisions of the General Assignment.

14.3 Mortgagee's interest and pollution risks insurances

The Facility Agent shall take out mortgagee interest insurance on such conditions as the Facility Agent may reasonably require and mortgagee interest insurance for pollution risks as from time to time agreed each for an amount in the currency in which the Loan is denominated of [*] per cent. ([*]%) of the amount of the Loan, the Borrower having no interest or entitlement in respect of such policies; the Borrower shall upon demand of the Facility Agent reimburse the Facility Agent for the costs of effecting and/or maintaining any such insurance(s).

14.4 Trading in the United States of America

If the Ship shall trade in the United States of America and/or the Exclusive Economic Zone of the United States of America (the "EEZ") as such term is defined in the US Oil Pollution Act 1990 ("OPA"), to comply strictly with the requirements of OPA and any similar legislation which may from time to time be enacted in any jurisdiction in which the Ship presently trades or may or will trade at any time during the existence of this Agreement and in particular before such trade is commenced and during the entire period during which such trade is carried on:

- (a) to pay any additional premiums required to maintain full standard protection and indemnity cover for oil pollution up to the highest limit available to it for the Ship in the market;
- (b) to make all such quarterly or other voyage declarations as may from time to time be required by the Ship's protection and indemnity association and to comply with all obligations in order to maintain such cover, and promptly to deliver to the Facility Agent (with copy to the Security Trustee) copies of such declarations;

- (c) to submit the Ship to such additional periodic, classification, structural or other surveys which may be required by the Ship's protection and indemnity insurers to maintain cover for such trade and promptly to deliver to the Facility Agent copies of reports made in respect of such surveys;
- (d) to implement any recommendations contained in the reports issued following the surveys referred to in paragraph (c) of Clause 14.4 (*Trading in the United States of America*) within the time limit specified therein and to provide evidence satisfactory to the Facility Agent that the protection and indemnity insurers are satisfied that this has been done;
- (e) in particular strictly to comply with the requirements of any applicable law, convention, regulation, proclamation or order with regard to financial responsibility for liabilities imposed on the Borrower or the Ship with respect to pollution by any state or nation or political subdivision thereof, including but not limited to OPA, and to provide the Facility Agent on demand with such information or evidence as it may reasonably require of such compliance;
- (f) to procure that the protection and indemnity insurances do not contain a clause excluding the Ship from trading in waters of the United States of America and the EEZ or any other provision analogous thereto and to provide the Facility Agent with evidence that this is so; and
- (g) strictly to comply with any operational or structural regulations issued from time to time by any relevant authorities under OPA so that at all times the Ship falls within the provisions which limit strict liability under OPA for oil pollution.

14.5 Protections for Secured Parties

- (a) The Borrower shall give notice forthwith of any assignment of its interest in the Insurances to the relevant brokers, insurance companies, underwriters and/or associations in the form approved by the Facility Agent.
- (b) The Borrower shall execute and deliver all such documents and do all such things as may be necessary to confer upon the Secured Parties legal title to the Insurances in respect of the Ship and to procure that the interest of the Secured Parties is at all times filed with all slips, cover notes, policies and certificates of entry and to procure (a) that a loss payable clause in the form approved by the Facility Agent shall be filed with all the hull, machinery and equipment and war risks policies in respect of the Ship and (b) that a loss payable clause in the form approved by the Facility Agent shall be endorsed upon the protection and indemnity certificates of entry in respect of the Ship.
- (c) In the event of the Borrower making default in insuring and keeping insured the Ship as hereinbefore provided then the Facility Agent may (but shall not be bound to) insure the Ship or enter the Ship in such manner and to such extent as the Facility Agent in its discretion thinks fit and in such case all the cost of effecting and maintaining such insurance together with interest thereon at the interest rate shall be paid on demand by the Borrower to the Facility Agent.

14.6 Copies of policies; letters of undertaking

The Borrower will procure that each of the relevant brokers and associations furnishes the Facility Agent with a letter of undertaking in the standard form available in the relevant insurance market or otherwise in such form as may be required by the Facility Agent and waives any lien for premiums or calls except in relation to premiums or calls solely attributable to the Ship.

14.7 Payment of premiums

The Borrower shall punctually pay all premiums, calls, contributions or other sums payable in respect of the Insurances on the Ship and to produce all relevant receipts when so required by the Facility Agent.

14.8 Renewal of obligatory insurances

The Borrower shall notify the Facility Agent (with copy to the Security Trustee) of the renewal of the obligatory insurances at least five (5) days before the expiry thereof and shall procure that the relevant brokers or associations shall promptly confirm in writing to the Facility Agent (with copy to the Security Trustee) that such renewal is effected, it being understood by the Borrower that any failure to renew the Insurances on the Ship at least two (2) days before the expiry thereof or to give or procure the relevant notices of such renewal shall constitute an Event of Default.

14.9 Guarantees

The Borrower shall arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity and/or war risks association.

14.10 Provision of insurances information

The Borrower will furnish the Facility Agent (with copy to the Security Trustee) from time to time on request with full information about all Insurances maintained on the Ship and the names of the offices, companies, underwriters, associations or clubs with which such Insurances are placed.

14.11 Alteration to terms of insurances

The Borrower shall not make or agree to any variation in the terms of any of the Insurances on the Ship without the prior approval of the Facility Agent nor to do any act or voluntarily suffer or permit any act to be done whereby any Insurances shall or may be rendered invalid, void, voidable, suspended, defeated or unenforceable and not to suffer or permit the Ship to engage in any voyage nor to carry any cargo not permitted under any of the Insurances without first obtaining the consent of the insurers or reinsurers concerned and complying with such requirements as to payment of extra premiums or otherwise as the insurers or reinsurers may impose.

14.12 Settlement of claims

The Borrower shall not settle, compromise or abandon any claim in respect of any of the Insurances on the Ship other than a claim of less than [*] Dollars (\$[*]) or the equivalent in any other currency and not being a claim arising out of a Total Loss.

14.13 Application of insurance proceeds

The Borrower shall apply or ensure the appliance of all such sums receivable in respect of the Insurances on the Ship for the purpose of making good the loss and fully repairing all damage in respect whereof the insurance monies shall have been received.

14.14 Insurance advisers

The Facility Agent shall be entitled, immediately prior to the Delivery Date and thereafter no more frequently than annually on renewals but also additionally at any time when there is a proposed change of underwriters or the terms of any Insurances, to instruct independent reputable insurance advisers for the purpose of obtaining any advice or information regarding any matter concerning the Insurances which the Facility Agent shall deem necessary, it being hereby specifically agreed that the Borrower shall reimburse the Facility Agent on demand for the costs and expenses incurred by the Facility Agent in connection with the instruction of such advisers subject to a limit of ten thousand Dollars (\$10,000) at the time of delivery of the Ship or in the event of a change of underwriters or of terms of any Insurances and otherwise ten thousand Dollars (\$10,000) annually thereafter.

15 SECURITY VALUE MAINTENANCE

15.1 Security Shortfall

If, upon receipt of a valuation of the Ship in accordance with Clause 13.4 (*Valuation of the Ship*), the Security Value shall be less than the Security Requirement, the Facility Agent may give notice to the Borrower requiring that such deficiency be remedied and then the Borrower shall (unless the Ship has become a Total Loss) either:

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

Clauses 15.2 (*Costs*) and 15.4 (*Documents and evidence*) and paragraph (c) of Clause 16.2 (*Voluntary prepayment*) shall apply to prepayments under paragraph (a) of Clause 15.1 (*Security Shortfall*).

15.2 Costs

All costs in connection with the Facility Agent obtaining any valuation of the Ship referred to in Clause 13.4 (*Valuation of the Ship*), and obtaining any valuation either of any additional security for the purposes of ascertaining the Security Value at any time or necessitated by the Borrower electing to constitute additional security pursuant to paragraph (b) of Clause 15.1 (*Security Shortfall*) shall be borne by the Borrower.

15.3 Valuation of additional security

For the purpose of this Clause 15 (*Security Value Maintenance*), the market value of any additional security provided or to be provided to the Facility Agent and/or the Security Trustee shall be determined by the Facility Agent and the Security Trustee in their absolute discretion without any necessity for the Facility Agent or the Security Trustee assigning any reason thereto.

15.4 Documents and evidence

In connection with any additional security provided in accordance with this Clause 15 (*Security Value Maintenance*), the Facility Agent shall be entitled to receive such evidence and documents of the kind referred to in Clause 3 (*Conditions Precedent*) in respect of other Finance Documents as may in the Facility Agent's opinion be appropriate.

15.5 Valuations binding

Any valuation under this Clause 15 (*Security Value Maintenance*) shall be binding and conclusive as regards the Borrower.

15.6 Provision of information

- (a) The Borrower shall promptly provide the Facility Agent (with copy to the Security Trustee) and any shipbroker acting under this Clause 15 (*Security Value Maintenance*) with any information which the Facility Agent or the shipbroker may reasonably request for the purposes of the valuation.
- (b) If the Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the shipbroker or the Facility Agent considers prudent.

16 CANCELLATION, PREPAYMENT AND MANDATORY PREPAYMENT

16.1 Cancellation

- (a) Subject to paragraph (b) below, at any time between the Effective Date and prior to the end of the Availability Period, the Borrower may give notice to the Facility Agent in writing that it wishes to cancel the whole or any part of the available Commitments whereupon (without penalty to the Borrower but without prejudice to any liabilities of the Borrower including, without limitation, in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such cancellation) such available Commitments shall terminate upon the date specified in such notice. Any cancellation under this Clause 16.1(a) shall reduce the remaining Commitments of the Lenders rateably.
- (b) If the SBC Effective Date has not occurred by 31 January 2019, then at any time thereafter, the Borrower may, by written notice (signed by the Borrower, the Shareholder and the Guarantor) to the Facility Agent, terminate this Agreement and the other Finance Documents and, except for this Clause, Clause 10.11 (*Transaction Costs*), Clause 33 (*Confidentiality*) and the Fee Letter in relation to the Structuring Fee, this Agreement and the other Finance Documents shall, with effect from such termination, be null and void and no party nor any of its respective parents, subsidiaries, affiliates, officers or employees of any of the foregoing shall have any further liability or obligation whatsoever (including payment of fees and expenses other than in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such termination) under or in connection with this Agreement and/or any other Finance Document or their termination and clause 4(c) of the Fee Letter in relation to the Structuring Fee shall apply.

16.2 Voluntary prepayment

- (a) The Borrower may prepay all or part of the Loan (but if in part being an amount that reduces the Loan by a minimum amount of one (1) repayment instalment of principal of the Loan) together with interest thereon. Such prepayment shall, regardless of the date on which such prepayment is made, be made together with all of the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the Interest Make-up Agreement and Clause 20.2 (*Breakage costs and SIMEST arrangements*) but without any other penalty provided that the prepayment is made on the last day of an Interest Period and thirty-five (35) days prior written notice indicating the intended date of prepayment is given to the Facility Agent and the SACE Agent. However, the following amounts shall be payable to the Facility Agent if any prepayment made pursuant to this Clause 16.2 (*Voluntary prepayment*) is not made on the last day of an Interest Period:
- (i) for the account of the Lenders, whether the Borrower elected a Floating Interest Rate or a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the difference (if positive), calculated by the Lenders and notified by them to the Facility Agent, between the actual cost for the Lenders of the funding for the Loan and the rate of interest for the monies to be invested by the Lenders, applied to the amounts so prepaid for the period from the said prepayment until the last day of the Interest Period during which the prepayment occurs (if prepayment does not occur on the last day of that Interest Period), details of any such calculation being supplied to the Borrower by the Facility Agent on behalf of the Lenders; or
 - (ii) for the account of SIMEST, if the Borrower elected a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the sum of charges (if any) imposed by SIMEST representing funding or breakage costs of the Italian Authorities as more specifically set out in Clause 20 (*Indemnities*).
- (b) For the avoidance of doubt, regardless of the date on which a voluntary prepayment is made, such prepayment shall be paid together with all amounts payable in accordance with Clause 20.2 (*Breakage costs and SIMEST arrangements*) and if a voluntary prepayment is made other than on the last day of an Interest Period, the prepayment shall be paid together with such other amounts payable in accordance with Clauses 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and 20.2 (*Breakage costs and SIMEST arrangements*).
- (c) If the Borrower has selected the Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the SACE Agent shall give SIMEST thirty (30) days written notice of the intended date of prepayment.

16.3 Mandatory prepayment – Sale and Total Loss

The Borrower shall be obliged to prepay the whole of the Loan if the Ship is sold (without prejudice to Clause 12.9 *Disposals*)) or becomes a Total Loss:

- (a) in the case of a sale, on or before the date on which the sale is completed by delivery of the Ship to the buyer; or
- (b) in the case of a Total Loss, on the earlier of the date falling 120 days after the Total Loss Date and the date of receipt by the Facility Agent or the Security Trustee (as the case may be) of the proceeds of insurance relating to such Total Loss.

16.4 Mandatory prepayment – SACE Insurance Policy

- (a) The Borrower shall be obliged to prepay the whole of the Loan if it is or becomes unlawful for SACE to perform or comply with any or all of its payment obligations pursuant to the SACE Insurance Policy, if the SACE Insurance Policy is revoked, rescinded, cancelled, terminated, suspended or otherwise becomes unenforceable or ceases to be valid, binding or in full force and effect.

- (b) In the event that any other event occurs or any other circumstances arise or develop which would have a material adverse effect on SACE's ability to perform its obligations under the SACE Insurance Policy, the Borrower and the Lenders shall, provided that no Event of Default has occurred and is continuing, negotiate in good faith for a period of not less than 30 days with a view to agreeing such revised terms and conditions as the Lenders may require to enable the Lenders to maintain the entire Loan (and during such 30 day period, no Lender shall be obliged to make available to the Borrower their portion of the Loan to the extent such amounts have not already been drawn). In the event that following such negotiations the Borrower and the Lenders fail to agree on such revised terms, the Borrower shall be obliged to prepay, on demand by the Facility Agent, the outstanding principal amount of the Loan to the extent of the amount covered pursuant to the SACE Insurance Policy. If, during the period while negotiations are on-going pursuant to this paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) the events described in paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) should occur, the Borrower shall be obliged to prepay the Loan in full as required by paragraph (a) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*).

16.5 Other amounts

Any prepayment of the whole of the Loan shall be made together with all other sums due under this Agreement (including, without limitation, the compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*)).

16.6 Application of partial prepayment

Amounts prepaid shall be applied in accordance with paragraph (b) of Clause 19.1 (*Receipts*).

16.7 No reborrowing

Amounts prepaid may not be reborrowed.

17 INTEREST ON LATE PAYMENTS

17.1 Default rate of interest

Without prejudice to the provisions of Clause 18 (*Events of Default*) and without this Clause in any way constituting a waiver of terms of payment, all sums due by the Borrower under this Agreement will automatically bear interest on a day to day basis from the date when they are payable until the date of actual payment at a rate per annum equal to the higher of:

- (a) where the Floating Interest Rate is applicable, the aggregate of:
- (i) EONIA;
 - (ii) the applicable Margin; and
 - (iii) [*] per cent. ([*]%) per annum; or
- (b) where the Fixed Interest Rate is applicable, the higher of:

- (i) the Fixed Interest Rate plus [*] per cent. ([*]%) per annum; and
- (ii) EONIA plus the applicable Margin plus [*] per cent. ([*]%) per annum.

17.2 Compounding of default interest

To the extent permitted by applicable law, any such interest will itself bear interest at the above rate if it is due for at least three (3) months and thereafter at three monthly intervals.

18 EVENTS OF DEFAULT

18.1 Events of Default

An Event of Default occurs if any of the events or circumstances described in Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*) occur.

18.2 Non-payment

Any Obligor fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document and such failure is not remedied within three (3) Business Days of the due date or (if payable on demand) within three (3) Business Days of receiving the demand.

18.3 Non-remediable breaches

The Borrower fails to comply with the provisions of Clauses 12.4 (*Sanctions and Illicit payments*), 12.5 (*Prohibited payments*), 12.8 (*Negative pledge*), 12.9 (*Disposals*), 12.11 (*Mergers*) or 12.18 (*Loans and guarantees by the Borrower*).

18.4 Breach of other obligations

- (a) Any Obligor fails to comply with any provision of any Finance Document (other than a failure to comply covered by any of the other provisions of Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*)) and in particular but without limitation the Guarantor fails to comply with the provisions of clause 11 (*Undertakings*) of its Guarantee or there is any material breach in the opinion of the Majority Lenders and SACE of any of the Underlying Documents provided that (save in respect of Clause 12.26 (*Code of Ethics and Model*)) no Event of Default shall be deemed to have occurred if, in the opinion of the Majority Lenders and SACE, such failure or material breach is capable of remedy and is remedied within the Relevant Period (as defined below) from the date of its occurrence, if the failure or material breach was known to that Obligor, or from the date the relevant Obligor is notified by the Facility Agent of the failure or material breach, if the failure or material breach was not known to that Obligor, unless in any such case as aforesaid the Majority Lenders and SACE consider that the failure or material breach is or could reasonably be expected to become materially prejudicial to the interests, rights or position of the Lenders, "**Relevant Period**" meaning for the purposes of this Clause fifteen (15) days in respect of a remedy period commencing after the date of this Agreement.
- (b) There is a repudiation or termination of any Transaction Document (save for the Shipbuilding Contract and, to the extent replaced, any Management Agreement and any charter) or any of the parties thereto becomes entitled to terminate or repudiate any of them and evidences an intention so to do.

18.5 Misrepresentation

Any representation, warranty or statement made or repeated in, or in connection with, any Transaction Document or the SACE Insurance Policy or in any accounts, certificate, statement or opinion delivered by or on behalf of any Obligor thereunder or in connection therewith is materially incorrect or misleading when made or would, if repeated at any time hereafter by reference to the facts subsisting at such time, no longer be materially correct.

18.6 Cross default

- (a) Any event of default occurs under any financial contract or financial document relating to any Financial Indebtedness of the Borrower.
- (b) Any such Financial Indebtedness or any sum payable in respect thereof is not paid when due (after the expiry of any applicable grace period(s)) whether by acceleration or otherwise.
- (c) Any other Financial Indebtedness of any member of the Group is not paid when due or is or becomes capable of being declared due prematurely by reason of default or any Security Interest securing the same becomes enforceable by reason of default provided that no Event of Default will arise if the aggregate amount of the relevant Financial Indebtedness and liabilities secured by the relevant Security Interests is less than [*] Dollars (\$[*]) or its equivalent in other currencies.
- (d) Any other Security Interest over any assets of any member of the Group securing any alleged liability that does not qualify as Financial Indebtedness becomes enforceable where the alleged liability is in respect of a sum of, or sum aggregating, [*] Dollars (\$[*]) or its equivalent in other currencies, unless the alleged liability is being contested in good faith by appropriate means by the relevant Group member and the Facility Agent is reasonably satisfied that the relevant member of the Group has reasonable grounds for succeeding in its action.

18.7 Winding-up

Any order is made or an effective resolution passed or other action taken for the suspension of payments or reorganisation, dissolution, termination of existence, liquidation, winding-up or bankruptcy of any Obligor.

18.8 Appointment of liquidators etc.

A liquidator, trustee, administrator, receiver, administrative receiver, manager or similar officer is appointed in respect of any Obligor or in respect of all or any substantial part of the assets of any Obligor.

18.9 Enforcement of any security

Any corporate action, legal proceeding or other procedure or step is taken in relation to enforcement of any security interests over any assets of the Borrower.

18.10 Insolvency

- (a) An Obligor is unable or admits inability to pay its debts as they fall due, is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts.

- (b) The value of the assets of any Obligor is less than its liabilities (taking into account contingent liabilities).
- (c) A moratorium in respect of all or any debts of any Obligor or a compromise, composition, assignment or an arrangement with creditors of any Obligor or any similar proceeding or arrangement by which the assets of any Obligor are submitted to the control of its creditors is applied for, ordered or declared or any Obligor commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of all or a significant part of its Financial Indebtedness. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

18.11 Legal process

Any corporate action, legal proceeding, distress, execution, attachment or other process affects the whole or any substantial part of the assets of any Obligor and remains undischarged for a period of thirty (30) days, any step is taken in relation to enforcement of any security interests over any assets of any Obligor (other than the Borrower) or any uninsured judgment which, in each case, is in excess of [*] Dollars (\$[*]) following final appeal, remains unsatisfied for a period of ten (10) days.

18.12 Analogous events

Anything analogous to or having a substantially similar effect to any of the events specified in Clauses 18.7 (*Winding-up*) to 18.11 (*Legal process*) shall occur under the laws of any applicable jurisdiction.

18.13 Cessation of business

Any Obligor ceases to carry on all or a substantial part of its business.

18.14 Revocation of consents

Any authorisation, approval, consent, licence, exemption, filing, registration or notarisation or other requirement necessary to enable any Obligor to comply with any of its obligations under any of the Transaction Documents is materially adversely modified, revoked or withheld or does not remain in full force and effect and within ninety (90) days of the date of its occurrence such event is not remedied to the satisfaction of the Facility Agent consider that such failure is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the modification, revocation or withholding of the authorisation, approval or consent is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interests might reasonably be expected to be materially adversely affected.

18.15 Unlawfulness

At any time it is unlawful or impossible for any Obligor to perform any of its material (to the Secured Parties or any of them) obligations under any Transaction Document to which it is a party or it is unlawful or impossible for the Secured Parties or any Lender to exercise any of their or its rights under any of the Transaction Documents provided that no Event of Default shall be deemed to have occurred where the unlawfulness or impossibility does not relate to the payment obligation of any Obligor under any Transaction Document and is cured within the period of twenty one (21) days of the date of occurrence of the event giving rise to the unlawfulness or impossibility and the affected Obligor performs its obligation within such period.

18.16 Insurances

The Borrower fails to insure the Ship in the manner specified in Clause 14 (*Insurance Undertakings*) or fails to renew the Insurances at least five (5) days prior to the date of expiry thereof and produce prompt confirmation of such renewal to the Facility Agent provided that if the insurers withdraw their cover an Event of Default shall be deemed to have occurred upon issue of the insurer's notice of withdrawal.

18.17 Disposals

If the Borrower or any other Obligor shall have concealed, removed, or permitted to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or made or suffered a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of its property to or for the benefit of a creditor with the intention of preferring such creditor over any other creditor.

18.18 Prejudice to security

Anything is done or suffered or omitted to be done by any Obligor which in the reasonable opinion of the Facility Agent would or might be expected to imperil the security created by any of the Finance Documents.

18.19 Governmental intervention

The authority of any Obligor in the conduct of its business is wholly or substantially curtailed by any seizure or intervention by or on behalf of any authority and within ninety (90) days of the date of its occurrence any such seizure or intervention is not relinquished or withdrawn and the Facility Agent reasonably considers that the relevant occurrence is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the seizure or intervention executed by any authority is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interest might reasonably be expected to be materially adversely affected.

18.20 Material Adverse Change

- (a) Any event or circumstance occurs which results in a Material Adverse Effect.
- (b) Any event or circumstance occurs (including, without limitation, following the sending of a notice by the Borrower under paragraph (c) of Clause 12.26 *Code of Ethics and Model*), which results in a material adverse effect on the ability of the Borrower, also under an economic and/or financial standpoint, to perform its obligations under this Agreement.

18.21 Actions following an Event of Default

On, or at any time after, the occurrence of an Event of Default the Facility Agent may, and if so instructed by the Majority Lenders and SACE (acting through the SACE Agent), the Facility Agent shall:

- (a) serve on the Borrower a notice stating that the Commitments and all other obligations of each Lender to the Borrower under this Agreement are terminated; and/or
- (b) serve on the Borrower a notice stating that the Loan (including but without limitation the amount representing the financed First Instalment and Second Instalment of the SACE Premium), all accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
- (c) take any other action which, as a result of the Event of Default or any notice served under paragraph (a) or (b), the Facility Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law.

18.22 Termination of Commitments

On the service of a notice under paragraph (a) of Clause 18.21 (*Actions following an Event of Default*), the Commitments and all other obligations of each Lender to the Borrower under this Agreement shall terminate.

18.23 Acceleration of Loan

On the service of a notice under paragraph (b) of Clause 18.21 (*Actions following an Event of Default*), the Loan, all accrued interest and all other amounts accrued or owing from the Borrower or any Obligor under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

18.24 Further amounts payable

Upon an acceleration of repayment of the Loan following an Event of Default the Borrower shall be liable to pay compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*).

18.25 Multiple notices; action without notice

The Facility Agent may serve notices under paragraphs (a) and (b) of Clause 18.21 (*Actions following an Event of Default*) simultaneously or on different dates and it may take any action referred to in paragraph (c) of Clause 18.21 (*Actions following an Event of Default*) if no such notice is served simultaneously with or at any time after the service of both or either of such notices.

18.26 Notification of Secured Parties and Obligors

The Facility Agent shall send to the Italian Authorities, each Lender and each Obligor a copy or the text of any notice which the Facility Agent serves on the Borrower under Clause 18.21 (*Actions following an Event of Default*); but the notice shall become effective when it is served on the Borrower, and no failure or delay by the Facility Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide any Obligor with any form of claim or defence.

18.27 Lender's rights unimpaired

Nothing in this Clause 18 (*Events of Default*) shall be taken to impair or restrict the exercise of any right given to individual Lenders under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clauses 2.4 (*Creditor Parties' rights and obligations*) and 2.6 (*Obligations of Lenders several*).

18.28 Exclusion of Secured Party liability

No Secured Party, and no receiver or manager appointed by the Facility Agent, shall have any liability to an Obligor:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset.

19 APPLICATION OF SUMS RECEIVED

19.1 Receipts

- (a) Except as any Finance Document may otherwise provide, all sums received under this Agreement or any other Finance Document by the Facility Agent, on behalf of the Lenders, the SACE Agent, the Security Trustee, Receiver, Delegate or by any of the Lenders for any reason whatsoever will be applied in the following order of priority:
 - (i) first, in discharging any unpaid fees, costs and expenses of, and any amounts owed to the Facility Agent, SACE Agent, Security Trustee, any Receiver or any Delegate on a pro rata basis;
 - (ii) second, to payments of any kind due or in arrears in the order of their due payment dates due to the Lenders and Joint Mandated Lead Arrangers in the following order of priority:
 - (A) first, to interest payable pursuant to Clause 17 (*Interest on Late Payments*);
 - (B) second, to interest payable pursuant to Clause 6 (*Interest*);
 - (C) third, to the principal of the Loan payable pursuant to Clause 5 (*Repayment*);
 - (D) fourth, to any sums due pursuant to Clause 20.2 (*Breakage costs and SIMEST arrangements*); and
 - (E) fifth, to any other sums due under this Agreement or any other Finance Document,and, if relevant, payments under paragraphs (a)(ii)(A) to (a)(ii)(E) above, shall be made *pro rata* to each of the Lenders and Joint Mandated Lead Arrangers as applicable.
- (b) if no payments are in arrears or if these payments have been discharged as set out above, then and to sums remaining due under this Agreement or any other Finance Document and, if relevant, pro rata to each of the Lenders and in each case in inverse order of maturity, the interest being recalculated accordingly.

- (c) The Facility Agent shall, if so directed by the Lenders and subject to SACE's prior written consent, vary the order set out in paragraphs (a)(ii)(A) to (a)(ii)(D) above.
- (d) Paragraphs (a), (b) and (c) above will override any appropriation made by an Obligor.

20 INDEMNITIES

20.1 Indemnities regarding borrowing and repayment of Loan

- (a) The Borrower shall fully indemnify the Facility Agent, SACE Agent, Security Trustee, any Delegate, any Receiver, each Lender, SACE and SIMEST (but without double counting to the extent that a Lender is making a claim in respect of amounts owing to SIMEST) on the Facility Agent's demand in respect of all costs, claims, expenses, liabilities and losses which are made or brought against or incurred by that Secured Party, or which that Secured Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:
 - (i) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity;
 - (ii) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
 - (iii) any failure (for whatever reason) by the Borrower to comply with its obligations to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 17 (*Interest on Late Payments*));
 - (iv) the occurrence and/or continuance of an Event of Default and/or the acceleration of repayment of the Loan under Clause 18 (*Events of Default*);
 - (v) the taking, holding, protection or enforcement of a Security Interest;
 - (vi) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Trustee, each Receiver and each Delegate by a Finance Document or by law;
 - (vii) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; and
 - (viii) acting as Facility Agent, SACE Agent, Security Trustee, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Interests or Security Property (otherwise, in each case, excluding sub-paragraphs (v) and (vi) above, than by reason of the relevant Facility Agent's, Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct).
- (b) The Security Trustee and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Security Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and shall have a lien on the Security Interests and the proceeds of the enforcement of the Security Interests for all moneys payable to it.

20.2 Breakage costs and SIMEST arrangements

Without limiting its generality, Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) covers:

- (a) any claim, expense, liability or loss, including a loss of a prospective profit, incurred by a Lender in liquidating or employing deposits from third parties acquired or arranged to fund or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount);
- (b) if the Borrower has selected the Fixed Interest Rate in accordance with Clause 6.1 (*Fixed or Floating Interest Rate*), the CIRRR Break Costs; and
- (c) any other costs whatsoever or howsoever arising under or in respect of the Interest Make-up Agreement which are passed to the SACE Agent, and any such costs imposed by SIMEST shall be paid by the Borrower to SIMEST through the SACE Agent.

20.3 Miscellaneous indemnities

The Borrower shall fully indemnify each Secured Party severally on their respective demands in respect of all claims, expenses, liabilities and losses which may be made or brought against or incurred by a Secured Party, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Facility Agent or any other Secured Party or by any receiver appointed under a Finance Document;
- (b) any other Pertinent Matter,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the relevant Secured Party's (or its officers' or employees') Gross Negligence or wilful misconduct.

Without prejudice to its generality, this Clause 20.3 (*Miscellaneous indemnities*) covers (i) any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code or any Environmental Laws or any Sanctions and (ii) any claims, expenses, liabilities (including, without limitation, under a reputational standpoint) and losses which arise, or are asserted, against CDP under or in connection with any breach by the Borrower of any of the provisions of paragraphs (ll) to (pp) of Clause 11.2 (*Continuing representations and warranties*) and/or of Clause 12.26 (*Code of Ethics and Model*).

20.4 Currency indemnity

If any sum due from an Obligor to a Secured Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- (a) making or lodging any claim or proof against an Obligor, whether in its liquidation, any arrangement involving it or otherwise; or

- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrower shall indemnify the Secured Party concerned against the loss arising when the amount of the payment actually received by that Secured Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 20.4 (*Currency indemnity*) the "**available rate of exchange**" means the rate at which the Secured Party concerned is able at the opening of business (Paris time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 20.4 (*Currency indemnity*) creates a separate liability of the Borrower which is distinct from its other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

20.5 Certification of amounts

A notice which is signed by 2 officers of a Secured Party, which states that a specified amount, or aggregate amount, is due to that Secured Party under this Clause 20 (*Indemnities*) and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

20.6 Sums deemed due to a Lender

For the purposes of this Clause 20 (*Indemnities*), a sum payable by the Borrower to the Facility Agent for distribution to a Lender shall be treated as a sum due to that Lender.

20.7 SACE obligations

To the extent that this Clause 20 (*Indemnities*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

21 ILLEGALITY, ETC.

21.1 Illegality and Sanctions

This Clause 21 (*Illegality, etc.*) applies if:

- (a) a Lender (the "**Notifying Lender**") notifies the Facility Agent that:
 - (i) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to perform any of its obligations as contemplated by the Finance Documents or to fund its participation in the Loan; and/or
 - (ii) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to maintain its participation in the Loan; or

- (b) an Obligor is or becomes a Prohibited Person,
(such event, an "Illegality or Sanctions Event").

21.2 Notification of illegality

The Borrower shall promptly notify the Facility Agent of the occurrence of an event under Clause 21.1(b) above and the Facility Agent shall promptly notify the Lenders. The Facility Agent shall promptly notify the Borrower, the Obligors and the other Lenders of the notice under Clause 21.1(a) which the Facility Agent receives from the Notifying Lender.

21.3 Prepayment; termination of Commitment

- (a) Upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(i) above, the Notifying Lender's Commitment will be immediately suspended and that Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*) within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event), the Notifying Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment;
- (b) upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(ii) above, the Notifying Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) the Notifying Lender may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;
- (c) upon the Borrower notifying the Facility Agent and the Facility Agent notifying the Lenders of an event under Clause 21.1(b) above, the Lenders shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) any Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment and may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;
- (d) The date for repayment or prepayment of a Lender's share in the Loan will be:
 - (i) the date specified by the Facility Agent in the notification under Clause 21.2 above; or

- (ii) the last day of the current Interest Period for the Loan or, if earlier, the date specified by the Lender in the notification under paragraph (a) above and which must not be earlier than the last day of any applicable grace period allowed by law.

21.4 Mitigation

- (a) Each Creditor Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to Clause 21.1 (*Illegality and Sanctions*) or Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) 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.

22 SET-OFF

22.1 Application of credit balances

Each Creditor Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from the Borrower to that Creditor Party under any of the Finance Documents; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Euros;
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

22.2 Existing rights unaffected

No Creditor Party shall be obliged to exercise any of its rights under Clause 22.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

22.3 Sums deemed due to a Lender

For the purposes of this Clause 22 (*Set-Off*), a sum payable by the Borrower to the Facility Agent for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to such Lender.

22.4 No Security Interest

This Clause 22 (*Set-Off*) gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

23 BAIL-IN

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each Party acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-in Action in relation to any such liability.

24 CHANGES TO THE LENDERS

24.1 Transfer by a Lender

Subject to Clause 24.2 (*Conditions of assignment or transfer*), Clause 24.5 (*No transfer without Transfer Certificate*), Clause 24.17 (*Assignment or transfer to SACE*) and Clause 24.14 (*Change of Facility Office*), a Lender (the "**Transferor Lender**") may at any time provided they have obtained the prior written consent of the Italian Authorities cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or
- (c) a combination of (a) and (b),

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, in whole or in part any of its Affiliates or another bank or financial institution or a trust, fund, insurance or reinsurance company or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a "**Transferee Lender**") by delivering to the Facility Agent a completed certificate in the form set out in Schedule 4 (*Form of Transfer Certificate*) with any modifications approved or required by the Facility Agent (a "**Transfer Certificate**") executed by the Transferor Lender and the Transferee Lender.

However any rights and obligations of the Transferor Lender in its capacity as Facility Agent or Security Trustee will have to be dealt with separately in accordance with the provisions of Clauses 26 (*Role of the Facility Agent and the Joint Mandated Lead Arranger(s)*) and 27 (*The Security Trustee*) respectively.

24.2 Conditions of assignment or transfer

- (a) The consent of the Borrower is required at all times (subject to the provisions of Clauses 24.5 (*No transfer without Transfer Certificate*) and 24.17 (*Assignment or transfer to SACE*) for an assignment or transfer by an Transferor Lender, unless (i) there is an Event of Default or (ii) the assignment or transfer is to another Lender or an Affiliate of a Lender or a vehicle (including trusts or funds) whose majority shares or notes are held by a Lender or an Affiliate of a Lender.
- (b) The consent of the Borrower to an assignment or transfer must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent ten (10) Business Days after the Transferor Lender has requested it unless consent is expressly refused by that Borrower within that time.
- (c) The assignment or transfer must be with respect to a minimum Commitment of [*] Euros (€[*]) or, if less, the Transferor Lender's full Commitment.

24.3 Transfer Certificate, delivery and notification

As soon as reasonably practicable after a Transfer Certificate is delivered to the Facility Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrower, any other Obligors, the Security Trustee and each of the other Lenders;
- (b) on behalf of the Transferee Lender, send to the Borrower and each Obligor letters or faxes notifying them of the Transfer Certificate and attaching a copy of it; and
- (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above,

but the Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Transferor Lender and the Transferee Lender once it is satisfied that itself and the Security Trustee have complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to that Transferee Lender.

24.4 Effective Date of Transfer Certificate

A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date, provided that it is signed by the Facility Agent under Clause 24.3 (*Transfer Certificate, delivery and notification*) on or before that date.

24.5 No transfer without Transfer Certificate

Except as provided in Clause 24.16 (*Security over Lenders' rights*), no assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, the Borrower, any Obligor, the Facility Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

24.6 Lender re-organisation; waiver of Transfer Certificate

However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the "successor"), the Facility Agent may, if it sees fit, by notice to the successor and the Borrower and the Security Trustee waive the need for the execution and delivery of a Transfer Certificate; and, upon service of the Facility Agent's notice, the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender.

24.7 Effect of Transfer Certificate

A Transfer Certificate takes effect in accordance with English law as follows:

- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender's title and of any rights or equities which the Borrower or any Obligor had against the Transferor Lender;
- (b) the Transferor Lender's Commitment is discharged to the extent specified in the Transfer Certificate;
- (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
- (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Facility Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;
- (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate's effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the Transferor Lender, assuming that any defects in the Transferor Lender's title and any rights or equities of the Borrower or any Obligor against the Transferor Lender had not existed;
- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) and Clause 9 (*Fees*), and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and
- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of the Borrower or any Obligor referred to above include, but are not limited to, any right of set off and any other kind of cross-claim.

24.8 Maintenance of register of Lenders

During the Security Period the Facility Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the Facility Office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 24.4 (*Effective Date of Transfer Certificate*)) of the Transfer Certificate; and the Facility Agent shall make the register available for inspection by any Lender, the Security Trustee and the Borrower during normal banking hours, subject to receiving at least 3 Business Days' prior notice.

24.9 Reliance on register of Lenders

The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Facility Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.

24.10 Authorisation of Facility Agent to sign Transfer Certificates

The Borrower, the Security Trustee and each Lender irrevocably authorise the Facility Agent to sign Transfer Certificates on its behalf.

24.11 Fees and Costs

In respect of any Transfer Certificate:

- (a) the Facility Agent shall be entitled to recover a registration fee of five thousand Euros (€5,000) from the Transferor Lender or (at the Facility Agent's option) the Transferee Lender;
- (b) the Transferee Lender shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation legal costs and out of pocket expenses, incurred by the Facility Agent or the Lenders in connection with any necessary amendment to or supplementing of the Transaction Documents or any of them or the SACE Insurance Policy as a consequence of the assignment or transfer; and
- (c) the Transferee Lender shall pay to the Facility Agent, upon demand, such amount as is payable to the Italian Authorities to cover its costs of giving its approval under Clause 24.1 (*Transfer by a Lender*).

24.12 Sub-participation; subrogation assignment

A Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the Borrower, any Obligor, the Facility Agent or the Security Trustee but with the prior written consent of SACE.

24.13 Disclosure of information

A Lender may disclose to a potential Transferee Lender or sub participant any information which the Lender has received in relation to the Borrower, any Obligor or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature.

24.14 Change of Facility Office

Subject to the prior written consent of SACE, a Lender may change its Facility Office by giving notice to the Facility Agent and the change shall become effective on the later of:

- (a) the date on which the Facility Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect, provided that 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 or an increased payment to the new Lender or Lender acting through its new Facility Office under Clause 10 (*Taxes, Increased Costs, Costs and related Charges*), 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.

24.15 Notification

On receiving such a notice, the Facility Agent shall notify the Borrower and the Security Trustee; and, until the Facility Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the Facility Office of which the Facility Agent last had notice.

24.16 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 24 (*Changes to the Lenders*) each Lender may without consulting with or obtaining consent from the Borrower or any Obligor but subject to the prior written consent of SACE, 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 (i) to the benefit of any Affiliate and/or (ii) within the framework of its, or its Affiliates', direct or indirect funding operations including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve, central bank or a multilateral development bank (including the European Investment Bank and the European Investment Fund); and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities;

except that no such charge, assignment or Security Interest shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
- (ii) alter the obligations of the Obligor or require any payments to be made by the Borrower or any Obligor 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.

Notwithstanding any provision to the contrary, upon the enforcement of any charge, assignment or other Security Interest referred to in paragraph (a) above, the beneficiary thereof (the "Beneficiary") shall deliver a notice of that enforcement to the Facility Agent (such notice to take effect in accordance with its terms) and the Beneficiary shall, upon fulfilment of the conditions referred to in Clauses 24.2 and 24.3, become party as a new Lender in respect of the rights which are subject to that charge, assignment or Security Interest.

The Borrower shall comply with all necessary formalities, if any, and take all steps necessary in order to ensure the enforceability, recognition, priority and enforcement of the charge, assignment or Security Interest granted pursuant to this Clause 24.16.

24.17 Assignment or transfer to SACE or as directed by SACE

- (a) Notwithstanding the above provisions of this Clause 24 (*Changes to the Lenders*) each Lender and the Facility Agent may, if so requested by SACE in accordance with the provisions of the SACE Insurance Policy and without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights and obligations to SACE or to any person specified by SACE (but for the avoidance of doubt, SACE will not assume any of the Lenders' obligations (if any) under this Agreement), which assignment or transfer shall take effect upon the date stated in the relevant documentation subject to the relevant parties being satisfied that they have complied with all necessary "know your customer" requirements in relation to such assignment or transfer.
- (b) The Facility Agent shall promptly notify the Borrower of any such assignment or transfer to SACE (or as directed by SACE) and, following an Event of Default, the Borrower shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.18 Assignment or transfer by SACE

- (a) SACE may, without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights under this Agreement, the Finance Documents or the SACE Insurance Policy to:
 - (i) providers of reinsurance, counter-guarantee or any form of risk enhancement (in each case, in favour of SACE);
 - (ii) pursuant to article 32 of the Italian law decree no. 91/2014 converted into law 116/2014; or
 - (iii) following any payment under the SACE Insurance Policy, any person.
- (b) The Facility Agent shall promptly notify the Obligors of such assignment or transfer by SACE and, following an Event of Default, the Obligors shall pay to the Facility Agent, within three (3) Business Days of a demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.19 No prejudice to SACE rights

Nothing in the Finance Documents shall prejudice or otherwise limit:

- (a) the rights of any Lender to assign its rights or transfer its rights and obligations, under or in connection with, any Finance Document, to SACE or as directed by SACE, or the rights of SACE to assign its rights or (as the case may be) transfer its rights and obligations pursuant to Clause 24.18 (*Assignment or transfer by SACE*); and
- (b) the right of SACE to be subrogated to any Lender's rights under, or in connection with, any Finance Document.

24.20 SACE's power to direct

- (a) The Creditor Parties agree and the Obligors acknowledge that SACE has the right to direct the decision making of the Facility Agent, including (without limitation) following an Event of Default; and
- (b) to the extent SACE makes any payment to the Creditor Parties under the SACE Insurance Policy in respect of principal and/or following an assignment or transfer pursuant to Clause 24.17 (*Assignment or transfer to SACE or as directed by SACE*) or Clause 24.18 (*Assignment or transfer by SACE*), SACE shall be entitled to exercise all voting rights with respect to the relevant principal as if the relevant corresponding Commitment had been transferred to it.

24.21 Definition of Affiliate

For the purposes of this Clause 24 (*Changes to the Lenders*), the definition of "Affiliate" in respect of Crédit Agricole Corporate and Investment Bank shall, for the avoidance of doubt, include any other member of Crédit Agricole Group, and in particular:

- (a) Crédit Agricole S.A.;
- (b) Caisses Régionales de Crédit Agricole;
- (c) Crédit Agricole Assurances;
- (d) LCL SA; and/or
- (e) any company or legal entity in which one or more of the companies or entities referred to in paragraphs (a) to (d) above, together or separately, owns a direct majority interest.

25 CHANGES TO THE OBLIGORS

25.1 No change without consent

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

26 ROLE OF THE FACILITY AGENT, THE JOINT MANDATED LEAD ARRANGERS, THE SACE AGENT AND THE REFERENCE BANKS

26.1 Appointment of the Facility Agent

- (a) Each other Creditor Party appoints the Facility Agent to act as its agent under and in connection with this Agreement, the other Finance Documents and the Interest Make-Up Agreement.

- (b) Each other Creditor Party authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

26.2 Duties of the Facility Agent

- (a) The Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Facility Agent receives notice from a Party referring to this Agreement, describing an Event of Default and stating that the circumstance described is an Event of Default, it shall promptly notify the other Secured Parties.
- (d) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Secured Party (other than the Facility Agent or a Joint Mandated Lead Arranger) under this Agreement it shall promptly notify the other Secured Parties.
- (e) The Facility Agent's duties under the Finance Documents are solely administrative in nature.

26.3 Role of Joint Mandated Lead Arrangers

None of the Joint Mandated Lead Arrangers has any obligations of any kind to any other Party under or in connection with any Transaction Document, the Interest Make-Up Agreement or the SACE Insurance Policy.

26.4 No fiduciary duties

- (a) Nothing in this Agreement constitutes the Facility Agent or any of the Joint Mandated Lead Arrangers as a trustee or fiduciary of any other person.
- (b) Neither the Facility Agent nor any of the Joint Mandated Lead Arrangers shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

26.5 Business with the Guarantor

The Facility Agent and each of the Joint Mandated Lead Arrangers may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Affiliate or Subsidiary of the Guarantor.

26.6 Rights and discretions of the Facility Agent

- (a) The Facility Agent may rely on:
 - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and

- (ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Event of Default has occurred (unless it has actual knowledge of an Event of Default); and
 - (ii) any right, power, authority or discretion vested in any Party or the Lenders has not been exercised.
- (c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as the Facility Agent under this Agreement.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor any of the Joint Mandated Lead Arrangers 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.

26.7 Lenders' and SACE's instructions

- (a) Unless a contrary indication appears in a Finance Document, the Facility Agent (and in the case of SACE, the SACE Agent) shall:
 - (i) exercise any right, power, authority or discretion vested in it as Facility Agent (or as SACE Agent as the case may be) in accordance with any instructions given to it by the Majority Lenders (or in the case of the SACE Agent, by SACE) (or, if so instructed by the Majority Lenders or, in the case of the SACE Agent, by SACE, refrain from exercising any right, power, authority or discretion vested in it as the Facility Agent or as the SACE Agent (as the case may be)); and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders and/or SACE (as applicable).
- (b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders and SACE will be binding on all the Secured Parties.
- (c) The Facility Agent (and the SACE Agent as regards SACE) may refrain from acting in accordance with the instructions of the Majority Lenders and SACE until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.
- (d) In the absence of instructions from the Majority Lenders and SACE, the Facility Agent (or the SACE Agent as the case may be) may act (or refrain from taking action) as it considers to be in the best interest of the Secured Parties.

- (e) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.
- (f) Notwithstanding anything to the contrary, the Lenders agree that if the Facility Agent (acting in its sole discretion) is of the opinion that or if any Lender notifies the Facility Agent that it is of the opinion that, the prior approval of the Italian Authorities should be obtained in relation to the exercise or non-exercise by the Facility Agent or the Lenders of any power, authority or discretion specifically given to them under or in connection with the Finance Documents or in relation to any other incidental rights, powers, authorities or discretions, then the SACE Agent shall seek such approval of the Italian Authorities prior to such exercise or non-exercise.

26.8 Responsibility for documentation

The Facility Agent is not responsible for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, a Joint Mandated Lead Arranger, an Obligor or any other person given in or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-Up Agreement; nor for
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document the SACE Insurance Policy or the Interest Make-Up Agreement or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-up Agreement.

26.9 Exclusion of liability

- (a) Without limiting paragraph (b) of Clause 26.9 (*Exclusion of liability*), the Facility Agent will not be liable for any action taken by it under or in connection with any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement, unless directly caused by its Gross Negligence or wilful misconduct.
- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents, the SACE Insurance Policy or the Interest Make-Up Agreement to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or a Joint Mandated Lead Arranger to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent and the Joint Mandated Lead 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 Facility Agent or a Joint Mandated Lead Arranger.

26.10 Lenders' indemnity to the Facility Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three (3) Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's Gross Negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).

26.11 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Creditor Parties, the Borrower and SACE and with the consent of SACE.
- (b) Alternatively the Facility Agent may resign by giving notice to the other Secured Parties and the Borrower, in which case the Lenders (after consultation with the Borrower and the prior consent of SACE) may appoint a successor Facility Agent.
- (c) If the Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) within thirty (30) days after notice of resignation was given, the Facility Agent (after consultation with the Borrower and SACE) may appoint a successor Facility Agent.
- (d) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arranger*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Italian Authorities, the Majority Lenders may, subject to the prior consent of the Italian Authorities, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*). In this event, the Facility Agent shall resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The appointment of a successor Facility Agent pursuant to this Clause 26.11 (*Resignation of the Facility Agent*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

26.12 Confidentiality

- (a) In acting as agent for the Secured Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

26.13 Relationship with the Lenders

The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

26.14 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and each of the Joint Mandated Lead 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 the Guarantor and each Subsidiary of the Guarantor;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the 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;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by 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; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Charged Property, the priority of any Security Interests or the existence of any Security Interest affecting the Charged Property.

26.15 Deduction from amounts payable by the Facility Agent

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

26.16 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Facility Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Facility Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

26.17 SACE Agent, SACE Insurance Policy and Interest Make-Up Agreement

With the prior written consent of each of the Lenders, the SACE Agent (with a copy to the Facility Agent) may require SACE or SIMEST to amend or modify the SACE Insurance Policy and the Interest Make-up Agreement provided that such amendments are not inconsistent with the commercial terms of this Agreement, otherwise, the SACE Agent (with a copy to the Facility Agent) undertakes not to require SACE or SIMEST to amend or modify the SACE Insurance Policy or the Interest Make-up Agreement.

26.18 Resignation of the Facility Agent in relation to FATCA

The Facility Agent shall resign in accordance with Clause 26.11 (*Resignation of the Facility Agent*) (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) of Clause 26.11 (*Resignation of the Facility Agent*)) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:

- (a) the Facility Agent fails to respond to a request under Clause 10.9 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

- (b) the information supplied by the Facility Agent pursuant to Clause 10.9 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (c) the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

26.19 No duty to monitor

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Event of 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.

26.20 Appointment of the SACE Agent

- (a) Each Lender and each Joint Mandated Lead Arranger irrevocably appoints the SACE Agent to act as its agent under and in connection with:
 - (i) the SACE Insurance Policy; and
 - (ii) the Finance Documents in relation to matters involving SACE, SIMEST and the SACE Insurance Policy.
- (b) Each Lender and each Joint Mandated Lead Arranger irrevocably authorises the SACE Agent to:
 - (i) perform the duties, obligation and responsibilities and exercise the rights, powers, authorities and discretions specifically given to the SACE Agent under or in connection with the Finance Documents and the SACE Insurance Policy, together with any other incidental rights, powers, authorities and discretions; and
 - (ii) execute the SACE Insurance Policy.

26.21 Application of certain Clauses

The provisions of Clauses 26.2 (*Duties of the Facility Agent*), 26.4 (*No fiduciary duties*), 26.6 (*Rights and discretions of the Facility Agent*), 26.7 (*Lenders' and SACE's instructions*), 26.8 (*Responsibility for documentation*), 26.9 (*Exclusion of liability*), 26.10 (*Lenders' indemnity to the Facility Agent*), 26.11 (*Resignation of the Facility Agent*), 26.12 (*Confidentiality*), 26.13 (*Relationship with the Lenders*), 26.14 (*Credit appraisal by the Lenders*), 26.16 (*Full freedom to enter into transactions*), 26.19 (*No duty to monitor*) and 27.23 (*Business with the Group*) shall apply in respect of the SACE Agent in its capacity as such as if each reference to the Facility Agent (or Security Trustee in the case of Clause 27.23 (*Business with the Group*)) were a reference to the SACE Agent and each reference to the Finance Documents or Transaction Documents included a reference to the SACE Insurance Policy.

26.22 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 26.22 (*Role of Reference Banks*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

26.23 Third Party Reference Banks

A Reference Bank which is not a Party may rely on Clause 26.22 (*Role of Reference Banks*) and Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

27 THE SECURITY TRUSTEE

27.1 Trust

- (a) The Security Trustee declares that it shall hold the Security Property on trust for the Secured Parties on the terms contained in this Agreement and shall deal with the Security Property in accordance with this Clause 27 (*The Security Trustee*) and the other provisions of the Finance Documents.
- (b) Each of the parties to this Agreement agrees that the Security Trustee shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Finance Documents (and no others shall be implied).
- (c) The Security Trustee shall not have any liability to any person in respect of its duties, obligations and responsibilities under this Agreement or the other Finance Documents except as expressly set out in paragraph (a) of Clause 27.1 (*Trust*) and as excluded or limited by this Clause 27 (*The Security Trustee*) including in particular Clause 27.8 (*Instructions to Security Trustee and exercise of discretion*), Clause 27.13 (*Responsibility for documentation*), Clause 27.14 (*Exclusion of liability*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*), Clause 27.23 (*Business with the Group*) and Clause 27.28 (*Full freedom to enter into transactions*).

27.2 Parallel Debt (Covenant to pay the Security Trustee)

- (a) Each Obligor irrevocably and unconditionally undertakes to pay to the Security Trustee its Parallel Debt which shall be amounts equal to, and in the currency or currencies of, its Corresponding Debt.

- (b) The Parallel Debt of an Obligor:
 - (i) shall become due and payable at the same time as its Corresponding Debt;
 - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For purposes of this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*), the Security Trustee:
 - (i) is the independent and separate creditor of each Parallel Debt;
 - (ii) acts in its own name and not as agent, representative or trustee of the Secured Parties and its claims in respect of each Parallel Debt shall not be held on trust; and
 - (iii) shall have the independent and separate right to demand payment of each Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).
- (d) The Parallel Debt of an Obligor shall be:
 - (i) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged; and
 - (ii) increased to the extent that its Corresponding Debt has increased,and the Corresponding Debt of an Obligor shall be:
 - (A) decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged; and
 - (B) increased to the extent that its Parallel Debt has increased,in each case provided that the Parallel Debt of an Obligor shall never exceed its Corresponding Debt.
- (e) All amounts received or recovered by the Security Trustee in connection with this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) to the extent permitted by applicable law, shall be applied in accordance with Clause 19 (*Application of sums received*).
- (f) This Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) shall apply, with any necessary modifications, to each Finance Document.

27.3 No independent power

The Secured Parties shall not have any independent power to enforce, or have recourse to, any Security Interest created by any of the Finance Documents or to exercise any rights or powers arising under the Finance Documents creating the Security Interest except through the Security Trustee.

27.4 Application of receipts

- (a) Except as expressly stated to the contrary in any Finance Document, any moneys which the Security Trustee receives or recovers and which are, or are attributable to, Security Property (for the purposes of this Clause 27 (*The Security Trustee*), the "**Recoveries**") shall be transferred to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*).

- (b) Paragraph (a) above is without prejudice to the rights of the Security Trustee, any Receiver or any Delegate:
 - (i) under Clause 26.10 (*Lenders' indemnity to the Facility Agent*) to be indemnified out of the Charged Property; and
 - (ii) under any Finance Document to credit any moneys received or recovered by it to any suspense account.
- (c) Any transfer by the Security Trustee to the Facility Agent in accordance with paragraph (a) above shall be a good discharge, to the extent of that payment, by the Security Trustee.
- (d) The Security Trustee is under no obligation to make the payments to the Facility Agent under paragraph (a) of this Clause 27.4 (*Application of receipts*) in the same currency as that in which the obligations and liabilities owing to the relevant Secured Party are denominated.

27.5 Deductions from receipts

- (a) Before transferring any moneys to the Facility Agent under Clause 27.4 (*Application of receipts*), the Security Trustee may, in its discretion:
 - (i) deduct any sum then due and payable under this Agreement or any other Finance Documents to the Security Trustee or any receiver and retain that sum for itself or, as the case may require, pay it to another person to whom it is then due and payable;
 - (ii) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
 - (iii) pay all Taxes which may be assessed against it in respect of any of the Security Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).
- (b) For the purposes of paragraph (a)(i) above, if the Security Trustee has become entitled to require a sum to be paid to it on demand, that sum shall be treated as due and payable, even if no demand has yet been served.

27.6 Prospective liabilities

Following acceleration of any Security Interest, the Security Trustee may, in its discretion, or at the request of the Facility Agent, hold any recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) for later payment to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*) in respect of:

- (a) any sum to the Security Trustee, any Receiver or Delegate; and

- (b) any part of the Secured Liabilities,

that the Security Trustee or, in the case of paragraph (b) only, the Facility Agent, reasonably considers, in each case, might become due or owing at any time in the future.

27.7 Investment of proceeds

Prior to the payment of the proceeds of the recoveries to the Facility Agent for application in accordance with Clause 27.4 (*Application of receipts*) the Security Trustee may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) pending the payment from time to time of those moneys in the Security Trustee's discretion in accordance with the provisions of this Clause 27.7 (*Investment of proceeds*).

27.8 Instructions to Security Trustee and exercise of discretion

- (a) Subject to paragraph (d) below, the Security Trustee shall act in accordance with any instructions given to it by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) or, if so instructed by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)), refrain from exercising any right, power, authority or discretion vested in it as Security Trustee and shall be entitled to assume that:
 - (i) any instructions received by it from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) are duly given in accordance with the terms of the Finance Documents; and
 - (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.
- (b) The Security Trustee shall be entitled to request instructions, or clarification of any direction, from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Trustee may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Any instructions given to the Security Trustee by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) shall override any conflicting instructions given by any other Party.
- (d) Paragraph (a) above shall not apply:
 - (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement requires the Security Trustee to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Trustee's own position in its personal capacity as opposed to its role of Security Trustee for the Secured Parties including, without limitation, the provisions set out in Clauses 27.10 (*Security Trustee's discretions*) to Clause 27.28 (*Full freedom to enter into transactions*); and

- (iv) in respect of the exercise of the Security Trustee's discretion to exercise a right, power or authority under any of Clause 27.5 (*Deductions from receipts*) and Clause 27.6 (*Prospective liabilities*).

27.9 Security Trustee's Actions

Without prejudice to the provisions of Clause 27.4 (*Application of receipts*), the Security Trustee may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.

27.10 Security Trustee's discretions

- (a) The Security Trustee may:
 - (i) assume (unless it has received actual notice to the contrary from the Facility Agent) that (i) no Event of Default has occurred and no Obligor is in breach of or default under its obligations under any of the Finance Documents and (ii) any right, power, authority or discretion vested by any Finance Document in any person has not been exercised;
 - (ii) assume that any notice or request made by the Borrower (other than a Drawdown Notice) is made on behalf of and with the consent and knowledge of all the Obligors;
 - (iii) if it receives any instructions or directions to take any action in relation to a Security Interest under the Finance Documents, assume that all applicable conditions under the Finance Documents for taking that action have been satisfied;
 - (iv) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Trustee or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;
 - (v) act in relation to the Finance Documents through its personnel and agents;
 - (vi) disclose to any other Party any information it reasonably believes it has received as Security Trustee under this Agreement;
 - (vii) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party or an Obligor, upon a certificate signed by or on behalf of that person; and
 - (viii) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received any indemnification and/or security that it may in its discretion require (which may be greater than that contained in the Finance Documents and which may include payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting.
- (b) Notwithstanding any other provision of any Finance Document to the contrary, the Security Trustee is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

- (c) Notwithstanding any provision of any Finance Document to the contrary, the Security Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion, if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not assured to it.

27.11 Security Trustee's obligations

The Security Trustee shall promptly:

- (a) copy to the Facility Agent the contents of any notice or document received by it from any Obligor under any Finance Document;
- (b) forward to a Party the original or a copy of any document which is delivered to the Security Trustee for that Party by any other Party provided that the Security Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform the Facility Agent of the occurrence of any Event of Default or any default by an Obligor in the due performance of or compliance with its obligations under any Finance Document of which the Security Trustee has received notice from any other party to this Agreement.

27.12 Excluded obligations

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee shall not:

- (a) be bound to enquire as to (i) whether or not any Event of Default has occurred or (ii) the performance, default or any breach by an Obligor of its obligations under any of the Finance Documents;
- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (d) be or be deemed to be an agent, trustee or fiduciary of any Obligor.

27.13 Responsibility for documentation

None of the Security Trustee, any Receiver or Delegate shall accept responsibility or be liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Trustee or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

27.14 Exclusion of liability

- (a) Without limiting Clause 27.15 (*No proceedings*), (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate), none of the Security Trustee or any Receiver nor any Delegate will be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of any action taken by it or not taken by it under or in connection with any Finance Document or any Security Interest, 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 of the Finance Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Finance Documents or the Security Property;
 - (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
 - (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) Nothing in this Agreement shall oblige the Security Trustee to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Security Trustee that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Trustee.

- (c) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate, any liability of the Security Trustee, any Receiver or Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Trustee, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Trustee, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Trustee, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Trustee, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

27.15 No proceedings

No Party (other than the Security Trustee or that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Trustee, Receiver or Delegate in respect of any claim it might have against the Security Trustee, Receiver or Delegate in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Property and any officer, employee or agent of the Security Trustee, Receiver or Delegate may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.

27.16 Lenders' indemnity to the Security Trustee

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Security Trustee and every Receiver and every Delegate within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct) in acting as Security Trustee, Receiver or Delegate under the Finance Documents (unless the relevant Security Trustee, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).

27.17 Own responsibility

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Creditor Party confirms to the Security Trustee that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Finance Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) whether that Creditor Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;

- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Trustee or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Security Interests created by the Finance Documents or the existence of any Security Interest affecting the Charged Property,

and each Creditor Party warrants to the Security Trustee that it has not relied on and will not at any time rely on the Security Trustee in respect of any of these matters.

27.18 No responsibility to perfect Security Interests

The Security Trustee shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Finance Documents or any Security Interest;
- (c) register, file or record or otherwise protect any Security Interests (or the priority of any of Security Interest) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Finance Documents or of any Security Interest;
- (d) take, or to require any of the Obligors to take, any steps to perfect its title to any of the Charged Property or to render any Security Interest effective or to secure the creation of any ancillary Security Interest under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Finance Documents creating the Security Interests.

27.19 Insurance by Security Trustee

- (a) The Security Trustee shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Finance Documents. The Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.
- (b) Where the Security Trustee is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Facility Agent shall have requested it to do so in writing and the Security Trustee shall have failed to do so within fourteen (14) days after receipt of that request.

27.20 Custodians and nominees

The Security Trustee may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Trustee 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 Trustee 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.

27.21 Acceptance of title

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Obligors 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.

27.22 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Trustee may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

27.23 Business with the Group

The Security Trustee may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

27.24 Winding up of trust

If the Security Trustee, with the approval of the Facility Agent determines that (a) all of the Secured Liabilities and all other obligations secured by the Finance Documents creating the Security Interests have been fully and finally discharged and (b) none of the Secured Parties 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:

- (a) the trusts set out in this Agreement shall be wound up and the Security Trustee shall release, without recourse or warranty, all of the Security Interests and the rights of the Security Trustee under each of the Finance Documents creating the Security Interests; and
- (b) any Retiring Security Trustee shall release, without recourse or warranty, all of its rights under each of the Finance Documents creating the Security Interests.

27.25 Powers supplemental

The rights, powers and discretions conferred upon the Security Trustee by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Trustee by general law or otherwise.

27.26 Trustee division separate

- (a) In acting as trustee for the Secured Parties, the Security Trustee shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Trustee, it may be treated as confidential to that division or department and the Security Trustee shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.

27.27 Disapplication

In addition to its rights under or by virtue of this Agreement and the other Finance Documents, the Security Trustee shall have all the rights conferred on a trustee by the Trustee Act 1925, the Trustee Delegation Act 1999, the Trustee Act 2000 and by general law or otherwise, provided that:

- (a) section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by this Agreement and the other Finance Documents; and
- (b) where there are any inconsistencies between (i) the Trustee Acts 1925 and 2000 and (ii) the provisions of this Agreement and any other Finance Document, the provisions of this Agreement and any other Finance Document shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, such provisions shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000.

27.28 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Security Trustee shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security trustee for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, each Servicing Party shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

27.29 Resignation of the Security Trustee

- (a) The Security Trustee may resign and appoint one of its affiliates as successor by giving notice to the Borrower and each Secured Party.
- (b) Alternatively the Security Trustee may resign by giving notice to the other Parties in which case the Majority Lenders (with the prior consent of SACE) may appoint a successor Security Trustee.
- (c) If the Majority Lenders have not appointed a successor Security Trustee in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Trustee (after consultation with the Facility Agent and SACE) may appoint a successor Security Trustee.
- (d) The retiring Security Trustee (the "**Retiring Security Trustee**") shall, at its own cost, make available to the successor Security Trustee such documents and records and provide such assistance as the successor Security Trustee may reasonably request for the purposes of performing its functions as Security Trustee under the Finance Documents.
- (e) The Security Trustee's resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer, by way of a document expressed as a deed, of all of the Security Property to that successor.
- (f) Upon the appointment of a successor, the Retiring Security Trustee shall be discharged, by way of a document executed as a deed, from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 27.24 (*Winding up of trust*) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Trustee, remain entitled to the benefit of Clause 27 (*The Security Trustee*), Clause 27.5 (*Deductions from receipts*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability in acting as Security Trustee. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Majority Lenders may, by notice to the Security Trustee, require it to resign in accordance with paragraph (b) above. In this event, the Security Trustee shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The consent of the Borrower (or any other Obligor) is not required for an assignment or transfer of rights and/or obligations by the Security Trustee.
- (i) The appointment of a successor Security Trustee pursuant to this Clause 27.29 (*Resignation of the Security Trustee*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

27.30 Delegation

- (a) Each of the Security Trustee, any Receiver or any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Finance Documents.
- (b) That delegation may be made upon any terms and conditions and subject to any restrictions that the Security Trustee, that Receiver or that Delegate (as the case may be) considers in its discretion to be appropriate and it shall not be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct or default on the part of any such delegate or sub delegate.
- (c) The Security Trustee shall exercise reasonable care in the selection of any such delegate or sub delegate.

27.31 Additional Security Trustee

- (a) The Security Trustee 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 appropriate; or
 - (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Trustee deems to be relevant; or
 - (iii) for obtaining or enforcing any judgment in any jurisdiction,and the Security Trustee shall give prior notice to the Borrower and the Facility Agent of that appointment.
- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Trustee by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Trustee 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 Trustee.

27.32 Financial Services and Markets Act 2000

- (a) Notwithstanding anything in any Finance Document to the contrary, the Security Trustee shall not do, or be authorised or required to do, anything which might constitute a regulated activity for the purpose of the Financial Services and Markets Act 2000 ("FSMA"), unless it is authorised under FSMA to do so.
- (b) The Security Trustee shall have the discretion at any time:
 - (i) to delegate any of the functions which fall to be performed by an authorised person under FSMA to any other agent or person which also has the necessary authorisations and licences; and

- (ii) to apply for authorisation under FSMA and perform any or all such functions itself if, in its absolute discretion, it considers it necessary, desirable or appropriate to do so.

28 CONDUCT OF BUSINESS BY THE CREDITOR PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Creditor Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Creditor 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 Creditor Party to disclose any information relating to its affairs (Tax or otherwise) or any computations in respect of Tax.

29 SHARING AMONG THE CREDITOR PARTIES

29.1 Payments to Creditor Parties

If a Creditor Party (a "**Recovering Creditor Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 29 *Sharing among the Creditor Parties*) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Creditor Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Facility Agent;
- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Creditor Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Creditor Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Creditor Party as its share of any payment to be made, in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Creditor Parties (other than the Recovering Creditor Party) in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.3 Recovering Creditor Party's rights

- (a) On a distribution by the Facility Agent under Clause 29.2 (*Redistribution of payments*), the Recovering Creditor Party will, if possible under the relevant applicable laws, be subrogated to the rights of the Creditor Parties which have shared in the redistribution.

- (b) If and to the extent that the Recovering Creditor Party is not able to rely on its rights under paragraph (a) of Clause 29.3 *Recovering Creditor Party's rights*), the relevant Obligor shall be liable to the Recovering Creditor Party for a debt equal to the Sharing Payment which is immediately due and payable.

29.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Creditor Party becomes repayable and is repaid by that Recovering Creditor Party, then:

- (a) each Lender which has received a share of the relevant Sharing Payment pursuant to Clause 29.2 *Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Creditor 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 Creditor Party for its proportion of any interest on the Sharing Payment which that Recovering Creditor Party is required to pay); and
- (b) that Recovering Creditor Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Creditor Party for the amount so reimbursed.

29.5 Exceptions

- (a) This Clause 29 (*Sharing among the Creditor Parties*) shall not apply to the extent that the Recovering Creditor Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Creditor Party is not obliged to share with any other Creditor Party any amount which the Recovering Creditor Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Creditor Party of the legal or arbitration proceedings; and
 - (ii) that other Creditor 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.
- (c) Following full indemnification by SACE of the SACE Agent (on behalf of the Lenders) under the SACE Insurance Policy, the provisions relating to the sharing of proceeds among the Creditor Parties in this Clause 29 (*Sharing among the Creditor Parties*) shall not apply to any payment made to SACE by a Lender or the Borrower following a payment by SACE to any Lender under the SACE Insurance Policy.

30 PAYMENT MECHANICS

30.1 Payments to the Facility 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 Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to Euro, in a principal financial centre in a Participating Member State) with such bank as the Facility Agent specifies.
- (c) Payment shall be made before 11.00 a.m. Paris time.
- (d) For each payment by the Borrower, it shall notify the Facility Agent on the third Business Day prior to the due date for payment that it will issue to its bank (which shall be named in such notification) to make the payment.

30.2 Distributions by the Facility Agent or the SACE Agent

Each payment received by the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party shall, subject to Clause 30.3 (*Distributions to an Obligor*), Clause 30.4 (*Clawback*) be made available by the Facility Agent or SACE Agent (as the case may be) as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent (following which the Facility Agent shall promptly notify the SACE Agent, if relevant to it) by not less than five (5) Business Days' notice with a bank 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).

30.3 Distributions to an Obligor

The Facility Agent may in accordance with Clause 22 (*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.

30.4 Clawback

- (a) Where a sum is to be paid to the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

30.5 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.

30.6 Business Days

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (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.

30.7 Currency of account

- (a) Subject to paragraphs (b) and (c) of Clause 30.7 (*Currency of account*) Euros is the currency of account and payment for any sum from an Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than Euros shall be paid in that other currency.

30.8 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Lenders and 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 Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Lenders and the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

30.9 Distributions under the Interest Make-up Agreement

Each payment received by the Facility Agent under the Interest Make-up Agreement for a Lender shall be made available by the Facility Agent as soon as practicable after receipt to the Lender entitled to receive such payment in accordance with this Agreement (for the account of its Facility Office), to such account as that Lender may notify to the Facility Agent by not less than five (5) Business Days' notice with a bank 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).

31 VARIATIONS AND WAIVERS

31.1 Variations, waivers etc. by Majority Lenders

Subject to Clause 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), a document shall be effective to vary, waive, amend, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by fax, by the Borrower, by the Facility Agent on behalf of the Majority Lenders, by the Facility Agent and the Security Trustee in their own rights, and, if the document relates to a Finance Document to which an Obligor is party, by an Obligor (provided that no amendment or variation may be made to this Agreement or any other Finance Document without the consent of the Italian Authorities); provided, further, that no amendment or variation may be made before the date falling ten Business Days after the terms of that amendment or variation have been notified by the Facility Agent to the Lenders. The Facility Agent shall notify the Lenders reasonably promptly of any amendments or variations proposed by the Borrower.

31.2 Variations, waivers etc. requiring agreement of all Lenders

However, as regards the following, Clause 31.1 (*Variations, waivers etc. by Majority Lenders*) applies as if the words "by the Facility Agent on behalf of the Majority Lenders" were replaced by the words "by or on behalf of every Lender":

- (a) a reduction in the Margin;
- (b) a postponement to the date for, or a reduction in the amount of, any payment of principal, interest, fees, commission or other sum payable under this Agreement;
- (c) an increase in or extension of any Lender's Commitment, including, for the avoidance of doubt, any increase arising pursuant to the provisions of Clause 8.1 *ACE Premium*) or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Loan;
- (d) a change to the definition of "**Majority Lenders**";
- (e) a change to Clause 2 (*Facility*), Clause 6 (*Interest*), Clause 24 (*Changes to the Lenders*) or this Clause 31 (*Variations and Waivers*);
- (f) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
- (g) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender's consent is required.

31.3 Exclusion of other or implied variations

Except for a document which satisfies the requirements of Clauses 31.1 (*Variations, waivers etc. by Majority Lenders*) and 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower or an Obligor of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

32 NOTICES

32.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

32.2 Addresses for communications

A notice shall be sent:

- (a) to the Borrower: 7665 Corporate Center Drive
Miami FL 33126 USA
Fax No: (00) 1 305 436 4140
- (b) to a Lender: At the address below its name in Schedule 1 (*Lenders and Commitments*) or (as the case may require) in the relevant Transfer Certificate.
- (c) to the Facility Agent: CIB- COO Office-TMEF
Millénaire 4
35 rue de la gare
75019 Paris
Fax No. (33) 1 43 16 81 84
Email: sylvie.casetcarricaburu@bnpparibas.com;
beatrice.sohier@bnpparibas.com
Attn: Attention: S. CASET-CARRICABURU/B. SOHIER
- (d) to the SACE Agent: 12, place des Etats-Unis
CS 70052
92547 Montrouge cedex
Paris
Fax No. (33) 1 41 89 19 34
Email: clementine.costil@ca-cib.com; romy.rousseau@ca-cib.com
Attn: Shipping Middle Office – Ms Clémentine Costil and Romy Rousseau
- (e) to the Security Trustee: 8 Canada Square
London
E14 5HQ
Fax:
+44 20 7991 4350
Email: Ctla.trustee.admin@hsbc.com
Attention:
CTLA Trustee Services Administration

or to such other address as the relevant party may notify the Facility Agent or, if the relevant party is the Facility Agent, the Borrower and the Lenders.

32.3 Effective date of notices

Subject to Clauses 32.4 (*Service outside business hours*) and 32.5 (*Electronic communication*):

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered;
- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.

32.4 Service outside business hours

However, if under Clause 32.3 (*Effective date of notices*) a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
- (b) on such a business day, but after 6 p.m. local time;

the notice shall (subject to Clause 32.5 (*Electronic communication*)) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

32.5 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means, to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.

- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

32.6 Illegible notices

Clauses 32.3 (*Effective date of notices*) and 32.4 (*Service outside business hours*) do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

32.7 Valid notices

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

32.8 English language

Any notice under or in connection with a Finance Document shall be in English.

32.9 Meaning of "notice"

In this Clause 32 (*Notices*), "**notice**" includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

33 CONFIDENTIALITY

33.1 Confidential Information

Each Creditor Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 (*Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

33.2 Disclosure of Confidential Information

Any Creditor Party may disclose:

- (a) to the Italian Authorities, to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Creditor Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

(b) to any person:

- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates, Representatives and professional advisers;
- (ii) who is an insurer or reinsurer of any Creditor Party and requests such information;
- (iii) 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, Representatives and professional advisers;
- (iv) appointed by any Creditor Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
- (v) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
- (vi) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (viii) who is a Party, a member of the Group or any related entity of an Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document; or
- (x) with the consent of the Guarantor; or
- (xi) any employee, officer, director or Representative of any Italian Authorities to whom information is required to be disclosed in the course of such person's employment or duties;
- (xii) to whom or for whose benefit that Creditor Party charges, assigns or otherwise creates a Security Interest (or may do so) pursuant to Clause 24.16 *Security over Lenders' rights*).

in each case, such Confidential Information as that Creditor Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii) and (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to paragraph (b)(v) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(vi), (b)(vii) and (b)(xii) 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 Creditor Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Creditor Party or by a person to whom sub-paragraphs (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Creditor Party;
 - (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the 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.

33.3 Entire agreement

This Clause 33 (*Confidentiality*) constitutes the entire agreement between the Parties in relation to the obligations of the Creditor Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

33.4 Disclosure to information services

- (a) Any Creditor Party may disclose to any national or international information service company such as Dealogic, TF, GTR, TXF, IFR and any other similar information service company appointed by that Creditor Party, the following information:
 - (i) names of Parties;
 - (ii) country of domicile of Obligors;

- (iii) place of incorporation of Obligor;
- (iv) date of this Agreement and Effective Date;
- (v) Clause 38 (*Governing Law*);
- (vi) the name of the Facility Agent;
- (vii) amount of Total Commitments;
- (viii) currency of the Facility;
- (ix) type of Facility;
- (x) ranking of Facility; and
- (xi) duration of Facility,

to enable such information service company to provide its usual services.

- (b) Each Obligor represents that none of the information set out in sub-paragraphs (i) to (xi) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.

33.5 Inside information

Each of the Creditor Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Creditor Parties undertakes not to use any Confidential Information for any unlawful purpose.

33.6 Notification of disclosure

Each of the Creditor Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(vi) of Clause 33.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 33 (*Confidentiality*).

33.7 Continuing obligations

The obligations in this Clause 33 (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each Creditor Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligor under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and

- (b) the date on which such Creditor Party otherwise ceases to be a Creditor Party.

33.8 Disclosure by SACE

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information:

- (a) as required to be disclosed by applicable law, regulation, rule or order of a competent authority in the context of litigation, arbitration or administrative proceedings to which SACE is subject or as required to be disclosed as a consequence of the participation of SACE and/or the Republic of Italy to an international organisation of which SACE and/or the Republic of Italy is a member (and in such event, upon notification from SACE, the SACE Agent shall inform the Obligors of such requirement as soon as reasonably practicable to the extent permitted by law, regulation, rule or order of a competent authority and the person to whom such Confidential Information is to be given is informed of its confidential nature);
- (b) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (c) to any providers of any reinsurance, counter-guarantee or any form of risk enhancement (including but not limited to SACE's agents, brokers and consultants) subject to such persons entering into confidentiality arrangements with SACE unless such persons are subject to professional obligations of confidentiality;
- (d) if required for the purposes of the state guarantee in favour of SACE pursuant to article 32 of law-decree no. 91/2014 converted into law 116/2014 in the Republic of Italy;
- (e) following any payment due under the SACE Insurance Policy; or
- (f) with the consent of the Borrower, such consent not to be unreasonably withheld.

33.9 Disclosure by SIMEST

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information to SIMEST provided that SIMEST may, in turn, disclose such Confidential Information:

- (a) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (b) to its professional advisers provided that such advisers are under a professional duty to keep such information confidential;
- (c) to providers of hedging arrangements entered into by SIMEST in connection with the Facility (including their agents, brokers and consultants) subject to such persons undertaking confidentiality obligations with SIMEST (unless they are subject to professional duties of confidentiality) and with the written consent of the Borrower (such consent not to be unreasonably withheld); or
- (d) with the consent of the Borrower.

33.10 Press release

Neither SACE nor the Borrower will issue any press release or make any public announcement in relation to the SACE Insurance Policy without the prior consent of the other party (such consent not to be unreasonably withheld).

34 CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

34.1 Confidentiality and disclosure

- (a) The Facility Agent and the Borrower agree to keep each Funding Rate (and, in case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.
- (b) The Facility Agent may disclose any Funding Rate or Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation and the Borrower may disclose any Funding Rate to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives, if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this sub-paragraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
 - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
 - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and

(iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.

34.2 Related obligations

- (a) The Facility Agent and the Borrower acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and the Borrower undertake not to use any Funding Rate (or, in the case of the Facility Agent, any Reference Bank Quotation) for any unlawful purpose.
- (b) The Facility Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (c) of Clause 34.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

35 LEGAL INDEPENDENCE AND UNCONDITIONAL OBLIGATIONS OF THE BORROWER

35.1 Legal independence and Unconditional Obligations of the Borrower

This Agreement is legally independent from the Shipbuilding Contract. The obligations of the Borrower to make payments and to observe and perform its obligations under the Transaction Documents are absolute, unconditional, irrevocable and several and such obligations shall not:

- (a) in any way be affected or discharged by reason of any matter affecting the Shipbuilding Contract including its performance, frustration or validity, the insolvency or dissolution of any party to the Shipbuilding Contract or the destruction, non-completion or non-functioning of the goods and equipment supplied under the Shipbuilding Contract;
- (b) in any way be affected or discharged by reason of any dispute under the Shipbuilding Contract or any claim which it or any other person may have against, or consider that it has against, any person under the Shipbuilding Contract;
- (c) in any way be affected or discharged by reason of unenforceability, illegality or invalidity of any obligation of the Borrower or any other person under the Shipbuilding Contract or any documents or agreements relating to the Shipbuilding Contract;
- (d) in any way be affected by the fact that all or any part of the amount requested referred to in the Drawdown Notice is not or was not due or payable to the Builder;
- (e) be conditional on the performance by the Creditor Parties of any obligations (except as otherwise stated herein) in order to give rise to a relevant obligation of the Borrower hereunder; or
- (f) in any way be affected or discharged by the insolvency or dissolution of the Borrower.

36 SACE SUBROGATION AND REIMBURSEMENT

36.1 Acknowledgement of Subrogation

Each of the Parties acknowledges that, upon any payment being made by or on behalf of SACE of any amount under the SACE Insurance Policy, SACE will be immediately and automatically subrogated to the rights of the Lenders in the amount of such payment under the Finance Documents in accordance with the SACE Insurance Policy. Following such subrogation, the Creditor Parties shall provide all assistance required by SACE to enforce its rights under this Agreement and the other Finance Documents.

36.2 Reimbursement

- (a) Without prejudice to Clause 36.1 (*Acknowledgement of Subrogation*), each Obligor, jointly and severally undertakes to pay to SACE, and keep SACE indemnified from and against, each and every amount paid (whether by direct payment or set-off) by SACE to the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy;
- (b) Each Obligor undertakes to pay SACE an amount in Euros equal to:
 - (i) for each payment made by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such payment; and
 - (ii) for each deduction or withholding imposed, levied, collected, withheld or assessed on any payment by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such deduction or withholding,

in each case together with interest thereon (calculated in accordance with Clause 17.1 *Default rate of interest*) of this Agreement).

- (c) Each Obligor further agrees that its obligations under this Clause 36.2 (*Reimbursement*) are separate from and in no way conditional upon the Obligor's obligations under this Agreement or any of the other Finance Documents and will not be affected or discharged by any matter relating thereto including, but not limited to, whether or not the Obligor is itself liable to make payment, or is disputing its liability to make payment, under this Agreement or any of the other Finance Documents.
- (d) SACE will promptly inform the Obligors of any amounts to be reimbursed and indemnified under this Clause 36.2 (*Reimbursement*).
- (e) Each amount that is payable by the Obligors pursuant to Clause 36.2 (*Reimbursement*) is due and payable to SACE in Euros within five (5) Business Days of demand by SACE to the Obligors.

36.3 Obligations Absolute

The obligations of the Obligors under this Clause 36.2 (*Reimbursement*), to the extent permitted by applicable law:

- (a) are absolute and unconditional;

- (b) are to be discharged and/or performed strictly in accordance with this Agreement under all circumstances;
- (c) are continuing obligations and will extend to the ultimate balance of sums payable by SACE to any Creditor Party or any person on any of their behalf under the SACE Insurance Policy, regardless of any intermediate payment or discharge in whole or in part;
- (d) will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under Clause 36.2 (*Reimbursement*) (without limitation and whether or not known to it or any Creditor Party) including:
 - (i) any time, waiver or consent granted to, or composition with any Obligor;
 - (ii) any lack of validity or enforceability of, or any amendment or other modifications of, or waiver with respect to, any of the Finance Documents;
 - (iii) any reduction or release of any other obligations under this Agreement;
 - (iv) the release of any Obligor or any other person under the terms of any composition or arrangement;
 - (v) the taking, variation, compromise, exchange, renewal, discharge, substitution or release of, or refusal or neglect to perfect, take up, realise or enforce, any rights against, or security over assets of, any Obligor or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - (vi) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor, any Creditor Party or any other person;
 - (vii) any amendment (however fundamental) or replacement of a Finance Document, the SACE Insurance Policy or any other document or security;
 - (viii) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, the SACE Insurance Policy or any other document or security;
 - (ix) any insolvency or similar proceedings;
 - (x) the existence of any claim, set-off, defence, reduction, abatement or other right which any Obligor may have at any time against SACE;
 - (xi) any document presented in connection with the SACE Insurance Policy proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
 - (xii) any payment by SACE against presentation of a demand for payment substantially, on its face, in the form of a claim under the SACE Insurance Policy where any certificate or other document required to be provided with such claim in accordance with the terms of the SACE Insurance Policy either is not provided or does not comply with the terms of the SACE Insurance Policy; and

(xiii) any other circumstances which might otherwise constitute a defence available to, or discharge of any Obligor.

37 SUPPLEMENTAL

37.1 Rights cumulative, non-exclusive

The rights and remedies which the Finance Documents give to each Secured Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

37.2 Severability of provisions

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

37.3 Counterparts

A Finance Document may be executed in any number of counterparts.

37.4 Third party rights

- (a) Except for SACE, SIMEST and their successors, transferees and assignees or as otherwise provided in a Finance Document, a person who is not a Party has no right under the Third Party Act to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any provision of any Finance Document, the consent of any person (other than SACE, SIMEST or their successors, transferees and assignees) who is not a party to a Finance Document is not required to rescind, vary or terminate any Finance Document at any time.
- (c) Subject to the provisions of the Third Party Act, and without prejudice to the provisions of paragraphs (a) and (b) above, each of SACE and/or SIMEST (as applicable) has the right to enforce and to enjoy the benefit of Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clause 20.2 (*Breakage costs and SIMEST arrangements*), Clause 20.3 (*Miscellaneous indemnities*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 10.6 (*VAT*), Clause 10.13 (*SACE obligations*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), 33.10 (*Press release*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable).

- (d) Any amendment or waiver which relates to the rights of SACE and/or SIMEST (as applicable) under this Agreement, including under Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 20.3 (*Miscellaneous indemnities*), Clause 10.6 (*VAT*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), 33.10 (*Press release*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable) may not be effected without the consent of SACE and/or SIMEST (as applicable).

37.5 No waiver

No failure or delay on the part of a Secured Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise thereof preclude any other or further exercise thereof by the Secured Parties or the exercise by the Secured Parties of any other right, power or privilege. The rights and remedies of the Secured Parties herein provided are cumulative and not exclusive of any rights or remedies provided by law.

37.6 Writing required

This Agreement shall not be capable of being modified otherwise than by an express modification in writing signed by the Borrower, the Facility Agent and the Lenders.

37.7 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under paragraph (e) of Clause 12.2 (*Information*), Clause 12.4 (*Sanctions and Illicit Payments*), Clause 12.5 (*Prohibited Payments*), Clause 12.24 (*Compliance with laws etc.*) or provisions contained in Clause 20.3 (*Miscellaneous indemnities*) or Clause 21.1 (*Illegality and Sanctions*) and the representations and warranties given under paragraphs (u), (v), (y), (z) and (jj) of Clause 11.2 (*Continuing representations and warranties*) and paragraph (j) of Clause 11.3 (*Representations on the Delivery Date*) respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.
- (b) If a Creditor Party elects to be a Restricted Creditor Party, in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

38 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with English law.

39 ENFORCEMENT

39.1 Jurisdiction of English Courts

The courts of England have exclusive jurisdiction to settle any Dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**"). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

39.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.

If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within 15 days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

40 WAIVER OF IMMUNITY

40.1 To the fullest extent permitted by applicable law, the Borrower hereby irrevocably and unconditionally:

- (a) submits to the jurisdiction of the English courts in accordance with Clause 38 (Enforcement) and agrees not to claim any sovereign or other immunity from the jurisdiction of any such court;
- (b) submits to the jurisdiction of the English courts in respect of any proceedings arising out of or connected with the enforcement and/or execution of any judgment made against it and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to the recognition of any such judgment or court order and agrees to ensure that no such claim is made on its behalf;
- (c) consents generally in respect of any such proceedings to the giving of any relief in the English courts and the courts of any other jurisdiction whether before or after a final judgment including, without limitation: suit, relief by way of interim or final injunction or order for specific performance or recovery of any property, attachment of its assets prior to judgment, other attachment, the obtaining of judgment and enforcement or execution against any property, revenues or other assets whatsoever (irrespective of their use or intended use) and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to such enforcement and the giving of such relief (including to the extent that such immunity may be attributed to it) against itself or with respect to its assets, and agrees to ensure that no such claim is made on its behalf or with respect to its assets;

- (d) waives any right of immunity which it or its assets now has or may subsequently acquire; and
- (e) agrees not to claim any sovereign or other immunity from service of process against its assets or revenues for the enforcement of a judgment or an action in rem, for the arrest, detention or sale of any of its assets and revenues.

40.2 The Borrower agrees that in any proceedings in the English courts this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 (the "Act") and that this waiver is intended to be irrevocable for the purposes of such Act.

41 EFFECTIVE DATE

This Agreement and the other Finance Documents shall not come into force or have any legal effect until the occurrence of the Effective Date.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1**LENDERS AND COMMITMENTS**

| Lender | Facility Office | Commitment (%) | Amount (EUR) |
|---|---|-----------------------|---------------------|
| Banco Santander S.A. | Avda. Cantabria s/n. 28660 Boadilla del Monte, Madrid, Spain | [*]% | [*] |
| BNP Paribas Fortis S.A./N.V. | 3, Montagne du Parc, 1 KA1E 1000 Brussels, Belgium | [*]% | [*] |
| Cassa Depositi e Prestiti S.p.A. | Via Goito, 4 – 00185, Rome, Italy | [*]% | [*] |
| Crédit Agricole Corporate and Investment Bank | 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France | [*]% | [*] |
| HSBC Bank plc | Level 2, 8 Canada Square, London E14 5HQ, United Kingdom | [*]% | [*] |
| KfW IPEX-Bank GmbH | Palmengartenstr. 5-9 60325 Frankfurt Germany | [*]% | [*] |
| Société Générale | 29, boulevard Haussmann 75009 Paris France | [*]% | [*] |

SCHEDULE 2

FORM OF DRAWDOWN NOTICE

To: BNP Paribas
Attention: Loans Administration

[.]

DRAWDOWN NOTICE

- 1 We refer to the loan agreement (the "**Loan Agreement**") dated [.] 2018 and made between, *inter alios*, ourselves, as Borrower, the Lenders, and the Joint Mandated Lead Arrangers referred to therein and yourselves as Facility Agent in connection with a facility of up to € [.]. Terms defined in the Loan Agreement have their defined meanings when used in this Drawdown Notice.
- 2 We request to borrow as follows:-
- (a) Amount:
- (i) €[.] in respect of the payment of part of the Eligible Amount of the Final Contract Price to be paid to the Builder to the account specified in paragraph (d) below;]
- (ii) €[.] in respect of the First Instalment of the SACE Premium to be reimbursed to the Borrower to the account specified in paragraph (d) below;]
- (iii) €[.] in respect of the Second Instalment of the SACE Premium to be paid, in accordance with paragraph (d) below to SACE.]
- (b) Drawdown Date: [.];
- (c) Duration of the first Interest Period shall be 6 months;
- (d) Payment instructions:
- (i) [in respect of Clause 2(a)(i) above:
Beneficiary: FINCANTIERI S.p.A.
[account details to be completed]
- (ii) [in respect of Clause 2(a)(ii) above:
Beneficiary: LEONARDO SIX, LTD.
[account details to be completed]
- (iii) [in respect of Clause 2(a)(iii) above:
Beneficiary: SACE S.p.A.
[account details to be completed]
- 3 We represent and warrant that:

- (a) the representations and warranties in Clauses 11.2 (*Continuing representations and warranties*) and 11.3 (*Representations on the Delivery Date*) of the Loan Agreement would remain true and not misleading if repeated on the date of this notice with reference to the circumstances now existing;
 - (b) no Event of Default has occurred or will result from the borrowing of the Loan.
- 4 This notice cannot be revoked without the prior consent of the Facility Agent.

[Name of Signatory]

Director

for and on behalf of
LEONARDO SIX, LTD.

SCHEDULE 3

DOCUMENTS TO BE PRODUCED BY THE BUILDER TO THE FACILITY AGENT ON DELIVERY

- 1 Qualifying Certificate, duly signed by the Builder, and the related attachments:
 - 1.1 a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined under the Shipbuilding Contract), as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - 1.2 a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract);
 - 1.3 a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract; and
 - 1.4 a duly executed Exporter Declaration.
 - 2 Certified copy of the acknowledgement of the notice of assignment of the Borrower's rights under the post-delivery warranty given by the Builder under the Shipbuilding Contract pursuant to the Post-Delivery Assignment.
 - 3 Certified Copy of the power of attorney pursuant to which the authorised signatory of the Builder signed the documents referred to in this Schedule 3 *Documents to be produced by the Builder to the Facility Agent on Delivery*) and a specimen of his signature.
 - 4 Evidence that, at the time of delivery of the Ship on the Delivery Date, no encumbrances whatsoever are registered against the Ship in the competent Italian registry of ships under construction.
-

SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

The Transferor and the Transferee accept exclusive responsibility for ensuring that this Certificate and the transaction to which it relates comply with all legal and regulatory requirements applicable to them respectively.

To: [Name of Facility Agent] for itself and for and on behalf of the Borrower, any other Obligor, the Security Trustee and each Lender, as defined in the Loan Agreement referred to below.

[]

- 1 This Certificate relates to Loan Agreement (the "**Loan Agreement**") dated [] 2018 and made between (1) LEONARDO SIX, LTD. (the "**Borrower**"), (2) the banks and financial institutions named therein as lenders (3) BNP Paribas as Facility Agent and (4) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a loan facility of up to €[].
- 2 In this Certificate, terms defined in the Loan Agreement shall, unless the contrary intention appears, have the same meanings and:
"Relevant Parties" means the Facility Agent, the Borrower, any other Obligor, the Security Trustee and each Lender.
"Transferee" means [full name] of [facility office].
"Transferor" means [full name] of [facility office].
- 3 The effective date of this Certificate is [], **provided that** this Certificate shall not come into effect unless it is signed by the Facility Agent on or before that date.
- 4 The Transferor assigns to the Transferee absolutely all rights and interests (present, future or contingent) which the Transferor has as Lender under or by virtue of the Loan Agreement and every other Finance Document in relation to [] per cent. of its Contribution, which percentage represents €[].
- 5 By virtue of this Certificate and clause 24 (*Changes to the Lender*) of the Loan Agreement, the Transferor is discharged [entirely] from its Commitment which amounts to €[] [from [] per cent. of its Commitment, which percentage represents €[] and the Transferee acquires a Commitment of €[].]
- 6 The Transferee undertakes with the Transferor and each of the Relevant Parties that the Transferee will observe and perform all the obligations under the Finance Documents which clause 24 (*Changes to the Lender*) of the Loan Agreement provides will become binding on it upon this Certificate taking effect.
- 7 The Facility Agent, at the request of the Transferee (which request is hereby made) accepts, for the Facility Agent itself and for and on behalf of every other Relevant Party, this Certificate as a Transfer Certificate taking effect in accordance with clause 24 (*Changes to the Lender*) of the Loan Agreement.

- 8 The Transferor:
- (a) warrants to the Transferee and each Relevant Party that:
 - (i) the Transferor has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which are in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferor;
 - (b) warrants to the Transferee that the Transferor is absolutely entitled, free of encumbrances, to all the rights and interests covered by the assignment in paragraph 4 above; and
 - (c) undertakes with the Transferee that the Transferor will, at its own expense, execute any documents which the Transferee reasonably requests for perfecting in any relevant jurisdiction the Transferee's title under this Certificate or for a similar purpose.
- 9 The Transferee:
- (a) confirms that it has received a copy of the Loan Agreement and each of the other Finance Documents;
 - (b) agrees that it will have no rights of recourse on any ground against either the Transferor, the Facility Agent, the Security Trustee or any Lender in the event that:
 - (i) any of the Finance Documents prove to be invalid or ineffective;
 - (ii) the Borrower or any Obligor fails to observe or perform its obligations, or to discharge its liabilities, under any of the Finance Documents;
 - (iii) it proves impossible to realise any asset covered by a Security Interest created by a Finance Document, or the proceeds of such assets are insufficient to discharge the liabilities of the Borrower or other Obligors under the Finance Documents;
 - (c) agrees that it will have no rights of recourse on any ground against the Facility Agent, the Security Trustee or any Lender in the event that this Certificate proves to be invalid or ineffective;
 - (d) warrants to the Transferor and each Relevant Party that:
 - (i) it has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which it needs to take or obtain in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferee; and
 - (e) confirms the accuracy of the administrative details set out below regarding the Transferee.
- 10 The Transferor and the Transferee each undertake with the Facility Agent and the Security Trustee severally, on demand, fully to indemnify the Facility Agent and/or the Security Trustee in respect of any claim, proceeding, liability or expense (including all legal expenses) which they or either of them may incur in connection with this Certificate or any matter arising out of it, except such as are shown to have been mainly and directly caused by the gross and culpable negligence or dishonesty of the Facility Agent's or the Security Trustee's own officers or employees.

11 The Transferee shall repay to the Transferor on demand so much of any sum paid by the Transferor under paragraph 10 as exceeds one-half of the amount demanded by the Facility Agent or the Security Trustee in respect of a claim, proceeding, liability or expense which was not reasonably foreseeable at the date of this Certificate; but nothing in this paragraph shall affect the liability of each of the Transferor and the Transferee to the Facility Agent or the Security Trustee for the full amount demanded by it.

[Name of Transferor]

[Name of Transferee]

By:

By:

Date:

Date:

Facility Agent

Signed for itself and for and on behalf of itself

as Facility Agent and for every other Relevant Party

[Name of Facility Agent]

By:

Date:

Administrative Details of Transferee

Name of Transferee:

Facility Office:

Contact Person

(Loan Administration Department):

Telephone:

Fax:

Contact Person

(Credit Administration Department):

Telephone:

Fax:

Account for payments:

Note: This Transfer Certificate alone may not be sufficient to transfer a proportionate share of the Transferor's interest in the security constituted by the Finance Documents in the Transferor's or Transferee's jurisdiction. It is the responsibility of each Lender to ascertain whether any other documents are required for this purpose.

SCHEDULE 5
QUALIFYING CERTIFICATE

To: BNP Paribas as Facility Agent (the "**Facility Agent**")
cc: LEONARDO SIX, LTD. as Borrower
From: Fincantieri S.p.A (the "**Builder**")

Date: [·]

Dear Sirs,

- 1 We refer to the SACE backed term facility agreement dated [·] 2018 (as supplemented, amended and/or restated from time to time, the "**Facility Agreement**") and entered into between, among others, the Facility Agent, the Borrower and the financial institutions named therein as Lenders. Terms defined in the Facility Agreement shall have the same meaning when used herein.
- 2 This is a Qualifying Certificate.
- 3 This Qualifying Certificate relates to the Drawdown Notice dated [·].
- 4 We attach hereto the following documents in respect of the Ship to be delivered on the Delivery Date under the Shipbuilding Contract:
 - (a) a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined in the Shipbuilding Contract) as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - (b) a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract) duly executed by the Builder;
 - (c) a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract duly executed by the Builder and the Borrower; and
 - (d) a duly executed Exporter Declaration.
- 5 We hereby certify that the cumulative total amount invoiced by us pursuant to the Contract Price (as defined in the Shipbuilding Contract) paid by the Borrower as direct payment is as follows: €[·] corresponding to not less than twenty per cent. (20)% of the Final Contract Price of the Ship.
- 6 We hereby warrant that:
 - (a) the amount claimed does not include any sum in respect of any matter currently the subject of arbitration or other proceeding nor to the best of our knowledge and belief will it be the subject of arbitration or other proceeding;

- (b) the Shipbuilding Contract has not been terminated, suspended or amended and to the best of our knowledge and belief no action is proceeding which might lead to the termination or suspension thereof;
- (c) all relevant authorisations (if any) in respect of the Ship intended to be financed by the proposed Loan have been obtained and are in full force and effect;
- (d) all documents supplied by us in support of this Qualifying Certificate are in all material respect in conformity with the Shipbuilding Contract and SACE's requirements; you may rely on the accuracy and completeness of all information and documents contained in or supplied with this Qualifying Certificate or delivered pursuant thereto:
 - (i) the goods incorporated in and used for the construction of the Ship have the origin set out in the table below and complies with the requirements of the SACE Insurance Policy; and

| Origin of the goods incorporated in the Ship | Value in percentage of the total Contract Price of the Ship | Relevant portion of the Contract Price of the Ship |
|---|--|---|
| Italian goods | [·]% | € [·] |
| Other EU goods | [·]% | € [·] |
| Extra EU goods (if any) | [·]% | € [·] |
| | Total Contract Price of the Ship (in percentage) = 100% | Total Contract Price of the Ship = € [·] |

- (ii) the aggregate amounts transferred abroad (*importi trasferiti all'estero*) up to the date hereof and to be transferred abroad following the Drawdown Date for any reason connected to the performance of the Shipbuilding Contract, are equal to € [·].

Yours faithfully,

Fincantieri S.p.A
 For and on behalf of the Builder
 (the Authorised Signatory of the Builder)

EXECUTION PAGES

BORROWER

SIGNED by

for and on behalf of
LEONARDO SIX, LTD.
in the presence of:

) /s/Paul A. Turner

) Paul A. Turner

) Attorney-in-Fact

)

) /s/Ioanna Tsekoura

Ioanna Tsekoura

Solicitor

Clyde & Co LLP

The St. Botolph Building

138 Houndsditch

London EC3A 7AR

United Kingdom

LENDERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND

)

) /s/ Anne-Laure ORANGE

) Anne-Laure ORANGE

)

) /s/Anne-Sophie Spach

Anne-Sophie Spach

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

) /s/Véronique DE BLIC

) Véronique DE BLIC

) Head of Export Finance EMEA

)

) /s/Bruno CLOQUET

Bruno CLOQUET

Global Head of Exporters and ECAs Origination

) /s/Scheerlinck Lieve

Scheerlinck Lieve

SIGNED by

for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

) /s/Parit Patani

) Parit Patani
) Attorney-in-Fact
)
) /s/Pierre Welch

Pierre Welch

SIGNED by

for and on behalf of
HSBC BANK PLC
in the presence of:

) /s/Philip E. Lewis

) Philip E. Lewis
)
) /s/Kirstie Moore

) Kirstie Moore

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

) /s/Francesco De Bartolo

) Francesco De Bartolo
) Head of Execution Export Banca
)
) /s/Giulio Dal Magro

Giulio Dal Magro
Head of International Financing

/s/Matteo Primicerio

Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

) /s/ Jose Luis Vicent

) Jose Luis Vicent
)
) /s/Antonio Sala

) Antonio Sala

/s/Juan Carlos García Rosas

Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

) /s/Konstantina Kyprianidou

) Konstantina Kyprianidou
) Attorney-in-Fact
)
) /s/Christopher Garcia

Christopher Garcia

JOINT MANDATED LEAD ARRANGERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND

)

) /s/ Anne-Laure ORANGE

) Anne-Laure ORANGE

)

) /s/Anne-Sophie Spach

) Anne-Sophie Spach

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

) /s/Véronique DE BLIC

) Véronique DE BLIC

) Head of Export Finance EMEA

)

) /s/Bruno CLOQUET

) Bruno CLOQUET

) Global Head of Exporters and ECAs Origination

) /s/ Scheerlinck Lieve

) Scheerlinck Lieve

SIGNED by

for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

) /s/Parit Patani

) Attorney-in-Fact

)

) /s/Pierre Welch

) Pierre Welch

SIGNED by

for and on behalf of
HSBC BANK PLC
in the presence of:

) /s/Philip E. Lewis

) Philip E. Lewis

)

) /s/Kirstie Moore

) Kirstie Moore

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

) /s/Francesco De Bartolo

) Francesco De Bartolo

) Head of Execution Export Banca

)

) /s/Giulio Dal Margo

) Giulio Dal Margo

) Head of International Financing

) /s/Matteo Primicerio

) Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

) /s/Jose Luis Vicent

) Jose Luis Vicent

)

) /s/Antonio Sala

) Antonio Sala

) /s/Juan Carlos García Rosas

) Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

) /s/Konstantina Kyprianidou

) Konstantina Kyprianidou

) Attorney-in-Fact

)

) /s/Christopher Garcia

) Christopher Garcia

FACILITY AGENT

SIGNED by

for and on behalf of
BNP PARIBAS
in the presence of:

) /s/Luca Lunari

) Luca Lunari

) Head of Export Finance Italy

)

) /s/ Stefano Leo

) Deputy Head of Export Finance Italy BNP Paribas

) /s/Lorenzo Canestri

) Lorenzo Canestri

SACE AGENT

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND

)

) /s/Anne-Laure ORANGE

) Anne-Laure ORANGE

)

) /s/Anne-Sophie Spach

) Anne-Sophie Spach

SECURITY TRUSTEE

SIGNED by

for and on behalf of
**HSBC CORPORATE TRUSTEE
COMPANY (UK) LIMITED**
in the presence of:

) /s/ Andrea Stevenson

) Andrea Stevenson

) Authorised Signatory

)

) /s/Hanish Bhatt

) Hanish Bhatt

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution version

Dated 19 December 2018

NCL CORPORATION LTD.
as Guarantor

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

GUARANTEE

relating to a Loan Agreement dated 19 December 2018 in respect of
the passenger cruise ship newbuilding presently designated as Hull No. [*]

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THIS GUARANTEE is made on 19 December 2018

PARTIES

- (1) **NCL CORPORATION LTD.**, an exempted company incorporated under the laws of Bermuda with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda (the "**Guarantor**")
- (2) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, a company incorporated in England and Wales (with registered number 06447555) whose registered office is at 8 Canada Square, London E14 5HQ as security trustee on behalf of the Secured Parties (the "**Security Trustee**", which expression includes its successors, transferees and assigns)

BACKGROUND

- (A) By a shipbuilding contract dated 21 October 2016 (as amended from time to time including on 26 July 2018) (the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A, a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) Leonardo Six, Ltd. (the "**Borrower**"), the Builder has agreed to design, construct and deliver, and the Borrower has agreed to purchase, a 3,300 passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
- (B) By a loan agreement dated 19 December 2018 (as amended from time to time), and made between (i) the Borrower, (ii) the Lenders, (iii) the Joint Mandated Lead Arrangers, (iv) the Facility Agent, (v) the SACE Agent and (vi) the Security Trustee, it was agreed that the Lenders would make available to the Borrower, a facility of up to six hundred and forty million Euros (€ 640,000,000) and the amount of the SACE Premium (but not exceeding six hundred and sixty three million, nine hundred thousand, four hundred and fourteen Euros and ninety four cents (€ 663,900,414.94)) for the purpose of assisting the Borrower, in financing (a) payment or reimbursement under the Shipbuilding Contract of all or part of 80% of the Final Contract Price up to the Eligible Amount and (b) reimbursement to the Borrower of 100% of the First Instalment of the SACE Premium paid by it to SACE and payment to SACE of 100% of the Second Instalment of the SACE Premium (as defined therein).
- (C) The execution and delivery to the Security Trustee of this Guarantee is one of the conditions precedent to the availability of the facility under the Loan Agreement.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Defined expressions

Words and expressions defined in the Loan Agreement shall have the same meanings when used in this Guarantee unless the context otherwise requires.

1.2 Construction of certain terms

In this Guarantee:

"**Bankruptcy**" includes a liquidation, receivership or administration and any form of suspension of payments, arrangement with creditors or reorganisation under any corporate or insolvency law of any country.

"**Capital Stock**" means:

- (a) in the case of a corporation or company, corporate stock or shares;
- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person.

"**First Financial Quarter**" means the financial quarter ending immediately prior to or on the date falling forty five (45) days before the Intended Delivery Date.

"**Loan Agreement**" means the loan agreement dated 19 December 2018 referred to in Recital (B) and includes any existing or future amendments, restatements, or supplements, whether made with the Guarantor's consent or otherwise.

"**Management**" means the employees of the Guarantor and its subsidiaries or their dependants or any trust for which such persons are the intended beneficiary.

"**Party**" means a party to this Guarantee.

1.3 Application of construction and interpretation provisions of Loan Agreement

Clauses 1.2 (*Construction of certain terms*) to 1.5 (*General Interpretation*) of the Loan Agreement apply, with any necessary modifications, to this Guarantee.

1.4 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under any of Clause 10.12 (*Sanctions*) or any undertakings in Clause 11.19 (*Sanctions and Illicit Payments*), Clause 11.20 (*Prohibited Payments*) and Clause 11.21 (*Sanctions*) of this Guarantee respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.
- (b) If a Creditor Party elects to be a Restricted Creditor Party pursuant to the foregoing paragraph (a), in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

2 GUARANTEE

2.1 Guarantee and indemnity

The Guarantor unconditionally and irrevocably:

- (a) guarantees to the Security Trustee (acting on behalf of the Secured Parties) punctual performance by the Borrower of all the Borrower's obligations under or in connection with the Loan Agreement and every other Finance Document;
- (b) undertakes to the Security Trustee that whenever the Borrower does not pay any amount when due under or in connection with the Loan Agreement and the other Finance Documents, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor;
- (c) agrees that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Security Trustee and each other Secured Party immediately on demand by the Security Trustee against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Loan Agreement or any other Finance Document on the date when it would have been due. Any such demand for indemnification shall be made through the Security Trustee, for itself or on behalf of the Secured Parties. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 2.1 (*Guarantee and indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

2.2 No limit on number of demands

The Security Trustee may serve any number of demands under Clause 2.1 (*Guarantee and indemnity*).

3 LIABILITY AS PRINCIPAL AND INDEPENDENT DEBTOR

3.1 Principal and independent debtor

The Guarantor shall be liable under this Guarantee as a principal and independent debtor and accordingly it shall not have, as regards this Guarantee, any of the rights or defences of a surety.

3.2 Waiver of rights and defences

Without limiting the generality of Clause 3.1 (*Principal and independent debtor*), the obligations of the Guarantor under this Guarantee will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Borrower or other person;

- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of any affiliate of the Borrower;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any insolvency or similar proceedings;
- (g) any arrangement or concession (including a rescheduling or acceptance of partial payments) relating to, or affecting, the Finance Documents;
- (h) any release or loss whatsoever of any guarantee, right or Security Interest created by the Finance Documents;
- (i) any failure whatsoever promptly or properly to exercise or enforce any such right or Security Interest, including a failure to realise for its full market value an asset covered by such a Security Interest; or
- (j) any other Finance Document or any Security Interest now being or later becoming void, unenforceable, illegal or invalid or otherwise defective for any reason, including a neglect to register it.

4 EXPENSES

4.1 Costs of preservation of rights, enforcement etc.

The Guarantor shall pay to the Security Trustee on its demand the amount of all expenses incurred by the Security Trustee or any other Secured Party in connection with any matter arising out of this Guarantee or any Security Interest connected with it, including any advice, claim or proceedings relating to this Guarantee or such a Security Interest.

4.2 Fees and expenses payable under Loan Agreement

Clause 4.1 (*Costs of preservation of rights, enforcement etc.*) is without prejudice to the Guarantor's liabilities in respect of the Borrower's obligations under clauses 9 (*Fees*) and 10 (*Taxes, Increased Costs, Costs and Related Charges*) of the Loan Agreement and under similar provisions of other Finance Documents.

5 ADJUSTMENT OF TRANSACTIONS

5.1 Reinstatement of obligation to pay

The Guarantor shall pay to the Security Trustee on its demand any amount which any Secured Party is required, or agrees, to pay pursuant to any claim by, or settlement with, a trustee in bankruptcy of the Borrower or of any other Obligor (or similar person) on the ground that the Loan Agreement or any other Finance Document, or a payment by the Borrower or of such other Obligor, was invalid or on any similar ground.

6 PAYMENTS

6.1 Method of payments

Any amount due under this Guarantee shall be paid:

- (a) in immediately available funds;
- (b) to such account as the Security Trustee may from time to time notify to the Guarantor;
- (c) without any form of set-off, cross-claim or condition; and
- (d) free and clear of any Tax Deduction except a Tax Deduction which the Guarantor is required by law to make.

6.2 Grossing-up for taxes

If the Guarantor is required by law to make a Tax Deduction, the amount due to the Security Trustee shall be increased by the amount necessary to ensure that the Security Trustee and (if the payment is not due to the Security Trustee for its own account) the Secured Party beneficially interested in the payment receives and retains a net amount which, after the Tax Deduction, is equal to the full amount that it would otherwise have received; provided that a payment shall not be increased under this Clause 6.2 if clause 10.2(d) of the Loan Agreement applies *mutatis mutandis*.

6.3 Tax Credits

If an additional payment is made by the Guarantor under this Clause and any Secured Party determines that it has received or been granted a credit against or relief of or calculated with reference to the deduction giving rise to such additional payment, such Secured Party shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment and provided that it has received the cash benefit of such credit, relief or remission, pay to the Guarantor such amount as such Secured Party shall in its reasonable opinion have concluded to be attributable to the relevant deduction. Any such payment shall be conclusive evidence of the amount due to the Guarantor hereunder and shall be accepted by the Guarantor in full and final settlement of its rights of reimbursement hereunder in respect of such deduction. Nothing herein contained shall interfere with the right of each Secured Party to arrange its tax affairs in whatever manner it thinks fit.

6.4 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, the Facility Agent and the other Secured Parties.

6.5 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 the Security Trustee to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

6.6 No obligations on SACE

To the extent that this Clause 6 (*Payments*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

7 INTEREST

7.1 Accrual of interest

Any amount due under this Guarantee shall carry interest after the date on which the Security Trustee demands payment of it until it is actually paid, unless interest on that same amount also accrues under the Loan Agreement.

7.2 Calculation of interest

Interest on sums payable under this Guarantee shall be calculated and accrue in the same way as interest under clause 6 (*Interest*) of the Loan Agreement.

7.3 Guarantee extends to interest payable under Loan Agreement

For the avoidance of doubt, it is confirmed that this Guarantee covers all interest payable under the Loan Agreement, including that payable under clause 17 (*Interest on Late Payments*) of the Loan Agreement.

8 SUBORDINATION

8.1 Subordination of rights of Guarantor

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, all rights which the Guarantor at any time has (whether in respect of this Guarantee or any other transaction) against the Borrower, any other Obligor or their respective assets shall be fully subordinated to the rights of the Secured Parties under the Finance Documents; and in particular, the Guarantor shall not:

- (a) claim, or in a bankruptcy of the Borrower or any other Obligor prove for, any amount payable to the Guarantor by the Borrower or any other Obligor, whether in respect of this Guarantee or any other transaction;
- (b) take or enforce any Security Interest for any such amount;
- (c) exercise any right to be indemnified by an Obligor;
- (d) bring legal or other proceedings for an order requiring the Borrower or any other Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under this Guarantee;
- (e) claim to set-off any such amount against any amount payable by the Guarantor to the Borrower or any other Obligor; or

- (f) claim any subrogation or right of contribution or other right in respect of any Finance Document or any sum received or recovered by any Secured Party under a Finance Document.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with the Loan Agreement and the Finance Documents.

9 ENFORCEMENT

9.1 No requirement to commence proceedings against Borrower

The Guarantor waives any right it may have of first requiring the Security Trustee or any other Secured Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Guarantee. Neither the Security Trustee nor any other Secured Party will need to make any demand under, commence any proceedings under, or enforce any guarantee or any Security Interest contained in or created by, the Loan Agreement or any other Finance Document before claiming or commencing proceedings under this Guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

9.2 Conclusive evidence of certain matters

However, as against the Guarantor:

- (a) any judgment or order of a court in England or the jurisdiction of the Approved Flag or Bermuda or the United States of America in connection with the Loan Agreement; and
- (b) any statement or admission by the Borrower in connection with the Loan Agreement,

shall be binding and conclusive as to all matters of fact and law to which it relates.

9.3 Suspense account

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, the Security Trustee and any Secured Party may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by it (or any trustee or agent on its behalf which, in the case of a Secured Party, shall include the Facility Agent and the Security Trustee) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Guarantee.

10 REPRESENTATIONS AND WARRANTIES

10.1 General

The Guarantor represents and warrants to the Security Trustee as follows on the Effective Date, which representations and warranties shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day from the Effective Date to the end of the Security Period.

10.2 Status

The Guarantor is duly incorporated and validly existing and in good standing under the laws of Bermuda as an exempted company.

10.3 Corporate power

The Guarantor has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute this Guarantee; and
- (b) to make all the payments contemplated by, and to comply with, this Guarantee.

10.4 Consents in force

All the consents referred to in Clause 10.3 (*Corporate power*) remain in force and nothing has occurred which makes any of them liable to revocation.

10.5 Legal validity

This Guarantee constitutes the Guarantor's legal, valid and binding obligations enforceable against the Guarantor in accordance with its terms subject to any relevant insolvency laws affecting creditors' rights generally.

10.6 No conflicts

The execution by the Guarantor of this Guarantee and its compliance with this Guarantee will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of the Guarantor; or
- (c) any contractual or other obligation or restriction which is binding on the Guarantor or any of its assets.

10.7 No withholding taxes

All payments which the Guarantor is liable to make under this Guarantee may be made without deduction or withholding for or on account of any tax payable under any law of Bermuda or the United States of America (other than a FATCA Deduction).

10.8 No default

To the knowledge of the Guarantor, no Event of Default has occurred which is continuing.

10.9 Information

All information which has been provided in writing by or on behalf of the Guarantor to the Security Trustee or any other Secured Party in connection with any Finance Document satisfied the requirements of Clause 11.2 (*Information provided to be accurate*); all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 11.4 (*Form of financial statements*); and there has been no material adverse change in the financial position or state of affairs of the Guarantor from that disclosed in the latest of those accounts.

10.10 No litigation

No legal or administrative action involving the Guarantor has been commenced or taken or, to the Guarantor's knowledge, is likely to be commenced or taken which, in either case, would be likely to have a material adverse effect on the Guarantor's ability to perform its obligations under this Guarantee.

10.11 No Security Interests

None of the assets or rights of the Guarantor is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Guarantor or (ii) is permitted by Clause 11.11 (*Negative pledge*).

10.12 Sanctions

- (a) No investments made and no payments made, received or to be made by the Guarantor under the Loan Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business, whether directly or, to the knowledge of the Guarantor, indirectly, are of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (b) No Prohibited Payment has been or will be made, received or provided, directly or indirectly, by (or on behalf of) it or the Borrower (to the best of the Guarantor's knowledge), any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or any public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, the Loan Agreement and/or the Finance Documents.
- (c) The Guarantor:
 - (i) nor to its knowledge any director, officer, or Affiliate of any Obligor or member of the Group, is not a Prohibited Person;

- (ii) is not owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
- (iii) does not own or control a Prohibited Person.

11 UNDERTAKINGS

11.1 General

The Guarantor undertakes with the Security Trustee to comply with the following provisions of this Clause 11 (*Undertakings*) at all times from the Effective Date to the end of the Security Period, except as the Security Trustee may otherwise permit.

11.2 Information provided to be accurate

All financial and other information (but, in respect of information relating to the business and affairs of the Guarantor, excluding any forward looking statements and projections) which is provided in writing by or on behalf of the Guarantor under or in connection with this Guarantee will be true and not misleading and will not omit any material fact or consideration.

11.3 Provision of financial statements

The Guarantor will send to the Security Trustee:

- (a) as soon as practicable, but in no event later than 120 days after the end of each financial year of the Guarantor beginning with the year ending 31 December 2018, the audited consolidated accounts of the Guarantor and its subsidiaries;
- (b) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter in respect of the first three quarters of each fiscal year and 90 days in respect of the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year to date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor certified as to their correctness by the chief financial officer of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of this paragraph (b));
- (c) a compliance certificate in the form set out in Schedule 1 (*Form of Compliance Certificate*) to this Guarantee or in such other form as the Security Trustee may reasonably require (each a "**Compliance Certificate**"):
 - (i) for the first time, no later than the First Financial Quarter on the basis of the latest available quarterly financial statements, and
 - (ii) at the same time as there is delivered to the Security Trustee, and together with, each set of unaudited consolidated quarterly management accounts under paragraph (b) and, if applicable, audited consolidated accounts under paragraph (a), duly signed by the chief financial officer of the Guarantor and certifying whether or not the requirements of Clause 11.15 (*Financial Covenants*) are then complied with;

- (d) such additional financial or other relevant information regarding the Guarantor and the Group as the Security Trustee may reasonably request;
- (e) as soon as practicable (and in any event within 120 days after the close of each fiscal year), commencing with the fiscal year ending 31 December 2018, annual cash flow projections on a consolidated basis of the Group showing on a monthly basis advance ticket sales (for at least 12 months following the date of such statement) for the Group;
- (f) as soon as practicable (and in any event not later than January 31 of each fiscal year):
 - (i) a budget for the Group for such new fiscal year including a 12 month liquidity budget for such new fiscal year;
 - (ii) updated financial projections of the Group for at least the next five years (including an income statement, balance sheet statement and cash flow statement and quarterly break downs for the first of those five years); and
 - (iii) an outline of the assumptions supporting such budget and financial projections including but without limitation any scheduled drydockings.

11.4 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 11.3 (*Provision of financial statements*) will:

- (a) be prepared in accordance with GAAP;
- (b) when required to be audited, be audited by the auditors which are the Guarantor's auditors at the Effective Date or other auditors approved by the Security Trustee, provided that, such approval by the Security Trustee shall not be unreasonably withheld or delayed;
- (c) give a true and fair view of the state of affairs of the Guarantor and its subsidiaries at the date of those accounts and of their profit for the period to which those accounts relate; and
- (d) fully disclose or provide for all significant liabilities of the Guarantor and its subsidiaries.

11.5 Shareholder and creditor notices

The Guarantor will send the Security Trustee, at the same time as they are despatched, copies of all communications which are despatched to the Guarantor's shareholders or creditors generally or any class of them.

11.6 Consents

The Guarantor will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Security Trustee of, all consents required:

- (a) for the Guarantor to perform its obligations under this Guarantee;
- (b) for the validity or enforceability of this Guarantee,

and the Guarantor will comply with the terms of all such consents.

11.7 Notification of litigation

The Guarantor will provide the Security Trustee with details of any material legal or administrative action involving the Guarantor as soon as such action is instituted or it becomes apparent to the Guarantor that it is likely to be instituted (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency).

11.8 Domicile and principal place of business

The Guarantor:

- (a) will maintain its domicile and registered office at the address stated at the commencement of this Guarantee or at such other address in Bermuda as is notified beforehand to the Security Trustee;
- (b) will maintain its principal place of business and keep its corporate documents and records in the United States of America at 7665 Corporate Center Drive, Miami, 33126, Florida (Fax: (305) 436 4140) or at such other address in the United States of America as is notified beforehand to the Security Trustee; and
- (c) will not move its domicile out of Bermuda nor its principal place of business out of the United States of America without the prior agreement of the Security Trustee, acting with the authorisation of the Secured Parties, such agreement not to be unreasonably withheld.

11.9 Notification of default

The Guarantor will notify the Security Trustee as soon as the Guarantor becomes aware of the occurrence of an Event of Default and will thereafter keep the Security Trustee fully up-to-date with all developments.

11.10 Maintenance of status

The Guarantor will maintain its separate corporate existence and remain in good standing under the laws of Bermuda.

11.11 Negative pledge

The Guarantor shall not, and shall procure that the Borrower will not, create or permit to arise any Security Interest over any asset present or future except Security Interests created or permitted by the Finance Documents and except for the following:

- (a) Security Interests created with the prior consent of the Security Trustee or otherwise permitted by the Finance Documents;
- (b) in the case of the Guarantor, Security Interests which qualify as Permitted Security Interests with respect to the Guarantor;
- (c) in the case of the Borrower, Security Interests permitted under clause 12.8 (*Negative pledge*) of the Loan Agreement;

- (d) Security Interests provided in favour of lenders under and in connection with any refinancing of the Existing Indebtedness or any financing arrangements entered into by any member of the Group for the acquisition of additional or replacement ship(s) (including any refinancing of any such arrangement) but limited to:
 - (i) pledges of the share capital of the relevant ship owning subsidiary(/ies); and/or
 - (ii) ship mortgages and other securities over the financed ship(s).

11.12 No disposal of assets, change of business

The Guarantor will:

- (a) not, and shall procure that its subsidiaries, as a group, shall not, transfer all or substantially all of the cruise vessels owned by them and shall procure that any cruise vessels which are disposed of in compliance with the foregoing shall be disposed on a willing seller willing buyer basis at or about market rate and at arm's length subject always to the provisions of any pertinent loan documentation, and
- (b) continue to be a holding company for a group of companies whose main business is the operation of cruise vessels as well as the marketing of cruises on board such vessels and the Guarantor will not change its main line of business so as to affect any Obligor's ability to perform its obligations under the Finance Documents or to imperil, in the opinion of the Security Trustee, the security created by any of the Finance Documents or the SACE Insurance Policy.

11.13 No merger etc.

The Guarantor shall not enter into any form of merger, sub-division, amalgamation, restructuring, consolidation, winding-up, dissolution or anything analogous thereto or acquire any entity, share capital or obligations of any corporation or other entity (each of the foregoing being a "**Transaction**") unless:

- (a) the Guarantor has notified the Security Trustee in writing of the agreed terms of the relevant Transaction promptly after such terms have been agreed as heads of terms (or similar) and thereafter notified the Security Trustee in writing of any significant amendments to such terms during the course of the negotiation of the relevant Transaction; and
- (b) the relevant Transaction does not require or involve or result in any dissolution of the Guarantor so that at all times the Guarantor remains in existence; and
- (c) each notice delivered to the Security Trustee pursuant to paragraph (a) above is accompanied by a certificate signed by the chief financial officer of the Guarantor whereby the Guarantor represents and warrants to the Security Trustee that the relevant Transaction will not:
 - (i) adversely affect the ability of any Obligor to perform its obligations under the Finance Documents;
 - (ii) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; or
 - (iii) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 *Financial Covenants*); and

- (d) if the merger or analogous transaction involves the Guarantor or the Borrower, all the necessary "Know your customer requirements" have been complied with.

11.14 Maintenance of ownership of Borrower and Guarantor.

- (a) The Guarantor shall remain the direct or indirect beneficial owner of the entire issued and allotted share capital of the Shareholder, free from any Security Interest and the Shareholder shall remain the legal holder and direct beneficial owner of all shares in the Borrower, free from any Security Interest, except that created in favour of the Security Trustee.
- (b) No person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934 (15 USC §78a et seq.) as in effect on the date of this Guarantee) shall acquire beneficial ownership of 35% or more on a fully diluted basis of the voting interest in the Guarantor's equity interests unless the Management shall own directly or indirectly, more than such person or "group" on a fully diluted basis of the voting interest in the Guarantor's equity interests.

11.15 Financial Covenants

- (a) The Guarantor will not permit the Free Liquidity to be less than fifty million Dollars (\$50,000,000) at any time.
- (b) The Guarantor will not permit the ratio of Total Net Funded Debt to Total Capitalization to be greater than 0.70:1.00 at any time.
- (c) The Guarantor will not permit the ratio of Consolidated EBITDA to Consolidated Debt Service for the Group at the end of any fiscal quarter, computed for the period of the four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter, to be less than 1.25:1.00 unless the Free Liquidity of the Group at all times during such period of four consecutive fiscal quarters ending as at the end of such fiscal quarter was equal to or greater than one hundred million Dollars (\$100,000,000).

11.16 Financial definitions

For the purposes of Clause 11.15 (*Financial Covenants*):

- (a) "**Cash Balance**" shall mean, at any date of determination, the unencumbered and otherwise unrestricted cash and Cash Equivalents of the Group;
- (b) "**Cash Equivalents**" shall mean (i) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one year from the date of acquisition, (ii) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company having capital, surplus and undivided profits aggregating in excess of two hundred million Dollars (\$200,000,000), with maturities of not more than one year from the date of acquisition by any person, (iii) repurchase obligations with a term of not more than 90 days for underlying securities of the types described in clause (i) above entered into with any bank meeting the qualifications specified in clause (ii) above, (iv) commercial paper issued by any person incorporated in the United States rated at least A-1 or the equivalent thereof by S&P or at least P-1 or the equivalent thereof by Moody's and in each case maturing not more than one year after the date of acquisition by any other person, and (v) investments in money market funds substantially all of whose assets are comprised of securities of the types described in clauses (i) through (iv) above;

- (c) **"Consolidated Debt Service"** shall mean, for any relevant period, the sum (without double counting), determined in accordance with GAAP, of:
- (i) the aggregate principal payable or paid during such period on any Indebtedness for Borrowed Money of any member of the Group, other than:
 - (A) principal of any such Indebtedness for Borrowed Money prepaid at the option of the relevant member of the Group or by virtue of "cash sweep" or "special liquidity" cash sweep provisions (or analogous provisions) in any debt facility of the Group;
 - (B) principal of any such Indebtedness for Borrowed Money prepaid upon a sale or a Total Loss of any ship (as if references in that definition were to all ships and not just the Ship) owned or leased under a capital lease by any member of the Group; and
 - (C) balloon payments of any such Indebtedness for Borrowed Money payable during such period (and for the purpose of this paragraph (c) a "balloon payment" shall not include any scheduled repayment instalment of such Indebtedness for Borrowed Money which forms part of the balloon);
 - (ii) Consolidated Interest Expense for such period;
 - (iii) the aggregate amount of any dividend or distribution of present or future assets, undertakings, rights or revenues to any shareholder of any member of the Group (other than the Guarantor, or one of its wholly owned Subsidiaries) or any dividends or distributions other than tax distributions in each case paid during such period; and
 - (iv) all rent under any capital lease obligations by which the Guarantor or any consolidated Subsidiary is bound which are payable or paid during such period and the portion of any debt discount that must be amortized in such period;
- as calculated in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 (*Provision of financial statements*);
- (d) **"Consolidated EBITDA"** shall mean, for any relevant period, the aggregate of:
- (i) Consolidated Net Income from the Guarantor's operations for such period; and
 - (ii) the aggregate amounts deducted in determining Consolidated Net Income for such period in respect of gains and losses from the sale of assets or reserves relating thereto, Consolidated Interest Expense, depreciation and amortization, impairment charges and any other non-cash charges and deferred income tax expense for such period.
- (e) **"Consolidated Interest Expense"** shall mean, for any relevant period, the consolidated interest expense (excluding capitalized interest) of the Group for such period;
- (f) **"Consolidated Net Income"** shall mean, for any relevant period, the consolidated net income (or loss) of the Group for such period as determined in accordance with GAAP;

- (g) **"Free Liquidity"** shall mean, at any date of determination, the aggregate of the Cash Balance or any other amounts available for drawing under other revolving or other credit facilities of the Group, which remain undrawn, could be drawn for general working capital purposes or other general corporate purposes and would not, if drawn, be repayable within six months;
- (h) **"Indebtedness"** shall mean any obligation for the payment or repayment of money, whether as principal or as surety and whether present or future, actual or contingent including, without limitation, pursuant to an Interest Rate Protection Agreement or Other Hedging Agreement;
- (i) **"Indebtedness for Borrowed Money"** shall mean Indebtedness (whether present or future, actual or contingent, long-term or short-term, secured or unsecured) in respect of:
- (i) moneys borrowed or raised;
 - (ii) the advance or extension of credit (including interest and other charges on or in respect of any of the foregoing);
 - (iii) the amount of any liability in respect of leases which, in accordance with GAAP, are capital leases;
 - (iv) the amount of any liability in respect of the purchase price for assets or services payment of which is deferred for a period in excess of 180 days;
 - (v) all reimbursement obligations whether contingent or not in respect of amounts paid under a letter of credit or similar instrument; and
 - (vi) (without double counting) any guarantee of Indebtedness falling within paragraphs (i) to (v) above;
- PROVIDED THAT** the following shall not constitute Indebtedness for Borrowed Money:
- (A) loans and advances made by other members of the Group which are subordinated to the rights of the Secured Parties;
 - (B) loans and advances made by any shareholder of the Guarantor which are subordinated to the rights of the Secured Parties on terms reasonably satisfactory to the Facility Agent; and
 - (C) any liabilities of the Guarantor or any other member of the Group under any Interest Rate Protection Agreement or any Other Hedging Agreement or other derivative transactions of a non-speculative nature;
- (j) **"Interest Rate Protection Agreement"** shall mean any interest rate swap agreement, interest rate cap agreement, interest collar agreement, interest rate hedging agreement, interest rate floor agreement or other similar agreement or arrangement entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliate, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement;
- (k) **"Other Hedging Agreement"** shall mean any foreign exchange contracts, currency swap agreements, commodity agreements or other similar agreements or arrangements entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliates, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement and designed to protect against the fluctuations in currency or commodity values;

- (l) "**Total Capitalization**" means, at any date of determination, the Total Net Funded Debt plus the consolidated stockholders' equity of the Group at such date determined in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 (*Provision of financial statements*); provided it is understood that the effect of any impairment of intangible assets shall be added back to stockholders' equity; and
- (m) "**Total Net Funded Debt**" shall mean, as at any relevant date:
- (i) Indebtedness for Borrowed Money of the Group on a consolidated basis; and
 - (ii) the amount of any Indebtedness for Borrowed Money of any person which is not a member of the Group but which is guaranteed by a member of the Group as at such date;

less an amount equal to any Cash Balance as at such date; provided that any Commitments and other amounts available for drawing under other revolving or other credit facilities of the Group which remain undrawn shall not be counted as cash or indebtedness for the purposes of this Guarantee.

11.17 Negative Undertakings

- (a) The Guarantor may:
- (i) at any time prior to the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee;
 - (ii) at any time after the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee, subject to it on each such occasion satisfying the Security Trustee acting on behalf of the Secured Parties that it will continue to meet all the requirements of Clause 11.15 (*Financial Covenants*), if such covenants were to be tested immediately following the payment of any such dividend; and
 - (iii) pay dividends (x) to persons responsible for paying the tax liability in respect of consolidated, combined, unitary or affiliated tax returns for each relevant jurisdiction of the Group, or (y) to holders of the Guarantor's Capital Stock with respect to income taxable as a result of a member of the Group being taxed as a pass-through entity for U.S. Federal, state and local income tax purposes or attributable to any member of the Group,

provided that the actions in paragraphs (ii) and (iii) above shall only be permitted if there is no Event of Default which is continuing under the Loan Agreement and no Event of Default would arise from the payment of such dividend.

- (b) The Guarantor shall not, and shall procure that none of its subsidiaries shall:

- (i) make loans to any person that is not the Guarantor or a direct or indirect subsidiary of the Guarantor; or
- (ii) issue or enter into one or more guarantees covering the obligations of any person which is not the Guarantor or a direct or indirect subsidiary of the Guarantor, except if such loan is granted to a non subsidiary or such guarantee is issued in the ordinary course of business covering the obligations of a non subsidiary and the aggregate amount of all such loans and guarantees made or issued by the Guarantor and its subsidiaries does not exceed [*] Dollars (\$[*]) or is otherwise approved by the Security Trustee which approval shall not be unreasonably withheld if such loan or guarantee in respect of a non subsidiary would neither:
 - (A) affect the ability of any Obligor to perform its obligations under the Finance Documents; nor
 - (B) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; nor
 - (C) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 (*Financial Covenants*) if such covenants were to be tested immediately following the grant of such loan or the issuance of such guarantee, as demonstrated by evidence satisfactory to the Security Trustee.

11.18 Most favoured nations

The Guarantor undertakes that if at any time after the Effective Date it enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of clause 11.2 (*Continuing representations and warranties*) of the Loan Agreement and clause 18.6 (*Cross default*) of the Loan Agreement respectively, the Guarantor shall immediately notify the Borrower and the Facility Agent of such provisions and the relevant provisions contained in the Loan Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to the Loan Agreement.

11.19 Sanctions and Illicit Payments

No payments made or received by the Guarantor under the Loan Agreement or any Finance Document shall be funded directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Guarantor, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.

11.20 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Guarantor or any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, this Agreement, the Loan Agreement and/or the other Finance Documents.

11.21 Sanctions

The Guarantor shall comply, or procure compliance by the entities and persons referred to in Clause 11.20, with all Sanctions and shall provide details of any material litigation, arbitration or administrative proceedings relating to any alleged or actual breach of Sanctions.

11.22 Additional Undertakings

The Guarantor shall not and shall procure that no Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest created under the Finance Documents to lose its priority or ranking; and
- (e) imperil or jeopardise any Security Interest created under the Finance Documents.

12 JUDGMENTS AND CURRENCY INDEMNITY

12.1 Judgments relating to Loan Agreement

This Guarantee shall cover any amount payable by the Borrower under or in connection with any judgment relating to the Loan Agreement.

12.2 Currency indemnity

In addition, clause 20.4 (*Currency indemnity*) of the Loan Agreement shall apply, with any necessary adaptations, in relation to this Guarantee.

13 SET-OFF

13.1 Application of credit balances

Each Secured Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Guarantor at any office in any country of that Secured Party in or towards satisfaction of any sum then due from the Guarantor to that Secured Party under this Guarantee; and
- (b) for that purpose:

- (i) break, or alter the maturity of, all or any part of a deposit of the Guarantor;
- (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; or
- (iii) enter into any other transaction or make any entry with regard to the credit balance which the Secured Party concerned considers appropriate.

13.2 Existing rights unaffected

No Secured Party shall be obliged to exercise any of its rights under Clause 13.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Secured Party is entitled (whether under the general law or any document).

13.3 Sums deemed due to a Lender

For the purposes of this Clause 13 (*Set-Off*), a sum payable by the Guarantor to the Security Trustee for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to that Lender.

14 SUPPLEMENTAL

14.1 Continuing guarantee

This Guarantee shall remain in force as a continuing security at all times during the Security Period, regardless of any intermediate payment or discharge in whole or in part.

14.2 Rights cumulative, non-exclusive

The Security Trustee's rights under and in connection with this Guarantee are cumulative, may be exercised as often as appears expedient and shall not be taken to exclude or limit any right or remedy conferred by law.

14.3 No impairment of rights under Guarantee

If the Security Trustee omits to exercise, delays in exercising or invalidly exercises any of its rights under this Guarantee, that shall not impair that or any other right of the Security Trustee under this Guarantee.

14.4 Severability of provisions

If any provision of this Guarantee is or subsequently becomes void, illegal, unenforceable or otherwise invalid, that shall not affect the validity, legality or enforceability of its other provisions.

14.5 Guarantee not affected by other security

This Guarantee is in addition to and shall not impair, nor be impaired by, any other guarantee, any Security Interest or any right of set-off or netting or to combine accounts which the Security Trustee or any Secured Party may now or later hold in connection with the Loan Agreement.

14.6 Guarantor bound by Loan Agreement

The Guarantor agrees with the Security Trustee to be bound by all provisions of the Loan Agreement which are applicable to the Obligor in the same way as if those provisions had been set out (with any necessary modifications) in this Guarantee.

14.7 Applicability of provisions of Guarantee to other Security Interests

Any Security Interest which the Guarantor creates (whether at the time at which it signs this Guarantee or at any later time) to secure any liability under this Guarantee shall be a principal and independent security, and Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall, with any necessary modifications, apply to it, notwithstanding that the document creating the Security Interest neither describes it as a principal or independent security nor includes provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*).

14.8 Applicability of provisions of Guarantee to other rights

Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall also apply to any right of set-off or netting or to combine accounts which the Guarantor creates by an agreement entered into at the time of this Guarantee or at any later time (notwithstanding that the agreement does not include provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*)), being an agreement referring to this Guarantee.

14.9 Third party rights

Other than a Secured Party or the Italian Authorities, no person who is not a party to this Guarantee has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Guarantee.

14.10 Waiver of rights against SACE

Nothing in this Guarantee or any of the Finance Documents is intended to grant to the Guarantor or any other person any right of contribution from or any other right or claim against SACE and the Guarantor hereby waives irrevocably any right of contribution or other right or claim as between itself and SACE.

14.11 Certification or determination

Any certification or determination by the Security Trustee of a rate or amount under any Finance Document or this Guarantee is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

14.12 SACE subrogation

The Guarantor acknowledges that immediately upon any payment by SACE of any amount due under the SACE Insurance Policy, SACE shall be automatically subrogated to the extent of such payment to the rights of the Security Trustee under this Guarantee in accordance with the SACE Insurance Policy.

15 ASSIGNMENT AND TRANSFER

15.1 Assignment and transfer by Security Trustee

- (a) The Security Trustee may assign or transfer its rights under and in connection with this Guarantee to the same extent as it may assign or transfer its rights under the Loan Agreement.
- (b) The Guarantor may not assign or transfer its rights under and in connection with this Guarantee.

16 NOTICES

16.1 Notices to Guarantor

Any notice or demand to the Guarantor under or in connection with this Guarantee shall be given by letter or fax at:

NCL Corporation Ltd.
7665 Corporate Center Drive
Miami
Florida, 33126
Fax: (305) 436 4140

or to such other address which the Guarantor may notify to the Security Trustee.

16.2 Application of certain provisions of Loan Agreement

Clauses 32.3 (*Effective date of notices*) to 32.9 (*Meaning of "notice"*) of the Loan Agreement apply to any notice or demand under or in connection with this Guarantee.

16.3 Validity of demands

A demand under this Guarantee shall be valid notwithstanding that it is served:

- (a) on the date on which the amount to which it relates is payable by the Borrower under the Loan Agreement; or
- (b) at the same time as the service of a notice under clause 18.21 (*Actions following an Event of Default*) of the Loan Agreement;

and a demand under this Guarantee may refer to all amounts payable under or in connection with the Loan Agreement without specifying a particular sum or aggregate sum.

16.4 Notices to Security Trustee

Any notice to the Security Trustee under or in connection with this Guarantee shall be sent to the same address and in the same manner as notices to the Security Trustee under the Loan Agreement.

17 INVALIDITY OF LOAN AGREEMENT

17.1 Invalidity of Loan Agreement

In the event of:

- (a) the Loan Agreement or any provision thereof now being or later becoming, with immediate or retrospective effect, void, illegal, unenforceable or otherwise invalid for any reason whatsoever; or
- (b) without limiting the scope of paragraph (a) above, a bankruptcy of the Borrower, the introduction of any law or any other matter resulting in the Borrower being discharged from liability under the Loan Agreement, or the Loan Agreement ceasing to operate (for example, by interest ceasing to accrue);

this Guarantee shall cover any amount which would have been or become payable under or in connection with the Loan Agreement if the Loan Agreement had been and remained entirely valid, legal and enforceable, or the Borrower had not suffered bankruptcy, or any combination of such events or circumstances, as the case may be, and the Borrower had remained fully liable under it for liabilities whether invalidly incurred or validly incurred but subsequently retrospectively invalidated; and references in this Guarantee to amounts payable by the Borrower under or in connection with the Loan Agreement shall include references to any amount which would have so been or become payable as aforesaid.

17.2 Invalidity of Finance Documents

Clause 17.1 (*Invalidity of Loan Agreement*) also applies to each of the other Finance Documents to which the Borrower is a party.

18 GOVERNING LAW AND JURISDICTION

18.1 English law

This Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

18.2 Exclusive English jurisdiction

The courts of England shall have exclusive jurisdiction to settle any Dispute.

18.3 Process agent

The Guarantor irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

18.4 Secured Parties' rights unaffected

Nothing in this Clause 18 (*Governing Law and Jurisdiction*) shall exclude or limit any right which any Secured Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

18.5 Meaning of "proceedings"

In this Clause 18 (*Governing Law and Jurisdiction*), "**proceedings**" means proceedings of any kind, including an application for a provisional or protective measure and a "**Dispute**" means any dispute arising out of or in connection with this Guarantee (including a dispute relating to the existence, validity or termination of this Guarantee) or any non-contractual obligation arising out of or in connection with this Guarantee.

THIS GUARANTEE has been entered into on the date stated at the beginning of this Guarantee.

SCHEDULE 1

FORM OF COMPLIANCE CERTIFICATE

To: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**
8 Canada Square
London
E14 5HQ

Attn: [●]

[●] 20[●]

Dear Sirs

Loan Agreement dated [●] 2018 (as amended from time to time, the "Loan Agreement") made between (1) Leonardo Six, Ltd. (the "Borrower"), (2) the banks and financial institutions named at schedule 1 therein as lenders, (3) Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-BANK GmbH, Cassa Depositi e Prestiti S.p.A., Banco Santander S.A. and Société Générale as Joint Mandated Lead Arrangers, (4) Crédit Agricole Corporate and Investment Bank as SACE Agent (5) BNP Paribas as Facility Agent and (6) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a facility of up to the aggregate of up to six hundred and forty million euros (€ 640,000,000) and the amount of the SACE Premium (but not exceeding six hundred and sixty three million, nine hundred thousand, four hundred and fourteen Euros and ninety four cents (€ 663,900,414.94)) and Guarantee dated [●] 2018 (the "Guarantee") made between (1) us as guarantor and (2) HSBC Corporate Trustee Company (UK) Limited as Security Trustee.

We refer to the Loan Agreement and the Guarantee. Terms defined in the Loan Agreement and the Guarantee have their defined meanings when used in this Compliance Certificate.

We also refer to the financial covenants set out in Clause 11.15 (*Financial Covenants*) of the Guarantee.

We certify that in relation to such covenants and by reference to the latest accounts provided under Clause 11.3[(11.3(a))/(11.3(b))] of the Guarantee:

- (a) Free Liquidity is \$[●] and [was / was not] less than fifty million Dollars (\$50,000,000) at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided;
- (b) the ratio of Total Net Funded Debt to Total Capitalization is [●] and therefore [was/was not] greater than 0.70:1.00 at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided; and
- (c) [the Free Liquidity of the Group at all times during the period of four consecutive fiscal quarters ending as at the end of the fiscal quarter for which the latest accounts have been provided was equal to or greater than one hundred million Dollars (\$100,000,000)] [as at the end of the fiscal quarter for which the latest accounts have been provided, computed for the period of four consecutive fiscal quarters ending at the end of such fiscal quarter, Consolidated EBITDA to Consolidated Debt Service is [●] and therefore [is/is not] less than 1.25:1.00].

To evidence compliance with the terms of Clause 11.15 (*Financial Covenants*), we attach:

a copy of the latest quarterly consolidated accounts of the Group as Appendix A [and a copy of the latest annual consolidated accounts of the Group as Appendix B].

No Event of Default has occurred in relation to the Borrower or the Guarantor.

Signed: _____

Chief Financial Officer of
NCL Corporation Ltd.

EXECUTION PAGE

GUARANTOR

SIGNED by

for and on behalf of
NCL CORPORATION LTD.
as its duly appointed attorney-in-fact
in the presence of:

) /s/Paul A. Turner

_____) Paul A. Turner

) Attorney-in-Fact

)

) /s/Ioanna Tsekoura

_____ Ioanna Tsekoura

Solicitor

Clyde & Co LLP

The St. Botolph Building

138 Houndsditch

London EC3A 7AR

United Kingdom

SECURITY TRUSTEE

SIGNED by

for and on behalf of
HSBC CORPORATE TRUSTEE COMPANY
(UK) LIMITED
acting by its attorney/director
in the presence of:

) /s/Andrea Stevenson

_____) Andrea Stevenson

) Authorised Signatory

)

) /s/Hanish Bhatt

_____) Hanish Bhatt

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution version

DATED 19 December 2018

O CLASS PLUS ONE, LLC
as Borrower

and

**THE BANKS AND FINANCIAL INSTITUTIONS
LISTED IN SCHEDULE 1**
as Lenders

and

**CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
BNP PARIBAS FORTIS S.A./N.V.
HSBC BANK PLC
KFW IPEX-BANK GMBH
CASSA DEPOSITI E PRESTITI S.P.A.
BANCO SANTANDER, S.A.
SOCIÉTÉ GÉNÉRALE**
as Joint Mandated Lead Arrangers

and

BNP PARIBAS
as Facility Agent

and

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
as SACE Agent

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

with the support of

SACE S.P.A.

LOAN AGREEMENT

relating to
the part financing of the 1,258 passenger cruise ship
newbuilding presently designated as
Hull No. [*] at Fincantieri S.p.A.

**WATSON FARLEY
&
WILLIAMS**

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THIS AGREEMENT is made on 19 December 2018.

PARTIES

- (1) **O CLASS PLUS ONE, LLC**, a limited liability company formed in the state of Delaware, United States of America whose registered office is at c/o Corporate Creations Network Inc., 3411 Silverside Road, Tatnall Building 104, Wilmington, DE 19810 as borrower (the "**Borrower**")
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1 (*Lenders and Commitments*) as lenders (the "**Lenders**")
- (3) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK, BNP PARIBAS FORTIS S.A./N.V., KFW IPEX-BANK GMBH, HSBC BANK PLC, CASSA DEPOSITI E PRESTITI S.P.A., SOCIÉTÉ GÉNÉRALE and BANCO SANTANDER S.A.** as joint mandated lead arrangers (the "**Joint Mandated Lead Arrangers**")
- (4) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK**, as SACE agent (the "**SACE Agent**")
- (5) **BNP PARIBAS**, as facility agent (the "**Facility Agent**")
- (6) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, as security trustee (the "**Security Trustee**")

BACKGROUND

- (A) By a shipbuilding contract dated as of 31 October 2018 (as amended or supplemented from time to time, the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A., a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) the Borrower, the Builder agreed to design, construct and deliver, and the Borrower agreed to purchase, a 1,258 passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on or about [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
 - (B) The total price payable by the Borrower to the Builder under the Shipbuilding Contract is five hundred and seventy eight million and seven hundred thousand Euros (€578,700,000) (the "**Initial Contract Price**"). The Initial Contract Price is payable on the following terms and:
 - (i) as to [*], being [*], by an initial payment which is to be within 5 Business Days after the effective date of the Shipbuilding Contract in accordance with Article 10.1(A) of the Shipbuilding Contract ("**First Shipbuilding Contract Instalment**");
 - (ii) as to [*], being [*], on the later of the date of commencement of steel cutting and the date falling 36 months prior to the Intended Delivery Date;
 - (iii) as to [*], being [*], on the later of keel laying in dry-dock and the date falling 24 months prior to the Intended Delivery Date;
 - (iv) as to [*], being [*], on the later of launching and the date falling 12 months prior to the Intended Delivery Date; and
 - (v) as to [*], being [*], on delivery of the Ship on the Delivery Date,
-

as each such event is described in the Shipbuilding Contract.

- (C) The Initial Contract Price may be decreased at delivery of the Ship under Articles 13, 14, 16, 17, 19 and 20 of the Shipbuilding Contract (in aggregate the **Liquidated Damages**) or by mutual agreement between the parties (the Initial Contract Price adjusted as aforesaid being the **Final Contract Price**). For the avoidance of doubt, under the Shipbuilding Contract the price of the Ship may be increased or decreased pursuant to Article 24 thereof but, for the purposes of this Agreement, the Final Contract Price will not include any increase in the price under Article 24.
- (D) The Lenders have agreed to make available to the Borrower a Dollar loan facility for the purpose of assisting the Borrower in financing, subject to exchange rate fluctuations, up to eighty per cent. (80%) of the Final Contract Price (and subject to an aggregate amount no greater than the Eligible Amount) and one hundred per cent. (100%) of the SACE Premium.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Definitions

Subject to Clause 1.5 (*General Interpretation*), in this Agreement:

"**Affected Lender**" has the meaning given in Clause 6.6 (*Unavailability of Screen Rate*).

"**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.

"**Annex VI**" means Annex VI (Regulations for the Prevention of Air Pollution from Ships, entered into on 19 May, 2005) to the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 (MARPOL) and as further revised in October 2008 with such revised version having entered into force on 1 July 2010.

"**Approved Broker**" means Clarkson plc, Barry Rogliano Salles, Fearnleys, Rocca & Partners, Brax Shipbrokers AS (or any Affiliate of such person through which valuations are commonly issued) or such other shipbroker or ship valuer experienced in valuing cruise ships nominated by the Borrower and approved by the Facility Agent.

"**Approved Flag**" means the Bermuda flag, the Marshall Islands flag, the Bahamas flag or such other flag as the Facility Agent may, with the approval of the Italian Authorities and at least four Lenders representing as a minimum the Majority Lenders, approve from time to time.

"**Approved Manager**" means any of the Borrower, NCL Corporation Ltd., NCL (Bahamas) Ltd., the Member as bareboat charterer or other member of the Group, or any company which is not a member of the Group which the Facility Agent may, with the authorisation of the Majority Lenders, approve from time to time as manager of the Ship.

"**Approved Manager's Undertaking**" means, in the event that the Approved Manager is a company other than the Borrower or the Member as bareboat charterer, a letter of undertaking executed or to be executed by the Approved Manager in favour of the Facility Agent, which will include, without limitation, an agreement by the Approved Manager to subordinate its rights against the Ship and the Borrower to the rights of the Secured Parties under the Finance Documents, in the agreed form.

"**Availability Period**" means the period commencing on the Effective Date and ending on:

- (a) the earlier to occur of (i) the Delivery Date and (ii) 28 July 2023 (or such later date as the Facility Agent may, with the authorisation of the Lenders, agree with the Borrower); or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated.

"**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.

"**Bareboat Charter**" means the bareboat charter of the Ship by the Borrower as owner to the Member as bareboat charterer which shall be entered into no later than the Delivery Date in a form of draft approved by the Facility Agent before the date of this Agreement with such reasonable changes thereto as the Facility Agent may approve from time to time.

"**Base Rate**" means one Euro for[*] Dollars.

"**Builder**" has the meaning given in Recital (A).

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open in New York, Milan, Frankfurt, Brussels, Madrid, Paris, Rome and London; and

"**CDP**" means Cassa Depositi e Prestiti S.p.A.

"**Certified Copy**" means in relation to any document delivered or issued by or on behalf of any company, a copy of such document certified as a true, complete and up-to-date copy of the original by any of the directors or the secretary or assistant secretary or any attorney-in-fact for the time being of that company or, in the case of the Borrower, the sole manager of the Borrower.

"**Charged Property**" means all of the assets which from time to time are, or are expressed to be, the subject of Security Interests pursuant to the Finance Documents.

"**CIRR**" means, in relation to the Loan, the applicable Commercial Interest Reference Rate determined in accordance with the OECD Arrangement on Guidelines for Officially Supported Export Credits, to be notified by SIMEST to the Facility Agent (through the SACE Agent) and expected to be three point thirty two per cent. (3.32%) per annum.

"**CIRR Break Costs**" means, in respect of the Loan, all the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the relevant Interest Make-up Agreement, including without limitation, as a result of any prepayment of all or any part of the Loan under this Agreement (whether voluntary, following acceleration of the Loan or otherwise), as a result of an Interest Make-up Event and/or as a result of the Borrower deciding to switch from the Fixed Interest Rate to another interest rate after the Drawdown Date. Such amounts include, without limitation, (i) breakage costs calculated on the basis of the net present value referred to in the relevant Interest Make-up Agreement, (ii) any amount due as a consequence of the close-out of any hedging arrangement entered into by SIMEST in relation to this Agreement, (iii) default interest and penalties (*maggiorazioni*) whenever applicable, and (iv) all amounts (if any) to be returned by the SACE Agent or the Facility Agent (as applicable) to SIMEST under and pursuant to the Interest Make-up Agreement.

"**Code**" means the United States Internal Revenue Code of 1986.

"**Code of Ethics**" means the code of ethics adopted by CDP, available on CDP's website (http://www.cdp.it/static/upload/cdp/cdp_code_ethics.pdf).

"**Commitment**" means, in relation to a Lender, the amount equal to the percentage of the Maximum Loan Amount set opposite its name in Schedule 1 (*Lenders and Commitments*), or, as the case may require, the amount specified in the relevant Transfer Certificate, in each case as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and "**Total Commitments**" means the aggregate of the Commitments of all the Lenders).

"**Common Units**" means all membership interests held at any time during the term of the limited liability company agreement of the Borrower by the Member, including, without limitation, the Member's (i) right to a distributive share of the income, gain, losses and deductions of the Borrower in accordance with the limited liability company agreement, (ii) the right to a distributive share of the Borrower's assets, and (iii) any securities issued in respect of or in exchange for common units, whether by way of dividend or other distribution, split reverse split, recapitalization, merger, rollup transaction, consolidation conversion or reorganization.

"**Compliance Certificate**" has the meaning given to the term "Compliance Certificate" in the Guarantee.

"**Confidential Information**" means all information relating to any Obligor, the Group, the Finance Documents or the Loan of which a Creditor Party becomes aware in its capacity as, or for the purpose of becoming, a Creditor Party or which is received by a Creditor Party from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Creditor Party, if the information was obtained by that Creditor Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Creditor Party of Clause 33 *Confidentiality*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Creditor Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Creditor Party after that date, from a source which is, as far as that Creditor Party is aware, unconnected with the Group and which, in either case, as far as that Creditor Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or
- (iv) any Reference Bank Quotation.

"**Confidentiality Undertaking**" means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrower and the Facility Agent.

"**Contribution**" means, in relation to a Lender, the amount of the Loan which is owing to that Lender.

"**Conversion Rate**" means the rate determined by the Facility Agent on the Conversion Rate Fixing Date and notified to the Borrower as being the lower of:

- (a) the Base Rate; or
- (b) the FOREX Contracts Weighted Average Rate.

"**Conversion Rate Fixing Date**" means the date falling [*] days before the Intended Delivery Date.

"**Corresponding Debt**" means any amount, other than any Parallel Debt, which an Obligor owes to a Creditor Party under or in connection with the Finance Documents.

"**Creditor Party**" means the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender, whether as at the date of this Agreement or at any later time.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee

"**Delivery Date**" means the date and time of delivery of the Ship by the Builder to the Borrower as stated in the Protocol of Delivery and Acceptance.

"**Document of Compliance**" has the meaning given to it in the ISM Code.

"**Dollar Equivalent**" means such amount in Dollars as is calculated by the Facility Agent on the Conversion Rate Fixing Date to be the equivalent of an amount in Euro at the Conversion Rate.

"Dollars", "\$" and "USD" means the lawful currency for the time being of the United States of America.

"Drawdown Date" means the date on which the Loan is drawn down and applied in accordance with Clause 2 *Facility*).

"Drawdown Notice" means a notice in the form set out in Schedule 2 *(Form of Drawdown Notice)* (or in any other form which the Facility Agent approves or reasonably requires).

"Earnings" means all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower, by the Member as bareboat charterer and which arise out of the use or operation of the Ship, including (but not limited to):

- (a) all freight, hire, fare and passage moneys, compensation payable to the Borrower, the Facility Agent or the Security Trustee (as the case may be) in the event of requisition of the Ship for hire, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of the Ship;
- (b) all moneys which are at any time payable under Insurances in respect of loss of earnings;
- (c) all moneys which are at any time payable to the Borrower in respect of the general average contribution; and
- (d) if and whenever the Ship is employed on terms whereby any moneys falling within paragraphs (a) or (b) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Ship.

"EEA Member Country" means any member state of the European Union, Iceland, Liechtenstein and Norway.

"Effective Date" means the earlier of:

- (a) the Guarantor providing the Facility Agent with written notice stating that this Agreement and the other Finance Documents signed on or about the date hereof have become effective; and
- (b) 16.00 Central European time on 31 January 2019.

"Eligible Amount" means eighty per cent. (80%) of the lesser of:

- (a) the Dollar Equivalent of five hundred and seventy eight million and seven hundred thousand Euros (€578,700,000); and
- (b) the Dollar Equivalent of the Final Contract Price.

"Environmental Approval" means any present or future permit, ruling, variance or other authorisation required under Environmental Laws.

"Environmental Claim" means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, "claim" includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

"Environmental Incident" means:

- (a) any release, emission, spill or discharge into the Ship or into or upon the air, sea, land or soils (including the seabed) or surface water of Environmentally Sensitive Material within or from the Ship; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or the Ship and/or any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water otherwise than from the Ship and in connection with which the Ship is actually or potentially liable to be arrested and/or where any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

"Environmental Law" means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

"Environmentally Sensitive Material" means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

"Equator Principles" means the standards entitled "A financial industry benchmark for determining, assessing and managing environmental and social risk in projects" dated June 2013 and adopted by certain financial institutions, as the same may be amended or supplemented from time to time.

"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.

"EU Blocking Regulation" means EU Regulation (EC) 2271/96 of 22 November 1996.

"Euro", "Euros" and "EUR" means the single currency of the Participating Member States.

"**Event of Default**" means any of the events or circumstances described in Clause 18.1 (*Events of Default*).

"**Existing Indebtedness**" means Financial Indebtedness referred to in the financial statements of the Guarantor delivered to the Facility Agent prior to the date of this Agreement.

"**Exporter Declaration**" means a declaration in the form required by SIMEST at the relevant time duly signed by an authorised signatory of the Builder.

"**Facility**" means the term loan facility made available under this Agreement as described in Clause 2.1 (*Amount of facility*).

"**Facility Agent**" means BNP Paribas, a French "*société anonyme*", having a share capital of two billion four hundred ninety-nine million five hundred ninety-seven thousand one hundred and twenty-two Euros (€2,499,597,122) and its registered office located at 16 Boulevard des Italiens, 75009, Paris, France, registered under the n° Siren 662.042.449 at the *Registre du Commerce et des Sociétés* of Paris or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

"**Facility Office**" means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**FATCA**" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"**FATCA Application Date**" means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

"FATCA Deduction" means a deduction or withholding from a payment under a Finance Document required by FATCA.

"FATCA Exempt Party" means a Party that is entitled to receive payments free from any FATCA Deduction.

"Fee Letter" means any letter dated on or about the date of this Agreement between:

- (a) the Facility Agent and the Borrower setting out the fees referred to in paragraph (a) of Clause 9.1 *Fees*;
- (b) the Facility Agent and the Borrower setting out the fees referred to in paragraph (c) of Clause 9.1 *Fees*;
- (c) the SACE Agent and the Borrower setting out the fees referred to in paragraph (d) of Clause 9.1 *Fees*;
- (d) the Security Trustee and the Borrower setting out the fees referred to in paragraph (e) of Clause 9.1 *Fees*; or
- (e) the Borrower and a Creditor Party setting out the fees payable to such Creditor Party pursuant to the terms of this Agreement.

"Finance Documents" means:

- (a) this Agreement;
- (b) any Fee Letter;
- (c) the Guarantee;
- (d) the General Assignment;
- (e) the Mortgage;
- (f) the Pledge Agreement;
- (g) the Post-Delivery Assignment;
- (h) any Subordinated Debt Security;
- (i) the Approved Manager's Undertaking;
- (j) any Transfer Certificate;
- (k) any Compliance Certificate;
- (l) any Drawdown Notice;

- (m) any other document (whether creating a Security Interest or not) which is executed as security for, or for the purpose of establishing any priority or subordination arrangement in relation to, the Secured Liabilities; and
- (n) any other document (whether creating a Security Interest or not) which is designated as a Finance Document by agreement between the Borrower, SACE and the Facility Agent.

"**Final Contract Price**" has the meaning given in Recital (C).

"**Financial Indebtedness**" means, in relation to a person (the "**debtor**"), an indebtedness of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount;
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person; or
- (g) arising from receivables sold or discounted (other than receivables to the extent they are sold on a non-recourse basis).

"**First Instalment**" means the first instalment of the SACE Premium as more particularly described in paragraph (a) of Clause 8.1 *§ACE Premium*).

"**Fixed Interest Rate**" means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) the CIRR.

"**Fixed Rate Margin**" means the difference between the Floating Rate Margin and the SIMEST Margin Contribution.

"**Floating Interest Rate**" means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) LIBOR for the relevant period.

"**Floating Rate Margin**" means one point forty five per cent. (1.45%).

"**FOREX Contracts**" means each actual purchase contract, spot or forward contract and any other contract, such as an option or collar arrangement, which is entered into in the foreign exchange markets for the acquisition of Euro intended to pay the delivery instalment under the Shipbuilding Contract, which:

- (a) matures not later than the Intended Delivery Date, provided that option arrangements may mature up to one month after such date if at the time they are entered into there exists a reasonable uncertainty as to the date on which the Ship will be delivered;
- (b) is entered into by the Borrower or the Guarantor or a combination of the foregoing not later than two (2) days before the Conversion Rate Fixing Date so that the Borrower, directly or through the Guarantor, purchases or may purchase Euro with Dollars at a pre-agreed rate; and
- (c) is notified to the Facility Agent within ten (10) days of its execution but in any event no later than the day preceding the Conversion Rate Fixing Date, with a Certified Copy of each such contract being delivered to the Facility Agent at such time.

"**FOREX Contracts Weighted Average Rate**" means the rate determined by the Facility Agent on the Conversion Rate Fixing Date in accordance with the following principles which (inter alia) are intended to take into account any maturity mismatch between the maturity of the FOREX Contracts and the Intended Delivery Date as well as FOREX Contracts that are unwound as part of the hedging strategy of the Borrower:

- (a) FOREX Contracts that are spot or forward foreign exchange contracts, if any, shall be valued at the contract value (taking into account any rescheduling);
- (b) the difference between the Euro amount available under (a) above and the Euro amount balance payable to the Builder on the Delivery Date is assumed to be purchased at the official daily fixing rate of the Bloomberg Fx Fixings for the purchase of Euro with Dollars as displayed on World Markets Reuters (or such other pages as may replace that page on that service or a successor service) at or around 1 p.m. (London time) on the Conversion Rate Fixing Date;
- (c) any FOREX Contract which is an option or collar arrangement and is not unwound at the Conversion Rate Fixing Date will be marked to market and the resulting profit or loss shall reduce or increase the Dollar countervalue of the purchased Euro;
- (d) any FOREX Contract which is an option or collar arrangement and is sold or purchased back at the time FOREX Contract(s) are entered into for an identical Euro amount shall be accounted for the net premium cost or profit, as the case may be.

Any marked to market valuation, as required in paragraph (c) above, shall be performed by BNP Paribas's dedicated desk in accordance with market practices. The Borrower shall have the right to request indicative valuations from time to time prior to the Conversion Rate Fixing Date.

"**Funding Rate**" means any individual rate notified by a Lender to the Facility Agent pursuant to Clause 6.11(b).

"**GAAP**" means generally accepted accounting principles in the United States of America consistently applied (or, if not consistently applied, accompanied by details of the inconsistencies) including, without limitation, those set forth in the opinion and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

"**General Assignment**" means an assignment of, *inter alia*, any Management Agreement, the Earnings, the Insurances, any charter and any Requisition Compensation, executed or to be executed by the Borrower, the Member as charterer and, in the event that the Approved Manager is not a member of the Group and is named as a co-assured in the Insurances, the Approved Manager in favour of the Security Trustee in the agreed form.

"**German Blocking Provisions**" means section 7 of the German Foreign Trade Regulation (AWV) (*Außenwirtschaftsverordnung*) (in connection with section 4 paragraph 1 a no. 3 German Foreign Trade Law (AWG) (*Außenwirtschaftsgesetz*)).

"**Gross Negligence**" means any act or omission, whether deliberate or not, which in the circumstances (including both the probability and seriousness of the consequences likely to result) would reasonably be regarded by those familiar with the nature of the activity in question and with the surrounding circumstances, as amounting to the reckless disregard of, or serious indifference to, the consequences, being in any case more than a negligent failure to exercise proper skill and care.

"**Group**" means the Guarantor and its Subsidiaries.

"**Guarantee**" means a guarantee issued by the Guarantor in favour of the Security Trustee in the agreed form.

"**Guarantor**" means NCL Corporation Ltd., a Bermuda company with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda.

"**Holding Company**" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"**IAPPC**" means a valid international air pollution prevention certificate for the Ship issued under Annex VI.

"**Illicit Origin**" means any origin which is illicit, fraudulent or in breach of Sanctions including, without limitation, drug trafficking, corruption, organised criminal activities, terrorism, money laundering or fraud.

"**Initial Contract Price**" has the meaning given in Recital (B).

"**Insurances**" means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are effected in respect of the Ship, its Earnings or otherwise in relation to it; and

(b) all rights and other assets relating to, or derived from any of such policies, contracts or entries, including any rights to a return of a premium.

"**Intended Delivery Date**" means [*] (the date on which the Ship will be ready for delivery pursuant to the Shipbuilding Contract as at the date of this Agreement) or any other date notified by the Borrower to the Facility Agent in accordance with paragraph (a) of Clause 3.5 (*No later than sixty (60) days before the Intended Delivery Date*) or paragraph (c) of Clause 3.9 (*No later than five (5) Business Days before the Intended Delivery Date*) as being the date on which the Builder and the Borrower have agreed that the Ship will be ready for delivery pursuant to the Shipbuilding Contract.

"**Interest Make-up Agreement**" means an agreement on interest stabilisation (*Capitolato per il Contributo Interessi*) to be entered into between SIMEST and the SACE Agent on behalf of the Lenders and in form and substance acceptable to the SACE Agent, the Facility Agent and the Lenders, which provides, *inter alia*, for the applicable CIRR to be subsidised in relation to the Loan made available under this Agreement and to which the CIRR applies.

"**Interest Make-up Event**" means the occurrence of any circumstances which result in the termination, cancellation, revocation, cessation or suspension (in each case, in whole or in part) of the Interest Make-up Agreement or the Interest Make-up Agreement otherwise ceases or may cease to be in full force and effect or the SACE Agent notifies the Borrower that the Fixed Interest Rate is not available for any reason, in each case, in accordance with the terms of the Interest Make-up Agreement.

"**Interest Period**" means a period determined in accordance with Clause 7 (*Interest Periods*).

"**ISM Code**" means the International Safety Management Code for the safe operation of ships and for pollution prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation as the same may be amended or supplemented from time to time.

"**ISPS Code**" means the International Ship and Port Facility Security (ISPS) Code adopted by the International Maritime Organisation (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

"**Italian Authorities**" means SACE and/or SIMEST and any other relevant Italian authorities involved in the implementation of the Loan.

"**Legislative Decree 231/01**" means the Italian legislative decree of 8 June 2001, no. 231 (*Disciplina della responsabilità amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica, a norma dell'articolo 11 della legge 29 settembre 2000, n.300*) as amended from time to time, on administrative vicarious liability of corporate entities.

"**Lender**" means a bank, financial institution, trust, fund or other entity listed in Schedule 1 (*Lenders and Commitments*) and acting through its Facility Office or its transferee, successor or assign.

"**LIBOR**" means, in relation to the Loan or any part of the Loan:

(a) the applicable Screen Rate as of the Quotation Date for Dollars and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or

(b) as otherwise determined pursuant to Clause 6.6 (*Unavailability of Screen Rate*).

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

"**Loan**" means the principal amount for the time being outstanding under this Agreement.

"**Majority Lenders**" means:

- (a) before the Loan has been made, Lenders whose Commitments total [*] per cent. of the Total Commitments; and
- (b) after the Loan has been made, Lenders whose Contributions total [*] per cent. of the Loan.

"**Management Agreement**" means the management agreement (if any) entered or to be entered into between the Borrower and an Approved Manager which is not a member of the Group with respect to the Ship on terms reasonably acceptable to the Majority Lenders and SACE.

"**Margin**" means:

- (a) in relation to the Fixed Interest Rate, the Fixed Rate Margin; and
- (b) in relation to the Floating Interest Rate, the Floating Rate Margin.

"**Maritime Registry**" means the maritime registry which the Borrower will specify to the Lenders no later than 90 days before the Intended Delivery Date, being that of Bermuda, the Marshall Islands, Bahamas or such other registry as the Facility Agent may, with the approval of the Italian Authorities and at least three Lenders representing as a minimum the Majority Lenders, approve.

"**Material Adverse Effect**" means the occurrence of any event or circumstance which reasonably would be expected to have a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) of any Obligor or the Group as a whole;
- (b) the ability of any Obligor to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Secured Party under any of the Finance Documents.

"**Maximum Loan Amount**" means the aggregate of:

- (a) the Dollar Equivalent of four hundred and sixty two million nine hundred and sixty thousand Euros (€462,960,000); and
- (b) one hundred per cent. (100%) of the SACE Premium to be paid in accordance with Clause 8.1 *SACE Premium*),

provided that such amount shall not, at any time, exceed six hundred and ninety million seven hundred and eighteen thousand and seventy Dollars and fifty-four cents (\$690,718,070.54),

"**Member**" means Oceania Cruises S. de R.L., a Panamanian *sociedad de responsabilidad limitada* domiciled in Panama whose resident agent is PH Arifa, 9th and 10th Floors, West Boulevard, Santa Maria Business District, Panama, Republic of Panama as the sole member of the Borrower.

"**Minor Modification**" means a modification of the plans or the specification or the construction of the Ship under Article 24 of the Shipbuilding Contract, resulting in a contract price increase or decrease of less than [*] Euros (€[*]).

"**Model**" means the principles of the compliance system adopted by CDP pursuant to Legislative Decree 231/01, available on CDP's website (https://en.cdp.it/kdocs/1896656/Organization_Management_and_Control_Model_pursuant_to_Italian_Legislative_Decree_No._231-01_EN.pdf).

"**Mortgage**" means the first priority mortgage on the Ship acceptable for registration on the Approved Flag and, if applicable, deed of covenant, executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

"**Negotiation Period**" has the meaning given in Clause 6.9 (*Negotiation of alternative rate of interest*).

"**Obligors**" means the Borrower, the Guarantor, the Member and (in the event that the Approved Manager is a member of the Group) the Approved Manager.

"**Original Jurisdiction**" means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated, or formed, as the case may be, as at the date of this Agreement.

"**Overnight LIBOR**" means, on any date, the London interbank offered rate, being the day to day rate at which Dollars are offered to prime banks in the London interbank market and published by the Intercontinental Exchange at or about 11.00 a.m. London time on page LIBOR01 of the Reuters screen. If the agreed page is replaced or the service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower, provided that if the rate is less than zero, Overnight LIBOR shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

"**Parallel Debt**" means any amount which an Obligor owes to the Security Trustee under Clause 27.2 *Parallel Debt (Covenant to pay the Security Trustee)*.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement from time to time.

"**Permitted Financial Indebtedness**" means any Financial Indebtedness:

- (a) incurred under the Finance Documents; or

(b) permitted pursuant to Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

"Permitted Security Interests" means:

(a) in the case of the Borrower:

- (i) any of the Security Interests referred to in paragraph (b)(ii)(A) below; and
- (ii) any of the Security Interests referred to in paragraphs (b)(ii)(B), (b)(ii)(C), (b)(ii)(E), (b)(ii)(H) and (b)(ii)(I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Borrower in the case of paragraphs (b)(ii)(C) or (b)(ii)(E) or incurred by the Borrower in the case of paragraphs (b)(ii)(B), (b)(ii)(H) or (b)(ii)(I); and

(b) in the case of the Guarantor:

- (i) any of the Security Interests referred to in paragraphs (ii)(A), (ii)(D), (ii)(F) and (ii)(G) below; and
- (ii) any of the Security Interests referred to in paragraphs (C), (E), (H) and (I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Guarantor in the case of paragraph (C) or (E) or incurred by the Guarantor in the case of paragraph (H) or (I);
 - (A) any Security Interest created by or pursuant to the Finance Documents and any deposits or other Security Interests placed or incurred in connection with any bond or other surety from time to time provided to the US Federal Maritime Commission in order to comply with laws, regulations and rules applicable to the operators of passenger vessels operating to or from ports in the United States of America;
 - (B) liens on the Ship up to an aggregate amount at any time not exceeding [*] for current crew's wages and salvage and liens incurred in the ordinary course of trading the Ship;
 - (C) any deposits or pledges up to an aggregate amount at any time not exceeding [*] to secure the performance of bids, tenders, bonds or contracts required in the ordinary course of business;
 - (D) any other Security Interest including in relation to the Existing Indebtedness over the assets of any Obligor other than the Borrower notified by the Borrower or any of the Obligors to the Facility Agent and accepted by it prior to the date of this Agreement;
 - (E) (without prejudice to the provisions of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*)) liens on assets leased, acquired or upgraded after the date of this Agreement or assets newly constructed or converted after the date of this Agreement provided that (i) such liens secure Financial Indebtedness otherwise permitted under this Agreement, (ii) such liens are incurred at the time of such lease, acquisition, upgrade, construction or conversion and (iii) the Financial Indebtedness secured by such liens does not exceed the cost of such upgrade or the cost of such assets acquired or leased;

- (F) other liens arising in the ordinary course of business of the Group unrelated to Financial Indebtedness and securing obligations not yet delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established provided that (i) the aggregate amount of all cash and the fair market value of all other property subject to such liens as are described in this paragraph (F) does not exceed [*] and (ii) such cash and/or other property is not an asset of the Borrower;
- (G) subject to the other provisions of this Agreement and the Guarantee, any Security Interest in respect of existing Financial Indebtedness of a person which becomes a Subsidiary of the Guarantor or is merged with or into the Guarantor or any of its subsidiaries;
- (H) liens in favour of credit card companies on unearned customer deposits pursuant to agreements therewith; and
- (I) liens in favour of customers on unearned customer deposits.

"Pertinent Document" means:

- (a) any Finance Document;
- (b) any policy or contract of insurance contemplated by or referred to in Clause 12 (*General Undertakings*) or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and
- (d) any document which has been or is at any time sent by or to the Facility Agent in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraph (b) or (c).

"Pertinent Matter" means:

- (a) any transaction or matter contemplated by, arising out of, or in connection with a Pertinent Document; or
- (b) any statement relating to a Pertinent Document or to a transaction or matter falling within paragraph (a);

and covers any such transaction, matter or statement, whether entered into, arising or made at any time before the signing of this Agreement or on or at any time after that signing.

"Pledge Agreement" means a document creating security over the limited liability company interests in the Borrower in the agreed form.

"Post-Delivery Assignment" means an assignment of the rights of the Borrower in respect of the post-delivery guarantee liability of the Builder under Article 25 of the Shipbuilding Contract executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

"Prohibited Jurisdiction" means any country or territory which is, or whose government is, the target of country-wide or territory-wide Sanctions.

"Prohibited Payment" means:

- (a) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would constitute bribery or an improper gift or payment under, or a breach of Sanctions, any laws of the Republic of Italy, England and Wales, Panama, the Council of the European Union, Germany, the United States of America or any other applicable jurisdiction; or
- (b) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would or might constitute bribery within the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997.

"Prohibited Person" means any person that (i) appears on any Sanctions list of prohibited persons, (ii) is directly or indirectly owned 50 percent or more by, or directly or indirectly controlled by, one or more persons covered by sub-section (i) above, or (iii) is located, is resident in or is incorporated or formed, as the case may be, under the laws of a Prohibited Jurisdiction.

"Protocol of Delivery and Acceptance" means the protocol of delivery and acceptance of the Ship to be signed by the Borrower and the Builder in accordance with Article 8 of the Shipbuilding Contract.

"Quotation Date" means, in relation to any Interest Period (or any period for which an interest rate is to be determined under any provision of a Finance Document), the day which is 2 Business Days before the first day of that period, unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Date will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Date will be the last of those days).

"Qualifying Certificate" means the certificate to be issued by the Builder on the Delivery Date and issued to the Facility Agent and copied to the Borrower substantially in the form set out in Schedule 5 (*Qualifying Certificate*).

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property

"Reference Bank Quotation" means any quotation supplied to the Facility Agent by a Reference Bank.

"Reference Bank Rate" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks as either:

- (a) if:
 - (i) the Reference Bank is a contributor to the applicable Screen Rate; and
 - (ii) it consists of a single figure,

the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the Screen Rate are asked to submit to the relevant administrator; or

- (b) in any other case, the rate at which the relevant Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market.

"Reference Banks" means such entities as may be appointed by the Facility Agent in consultation with the Borrower.

"Relevant Interbank Market" means the London Interbank Market.

"Relevant Jurisdiction" means, in relation to an Obligor:

- (a) its jurisdiction of incorporation or formation, as the case may be;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party.

"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 (or any successor organization).

"Repayment Date" means a date on which a repayment is required to be made under Clause 5 (*Repayment*).

"Replacement Benchmark" means a benchmark rate which is:

- (a) a formally designated, nominated or recommended as the replacement for the Screen Rate by:
 - (i) the administrator of the Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by the 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" shall be the replacement under paragraph (ii) above;

- (b) in the opinion of the Majority Lenders and the Obligors, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor of that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Obligors, an appropriate successor to that Screen Rate.

"**Representative**" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

"**Requisition Compensation**" includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of "**Total Loss**".

"**Restricted Creditor Party**" means a Creditor Party which serves a notice pursuant to paragraph (a) of Clause 37.7 *Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation*.

"**Resolution Authority**" means any body which has authority to exercise any Write-down and Conversion Powers.

"**SACE**" means SACE S.p.A.

"**SACE Agent**" means Crédit Agricole Corporate and Investment Bank, a French "*société anonyme*", having a share capital of seven billion eight hundred and fifty one million six hundred and thirty six thousand three hundred and forty two Euros (€7,851,636,342) and its registered office located at 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France, registered under the n° Siren 304 187 701 at the Registre du Commerce et des Sociétés of Nanterre or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

"**SACE Insurance Policy**" means the insurance policy in respect of this Agreement (which, in all material respects, is not inconsistent with the commercial terms of this Agreement) to be issued by SACE for the benefit of the Lenders in respect of one hundred per cent. (100%) of the Loan together with interest thereon in form and substance satisfactory to the Facility Agent, the SACE Agent and all the Lenders.

"**SACE Premium**" means the amount payable by the Borrower to SACE directly or through the SACE Agent in two instalments in respect of the SACE Insurance Policy as set out in Clause 8 (*SACE Premium and Italian Authorities*).

"**SACE Premium Instalments**" means each of the First Instalment and Second Instalment.

"**SACE Required Documents**" means in relation to the Drawdown Notice:

- (a) a duly completed and executed Qualifying Certificate; and
- (b) each of the other documents, information and other evidence specified in or required to be enclosed with such Qualifying Certificate.

"**Safety Management Certificate**" has the meaning given to it in the ISM Code.

"**Sanctions**" means any financial, economic or trade sanctions, embargoes or other restrictions relating to trading, doing business, investment, exporting, importing, travelling, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Hong Kong Monetary Authority, the European Union or the Council of the European Union, the United Nations or its Security Council or imposed by any member state of the European Union or Switzerland;
- (b) imposed by the US, including the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC); or
- (c) otherwise imposed by any law or regulation.

"**SBC Effective Date**" means the effective date under the Shipbuilding Contract.

"**Screen Rate**" means, in relation to a particular period, 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 at or about 11 a.m (London time) on the Quotation Date for such period as displayed on page LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters (and if such page ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consulting with the Borrower).

"**Screen Rate Replacement Event**" means, in relation to the Screen Rate:

- (a) the methodology, formula or other means of determining the Screen Rate has, in the opinion of the Majority Lenders and the Obligors materially changed;

(b)

(i)

- (A) the administrator of the Screen Rate or its supervisor publicly announces that such administrator is insolvent;
- (B) information is published in any order, decree, notice, petition or filing, however, described of or filed with a court, tribunal, exchange, regulatory authority or judicial body which reasonably confirms that the administrator of the Screen Rate is insolvent,

provided that in each case, at that time, there is no successor or administrator to continue to provide the Screen Rate;

- (ii) the administrator of the Screen Rate publicly announces that it has ceased or will cease, to provide the Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the Screen Rate;

- (iii) the supervisor of the administrator of the Screen Rate publicly announces that the Screen Rate has been or will be permanently or indefinitely discontinued;
- (iv) the administrator of the Screen Rate or its supervisor announces that the Screen Rate may no longer be used;
- (c) the administrator of the Screen Rate determines that the Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
 - (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Obligors) temporary; or
 - (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the period of fifteen (15) Business Days;
- (d) in the opinion of the Majority Lenders and the Obligors, the Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

"**Second Instalment**" means the second instalment of the SACE Premium as more particularly described in paragraph (b) of Clause 8.1 *SACE Premium*).

"**Secured Liabilities**" means all liabilities which the Borrower, the Obligors or any of them have, at the Effective Date or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country.

"**Secured Party**" means SACE, the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender whether at the date of this Agreement or any later time, a Receiver or any Delegate.

"**Security Interest**" means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien, assignment, hypothecation or any other security interest of any kind or other agreement or arrangement having the effect of conferring security;
- (b) the security rights of a plaintiff under an action *in rem*; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution.

"**Security Period**" means the period commencing on the Effective Date and ending on the date on which:

- (a) all amounts which have become due for payment by the Borrower or any Obligor under the Finance Documents have been fully and irrevocably paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) neither the Borrower nor any other Obligor has any future or contingent liability under Clause 19 (*Application of sums received*) below or any other provision of this Agreement or another Finance Document; and
- (d) the Facility Agent does not consider that there is a significant risk that any payment or transaction under a Finance Document would be set aside, or would have to be reversed or adjusted, in any present or possible future bankruptcy of the Borrower or an Obligor or in any present or possible future proceeding relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created by a Finance Document.

"Security Property" means:

- (a) the Security Interests expressed to be granted in favour of the Security Trustee as trustee for the Secured Parties and all proceeds received or recovered by or on behalf of the Security Trustee under or by virtue of any Security Interest including any money or other assets which are received or recovered by it as a result of the enforcement or exercise by it of such a Security Interest or right;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Trustee as trustee for the Secured Parties and secured by the Security Interests together with all representations and warranties expressed to be given by an Obligor in favour of the Security Trustee as trustee for the Secured Parties;
- (c) the Security Trustee's interest in any turnover trust created under the Finance Documents;
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Trustee is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties,

except:

- (i) rights intended for the sole benefit of the Security Trustee; and
- (ii) any moneys or other assets which the Security Trustee has transferred to the Facility Agent or (being entitled to do so) has retained in accordance with the provisions of this Agreement.

"Security Requirement" means the amount in Dollars (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which is at any relevant time one hundred and twenty-five per cent. (125%) of the Loan.

"Security Trustee" means HSBC Corporate Trustee Company (UK) Limited, a company incorporated in England and Wales (with registered number 6447555) whose registered office is located at 8 Canada Square, London, E14 5HQ or any successor of it appointed under Clause 27 (*The Security Trustee*).

"**Security Value**" means the amount in Dollars (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which, at any relevant time, is the aggregate of (i) the charter free market value of the Ship as most recently determined in accordance with Clause 13.4 (*Valuation of the Ship*); and (ii) the market value of any additional security for the time being actually provided to the Facility Agent pursuant to Clause 15 (*Security Value Maintenance*).

"**Servicing Party**" means the Facility Agent or the Security Trustee.

"**Ship**" means the passenger cruise ship currently designated with Hull No. [*] (as more particularly described in the Shipbuilding Contract) to be constructed under the Shipbuilding Contract and to be delivered to, and purchased by, the Borrower and registered in its name under an Approved Flag.

"**Shipbuilding Contract**" has the meaning given in Recital (A).

"**SIMEST**" means Società Italiana per Le Imprese all'Estero - SIMEST S.p.A., which grants export subsidies in Italy under and according to the Italian Legislative Decree n. 143/98 and its amendments.

"**SIMEST Margin Contribution**" means the margin contribution approved and granted by SIMEST to the Lenders under the Interest Make-up Agreement as communicated by the SACE Agent to the Creditor Parties and the Borrower following the date of this Agreement as soon as the SACE Agent is made aware of it.

"**Structuring Fee**" has the meaning given in paragraph 9.1(a) of Clause 9.1 (*Fees*).

"**Subordinated Debt Security**" has the meaning given in paragraph (b)(ii) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

"**Subsidiary**" has the following meaning:

A company (S) is a subsidiary of another company (P) if:

- (a) a majority of the issued equity interests in S (or a majority of the issued equity interests in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; or
- (b) P has direct or indirect control over a majority of the voting rights attaching to the issued equity interests of S; or
- (c) P has the direct or indirect power to appoint or remove a majority of the directors (or equivalent) of S; or
- (d) P otherwise has the direct or indirect power to ensure that the affairs of S are conducted in accordance with the wishes of P;

and any company of which S is a subsidiary is a parent company of S.

"**Tax**" means any tax, levy, impost, duty, assessment, fee, deduction or other charge or withholding of a similar nature imposed by any governmental authority (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Third Party Act**" means the Contracts (Rights of Third Parties) Act 1999.

"**Total Loss**" means:

- (a) actual, constructive, compromised, agreed or arranged total loss of the Ship;
- (b) any expropriation, confiscation, requisition or acquisition of the Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority, (excluding a requisition for hire for a fixed period not exceeding 1 year without any right to an extension) unless it is within 1 month redelivered to the Borrower's full control;
- (c) any arrest, capture, seizure or detention of the Ship (including any hijacking or theft) unless it is within 1 month redelivered to the Borrower's full control.

"**Total Loss Date**" means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earliest of:
 - (i) the date on which a notice of abandonment is given to the insurers (or deemed or agreed to be given); and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower with the Ship's insurers in which the insurers agree to treat the Ship as a total loss; and
- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Facility Agent acting reasonably and in consultation with the Borrower that the event constituting the total loss occurred.

"**Transaction Documents**" means the Finance Documents and the Underlying Documents.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrower.

"**Underlying Documents**" means the Shipbuilding Contract, any Management Agreement, any bareboat charter and any charter and associated guarantee in respect of which a notice of assignment is required to be served under the terms of the General Assignment.

"**Unpaid Sum**" means (i) any sum due and payable but unpaid by an Obligor under the Finance Documents and (ii) any part of the SACE Premium unpaid by the Borrower.

"US" means the United States of America.

"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 of certain terms

In this Agreement:

"Facility Agent", the "SACE Agent", the "Joint Mandated Lead Arranger", the "Security Trustee", "SACE", any "Creditor Party", any "Secured Party", any "Lender", any "Obligor" or any other "person", shall be construed so as to include its successors in title, permitted assigns and permitted transferees.

"approved by the Lenders" (or any similar determination or instruction by the Lenders) means approved in writing by the Facility Agent acting on the instructions of all the Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and any requirement for approval by all the Lenders shall mean prior approval.

"approved by the Majority Lenders" (or any similar determination or instruction by the Majority Lenders) means approved in writing by the Facility Agent acting on the instructions of the Majority Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Majority Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and otherwise "approved" means approved in writing by the Facility Agent (on such conditions as the Facility Agent may impose) and "approval" and "approve" shall be construed accordingly and any requirement for approval by the Facility Agent, the SACE Agent or the Majority Lenders shall mean prior approval.

"**asset**" includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment.

"**company**" includes any partnership, joint venture and unincorporated association.

"**consent**" includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation.

"**contingent liability**" means a liability which is not certain to arise and/or the amount of which remains unascertained.

"**date of this Agreement**" means 19 December 2018.

"**document**" includes a deed; also a letter, fax or electronic mail.

"**expense**" means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Taxes including VAT.

"**including**" and "**in particular**" (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.

"**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;

"**law**" includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council.

"**legal or administrative action**" means any legal proceeding or arbitration and any administrative or regulatory action or investigation.

"**liability**" includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise.

"**months**" shall be construed in accordance with Clause 1.4 (*Meaning of "month"*).

"**parent company**" has the meaning given in the definition of "Subsidiary".

"**person**" includes any individual, firm, company, corporation, government, any state, political sub-division of a state and local or municipal authority, agency of a state or any association, trust, joint venture, consortium or partnership; and any international organisation (whether or not having a separate legal personality).

"**proceedings**" means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure.

"**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Construction of Insurance Terms

"**approved**" means, for the purposes of Clause 14 (*Insurance Undertakings*), approved in writing by the Facility Agent.

"**excess risks**" means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims.

"**obligatory insurances**" means all insurances effected, or which the Borrower is obliged to effect, under Clause 14 (*Insurance Undertakings*) or any other provision of this Agreement or another Finance Document.

"**policy**" in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms.

"**protection and indemnity risks**" means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02) (1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/10/83) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision.

"**war risks**" includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24 of the Institute Time Clauses (Hulls) (1/11/95) or clause 23 of the Institute Time Clauses (Hulls)(1/10/83).

1.4 Meaning of "month"

A period of one or more "**months**" ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started ("**the numerically corresponding day**"), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;

and "**month**" and "**monthly**" shall be construed accordingly.

1.5 General Interpretation

In this Agreement:

- (a) references in Clause 1.1 (*Definitions*) to a Finance Document or any other document being an "**agreed form**" are to the form agreed between the Facility Agent (acting with the authorisation of each of the Creditor Parties and SACE) and the Borrower with any modifications to that form which the Facility Agent (with the authorisation of the Majority Lenders and SACE in the case of substantial modifications) approves or reasonably requires;
- (b) references to, or to a provision of, a Finance Document or any other document are references to it as amended, amended and restated or supplemented, whether before the date of this Agreement or otherwise;
- (c) references to Sanctions, for the purposes of Clause 11 (*Representations and Warranties*), Clause 12 (*General Undertakings*), Clause 20 (*Indemnities*), Clause 21 (*Illegality, etc.*) and the Finance Documents shall mean "Sanctions" as defined in Clause 1.1 (*Definitions*), by which any Obligor, any Creditor Party or any party involved in the transactions contemplated in the Finance Documents is bound or to which it is subject or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of any Obligor or any Creditor Party;
- (d) references to, or to a provision of, any law or regulation include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (e) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;
- (f) words denoting the singular number shall include the plural and vice versa; and
- (g) Clauses 1.1 (*Definitions*) to 1.5 (*General Interpretation*) apply unless the contrary intention appears.

1.6 Headings

In interpreting a Finance Document or any provision of a Finance Document, all clauses, sub-clauses and other headings in that and any other Finance Document shall be entirely disregarded.

1.7 Schedules

The schedules form an integral part of this Agreement.

2 FACILITY

2.1 Amount of facility

Subject to the other provisions of this Agreement, the Lenders agree to make available to the Borrower a loan not exceeding the Maximum Loan Amount intended to be applied as follows:

- (a) in payment to the Builder, up to the Eligible Amount, of all or part of eighty per cent. (80%) of the Final Contract Price;

- (b) in reimbursement to the Borrower of the amount of the First Instalment of the SACE Premium paid by it to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (c) in payment to SACE of the amount of the Second Instalment of the SACE Premium payable by the Borrower to SACE in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.2 Lenders' participations in Loan

Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

2.3 Purpose of Loan

The Borrower undertakes with each Secured Party to use the Loan only to pay for:

- (a) goods and services of Italian origin incorporated in the design, construction or delivery of the Ship;
- (b) subject to the limits and conditions fixed by the Italian Authorities, goods and services incorporated in the design, construction or delivery of the Ship and originating from countries other than Italy where the provision of such goods or services has been sub-contracted by the Builder and therefore remains the Builder's responsibility under the Shipbuilding Contract;
- (c) all or part of eighty per cent. (80%) of the Final Contract Price;
- (d) reimbursement to the Borrower of the First Instalment of the SACE Premium paid by the Borrower direct to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (e) the Second Instalment of the SACE Premium payable in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.4 Creditor Parties' rights and obligations

- (a) The obligations of each Creditor Party under the Finance Documents are several. Failure by a Creditor Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Creditor Party is responsible for the obligations of any other Creditor Party under the Finance Documents.
- (b) The rights of each Creditor Party and SACE under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Creditor Party and SACE from an Obligor shall be a separate and independent debt.
- (c) A Creditor Party and SACE may not, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.
- (d) Notwithstanding any other provision of the Finance Documents and subject to the prior written consent of SACE, a Creditor Party may separately sue for any Unpaid Sum due to it without the consent of any other Creditor Party or joining any other Creditor Party to the relevant proceedings (it being understood that a Creditor Party may file a claim noting the amounts due to it in the event insolvency proceedings are commenced against the Borrower by a third party).

2.5 Monitoring

No Creditor Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

2.6 Obligations of Lenders several

The obligations of the Lenders under this Agreement are several; and a failure of a Lender to perform its obligations under this Agreement shall not result in:

- (a) the obligations of the other Lenders being increased; nor
 - (b) any Obligor or any other Lender being discharged (in whole or in part) from its obligations under any Finance Document,
- and in no circumstances shall a Lender have any responsibility for a failure of another Lender to perform its obligations under this Agreement or any other Finance Document.

3 CONDITIONS PRECEDENT

3.1 General

The Borrower may only draw the Loan when the following conditions have been fulfilled to the satisfaction of the Facility Agent and provided no Event of Default shall have occurred and remains unremedied or is likely to occur as a consequence of the drawing of the Loan:

3.2 No later than the Effective Date

The Facility Agent shall have received no later than the Effective Date:

- (a) an opinion from legal counsel to the Secured Parties as to the laws of the state of Delaware in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Borrower's execution of any Finance Documents to which they are party on the Effective Date;
- (b) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of this Agreement and the Guarantee;
- (c) an opinion from legal counsel to the Secured Parties as to Bermuda law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Guarantor's execution of the Guarantee;
- (d) an opinion from legal counsel to the Secured Parties as to the laws of the state of New York in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the Pledge Agreement;
- (e) an opinion from legal counsel to the Secured Parties as to Panamanian law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Member's execution of the Pledge Agreement;

- (f) a Certified Copy of the executed Shipbuilding Contract;
- (g) such documentary evidence as the Facility Agent and its legal advisers may require in relation to the due authorisation and execution by the Borrower and the Builder of the Shipbuilding Contract and of all documents to be executed by the Borrower and the Builder;
- (h) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom that it will act for the Borrower and the Guarantor as agent for service of process in England in respect of this Agreement and any other Finance Document;
- (i) duly executed originals of the Guarantee and the Pledge Agreement and of each document to be submitted pursuant to it;
- (j) such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender or SACE) or any Lender or SACE (for itself) in order for the Facility Agent and such Lender or SACE 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;
- (k) payment of the initial portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter; and
- (l) payment of the initial portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the initial portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the initial portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter.

3.3 No later than two (2) years before the Intended Delivery Date

The Facility Agent shall have received no later than two (2) years before the Intended Delivery Date, payment of the remaining portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter.

3.4 No later than ninety (90) days before the Intended Delivery Date

The Facility Agent (or the SACE Agent in respect of paragraphs (c), (e) and (f) below) shall have received no later than ninety (90) days before the Intended Delivery Date:

- (a) notification from the Borrower of its chosen Maritime Registry;
- (b) notification of the Approved Manager;
- (c) the SACE Insurance Policy documentation relating to the transaction contemplated by this Agreement issued on terms whereby the SACE Insurance Policy will enter into full force and effect upon fulfilment of the conditions specified therein to be fulfilled on or before the Drawdown Date;
- (d) evidence that the First Instalment has been paid;
- (e) an original of the Interest Make-up Agreement relative to the Loan and in full force and effect;

- (f) an original of the SACE Insurance Policy; and
- (g) an opinion from legal counsel to the Creditor Parties as to Italian law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of SACE's issuance of the SACE Insurance Policy and compliance with the principles governing the eligibility of credit risk mitigation techniques as per Article 194, paragraph 1, of the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013.

3.5 No later than sixty (60) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than sixty (60) days before the Intended Delivery Date:

- (a) notification of the Intended Delivery Date;
- (b) a notice from the Borrower as described in paragraph (a) of Clause 8.4 *Refund*; and
- (c) a U.S. tax opinion from legal counsel to the Secured Parties in respect of the tax treatment of the entry by the U.S. incorporated Borrower into this Agreement and the other Finance Documents substantially in the form notified to the Borrower on or around the Effective Date and updated to reflect any changes in law.

3.6 No later than forty-five (45) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than forty five (45) days before the Intended Delivery Date (and on each subsequent date on which a Compliance Certificate is to be received by the Security Trustee pursuant to clause 11.3(c) of the Guarantee) a duly completed Compliance Certificate from the Guarantor;

3.7 No later than [*] ([*]) days before the Intended Delivery Date

The SACE Agent (with a copy to the Facility Agent) shall have received from the Borrower no later than [*] ([*]) days before the Intended Delivery Date notification, signed by a duly authorised signatory of the Borrower, specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable to the Loan until the date of payment of the final repayment instalment of the Loan.

3.8 No later than fifteen (15) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than fifteen (15) Business Days before the Intended Delivery Date insurance documents in form and substance satisfactory to the Lenders confirming that the Insurances have been effected and will be in full force and effect on the Delivery Date.

3.9 No later than five (5) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than five (5) Business Days before the Intended Delivery Date:

- (a) the Drawdown Notice from the Borrower, signed by a duly authorised signatory of the Borrower, specifying the amount of the Loan to be drawn down;

- (b) a Certified Copy of any amendments to the Shipbuilding Contract which are not Minor Modifications and of the power of attorney pursuant to which the authorised signatory of the Borrower signed the Drawdown Notice and a specimen of his signature; and
- (c) a final confirmation of the Intended Delivery Date signed by a duly authorised signatory of the Borrower, and counter-signed by a duly authorised signatory of the Builder.

3.10 No later than the Delivery Date

The Facility Agent shall have received no later than the Delivery Date:

- (a) if applicable, a duly executed original of the Subordinated Debt Security;
- (b) any opinions from legal counsel to the Secured Parties relating to the due execution, validity and enforceability of the Subordinated Debt Security, in form and substance satisfactory to the Facility Agent and the Secured Parties;
- (c) evidence of payment to and receipt by the Builder of:
 - (i) the four (4) pre-delivery instalments of the Final Contract Price; and
 - (ii) any other part of the Final Contract Price as at the Delivery Date not being financed hereunder;
- (d) payment of the relevant portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the relevant portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the relevant portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter;
- (e) evidence of payment of all amounts which are due and payable hereunder by the Borrower on or prior to the Delivery Date;
- (f) a certificate from the Borrower, signed by an authorised representative of the Borrower, confirming that:
 - (i) the representations and warranties contained in Clause 11 (*Representations and Warranties*) are true and correct as of the Delivery Date in consideration of the facts and circumstances existing as of the Delivery Date; and
 - (ii) no mandatory prepayment event pursuant to Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) is continuing or would result from the Loan;
- (g) an original or a certified copy of each of the SACE Required Documents and the Facility Agent and the SACE Agent shall be satisfied that the SACE Required Documents on their face appear properly completed and comply with the requirements of this Agreement and the requirements of the SACE Insurance Policy; and
- (h) provided always that the obligations of the Lenders to make the Loan available on the Delivery Date are subject to the Lenders remaining satisfied that each of the SACE Insurance Policy and the Interest Make-up Agreement will cover the Loan following the advance of the Loan, payment of the Second Instalment and delivery to the Facility Agent of the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.11 At Delivery

Immediately prior to the delivery of the Ship by the Builder to the Borrower, the Facility Agent shall have received:

- (a) evidence that immediately following delivery:
 - (i) the Ship will be registered in the name of the Borrower in the Maritime Registry;
 - (ii) title to the Ship will be held by the Borrower free of all Security Interests other than any maritime lien in respect of crew's wages and trade debts arising out of equipment, consumable and other stores placed on board the Ship prior to or concurrently with delivery, none of which is overdue;
 - (iii) the Mortgage will be duly registered in the Maritime Registry and constitutes a first priority security interest over the Ship and that all taxes and fees payable to the Maritime Registry in respect of the Ship have been paid in full; and
 - (iv) the opinions mentioned in paragraphs (b), (c) and (d) of Clause 3.12 (*Immediately following Delivery*), in draft form immediately prior to the delivery of the Ship, and the documents mentioned in paragraph (e) of Clause 3.12 (*Immediately following Delivery*) will be issued to and received by the Facility Agent;
- (b) a Certified Copy of a classification certificate (or interim classification certificate) showing the Ship to be classed in accordance with paragraph (c) of Clause 11.3 (*Representations on the Delivery Date*).
- (c) duly executed originals of the General Assignment, any Approved Manager's Undertaking and the Post-Delivery Assignment together with relevant notices of assignment and the acknowledgement of the notice of assignment to be issued pursuant to the General Assignment and the Post-Delivery Assignment;
- (d) a Certified Copy of any executed Management Agreement, any bareboat charter and any related security pursuant to paragraph (b) of Clause 13.1 (*Pooling of earnings and charters*) (if applicable) and any time charterparty in respect of the Ship;
- (e) a Certified Copy of any current certificate of financial responsibility in respect of the Ship issued under OPA, a valid Safety Management Certificate (or interim Safety Management Certificate) issued to the Ship in respect of its management by the Approved Manager pursuant to the ISM Code, a valid Document of Compliance (or interim Document of Compliance) issued to the Approved Manager in respect of ships of the same type as the Ship pursuant to the ISM Code, a valid International Ship Security Certificate issued to the Ship in accordance with the ISPS Code and a valid IAPPC issued to the Ship in accordance with Annex VI and, if entered into, any carrier initiative agreement with the United States' Customs and Border Protection under the Customs-Trade Partnership Against Terrorism (C-TPAT) programme along with any other documents required under the ISM Code and the ISPS Code;

- (f) a Certified Copy of the power of attorney pursuant to which the authorised signatory(ies) of the Borrower signed the documents referred to in this Clause 3.11 *(at Delivery)* and to which the Borrower is a party and a specimen of his or their signature(s); and
- (g) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom (or any replacement process agent satisfactory to the Facility Agent acting reasonably) that it will act for each of the relevant Obligor as agent for service of process in England in respect of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment and the Post-Delivery Assignment.

3.12 Immediately following Delivery

Immediately following the delivery of the Ship by the Builder to the Borrower, the Facility Agent (with copy to the Security Trustee), or, in the case of paragraph (a) below, the Security Trustee (with copy to the Facility Agent), shall receive:

- (a) a duly executed original of the Mortgage;
- (b) an opinion from legal counsel acceptable to the Secured Parties as to the law of the Maritime Registry in form and substance satisfactory to the Facility Agent and the Secured Parties confirming:
 - (i) the valid registration of the Ship in the Maritime Registry; and
 - (ii) the Mortgage over the Ship is a first priority security and has been validly registered in the Maritime Registry;
- (c) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and any other relevant security document entered into at delivery;
- (d) an opinion from legal counsel acceptable to the Secured Parties as to the laws of the state of Delaware in form and substance satisfactory to the Facility Agent and the Secured Parties together with the company documentation of the Borrower and a certificate of a competent officer or manager of the Borrower containing specimen signatures of the persons authorised to sign the documents on behalf of the Borrower, confirming that, without limitation:
 - (i) the Mortgage, the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) fall within the scope of the Borrower's company purpose as defined by its Memorandum of Association and By-laws and are binding on it; and
 - (ii) the Borrower's representatives are fully empowered to sign the Protocol of Delivery and Acceptance, the Mortgage, the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) and any related security pursuant to paragraph (b) of Clause 13.1 *(Pooling of earnings and charters)*; and
- (e) an opinion from legal counsel acceptable to the Secured Parties as to Panamanian law in form and substance satisfactory to the Facility Agent and the Secured Parties together with the corporate documentation of the Member as bareboat charterer and a certificate of a competent officer of the Shareholder containing specimen signatures of the persons authorised to sign the documents on behalf of the Member, confirming that, without limitation:

- (i) the General Assignment falls within the scope of the Member's corporate purpose as defined by its Articles of Incorporation and By-laws; and
 - (ii) the representative of the Member is fully empowered to sign the General Assignment;
- (f) the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.13 Notification of satisfaction of conditions precedent

The Facility Agent shall notify the Lenders and SACE promptly upon being satisfied as to the satisfaction of the conditions precedent referred to in this Clause 3 (*Conditions Precedent*).

3.14 Waiver of conditions precedent

If the Majority Lenders, at their discretion, subject to the prior written consent of SACE, permit the Loan to be borrowed before any of the conditions precedent referred to in Clause 3 (*Conditions Precedent*) has been satisfied, the Borrower shall ensure that that condition is satisfied within five (5) Business Days after the date (as specified in the relevant part of Clause 3 (*Conditions Precedent*)) or such later date as the Facility Agent may agree in writing with the Borrower.

3.15 Changes to SACE's or SIMEST's requirements

- (a) If SACE or SIMEST notifies the SACE Agent in writing of a change of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), or gives instructions to the SACE Agent with the effect that, in the opinion of the SACE Agent, this Agreement or certain documents which the Borrower is or may be required to provide for the purpose of drawing the Loan under this Agreement shall be amended to comply with such change or instructions, then the SACE Agent shall promptly notify the Borrower of such a change in SACE's or SIMEST's requirements (as applicable) and of the relevant amendments to be made to this Agreement or any such documents as the SACE Agent considers appropriate.
- (b) If the SACE Agent notifies the Borrower of any proposed changes to this Agreement under paragraph (a) above, and provided that:
 - (i) all the Lenders and the Borrower agree with such changes; and
 - (ii) the Borrower indemnifies and holds harmless the SACE Agent, the Facility Agent and the Lenders for any reasonable costs that it may incur arising from or in connection with any such amendments (including legal fees),

then such changes will be made to this Agreement in accordance with the terms hereof.

- (c) If, in the opinion of the Lenders, there are any provisions of this Agreement that contradict or conflict with any provision of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), such that compliance by any Creditor Party with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) may result in a breach by such Creditor Party of the any of the terms of this Agreement or to an extent that the same may have the effect of rendering all or any part of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) void, voidable or otherwise not in full force and effect, the Borrower agrees that any relevant terms of this Agreement will be amended to the extent agreed in writing between the Borrower, the Facility Agent and the SACE Agent to ensure compliance with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable).

3.16 No claim against the Creditor Parties

The Borrower agrees that the Creditor Parties may act on the instructions of the Italian Authorities in relation to this Agreement.

3.17 Examination and reliance on documents by the Facility Agent

- (a) The SACE Agent shall ensure that an officer or employee or other person designated by it as its authorised representative is present at the Builder on the Delivery Date for the purpose of examining originals (or certified copies) of the SACE Required Documents duly signed by the parties thereto and collecting copies thereof (which copies shall be certified as true copies by an authorised signatory of the Builder and/or the Borrower, as applicable).
- (b) The Facility Agent shall be entitled (but not obliged) to rely and act upon any documentation or information provided under this Clause 3 *Conditions Precedent*, which appears on its face to have been duly completed.
- (c) The Facility Agent's responsibility to the Borrower and the Lenders for the examination of the Drawdown Notice, and, when applicable, the documents provided by any person other than the Borrower in connection with the Drawdown Notice, shall be limited to the examination of their apparent compliance with the terms and conditions thereof in accordance with Articles 14 (Standard of examination of documents) and 34 (Disclaimer on effectiveness of documents) of the "Uniform Customs and Practice for Documentary Credits" (currently publication number 600 of the International Chamber of Commerce, latest edition) (except that no time limit for examination of documents shall apply).
- (d) The Facility Agent and the Lenders shall not be obliged to enquire as to, or be responsible for, the validity, truthfulness and genuineness and (where the relevant document is a conformed copy) conformity to the original of the Drawdown Notice or any other document which appears on its face to be in order, or of any signatures thereon or any of the statements set out therein and shall be entitled to rely on the accuracy of any such statements.
- (e) In case of any discrepancy in any such documents, the Facility Agent shall notify the Borrower in writing thereof and shall request its approval of such discrepancy in writing.
- (f) The Facility Agent and the Lenders shall not be responsible for any delay in making available the Loan resulting from any requirement for the delivery of further information or documents reasonably required by the Facility Agent for the relevant conditions precedent in this Agreement to be satisfied.

4 DRAWDOWN

4.1 Borrower's irrevocable payment instructions

The Lenders shall not be obliged to fulfil their obligation to make the Loan available other than (i) by paying the Builder all or part of eighty per cent. (80%) of the Final Contract Price on behalf of and in the name of the Borrower, (ii) by reimbursing the Borrower for the First Instalment of the SACE Premium which was paid by the Borrower to SACE on the earlier of (A) the date falling 30 days after the issuance of the SACE Insurance Policy and (B) the date falling 6 months after the date of SACE's board approval and (iii) by payment to SACE of the Second Instalment of the SACE Premium payable on the Drawdown Date. For the avoidance of doubt, the amount of the Loan shall not exceed the Maximum Loan Amount.

The Borrower hereby instructs the Lenders in accordance with this Clause 4.1 (*Borrower's irrevocable payment instructions*):

- (a) to pay to the Builder, up to the Eligible Amount, all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) to reimburse the Borrower the amount of the First Instalment of the SACE Premium already paid by the Borrower to SACE on the date specified in paragraph (a) of Clause 8.1; and
- (c) to pay to the Facility Agent on behalf of the Lenders for onward payment to SACE (such payment to SACE to be made for value on the Drawdown Date), by drawing under this Agreement, the amount of the Second Instalment of the SACE Premium.

Payment to the Builder of the amount drawn under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) above shall be made on the Drawdown Date during usual banking hours in Italy to the Builder's account as specified by the Builder in accordance with the Shipbuilding Contract after receipt and verification by the Facility Agent of the documents provided under Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

Save as contemplated in Clause 4.3 (*Modification of payment terms*) below, the payment instruction contained in this Clause 4.1 (*Borrower's irrevocable payment instructions*) is irrevocable.

4.2 Conversion Rate for Loan

The Dollar amount to be drawn down under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) shall be calculated by the Facility Agent on the Conversion Rate Fixing Date in accordance with the definitions of "Eligible Amount" and "Conversion Rate" in Clause 1.1 (*Definitions*).

4.3 Modification of payment terms

The Borrower expressly acknowledges that the payment terms set out in this Clause may only be modified with the agreement of the Italian Authorities, the Facility Agent, the Security Trustee, the Lenders and the Borrower in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) and with the agreement of the Italian Authorities, the Facility Agent, the Lenders and the Borrower in the case of paragraphs (b) and (c) of Clause 4.1 (*Borrower's irrevocable payment instructions*); **provided that** it is the intention of the Borrower, the Lenders, the Security Trustee and the Facility Agent that prior to the Conversion Rate Fixing Date agreement shall be reached with those financial institutions with whom the Borrower has entered into the FOREX Contracts (the "**Counterparties**") in order that the Euro payments due from the Counterparties under the FOREX Contracts shall be paid to the Facility Agent for holding in escrow and to be released by the Facility Agent simultaneously with (i) the payment in full to the Builder of the balance of the Final Contract Price denominated in Euro at the time of delivery of the Ship and (ii) the payment to the Counterparties of the Dollars due to them under the relevant FOREX Contracts out of the Dollar amount available under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*), subject only to delivery of the Ship by the Builder to the Borrower taking place as evidenced by the execution and delivery of the Protocol of Delivery and Acceptance and to the Borrower having deposited with the Facility Agent before the Drawdown Date, if and to the extent required, any Dollar and/or Euro amounts as may be needed to ensure the payment in full of both the balance of the Final Contract Price in Euro and the Dollars owed to the Counterparties under all the relevant FOREX Contracts.

4.4 Availability and conditions

- (a) Drawing may not be made under this Agreement (and the Loan shall not be available) after the expiry of the Availability Period.
- (b) There will be only one drawing under this Agreement.
- (c) The aggregate amount of the Loan cannot exceed the Maximum Loan Amount.

4.5 Notification to Lenders of receipt of a Drawdown Notice

The Facility Agent shall promptly and, in any case, by no later than three (3) Business Days before the Drawdown Date, notify the Lenders that it has received a Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;
- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the first Interest Period.

4.6 Lenders to make available Contributions

Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Facility Agent the amount due from that Lender under Clause 2.2 (*Lenders' participations in Loan*).

4.7 Disbursement of Loan

Subject to the provisions of this Agreement, the Facility Agent shall on the Drawdown Date pay the amounts which the Facility Agent receives from the Lenders under Clause 4.6 (*Lenders to make available Contributions*) in the like funds as the Facility Agent received the payments from the Lenders:

- (a) in the case of the amount referred to in paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*), to the account of the Builder which the Borrower specifies in the Drawdown Notice; and

- (b) in the case of an amount referred to in paragraph (b) of Clause 4.1 *Borrower's irrevocable payment instructions*) to the account of the Borrower which the Borrower shall specify; and
- (c) in the case of an amount referred to in paragraph (c) of Clause 4.1 *Borrower's irrevocable payment instructions*) to the account of SACE which the SACE Agent shall specify.

4.8 Disbursement of Loan to third party

The payment by the Facility Agent under Clause 4.7 (*Disbursement of Loan*) shall constitute the making of the Loan and the Borrower shall at that time become indebted, as principal and direct obligor, to each Lender in an amount equal to that Lender's Contribution.

5 REPAYMENT

5.1 Number of repayment instalments

The Borrower shall repay the Loan by twenty-four (24) consecutive six-monthly instalments from the earlier of (i) the Delivery Date and (ii) the date of actual disbursement of the Loan (the "**Starting Point of Repayment**").

5.2 Repayment Dates

The first repayment instalment shall be repaid on the date falling six (6) months after the Starting Point of Repayment and the last repayment instalment on the date falling one hundred and forty-four (144) months after the Starting Point of Repayment, each date of payment of an instalment being a "**Repayment Date**".

5.3 Amount of repayment instalments

Each repayment instalment of the Loan shall be of an equal amount.

5.4 Final Repayment Date

On the final Repayment Date, the Borrower shall additionally pay to the Facility Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.

6 INTEREST

6.1 Fixed or Floating Interest Rate

The Borrower shall provide notification, signed by a duly authorised signatory of the Borrower, to the SACE Agent (with a copy to the Facility Agent) at least [*] days before the Drawdown Date specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable until the date of payment of the final repayment instalment of the Loan.

6.2 Fixed Interest Rate

If the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the Loan shall bear interest in respect of each Interest Period at the Fixed Interest Rate. Such interest shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid on the last day of each Interest Period.

6.3 Floating Interest Rate

If:

- (a) the Borrower has specified a Floating Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*); or
- (b) the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*) but thereafter for any reason whatsoever the Interest Make-up Agreement is suspended or otherwise ceases to be in effect; or
- (c) SIMEST has requested a change of currency pursuant to the Interest Make-up Agreement and such change of currency is not agreed by the Borrower or Lenders in accordance with Clause 6.16 (*Change of currency*); or
- (d) SIMEST has failed to make a net payment of interest to the Lenders pursuant to the Interest Make-up Agreement,

the rate of interest on the Loan in respect of any Interest Period shall be the Floating Interest Rate applicable for that Interest Period and the following provisions of this Clause 6 (*Interest*) shall apply (in the case of the circumstances referred to in paragraph (b) above, with effect from the date on which the Interest Make-up Agreement ceases to be in effect, with such consequential amendments as shall be necessary to give effect to the switch from a Fixed Interest Rate to a Floating Interest Rate).

6.4 Payment of Floating Interest Rate

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid by the Borrower on the last day of that Interest Period.

6.5 Notification of Interest Periods and Floating Interest Rate

The Facility Agent shall notify the Borrower and each Lender of each Floating Interest Rate and the duration of each Interest Period as soon as reasonably practicable after each is determined and no later than the Quotation Date.

6.6 Unavailability of Screen Rate

- (a) *Market disruption:* If, on a Quotation Date, no Screen Rate is available for LIBOR, LIBOR shall be the rate quoted to the Facility Agent by the Lenders who are able to quote such rate at the request of the Facility Agent as those Lenders' offered rate for deposits of Dollars in an amount approximately equal to the amount in relation to which LIBOR is to be determined for a period equivalent to such period to prime banks in the London interbank eurocurrency market at or about 11 a.m. (London time) on the Quotation Date for such period.
- (b) If:
 - (i) no Screen Rate is quoted and the Lenders do not (pursuant to paragraph (a) above), before 1.00 p.m. (London time) on the Quotation Date for an Interest Period, provide quotations to the Facility Agent in order to fix LIBOR; or

- (ii) at least 1 Business Day before the start of an Interest Period, Lenders having Contributions together amounting to more than [*] per cent. of the Loan (or, if the Loan has not been made, Commitments amounting to more than [*] per cent. of the Total Commitments) notify the Facility Agent that LIBOR fixed by the Facility Agent would not accurately reflect the cost to those Lenders of funding their respective Contributions (or any part of them) during the Interest Period in the London Interbank Market at or about 11.00 a.m. London time on the Quotation Date for the Interest Period; or
- (iii) at least 1 Business Day before the start of an Interest Period, the Facility Agent is notified by a Lender (the "**Affected Lender**") that for any reason it is unable to obtain Dollars in the London Interbank Market in order to fund its Contribution (or any part of it) during the Interest Period,

the following provisions of this Clause 6 (*Interest*) apply.

6.7 Notification of market disruption

The Facility Agent shall promptly notify the Borrower and each of the Lenders stating the circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which have caused its notice to be given.

6.8 Suspension of drawdown

If the Facility Agent's notice under Clause 6.6 (*Unavailability of Screen Rate*) is served before the Loan is made:

- (a) in a case falling within sub-paragraphs (i) or (ii) of paragraph (b) of Clause 6.6 *Unavailability of Screen Rate*, the Lenders' obligations to make the Loan;
 - (b) in a case falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 *Unavailability of Screen Rate*, the Affected Lender's obligation to participate in the Loan;
- shall be suspended while the circumstances referred to in the Facility Agent's notice continue.

6.9 Negotiation of alternative rate of interest

If the Facility Agent's notice under Clause 6.7 (*Notification of market disruption*) is served after the Loan is made, the Borrower, the Facility Agent and the Lenders or (as the case may be) the Affected Lender shall use reasonable endeavours to agree, in consultation with SACE and SIMEST, within the 30 days after the date on which the Facility Agent serves its notice under Clause 6.7 (*Notification of market disruption*) (the "**Negotiation Period**"), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.

6.10 Application of agreed alternative rate of interest

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

6.11 Alternative rate of interest in absence of agreement

- (a) If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the Reference Bank Rate for Dollars.
- (b) If, following the end of the Negotiation Period and request by the Facility Agent for a quotation by the Reference Banks pursuant to paragraph (a) above, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period and the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the cost of funding of the Lenders or (as the case may be) the Affected Lender in Dollars or in any available currency of their or its contribution plus the Margin; and the procedure provided for by this Clause 6.11 (*Alternative rate of interest in absence of agreement*) shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Facility Agent.

6.12 Notice of prepayment

If the Borrower does not agree with an interest rate set by the Facility Agent under Clause 6.11 (*Alternative rate of interest in absence of agreement*), the Borrower may give the Facility Agent not less than 15 Business Days', or, if the Fixed Interest Rate has been selected pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), 30 days, notice of its intention to prepay at the end of the interest period set by the Facility Agent.

6.13 Prepayment; termination of Commitments

A notice under Clause 6.12 (*Notice of prepayment*) shall be irrevocable; the Facility Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender and, if the Fixed Interest Rate has been selected by the Borrower, SIMEST of the Borrower's notice of intended prepayment; and:

- (a) on the date on which the Facility Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender shall be cancelled; and 6.6(b)(i)
- (b) on the last Business Day of the Interest Period set by the Facility Agent, the Borrower shall prepay (without premium or penalty subject to the provisions of Clause 20.2 (*Breakage costs and SIMEST arrangements*)) the Loan or, as the case may be, the Affected Lender's Contribution, together with accrued interest thereon at the applicable rate (being either the Floating Interest Rate or the Fixed Interest Rate as specified by the Borrower pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*)).

6.14 Application of prepayment

The provisions of Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) shall apply in relation to the prepayment.

6.15 Certain Circumstances

Notwithstanding anything to the contrary in this Agreement:

- (a) in the event of any circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which might affect the advance of the Loan on the Drawdown Date (the "**Relevant Circumstances**"):
 - (i) occurring and being continuing on the date falling ninety (90) days before the Intended Delivery Date (the "**Relevant Date**"), each Lender will notify the Borrower (through the Facility Agent) of the Relevant Circumstances on the Relevant Date or, if the Relevant Date is not a Business Day, on the next following Business Day; and
 - (ii) occurring after the Relevant Date, each Lender will notify the Borrower (through the Facility Agent) immediately upon such Lender becoming aware of the Relevant Circumstances;
- (b) in the event of any Relevant Circumstances falling within sub-paragraphs (i) or (ii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Pricing-Related Relevant Circumstances**") occurring before the Loan is made available and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will fund its respective Contributions by reference to the agreed alternative rate of interest in accordance with Clauses 6.9 (*Negotiation of alternative rate of interest*), 6.10 (*Application of agreed alternative rate of interest*) and 6.11 (*Alternative rate of interest in absence of agreement*) as if the provisions of such Clauses applied not only in the event that the Pricing-Related Relevant Circumstances have been notified by the Facility Agent to the Borrower after the making of the Loan but also before the making of the Loan;
- (c) in the event of any Relevant Circumstances falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Availability-Related Relevant Circumstances**") occurring before the Loan is made and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will enter into good faith discussions with the Borrower for a period not exceeding 10 Business Days in order to discuss a basis on which the Lenders could be able to fund their respective Contributions in Dollars (or, if unavailable in Dollars, then in any available currency). Such discussions shall be without obligation on the Lenders provided that during such discussion period, such circumstances continue.

6.16 Change of currency

- (a) In the event that the SACE Agent notifies the Borrower that SIMEST has requested a change in the currency of the Loan in accordance with clause 6.3 of the Interest Make-up Agreement, the Borrower and the Lenders shall, without obligation, consider such request for a change of currency acting reasonably for a period of not exceeding 10 Business Days. Following such discussions the SACE Agent shall report the decision of the Facility Agent, the Borrower and the Lenders to SIMEST, providing their reason for any negative decision.
- (b) In the event that a change of currency is agreed the Parties agree to negotiate in good faith the necessary changes to this Agreement, the Finance Documents, the SACE Insurance Policy and the Interest Make-up Agreement in order to document the change in currency.
- (c) In the event that a change in currency is not acceptable to the Lenders or the Borrower, the provision of paragraph (c) of Clause 6.3 (*Floating Interest Rate*) shall apply.

6.17 Modification and/or discontinuation of certain benchmarks

Without prejudice to any other provisions of this Agreement, each Party acknowledges and agrees to the benefit of the other Party that:

- (a) LIBOR benchmarks (i) may be subject to methodological or other changes which could affect their value, (ii) may not comply with applicable laws and regulations (such as the European Benchmark Regulation as far as EURIBOR and EONIA are concerned) and/or (iii) may be permanently discontinued (in particular LIBOR which may be phased out after 2021).
- (b) The occurrence of any of the aforementioned events and/or a Screen Rate Replacement Event may have adverse consequences which may materially impact the economics of the financing transaction contemplated under this Agreement.
- (c) The Parties further acknowledge that if any of the aforementioned events and/or a Screen Rate Replacement Event is forthcoming, they shall enter into negotiations with a view to agreeing the necessary changes to this Agreement in order to preserve the economics of the financing transaction contemplated therein and, in particular, the margin initially agreed between the Parties. Such negotiations shall be carried out by each Party in good faith and in consideration of the then prevailing market practice (without prejudice to the particularities, as the case may be, of the transaction).

6.18 Replacement rate

- (a) If any of the events described in clause 6.17 (including a Screen Rate Replacement Event in relation to the Screen Rate) has occurred, 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 fall back and market disruption provisions for that Replacement Benchmark;
 - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practical, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders) and the Obligors.

- (b) If any Lender fails to respond to a request for an amendment to waiver described in paragraph (a) above, within fifteen (15) Business Days (or such longer period in relation to any request which the Borrower and the Facility Agent may agree) of that request being made:
- (i) its Commitment shall not be included for the purpose of calculating the Total Commitments under the relevant Loan when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
 - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

7 INTEREST PERIODS

7.1 Commencement of Interest Periods

The first Interest Period applicable to the Loan shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period.

7.2 Duration of Interest Periods

Subject to Clause 7.3 (*Duration of Interest Periods for Repayment Instalments*), each Interest Period shall be 6 months.

7.3 Duration of Interest Periods for Repayment Instalments

Any Interest Period that includes a Repayment Date shall expire on such Repayment Date.

8 SACE PREMIUM AND ITALIAN AUTHORITIES

8.1 SACE Premium

The estimated SACE Premium for an amount equal to[*] (being [*] per cent. ([*]%) of the Maximum Loan Amount), is due and payable in two instalments as follows:

- (a) the first instalment of the SACE Premium being an amount of[*] [*] (calculated as being [*] per cent. ([*]%) of the SACE Premium) (the **'First Instalment'**) shall be paid by the Borrower to SACE (provided that the Borrower and the Lenders have been notified by the SACE Agent that the SACE Insurance Policy has been issued) on the earlier of (i) the date falling 30 days after the issuance of the SACE Insurance Policy and (ii) 5 April 2019, being the date falling 6 months after the date of SACE's board approval or any other later date as communicated by SACE; and
- (b) the second instalment of the SACE Premium being an amount of[*] (calculated as being [*] per cent. ([*]%) of the SACE Premium) (the **'Second Instalment'**) and shall be payable on or prior to the Drawdown Date. For the sake of clarity, no set-off with the First Instalment shall be permitted.

8.2 Reimbursement by the Borrower of the SACE Premium

The Borrower irrevocably agrees to pay the First Instalment, and to instruct the Lenders to pay the Second Instalment on behalf of the Borrower as follows:

- (a) the Borrower has requested and the Lenders have agreed to reimburse the payment of one hundred per cent. (100%) of the First Instalment to the Borrower on the Drawdown Date, it being agreed that such First Instalment shall be paid to SACE by the Borrower in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*) and upon notification by the Facility Agent to the Borrower (i) of the issuance of the SACE Insurance Policy documentation in the form required by paragraph (g) of Clause 3.4 (*No later than ninety (90) days before the Intended Delivery Date*), and (ii) of the amount of the First Instalment; and
- (b) the Borrower has requested and the Lenders have agreed to finance the payment of one hundred per cent. (100%) of the Second Instalment on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement.

Consequently, the Borrower hereby irrevocably instructs the Facility Agent on behalf of the Lenders to pay the Second Instalment to SACE on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement and to reimburse the Borrower by the Borrower drawing under the Loan the amount of the First Instalment in accordance with paragraph (b) of Clause 2.1 (*Amount of facility*) of this Agreement.

The First Instalment and Second Instalment each financed by the Loan will be repayable in any event by the Borrower to the Lenders in the manner specified in Clause 5 (*Repayment*) and under any and all circumstances including but without limitation in the event of prepayment or acceleration of the Loan.

8.3 Italian Authorities

- (a) The Borrower acknowledges and agrees that the Facility Agent, the SACE Agent and the Lenders are entitled to provide the Italian Authorities with any information they may have relative to the Loan and the business of the Group, to allow the Italian Authorities to inspect all their records relating to this Agreement and the other Transaction Documents and to furnish them with copies thereof. Any such information relative to the Loan may also be given by any Italian Authorities to international institutions charged with collecting statistical data.
- (b) The Borrower acknowledges that, in the making of any decision or determination or the exercise of any discretion or the taking or refraining to take any action under this Agreement or any of the other Finance Documents, the Facility Agent, the SACE Agent and the Lenders shall be deemed to have acted reasonably if they have acted on the instructions of either of the Italian Authorities.
- (c) Each Party further undertakes not to act in a manner which is inconsistent with the terms of the SACE Insurance Policy and the Interest Make-up Agreement.

8.4 Refund

- (a) The Borrower shall, at the latest on the date falling sixty (60) days before the Intended Delivery Date, provide a notice in writing to the SACE Agent (who will promptly forward it to other Lenders and SACE), signed by an authorised signatory of the Borrower, indicating the amount of the Loan to be drawn on the Delivery Date less (i) any amount cancelled based on the Conversion Rate and (ii) the Refund (as defined below) to be refunded in accordance with paragraph (b), such amount of the Refund to be confirmed by SACE at least six (6) Business Days prior to the Delivery Date. The Borrower hereby agrees and shall confirm in such notice that the remaining Commitments shall be deemed to be cancelled. The Borrower acknowledges, for the avoidance of doubt, that the shortfall to be paid to the Builder at the Delivery Date shall be funded and paid directly by the Borrower to the Builder.

- (b) If the Loan is less than the Maximum Loan Amount, and provided that no Event of Default has occurred and is then continuing and no loss has occurred under the SACE Insurance Policy, the Borrower shall be entitled to a refund of the Second Instalment of the SACE Premium in an amount calculated by SACE on the undrawn amount (the "**Refund**"). For the avoidance of doubt, the First Instalment of the SACE Premium is non-refundable, irrespective of whether any disbursements have been made under this Agreement and irrespective of whether the SACE Insurance Policy has been terminated.
- (c) Any refund of the Second Instalment of the SACE Premium, whether in whole or in part, must be expressly requested by the SACE Agent to SACE in writing following receipt by the SACE Agent of the Borrower's notice referred to in paragraph (a) above.
- (d) To the extent the Borrower is entitled to the Refund, SACE shall transfer the Refund as soon as practicably possible to the SACE Agent who shall as soon as practicably possible following receipt thereof transfer such amount to the Borrower. The Borrower hereby acknowledges that SACE shall not be liable to pay interest to the Borrower on the amount of the Refund.
- (e) Under the terms of the SACE Insurance Policy, the Parties acknowledge that SACE will withhold an amount of [*] per cent. ([*]%) from the amount of the SACE Premium to be refunded. Such withholding, charged as a lump sum to cover administration and management costs for the SACE Insurance Policy, may not, in any event, amount to less than the equivalent of [*] Euros (€[*]) or more than the equivalent of [*] Euros (€[*]), calculated by SACE at the European Central Bank EUR/USD exchange rate as at the date of the refund request.
- (f) Except as set out in paragraphs (a) to (c) above, no part of the SACE Premium is refundable to any Obligor.
- (g) In no event shall the SACE Agent be liable for any refund of the SACE Premium to be made by SACE or for the calculation of any Refund and/or withholding thereof.

9 FEES

9.1 Fees

The following fees shall be due by the Borrower and payable as required hereunder:

- (a) to the Facility Agent, for the benefit of the Joint Mandated Lead Arrangers, a Joint Mandated Lead Arranger structuring fee (the "**Structuring Fee**") in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (b) to the Facility Agent, for the benefit of the Lenders, a commitment fee in Dollars for the period from the Effective Date to the Delivery Date of the Ship, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, computed at the rate of:

- (i) from the Effective Date to and including 31 December 2019, [*] per cent. ([*]%) per annum;
- (ii) from 1 January 2020 to and including 31 December 2020, [*] per cent. ([*]%) per annum; and
- (iii) from 1 January 2021 to and including the Delivery Date, [*] per cent. ([*]%) per annum;

and calculated on the undrawn amount of the Maximum Loan Amount and payable in arrears on the date falling six (6) months after the Effective Date and on each date falling at the end of each following consecutive six (6) month period, with the exception of the commitment fee due in respect of the last period, which shall be paid on the Delivery Date, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, such commitment fee to be calculated on the actual number of days elapsed divided by three hundred and sixty (360). For the purpose of the computation of the periodical commitment fee payable to the Lenders, the Maximum Loan Amount is assumed to be six hundred and ninety million seven hundred and eighteen thousand and seventy Dollars and fifty-four cents (\$690,718,070.54);

- (c) to the Facility Agent, for its own account, an agency fee in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (d) to the SACE Agent, a SACE agency fee in the amount and payable at the time separately agreed in writing between the SACE Agent and the Borrower; and
- (e) to the Security Trustee, a security trustee fee in the amount and payable at the time separately agreed in writing between the Security Trustee and the Borrower.

10 TAXES, INCREASED COSTS, COSTS AND RELATED CHARGES

10.1 Definitions

- (a) In this Agreement:

"Protected Party" means a Secured Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"Tax Credit" means a credit against, relief or remission for, or repayment of any Tax.

"Tax Deduction" means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

"Tax Payment" means either the increase in a payment made by an Obligor to a Secured Party under Clause 10.2 (*Tax gross-up*) or a payment under Clause 10.3 (*Tax indemnity*).

- (b) Unless a contrary indication appears, in this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) reference to **"determines"** or **"determined"** means a determination made in the absolute discretion of the person making the determination.

10.2 Tax gross-up

- (a) Each Obligor shall make all payments to be made by it under the Finance Documents 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 Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the 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 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) A payment shall not be increased under paragraph (c) above if on the date on which the payment falls due the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender (having been given notice of the documentation requested under Clause 10.7 (*Lender Status*) at least 30 Business Days prior to such payment date) complied with its obligations under Clause 10.7 (*Lender Status*).
- (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 thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Secured Party entitled to the payment evidence reasonably satisfactory to that Secured Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

10.3 Tax indemnity

- (a) The Borrower shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Secured Party:
 - (A) under the law of the jurisdiction in which that Secured Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Secured Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Secured Party; or

- (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) or would have been compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) but was not so compensated solely because an exclusion in paragraph (d) of Clause 10.2 (*Tax gross-up*) applied, or relates to a FATCA Deduction required to be made by a Party; or
 - (iii) with respect to the Taxes in the nature of a branch profits tax imposed by Section 884(a) of the Code that is imposed by any jurisdiction described in paragraph (b)(i)(B) above.
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
 - (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 10.3 (*Tax indemnity*), notify the Facility Agent.

10.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Creditor Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Creditor Party has obtained, retained and utilised that Tax Credit,

the Creditor Party shall pay an amount to the Obligor which that Creditor 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.

10.5 Stamp taxes

The Borrower shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

10.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Secured 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 Secured Party to any Party under a Finance Document and such Secured Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Secured 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 Secured Party must promptly provide an appropriate VAT invoice to that Party).

- (b) If VAT is or becomes chargeable on any supply made by any Secured Party (the "**Supplier**") to any other Secured Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
- (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Secured Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Secured Party for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that such Secured 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 10.6 (*VAT*) to any Party being required to account to a tax authority for VAT shall, at any time when such Party is treated as a member of a group for VAT purposes, include a reference to another member of that group being required to so account to the relevant tax authority.
- (e) In relation to any supply made by a Secured Party to any Party under a Finance Document, if reasonably requested by such Secured Party, that Party must promptly provide such Secured Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Secured Party's VAT reporting requirements in relation to such supply.

10.7 Lender Status

- (a) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under a Finance Document shall deliver to the Facility Agent and the Borrower, at the time or times reasonably requested by the Facility Agent or the Borrower, such properly completed and executed documentation reasonably requested by the Facility Agent or the Borrower (and which it is reasonable for the Lender to complete and execute) as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Facility Agent or the Borrower, shall deliver such other documentation as prescribed by applicable law and reasonably requested by the Facility Agent or the Borrower as will enable the Facility Agent or the Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

- (b) Any Lender shall, to the extent it is legally entitled to do so, and where it is entitled to an exemption from, or reduction of, U.S. federal withholding tax, deliver to the Facility Agent and the Borrower on or prior to the date on which such Lender becomes a Lender under this Agreement or promptly thereafter (and from time to time thereafter as prescribed by applicable law or upon the request of the Facility Agent or the Borrower), duly executed and properly completed copies of Internal Revenue Service Form W-9 or W-8, as applicable, certifying that it is not subject to U.S. federal backup withholding and, in the case of a non-U.S. Lender that is eligible for an exemption from, or reduction of, U.S. federal withholding Tax establishing an exemption from, or reduction of, U.S. federal withholding Tax.

10.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower, the Facility Agent and the other Secured Parties.

10.9 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 Creditor 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 paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) Each Lender shall, within ten Business Days of (i) where the relevant Lender is a Lender at the date of this Agreement, the date of this Agreement and (ii) where the relevant Lender is a Transferee Lender, the effective date of a Transfer Certificate under Clause 24.4 (*Effective Date of Transfer Certificate*), supply to the Facility Agent:
 - (i) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (ii) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.
- (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.
- (i) Each Party acknowledges that CDP is a FATCA Exempt Party pursuant to article 1, paragraph 11.1(e) of the Italian Mef Decree dated 6 August 2015 enacting Italian law of 18 June 2015 no. 95, which ratified the agreement between the Government of the US and the Government of the Republic of Italy to improve international tax compliance and to implement FATCA, signed in Rome in 10 January 2014.

10.10 Increased Costs

- (a) If after the date of this Agreement by reason of (x) any change in law or in its interpretation or administration and/or (y) compliance with any request from or requirement of any central bank or other fiscal, monetary or other authority including but without limitation the Basel Committee on Banking Regulations and Supervisory Practices whether or not having the force of law:

- (i) any of the Lenders incurs a cost as a result of its performing its obligations under this Agreement and/or its making available its Commitment hereunder; or
- (ii) there is any increase in the cost to any of the Lenders of funding or maintaining all or any of the advances comprised in a class of advances formed by or including its Commitment advanced or to be advanced by it hereunder; or
- (iii) any of the Lenders incurs a cost as a result of its having entered into and/or its assuming or maintaining its commitment under this Agreement; or
- (iv) any of the Lenders becomes liable to make any payment on account of Tax or otherwise (other than Tax on its overall net income) on or calculated by reference to the amount of its Commitment advanced or to be advanced hereunder and/or any sum received or receivable by it hereunder; or
- (v) any of the Lenders suffers any decrease in its rate of return as a result of any changes in the requirements relating to capital ratios, monetary control ratios, the payment of special deposits, liquidity costs or other similar requirements affecting that Lender,

then the Borrower shall on demand pay to the Facility Agent for the account of the relevant Lender or Lenders amounts sufficient to indemnify the relevant Lender or Lenders against, as the case may be, such cost, such increased cost (or such proportion of such increased cost as is in the reasonable opinion of the relevant Lender or Lenders attributable to the funding or maintaining of its or their Commitment(s) hereunder) or such liability.

(b) This Clause 10.10 (*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 10.3 (*Tax indemnity*) (or would have been compensated for under Clause 10.3 (*Tax indemnity*) but was not compensated solely because any of the exclusions in paragraph (b) of Clause 10.3 (*Tax indemnity*) applied); or
- (iv) attributable to the wilful breach by the relevant Creditor Party or its Affiliates of any law of regulation.

In this Clause 10.10 (*Increased Costs*), a reference to a "Tax Deduction" has the same meaning given to the term in Clause 10.1 (*Definitions*).

(c) A Lender affected by any provision of this Clause 10.10 (*Increased Costs*) shall promptly inform the Facility Agent after becoming aware of the relevant change and its possible results (which notice shall be conclusive evidence of the relevant change and its possible results) and the Facility Agent shall, as soon as reasonably practicable thereafter, notify the Borrower of the change and its possible results. Without affecting the Borrower's obligations under this Clause 10.10 (*Increased Costs*) and in consultation with the Facility Agent and the Italian Authorities, the affected Lender will then take all such reasonable steps as may be open to it to mitigate the effect of the change (for example (if then possible) by changing its Facility Office or transferring some or all of its rights and obligations under this Agreement to another financial institution reasonably acceptable to the Borrower, the Facility Agent and the Italian Authorities). The reasonable costs of mitigating the effect of any such change shall be borne by the Borrower save where such costs are of an internal administrative nature and are not incurred in dealings by any Lender with third parties.

10.11 Transaction Costs

- (a) The Borrower undertakes to pay to the Facility Agent, the SACE Agent and the Security Trustee as applicable:
- (i) upon demand, all costs and expenses, duties and fees, including, but without limitation, pre-agreed legal costs (which, for avoidance of doubt are exclusive of VAT and disbursements) out of pocket expenses and travel costs, reasonably incurred by the Italian Authorities, the Joint Mandated Lead Arrangers, the Security Trustee, the Facility Agent, the SACE Agent and the Lenders (but not including any bank which becomes a Lender after the date of this Agreement) in connection with the negotiation, preparation, execution and perfection of all agreements, guarantees, security agreements and related documents entered into, or to be entered into, for the purpose of the transaction contemplated hereby; and
 - (ii) all costs and expenses (including legal fees) (together with any applicable VAT), duties and fees incurred by the Facility Agent, the Security Trustee, the Joint Mandated Lead Arrangers, the SACE Agent, the Lenders or the Italian Authorities in connection with the registration, filing, enforcement or discharge of the said guarantees or security interests, including, without limitation, the fees and expenses of legal advisers and insurance experts (provided that such insurance costs are not to exceed ten thousand Dollars (\$10,000)) and the related travel and out of pocket expenses.
- (b) the Borrower further undertakes to pay:
- (i) to the Facility Agent, all costs, expenses, duties and fees incurred by the Facility Agent, the SACE Agent, the Security Trustee, the Lenders and the Italian Authorities in connection with any amendment or variation of this Agreement and the related documents, guarantees and security agreements, any supplements thereto and waiver given in relation thereto and in connection with the investigation of any potential Event of Default;
 - (ii) to the Security Trustee the amount of all costs and expenses (together with any applicable VAT) incurred in connection with the enforcement or preservation of any rights under this Agreement and/or the related guarantees and security agreements, (including in each case the fees and expenses of legal advisers) and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security Interest and/or the Security Property or enforcing these rights.

10.12 Costs of delayed Delivery Date

The Borrower undertakes to pay to the Facility Agent, upon demand, any costs incurred by the Lenders and/or the Italian Authorities in funding the Loan in the event that the Delivery Date is later than the Intended Delivery Date unless the Borrower has given the Facility Agent at least three (3) Business Days' notification of such delay in the Delivery Date.

10.13 SACE obligations

To the extent that this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

11 REPRESENTATIONS AND WARRANTIES

11.1 Timing and repetition

The following applies in relation to the time at which representations and warranties are made and repeated:

- (a) the representations and warranties in Clause 11.2 (*Continuing representations and warranties*) are made on the date of this Agreement (apart from the representation at paragraphs (e) and (f) of Clause 11.2 (*Continuing representations and warranties*) which shall only be made on the date of this Agreement and the Effective Date and shall not be further repeated) and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents; and
- (b) the representations and warranties in Clause 11.3 (*Representations on the Delivery Date*) are made on the Delivery Date and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made thereafter on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents.

11.2 Continuing representations and warranties

The Borrower represents and warrants to each of the Secured Parties that:

- (a) each Obligor is a limited liability company or body corporate duly organised, formed or (as the case may be) incorporated, constituted and validly existing under the laws of the country of its formation or (as the case may be) incorporation, possessing perpetual existence, the capacity to sue and be sued in its own name and the power to own and charge its assets and carry on its business as it is now being conducted;
- (b) the membership interests of the Member in the Borrower are represented by Common Units. 1,000 Common Units are authorised for issuance, all of which are held by the Member;
- (c) the legal title to and beneficial interest in the equity in the Borrower is held free of any Security Interest (other than pursuant to the Pledge Agreement) or any other claim by the Member;
- (d) none of the equity in the Borrower is subject to any option to purchase, pre-emption rights or similar rights;
- (e) each Obligor has the power to enter into and perform this Agreement and those of the other Transaction Documents to which it is a party and the transactions contemplated hereby and thereby and has taken all necessary action to authorise the entry into and performance of this Agreement and such other Transaction Documents and such transactions;

- (f) this Agreement and each other Transaction Document constitutes (or will constitute when executed) legal, valid and binding obligations of each Obligor expressed to be a party thereto enforceable in accordance with their respective terms and in entering into this Agreement and borrowing the Loan, the Borrower is acting on its own account;
- (g) the entry into and performance of this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby do not and will not conflict with:
- (i) any law or regulation or any official or judicial order; or
 - (ii) the constitutional documents of any Obligor; or
 - (iii) any agreement or document to which any Obligor is a party or which is binding upon such Obligor or any of its assets,
- nor result in the creation or imposition of any Security Interest on the Borrower or its assets pursuant to the provisions of any such agreement or document, except for Security Interests which qualify as Permitted Security Interests with respect to the Borrower;
- (h) except for:
- (i) the filing of UCC-1 financing statements against the Borrower in respect of those Finance Documents to which it is a party and which create Security Interests;
 - (ii) the recording of the Mortgage in the office of the Marshall Islands Registry; and
 - (iii) the registration of the Ship under an Approved Flag,
- all authorisations, approvals, consents, licences, exemptions, filings, registrations, notarisations and other matters, official or otherwise, required in connection with the entry into, performance, validity and enforceability of this Agreement and each of the other Transaction Documents to which any Obligor is a party and the transactions contemplated thereby have been obtained or effected and are in full force and effect except authorisations, approvals, consents, licences, exemptions, filings and registrations required in the normal day to day course of the operation of the Ship and not already obtained by the Borrower;
- (i) it is disregarded as an entity separate from its owner for U.S. federal Tax purposes;
 - (j) all written information furnished by any Obligor relating to the business and affairs of any Obligor in connection with this Agreement and the other Transaction Documents (but excluding any forward looking statements and projections) was and remains true and correct in all material respects and there are no other material facts or considerations the omission of which would render any such information misleading;
 - (k) each Obligor has fully disclosed to the Facility Agent all facts relating to each Obligor which it knows or should reasonably know and which might reasonably be expected to influence the Lenders in deciding whether or not to enter into this Agreement;
 - (l) the obligations of the Borrower, the Member and the Guarantor under the Finance Documents rank at least *pari passu* with all its other present unsecured and unsubordinated indebtedness with the exception of any obligations which are mandatorily preferred by law;

- (m) the Borrower is and shall remain, after the advance to it of the Loan, solvent in accordance with the laws of the state of Delaware and the United Kingdom and in particular with the provisions of the Insolvency Act 1986 (as from time to time amended) and the requirements thereof;
- (n) neither the Borrower nor any other Obligor has taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against any of them for the reorganisation, winding-up, dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of any of them or any or all of their assets or revenues nor has it sought any other relief under any applicable insolvency or bankruptcy law;
- (o) (in relation to any date on which this representation and warranty is deemed to be repeated pursuant to paragraph (a) of Clause 11.1 (*Timing and repetition*)) the latest available annual consolidated audited accounts of the Guarantor at the date of repetition (which accounts have been prepared in accordance with GAAP) fairly represent the financial condition of the Guarantor as shown in such audited accounts;
- (p) none of the Obligors nor any of their respective assets enjoys any right of immunity (sovereign or otherwise) from set-off, any legal action or proceeding including, without limitation, suit, attachment prior to judgment, execution or other enforcement in respect of their obligations under this Agreement or any of the other Transaction Documents or by any relevant or applicable law;
- (q) all of the limited liability company interest in the Borrower and all shares or limited liability company interest in any Approved Manager which is a member of the Group shall be legally and beneficially owned directly or indirectly by (in the case of the Borrower), the Member and (in the case of such Approved Manager) the Guarantor and such structure shall remain so throughout the Security Period;
- (r) the copy of the Shipbuilding Contract is a true and complete copy of such document constituting valid and binding obligations of the parties thereto enforceable in accordance with its terms and, subject to Clause 12.23 (*Shipbuilding Contract*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable;
- (s) the Borrower is the sole legal and beneficial owner of all rights and interests which the Shipbuilding Contract creates in favour of the Borrower;
- (t) any borrowing by the Borrower under this Agreement, and the performance of its obligations under this Agreement and the other Transaction Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to "money laundering" as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities (as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001); and
- (u) no Obligor:
 - (i) nor to its knowledge, any director, manager, officer or Affiliate of any Obligor or any member of the Group, is a Prohibited Person;
 - (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or

- (iii) owns or controls a Prohibited Person;
- (v) no proceeds of the Loan shall be made available directly or indirectly to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party;
- (w) the choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions and any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions;
- (x) for the purposes of The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast) (the **Regulation**), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated outside of the European Union and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in a European Union country;
- (y) no investments made and no payments made, received or to be made by the Borrower, the Member or the Guarantor under this Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Borrower, indirectly, out of funds of Illicit Origin or otherwise derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Borrower, the Member or the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business are, whether directly or, to the knowledge of the Borrower, indirectly, of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction;
- (z) no Prohibited Payment has been or will be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Member or the Guarantor (with respect to the Member and the Guarantor, to the best of the Borrower's knowledge), any of its affiliates or its officers, directors, managers, or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, manager, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents;
- (aa) no event has occurred which constitutes a default under or in respect of any Transaction Document to which any Obligor or the Builder is a party or by which any Obligor or the Builder may be bound (including (inter alia) this Agreement) and no event has occurred which constitutes a default under or in respect of any agreement or document to which any Obligor is a party or by which any Obligor may be bound to an extent or in a manner which might have a material adverse effect on the ability of that Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (bb) none of the assets or rights of the Borrower is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Borrower or (ii) is permitted by Clause 12.8 (*Negative pledge*) of this Agreement;
- (cc) no litigation, arbitration or administrative proceedings are current or pending or, to its knowledge, threatened, which might, if adversely determined, have a material adverse effect on the ability of an Obligor to perform its obligations under the Transaction Documents to which it is a party;

- (dd) to the best of its knowledge, each of the Obligors has complied in all material respects with all taxation laws in all jurisdictions in which it is subject to taxation and has paid all material Taxes due and payable by it;
- (ee) it is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document to which it is a party with respect to any Lender that provides the documentation described in paragraph (b) of Clause 10.7 (*Lender Status*) indicating that it is not subject to tax withholding;
- (ff) under the laws of its Relevant Jurisdictions it is not necessary that any stamp or similar taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents;
- (gg) each member of the Group has good and marketable title to all its assets which are reflected in the audited accounts referred to in paragraph (o) of Clause 11.2 (*Continuing representations and warranties*);
- (hh) none of the Obligors has a place of business in any jurisdiction (except as already disclosed) which requires any of the Finance Documents to be filed or registered in that jurisdiction to ensure the validity of the Finance Documents to which it is a party;
- (ii) the Borrower does not have a place of business in any country (except as already disclosed) other than that of its Original Jurisdiction;
- (jj) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to it and its business generally;
- (kk) each of the Obligors and each member of the Group:
 - (i) is in compliance with all Environmental Laws and Environmental Approvals provided that any non-compliance would not be expected to result in a Material Adverse Effect;
 - (ii) has not received any notice or threat of any Environmental Claim against any member of the Group and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;
 - (iii) confirms that no Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;
- (ll) the Borrower has read and acknowledged the principles provided under the Code of Ethics and Model;
- (mm) the Borrower has implemented adequate internal procedures aimed at preventing commission of crimes provided under Legislative Decree 231/01;

- (nn) no litigation is pending against the Borrower in relation to administrative liability provided under Legislative Decree 231/01;
- (oo) no final judgment under Legislative Decree 231/01 has been issued against the Borrower and no plea bargain (also known as *spatteggiamento* under Italian law) has been agreed by the Borrower pursuant to article 444 of the Italian code of criminal procedure; and
- (pp) neither the Borrower nor any of its assets are subject to any precautionary measure provided under Legislative Decree 231/01.

11.3 Representations on the Delivery Date

The Borrower further represents and warrants to each of the Secured Parties at the Delivery Date that:

- (a) the Ship is in its absolute and unencumbered ownership save as contemplated by the Finance Documents;
- (b) the Ship is registered in its name under the laws and flag of the Maritime Registry;
- (c) the Ship is classed with the highest classification available for a Ship of its type free of all recommendations and qualifications with Lloyd's Register, RINA or Bureau Veritas;
- (d) the Ship is operationally seaworthy and in compliance with all relevant provisions, regulations and requirements (statutory or otherwise) applicable to ships registered under the laws and flag of the Maritime Registry;
- (e) the Ship is in compliance with the ISM Code, the ISPS Code and Annex VI as they relate to the Borrower, any Approved Manager and the Ship;
- (f) the Ship is insured in accordance with the provisions of Clause 14 (*Insurance Undertakings*) and in compliance with the requirements therein in respect of such insurances;
- (g) the Ship is managed by the Approved Manager and, in the event that the Approved Manager is not a member of the Group, on and subject to the terms set out in the Management Agreement;
- (h) there is no agreement or understanding to allow or pay any rebate, premium, inducement, commission, discount or other benefit or payment (however described) to the Borrower or any other member of the Group, the Builder or a third party in connection with the purchase by the Borrower of the Ship, other than as disclosed to the Facility Agent in writing on or before the date of this Agreement;
- (i) no Obligor has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Facility Agent sufficient details to enable an accurate search against it to be undertaken by the Lenders at the Companies Registry;
- (j) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration; and

- (k) the copies of any Management Agreement, any charter and any charter guarantee which require a notice of assignment to be served under the terms of the General Assignment (if any) and any other relevant third party agreements including but without limitation the copies of any documents in respect of the Insurances delivered to the Facility Agent are true and complete copies of each such document constituting valid and binding obligations of the parties thereto enforceable in accordance with their respective terms and, subject to Clause 13.2 (*Management and employment*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable.

12 GENERAL UNDERTAKINGS

12.1 General

The Borrower undertakes with each Secured Party to comply with the following undertakings during the Security Period:

12.2 Information

The Borrower will provide to the Facility Agent for the benefit of the Lenders and SACE (or will procure the provision of):

- (a) as soon as practicable (and in any event within one hundred and twenty (120) days after the close of its financial year) a Certified Copy of the audited consolidated accounts of the Guarantor and its subsidiaries for that year (commencing with accounts made up to 31 December 2018 in the case of the consolidated accounts of the Guarantor);
- (b) as soon as practicable (and in any event within ninety (90) days of the commencement of each financial year) the budgetary forecast (profit and loss statement, balance sheet statement and cash flow statement) for the two following years for the Guarantor;
- (c) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter for the first three quarters in any fiscal year and within 90 days for the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year-to-date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of paragraph (a) and of this paragraph (c));
- (d) promptly, such further information in its possession or control regarding the condition or operations of the Ship and its financial condition and operations of the Borrower and those of any company in the Group as the Facility Agent may reasonably request for the benefit of the Secured Parties; and
- (e) details of any material litigation, arbitration or administrative proceedings (including proceedings relating to any alleged or actual breach of Sanctions, the ISM Code of the ISPS Code) which affect any company in the Group as soon as the same are instituted and served, or, to the knowledge of the Borrower, threatened (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency provided that this threshold shall not apply to any proceedings relating to Sanctions).

All accounts required under this Clause 12.2 (*Information*) shall be prepared in accordance with GAAP and shall fairly represent the financial condition of the relevant company.

12.3 Equator Principles Compliance

Upon the request of the Facility Agent, the Borrower shall provide to the Facility Agent information as may be reasonably requested by the Lenders for the purposes of monitoring that the Borrower conducts its operations in all material respects in accordance with the Equator Principles.

12.4 Sanctions and Illicit Payments

- (a) The Borrower shall not directly or indirectly use or make available any of the proceeds of the Loan to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party.
- (b) No payments made or received by the Borrower, the Member, the Guarantor or any Approved Manager which is a member of the Group under this Agreement or any Finance Document shall be funded directly or, to the knowledge of the Borrower, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Borrower, the Member, the Guarantor or any Approved Manager which is a member of the Group in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Borrower, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (c) Without limiting the generality of the foregoing, no Loan nor any proceeds of the Loan shall be used to finance trade of equipment or any other kind of activity in relation to goods, technologies or sectors in a manner or for a purpose prohibited by Sanctions.

12.5 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Member, the Guarantor or any of their affiliates, officers, directors, managers or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, manager, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents.

12.6 Notification of default

The Borrower will notify the Facility Agent of any Event of Default forthwith upon becoming aware of the occurrence thereof. Upon the Facility Agent's request from time to time the Borrower will issue a certificate stating whether any Obligor is aware of the occurrence of any Event of Default.

12.7 Consents and registrations

The Borrower will procure that (and will promptly furnish Certified Copies to the Facility Agent on the request of the Facility Agent of) all such authorisations, approvals, consents, licences and exemptions as may be required under any applicable law or regulation to enable it or any Obligor to perform its obligations under, and ensure the validity or enforceability of, each of the Transaction Documents are obtained and promptly renewed from time to time and will procure that the terms of the same are complied with at all times. Insofar as such filings or registrations have not been completed on or before the Drawdown Date the Borrower will procure the filing or registration within applicable time limits of each Finance Document which requires filing or registration together with all ancillary documents required to preserve the priority and enforceability of the Finance Documents.

12.8 Negative pledge

The Borrower will not create or permit to subsist any Security Interest on the whole or any part of its present or future assets, except for the following:

- (a) Security Interests created with the prior consent of the Facility Agent and the Security Trustee; or
- (b) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraphs (a) and (b) of the definition of "Permitted Security Interests" in Clause 1.1 (*Definitions*); or
- (c) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraph (C), (E), (H) or (I) of such definition, provided that insofar as they are enforceable against the Ship they do not prevail over the Mortgage.

12.9 Disposals

Except in the case of a sale of the Ship if the completion of the sale is contemporaneous with prepayment of the Loan in accordance with the provisions of Clause 16.3 (*Mandatory prepayment – Sale and Total Loss*) and except for charters and other arrangements complying with Clause 13.1 (*Pooling of earnings and charters*) the Borrower shall not without the consent of the Majority Lenders and SACE, either in a single transaction or in a series of transactions whether related or not and whether voluntarily or involuntarily:

- (a) sell, transfer, lease or otherwise dispose of the Ship or any of the Ship's equipment except in the case of items:
 - (i) being replaced (by an equivalent or superior item) or renewed; or
 - (ii) that are being disposed of in the ordinary course of business,

provided that in the case of both sub-paragraphs (i) and (ii) above the net impact does not reduce the value of the Ship and, in the case of sub-paragraph (ii), the value of any such disposals during the term of this Agreement do not, in aggregate, exceed ten million Dollars (\$10,000,000);

- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having the same 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.

12.10 Change of business

Except with the prior consent of the Facility Agent, the Borrower shall not make or threaten to make any substantial change in its business as presently conducted, namely that of a single ship owning company for the Ship, or change its place of business to any country other than that of its Original Jurisdiction, or carry on any other business which is substantial in relation to its business as presently conducted so as to affect, in the opinion of the Facility Agent, the Borrower's ability to perform its obligations hereunder.

12.11 Mergers

Except with the prior consent of the Lenders and SACE and subject to compliance with all necessary "know your customer" requirements, the Borrower will not enter into any amalgamation, restructure, substantial reorganisation, merger, de-merger or consolidation or anything analogous to the foregoing nor will it acquire any equity, share capital or obligations of any corporation or other entity.

12.12 Maintenance of status and franchises

The Borrower will do all such things as are necessary to maintain its limited liability company existence in good standing and will ensure that it has the right and is duly qualified to conduct its business as it is conducted in all applicable jurisdictions and will obtain and maintain all franchises and rights necessary for the conduct of its business.

12.13 Financial records

The Borrower will keep proper books of record and account, in which proper and correct entries shall be made of all financial transactions and the assets, liabilities and business of the Borrower in accordance with GAAP.

12.14 Financial Indebtedness and subordination of indebtedness

The following restrictions shall apply:

- (a) otherwise than in the ordinary course of business as owner of the Ship, except as contemplated by this Agreement and except any loan, advance or credit extended by the Guarantor or any member of the Group which is a wholly owned Subsidiary of the Guarantor, the Borrower will not create, incur, assume or allow to exist any financial indebtedness, enter into any finance lease or undertake any material capital commitment (including but not limited to the purchase of any capital asset); and
- (b) the Borrower shall procure that:
 - (i) any and all indebtedness (and in particular with any other Obligor) is at all times fully subordinated to the Finance Documents and the obligations of the Borrower hereunder; and

- (ii) if required by any applicable laws, the subordinated liabilities created pursuant to such indebtedness shall be subject to security (in form and substance satisfactory to the Secured Parties) in favour of the Security Trustee ("**Subordinated Debt Security**") and any related legal opinions shall be issued if so required by the Secured Parties; and
- (iii) upon the occurrence of an Event of Default, the Borrower shall not make any repayments of principal, payments of interest or of any other costs, fees, expenses or liabilities arising from or representing such indebtedness. In this paragraph (b) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*) "fully subordinated" shall mean that any claim of the lender against the Borrower in relation to such indebtedness shall rank after and be in all respects subordinate to all of the rights and claims of the Secured Parties under this Agreement and the other Finance Documents and that the lender shall not take any steps to enforce its rights to recover any monies owing to it by the Borrower and in particular but without limitation the lender will not institute any legal or quasi-legal proceedings under any jurisdiction at any time against the Ship, her Earnings or Insurances or the Borrower and it will not compete with the Secured Parties or any of them in a liquidation or other winding-up or bankruptcy of the Borrower or in any proceedings in connection with the Ship, her Earnings or Insurances.

12.15 Investments

The Borrower shall not:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Obligor and where such loan or form of credit is Permitted Financial Indebtedness;
- (b) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which the Borrower assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents.
- (c) enter into any material agreement other than:
 - (i) the Transaction Documents;
 - (ii) any other agreement expressly allowed under any other term of this Agreement; and
- (d) enter into any transaction on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms' length; or
- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks.

12.16 Unlawfulness, invalidity and ranking; security imperilled

No Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;

- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest to rank after, or lose its priority to, any other Security Interest; and
- (e) imperil or jeopardise any Security Interest.

12.17 Distributions

The Borrower shall not make or pay any distribution (in cash or in kind) in respect of its equity interests other than distributions that are transferred to the Member or the Guarantor provided that no Event of Default has occurred or is continuing or would result from the payment of any distribution.

12.18 Loans and guarantees by the Borrower

Otherwise than in the ordinary course of business in its ownership and operation of the Ship following the Delivery Date, the Borrower will not make any loan or advance or extend credit to any person, firm or corporation (other than as permitted pursuant to paragraph (a) of Clause 12.15 (*Investments*)), or issue or enter into any guarantee or indemnity or otherwise become directly or contingently liable for the obligations of any other person, firm or corporation.

12.19 Acquisition of shares

The Borrower will not:

- (a) acquire any equity, share capital, assets or obligations of any corporation or other entity; or
- (b) permit any of its limited liability company interests to be directly held other than by the Member.

12.20 Further assurance

The Borrower will, from time to time on being required to do so by the Facility Agent, do or procure the doing of all such acts and/or execute or procure the execution of all such documents in a form satisfactory to the Facility Agent as the Facility Agent may reasonably consider necessary for giving full effect to any of the Transaction Documents, the Interest Make-up Agreement or the SACE Insurance Policy or securing to the Secured Parties the full benefit of the rights, powers and remedies conferred upon the Secured Parties or any of them in any such Transaction Document, the Interest Make-up Agreement or the SACE Insurance Policy.

12.21 Irrevocable payment instructions

The Borrower shall not modify, revoke or withhold the payment instructions set out in Clause 4.1 (*Borrower's irrevocable payment instructions*) without the agreement of the Builder (in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) only), the Facility Agent, SACE and the Lenders.

12.22 "Know your customer" checks

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of the Borrower after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Facility Agent or any Lender (or, in the case of paragraph (a)(iii) of Clause 12.22 (*"Know your customer" checks*), 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 or the Lenders (acting reasonably) require any additional documents to supplement those already provided, the Borrower shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (a)(iii) of Clause 12.22 (*"Know your customer" checks*), on behalf of any prospective new Lender) in order for the Facility Agent and, such Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of a Servicing Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Servicing Party (for itself) in order for that Servicing Party to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

12.23 Shipbuilding Contract

- (a) The Shipbuilding Contract constitutes legal, valid and binding and enforceable obligations of the Builder and accordingly the Borrower shall not modify the Shipbuilding Contract, directly or indirectly, in such a manner that would result in a change of the type, principal dimensions or class of the Ship or decrease the value of the Ship by equal to or greater than 5 per cent. (in aggregate) without the prior written consent of the Lenders and SACE.
- (b) The Borrower will, therefore, submit to the Facility Agent any proposals for any such modification and SACE and the Facility Agent on behalf of the Lenders will indicate in a timely manner whether the modification proposed will allow the Loan to be maintained.
- (c) The Borrower also undertakes to notify the Facility Agent of any change in the Intended Delivery Date as soon as practicable after each change has occurred.

- (d) The Borrower shall notify the Facility Agent promptly, and in any event within ten (10) Business Days of any other changes to the Shipbuilding Contract (other than Minor Modifications) and provide copies of the same to the Facility Agent.
- (e) The Borrower undertakes to notify the Facility Agent promptly of any termination and/or repudiation of the Shipbuilding Contract (including a termination and/or repudiation pursuant to article 32 of the Shipbuilding Contract).
- (f) For the avoidance of doubt, all modifications not falling under paragraph (a) above shall be permitted and the Borrower shall not be obliged to seek or obtain any consent from the Lenders and/or SACE in respect of any such modifications subject to the notification requirements as set out in paragraphs (d) and (e) above.

12.24 FOREX Contracts

The Borrower shall:

- (a) provide the Facility Agent with a copy of all FOREX Contracts together with all relevant details within ten (10) days of their execution; and
- (b) inform the Facility Agent, when requested by the Facility Agent, of its intended hedging policy for purchasing Euro with Dollars.

The Facility Agent shall inform the Lenders within ten (10) days of receipt of such information from the Borrower.

12.25 Compliance with laws etc.

The Borrower shall:

- (a) comply, or procure compliance with:
 - (i) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws and regulations relating to it and its business generally; and
 - (ii) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration,

including the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;

- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals which are applicable to it; and
- (c) without limiting paragraph (a) above, not employ the Ship nor allow its employment, operation or management in any Prohibited Jurisdiction or in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and all Sanctions and applicable anti-corruption laws.

12.26 Most favoured nations

The Borrower shall procure that if at any time after the date of this Agreement the Guarantor enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of Clause 11.2 (*Continuing representations and warranties*) and Clause 18.6 (*Cross default*) respectively, the Borrower or the Guarantor shall immediately notify the Facility Agent of such provisions and the relevant provisions contained in this Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to this Agreement.

12.27 Code of Ethics and Model

- (a) The Borrower shall not behave so as to cause any of the following persons to violate the principles set out in the Code of Ethics and/or Model:
- (i) persons who are representatives, administrators or managers of CDP or of any of its organizational units with financial and functional independence;
 - (ii) persons who are managed or supervised by one of the persons referred to in paragraph (i) above; or
 - (iii) external advisors of CDP.
- (b) The Borrower shall maintain adequate internal procedures aimed at preventing liabilities provided under Legislative Decree 231/01.
- (c) The Borrower shall inform CDP of any (i) new pending litigation against it in relation to administrative liability provided under Legislative Decree 231/01; (ii) new final judgment under Legislative Decree 231/01, including, without limitation, any plea bargain (also known as *patteggiamento* under Italian law) pursuant to article 444 of the Italian code of criminal procedure; and (iii) new precautionary measures under Legislative Decree 231/01.

13 SHIP UNDERTAKINGS

13.1 Pooling of earnings and charters

The Borrower will not without the prior written consent of the Facility Agent or SACE enter into in respect of the Ship (such consent for the purposes of paragraph (c) of Clause 13.1 (*Pooling of earnings and charters*) shall not be unreasonably withheld or delayed), nor permit to exist at any time following the Delivery Date:

- (a) any pooling agreement or other arrangement for the sharing of any of the Earnings or the expenses of the Ship except with a member of the Group and provided that it does not adversely affect the rights of the Secured Parties under the Finance Documents in the reasonable opinion of the Facility Agent; or
- (b) any demise or bareboat charter (other than the Bareboat Charter), provided however that such consent shall not be unreasonably withheld in the event that the Borrower wishes to enter into a bareboat charter in a form approved by the Facility Agent with another member of the Group on condition that if so requested by the Facility Agent and without limitation:

- (i) any such bareboat charterer shall enter into such deeds (including but not limited to a full subordination and assignment deed in respect of its rights under the bareboat charter and its interest in the Insurances and earnings payable to it arising out of its use of the Ship), agreements and indemnities as the Majority Lenders and SACE shall require prior to entering into the bareboat charter with the Borrower; and
 - (ii) the Borrower shall assign the benefit of any such bareboat charter and its interest in the Insurances to the Secured Parties by way of further security for the Borrower's obligations under the Finance Documents; or
- (c) any charter whereunder two (2) months' charterhire (or the equivalent thereof) is payable in advance in respect of the Ship; or
- (d) any charter of the Ship or employment which, with the exercise of options for extension, could be for a period longer than [*]; or
- (e) any time charter of the Ship with a company outside the Group (other than a time charter entered into in the ordinary course of business which does not exceed [*] **provided that** (x) any such time charter is assigned to the Security Trustee and (y) during the period of such time charter, the Ship continues to be managed by the existing Approved Manager), provided however that such consent shall not be unreasonably withheld in the event that:
- (i) such time charter is assigned to the Security Trustee and the Borrower agrees to:
 - (A) serve a notice of assignment of any time charter, the Earnings therefrom and any guarantee of the charterer's obligations on the time charterer and any time charter guarantor; and
 - (B) use commercially reasonable endeavours to obtain an acknowledgement of such assignment,
 and each of the notice of assignment and acknowledgement of assignment being substantially in the form appended to the General Assignment;
 - (ii) the Facility Agent is satisfied that the income from such time charter will be sufficient to cover the expenses of the Ship and to service repayment of the Loan and all other amounts from time to time outstanding under this Agreement; and
 - (iii) during the term of such time charter, the Ship continues to be managed by the existing Approved Manager.

13.2 Management and employment

The Borrower will not as from the Delivery Date:

- (a) permit any person other than an Approved Manager to be the manager of, including providing crewing services to, the Ship, at all times acting upon terms approved in writing by the Facility Agent and having entered into (in the case of the Approved Manager) an Approved Manager's Undertaking;
- (b) permit any amendment to be made to the terms of any Management Agreement unless the amendment is advised by the Borrower's tax counsel or is deemed necessary by the parties thereto to reflect the prevailing circumstances but provided that the amendment does not imperil the security to be provided pursuant to the Finance Documents or adversely affect the ability of any Obligor to perform its obligations under the Transaction Documents; or

- (c) permit the Ship to be employed other than within the Norwegian Cruise Line brand unless the Borrower notifies the Lenders that they intend to employ the Ship within another brand of the Group and the ship remains employed within the Group.

13.3 Trading with the United States of America

The Borrower shall in respect of the Ship take all reasonable precautions as from the Delivery Date to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America (as the same may be amended and/or re-enacted from time to time hereafter) or any similar legislation applicable to the Ship in any other jurisdiction in which the Ship shall trade (a "**Trading Jurisdiction**") where the Ship trades in the territorial waters of the United States of America or a Trading Jurisdiction.

13.4 Valuation of the Ship

The following shall apply in relation to the valuation of the Ship:

- (a) the Borrower will on or before 31 May of each year that commences after the delivery of the Ship, unless an Event of Default has occurred and remains unremedied, at the Borrower's expense, procure that the Ship is valued by an Approved Broker (such valuation to be made without taking into account the benefit or otherwise of any fixed employment relating to the Ship);
- (b) the Borrower shall procure that forthwith upon the issuance of any valuation obtained pursuant to this Clause 13.4 (*Valuation of the Ship*) a copy thereof is sent directly to the Facility Agent and the Security Trustee for review; and
- (c) in the event that the Borrower fails to procure a valuation in accordance with paragraph (a) of Clause 13.4 (*Valuation of the Ship*), the Facility Agent shall be entitled to procure a valuation of the Ship on the same basis.

13.5 Earnings

The Borrower will procure that the Earnings (if any) are paid in full without set off and free and clear of and without deduction for any taxes, levies, duties, imposts, charges, fees, restrictions or conditions of any nature whatsoever.

13.6 Operation and maintenance of the Ship

From the Delivery Date until the end of the Security Period at its own expense the Borrower will keep the Ship in a good and efficient state of repair so as to maintain it to the highest classification notation available for the Ship of its age and type free of all recommendations and qualifications with Bureau Veritas. On the Delivery Date and annually thereafter, it will furnish to the Facility Agent (with copy to the Security Trustee) a statement by such classification society that such classification notation is maintained. It will comply with all recommendations, regulations and requirements (statutory or otherwise) from time to time applicable to the Ship and shall have on board as and when required thereby valid certificates showing compliance therewith and shall procure that all repairs to or replacements of any damaged, worn or lost parts or equipment are carried out (both as regards workmanship and quality of materials) so as not to diminish the value or class of the Ship. It will not make any substantial modifications or alterations to the Ship or any part thereof which would reduce the market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*).

13.7 Surveys and inspections

The Borrower will:

- (a) submit the Ship to continuous survey in respect of its machinery and hull and such other surveys as may be required for classification purposes and, if so required by the Facility Agent, supply to the Facility Agent (with copy to the Security Trustee) copies in English of the survey reports;
- (b) permit surveyors or agents appointed by the Facility Agent to board the Ship to inspect its condition or satisfy themselves as to repairs proposed or already carried out and afford all proper facilities for such inspections **provided that**, unless an Event of Default has occurred or there is an accident to the Ship involving repairs the cost of which will or is likely to exceed [*], such inspections shall be limited to one a year and shall all be at reasonable times.

13.8 ISM Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISM Code (as the same may be amended from time to time) or any replacement of the ISM Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISM Code and at all times thereafter:

- (a) hold, or procure that the Approved Manager holds, a valid Document of Compliance duly issued to the Borrower or the Approved Manager (as the case may be) pursuant to the ISM Code and a valid Safety Management Certificate duly issued to the Ship pursuant to the ISM Code;
- (b) provide the Facility Agent (with copy to the Security Trustee) with copies of any such Document of Compliance and Safety Management Certificate as soon as the same are issued; and
- (c) keep, or procure that there is kept, on board the Ship a copy of any such Document of Compliance and the original of any such Safety Management Certificate.

13.9 ISPS Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISPS Code (as the same may be amended from time to time) or any replacement of the ISPS Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISPS Code and at all times thereafter:

- (a) keep, or procure that there is kept, on board the Ship the original of the International Ship Security Certificate required by the ISPS Code; and
- (b) keep, or procure that there is kept, on board the Ship a copy of the ship security plan prepared pursuant to the ISPS Code.

13.10 Annex VI

The Borrower will comply with Annex VI (as the same may be amended from time to time) or any replacement of Annex VI (as the same may be amended from time to time) and in particular, without limitation, to:

- (a) procure that the Ship's master and crew are familiar with, and that the Ship complies with, Annex VI; and
- (b) maintain for the Ship throughout the Security Period a valid and current IAPPC and provide a copy to the Facility Agent (with copy to the Security Trustee); and
- (c) notify the Facility Agent (with copy to the Security Trustee) immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the IAPPC.

13.11 Employment of Ship

The Borrower shall:

- (a) not employ the Ship or permit its employment in any trade or business which is forbidden by any applicable law or is otherwise illicit or in carrying illicit or prohibited goods or in any manner whatsoever which may render it liable to condemnation in a prize court or to destruction, seizure or confiscation or that may expose the Ship to penalties. In the event of hostilities in any part of the world (whether war be declared or not) it will not employ the Ship or permit its employment in carrying any contraband goods; and
- (b) promptly provide the Facility Agent (with copy to the Security Trustee) with (i) all information which the Facility Agent may reasonably require regarding the Ship, its employment, earnings, position and engagements (ii) particulars of all towages and salvages and (iii) copies of all charters and other contracts for its employment and otherwise concerning it.

13.12 Provision of information

The Borrower shall give notice to the Facility Agent and the Security Trustee promptly and in reasonable detail upon the Borrower or any other Obligor becoming aware of:

- (a) accidents to the Ship involving repairs the cost of which will or is likely to exceed [*];
- (b) the Ship becoming or being likely to become a Total Loss;
- (c) any recommendation or requirement made by any insurer or classification society or by any competent authority which is not complied with, or cannot be complied with, within any time limit relating thereto and that might reasonably affect the maintenance of either the Insurances or the classification of the Ship;
- (d) any writ or claim served against or any arrest of the Ship or the exercise of any lien or purported lien on the Ship, her Earnings or Insurances;
- (e) the Ship ceasing to be registered under the flag of the Maritime Registry or anything which is done or not done whereby such registration may be imperilled;
- (f) it becoming impossible or unlawful for it to fulfil any of its obligations under the Finance Documents; and

- (g) anything done or permitted or not done in respect of the Ship by any person which is likely to imperil the security created by the Finance Documents.

13.13 Payment of liabilities

The Borrower shall promptly pay and discharge:

- (a) all debts, damages and liabilities, taxes, assessments, charges, fines, penalties, tolls, dues and other outgoings in respect of the Ship and keep proper books of account in respect thereof provided always that the Borrower shall not be obliged to compromise any debts, damages and liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested debt, damage or liability which, either individually or in aggregate exceeds [*] shall forthwith be provided to the Facility Agent (with copy to the Security Trustee). As and when the Facility Agent may so require the Borrower will make such books available for inspection on behalf of the Facility Agent and provide evidence satisfactory to the Facility Agent that the wages and allotments and the insurance and pension contributions of the master and crew are being regularly paid, that all deductions of crew's wages in respect of any tax liability are being properly accounted for and that the master has no claim for disbursements other than those incurred in the ordinary course of trading on the voyage then in progress or completed prior to such inspection;
- (b) all liabilities which have given rise, or may give rise, to liens or claims enforceable against the Ship under the laws of all countries to whose jurisdiction the Ship may from time to time be subject and in particular the Borrower hereby agrees to indemnify and hold the Secured Parties, their successors, assigns, directors, officers, shareholders, employees and agents harmless from and against any and all claims, losses, liabilities, damages, expenses (including attorneys, fees and expenses and consultant fees) and injuries of any kind whatsoever asserted against the Secured Parties, with respect to or as a result of the presence, escape, seepage, spillage, release, leaking, discharge or migration from the Ship or other properties owned or operated by the Borrower of any hazardous substance, including without limitation, any claims asserted or arising under any applicable environmental, health and safety laws, codes and ordinances, and all rules and regulations promulgated thereunder of all governmental agencies, regardless of whether or not caused by or within the control of the Borrower subject to the following:
 - (i) it is the parties' understanding that the Secured Parties do not now, have never and do not intend in the future to exercise any operational control or maintenance over the Ship or any other properties and operations owned or operated by the Borrower, nor in the past, presently, or intend in the future to, maintain an ownership interest in the Ship or any other properties owned or operated by the Borrower except as may arise upon enforcement of the Lenders' rights under the Mortgage;
 - (ii) unless and until an Event of Default shall have occurred and without prejudice to the right of each Lender to be indemnified pursuant to this paragraph (b) of Clause 13.13 (*Payment of liabilities*):
 - (A) each Lender will, if it is reasonably practicable to do so, notify the Borrower upon receiving a claim in respect of which the relevant Lender is or may become entitled to an indemnity under this paragraph (b) of Clause 13.13 (*Payment of liabilities*); and

- (B) subject to the prior written approval of the relevant Lender which the Lender shall have the right to withhold, the Borrower will be entitled to take, in the name of the relevant Lender, such action as the Borrower may see fit to avoid, dispute, resist, appeal, compromise or defend any such claims, losses, liabilities, damages, expenses and injuries as are referred to above in this paragraph (b) of Clause 13.13 (*Payment of liabilities*) or to recover the same from any third party, subject to the Borrower first ensuring that the relevant Lender is secured to its reasonable satisfaction against all expenses thereby incurred or to be incurred,

provided always that the Borrower shall not be obliged to compromise any liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested liabilities which, either individually or in aggregate, exceed [*] shall be forthwith provided to the Facility Agent (with copy to the Security Trustee). If the Ship is arrested or detained for any reason it will procure its immediate release by providing bail or taking such other steps as the circumstances may require.

13.14 Certificate as to liabilities

The Borrower shall give to the Facility Agent (with copy to the Security Trustee) at such times as it may from time to time reasonably require a certificate, duly signed on its behalf, as to the total amount of any debts, damages and liabilities relating to the Ship and details of such of those debts, damages and liabilities as are over a certain amount to be specified by the Facility Agent at the relevant time and, if so required by the Facility Agent, forthwith discharge such of those debts, damages and liabilities as the Facility Agent shall require other than those being contested in good faith.

13.15 Modifications

The Borrower shall maintain the type of the Ship as at the Delivery Date and not put the Ship into the possession of any person for the purpose of work being done on it in an amount exceeding or likely to exceed [*] unless such person shall first have given to the Facility Agent a written undertaking addressed to the Facility Agent in terms satisfactory to the Facility Agent agreeing not to exercise a lien on the Ship or her Earnings for the cost of such work or for any other reason (or the Borrower is able to demonstrate to the reasonable satisfaction of the Facility Agent that the Borrower or the relevant Group company has set aside and will have funds readily available for payment when due of the cost of the work (to the extent not fully covered by insurance proceeds in the case of a partial loss)).

13.16 Registration of Ship

The Borrower shall maintain the registration of the Ship under and fly the flag of the Maritime Registry and not do or permit anything to be done whereby such registration may be forfeited or imperilled.

13.17 Environmental Law

The Borrower shall comply with all Environmental Laws, obtain, maintain and ensure compliance with all requisite Environmental Approvals, and implement procedures to monitor compliance with and to prevent liability under any Environmental Law.

13.18 Notice of Mortgage

The Borrower shall keep the Mortgage registered against the Ship as a valid first preferred mortgage, carry on board the Ship a certified copy of the Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of the Ship a framed printed notice stating that the Ship is mortgaged by the Borrower to the Security Trustee.

13.19 Environmental claims

Each Obligor shall, (through the Guarantor), promptly upon becoming aware of the same, inform the Facility Agent in writing of:

- (a) any Environmental Claim which is likely to result in a Material Adverse Effect against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group which is likely to result in a Material Adverse Effect.

13.20 Trading in war zones

In the event of hostilities in any part of the world (whether war is declared or not), the Borrower shall not cause or permit the Ship to enter or trade to any zone which is declared a war zone by the Ship's war risks insurers unless:

- (a) the prior written consent of the Security Trustee has been given; and
- (b) the Borrower has (at its expense) effected any special, additional or modified insurance cover which the Security Trustee may require.

14 INSURANCE UNDERTAKINGS

14.1 General

The undertakings in this Clause 14 (*Insurance Undertakings*) remain in force on and from the Delivery Date and throughout the rest of the Security Period except as the Facility Agent may otherwise permit.

14.2 Maintenance of obligatory insurances

The Borrower shall insure the Ship in its name and keep the Ship insured on an agreed value basis for an amount in the currency in which the Loan is denominated approved by the Facility Agent (acting on the instructions of the Majority Lenders) but not being less than the greater of (x) [*] per cent. ([*]%) of the amount of the Loan; and (y) the full market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*) from time to time through internationally recognised independent first class insurance companies, underwriters, war risks and protection and indemnity associations acceptable to the Facility Agent (acting on the instruction of the Majority Lenders), acting reasonably, in each instance on terms and conditions approved by the Facility Agent including as to deductibles but at least in respect of:

- (a) fire and marine risks including but without limitation hull and machinery and all other risks customarily and usually covered by first-class and prudent shipowners in the global insurance markets under English or Norwegian marine policies or Facility Agent-approved policies containing the ordinary conditions applicable to similar Ships;

- (b) war risks (including terrorism, piracy, blocking and trapping and protection and indemnity war risks) up to the insured amount;
- (c) excess risks that is to say the proportion of claims for general average and salvage charges and under the running down clause not recoverable in consequence of the value at which the Ship is assessed for the purpose of such claims exceeding the insured value;
- (d) protection and indemnity risks with full standard coverage as offered by first-class protection and indemnity associations which are a member of the International Group of P&I Association and up to the highest limit of liability available (for oil pollution risk the highest limit currently available is one billion Dollars (\$1,000,000,000) and this to be increased if reasonably requested by the Facility Agent and the increase is possible in accordance with the standard protection and indemnity cover for Ships of its type and is compatible with prudent insurance practice for first class cruise shipowners or operators in waters where the Ship trades from time to time from the Delivery Date until the end of the Security Period);
- (e) when and while the Ship is laid-up, in lieu of hull insurance, normal port risks; and
- (f) such other risks as the Facility Agent may from time to time reasonably require;

and in any event in respect of those risks and at those levels covered by first class and prudent owners and/or financiers in the international market in respect of similar tonnage provided that if any of such insurances are also effected in the name of any other person (other than the Borrower and/or a Secured Party) such person shall if so required by the Facility Agent execute a first priority assignment of its interest in such insurances in favour of the Secured Parties in similar terms *mutatis mutandis* to the relevant provisions of the General Assignment.

14.3 Mortgagee's interest and pollution risks insurances

The Facility Agent shall take out mortgagee interest insurance on such conditions as the Facility Agent may reasonably require and mortgagee interest insurance for pollution risks as from time to time agreed each for an amount in the currency in which the Loan is denominated of [*] per cent. ([*]%) of the amount of the Loan, the Borrower having no interest or entitlement in respect of such policies; the Borrower shall upon demand of the Facility Agent reimburse the Facility Agent for the costs of effecting and/or maintaining any such insurance(s).

14.4 Trading in the United States of America

If the Ship shall trade in the United States of America and/or the Exclusive Economic Zone of the United States of America (the "EEZ") as such term is defined in the US Oil Pollution Act 1990 ("OPA"), to comply strictly with the requirements of OPA and any similar legislation which may from time to time be enacted in any jurisdiction in which the Ship presently trades or may or will trade at any time during the existence of this Agreement and in particular before such trade is commenced and during the entire period during which such trade is carried on:

- (a) to pay any additional premiums required to maintain full standard protection and indemnity cover for oil pollution up to the highest limit available to it for the Ship in the market;

- (b) to make all such quarterly or other voyage declarations as may from time to time be required by the Ship's protection and indemnity association and to comply with all obligations in order to maintain such cover, and promptly to deliver to the Facility Agent (with copy to the Security Trustee) copies of such declarations;
- (c) to submit the Ship to such additional periodic, classification, structural or other surveys which may be required by the Ship's protection and indemnity insurers to maintain cover for such trade and promptly to deliver to the Facility Agent copies of reports made in respect of such surveys;
- (d) to implement any recommendations contained in the reports issued following the surveys referred to in paragraph (c) of Clause 14.4 *Trading in the United States of America*) within the time limit specified therein and to provide evidence satisfactory to the Facility Agent that the protection and indemnity insurers are satisfied that this has been done;
- (e) in particular strictly to comply with the requirements of any applicable law, convention, regulation, proclamation or order with regard to financial responsibility for liabilities imposed on the Borrower or the Ship with respect to pollution by any state or nation or political subdivision thereof, including but not limited to OPA, and to provide the Facility Agent on demand with such information or evidence as it may reasonably require of such compliance;
- (f) to procure that the protection and indemnity insurances do not contain a clause excluding the Ship from trading in waters of the United States of America and the EEZ or any other provision analogous thereto and to provide the Facility Agent with evidence that this is so; and
- (g) strictly to comply with any operational or structural regulations issued from time to time by any relevant authorities under OPA so that at all times the Ship falls within the provisions which limit strict liability under OPA for oil pollution.

14.5 Protections for Secured Parties

- (a) The Borrower shall give notice forthwith of any assignment of its interest in the Insurances to the relevant brokers, insurance companies, underwriters and/or associations in the form approved by the Facility Agent.
- (b) The Borrower shall execute and deliver all such documents and do all such things as may be necessary to confer upon the Secured Parties legal title to the Insurances in respect of the Ship and to procure that the interest of the Secured Parties is at all times filed with all slips, cover notes, policies and certificates of entry and to procure (a) that a loss payable clause in the form approved by the Facility Agent shall be filed with all the hull, machinery and equipment and war risks policies in respect of the Ship and (b) that a loss payable clause in the form approved by the Facility Agent shall be endorsed upon the protection and indemnity certificates of entry in respect of the Ship.
- (c) In the event of the Borrower making default in insuring and keeping insured the Ship as hereinbefore provided then the Facility Agent may (but shall not be bound to) insure the Ship or enter the Ship in such manner and to such extent as the Facility Agent in its discretion thinks fit and in such case all the cost of effecting and maintaining such insurance together with interest thereon at the interest rate shall be paid on demand by the Borrower to the Facility Agent.

14.6 Copies of policies; letters of undertaking

The Borrower will procure that each of the relevant brokers and associations furnishes the Facility Agent with a letter of undertaking in the standard form available in the relevant insurance market or otherwise in such form as may be required by the Facility Agent and waives any lien for premiums or calls except in relation to premiums or calls solely attributable to the Ship.

14.7 Payment of premiums

The Borrower shall punctually pay all premiums, calls, contributions or other sums payable in respect of the Insurances on the Ship and to produce all relevant receipts when so required by the Facility Agent.

14.8 Renewal of obligatory insurances

The Borrower shall notify the Facility Agent (with copy to the Security Trustee) of the renewal of the obligatory insurances at least five (5) days before the expiry thereof and shall procure that the relevant brokers or associations shall promptly confirm in writing to the Facility Agent (with copy to the Security Trustee) that such renewal is effected, it being understood by the Borrower that any failure to renew the Insurances on the Ship at least two (2) days before the expiry thereof or to give or procure the relevant notices of such renewal shall constitute an Event of Default.

14.9 Guarantees

The Borrower shall arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity and/or war risks association.

14.10 Provision of insurances information

The Borrower will furnish the Facility Agent (with copy to the Security Trustee) from time to time on request with full information about all Insurances maintained on the Ship and the names of the offices, companies, underwriters, associations or clubs with which such Insurances are placed.

14.11 Alteration to terms of insurances

The Borrower shall not make or agree to any variation in the terms of any of the Insurances on the Ship without the prior approval of the Facility Agent nor to do any act or voluntarily suffer or permit any act to be done whereby any Insurances shall or may be rendered invalid, void, voidable, suspended, defeated or unenforceable and not to suffer or permit the Ship to engage in any voyage nor to carry any cargo not permitted under any of the Insurances without first obtaining the consent of the insurers or reinsurers concerned and complying with such requirements as to payment of extra premiums or otherwise as the insurers or reinsurers may impose.

14.12 Settlement of claims

The Borrower shall not settle, compromise or abandon any claim in respect of any of the Insurances on the Ship other than a claim of less than [*] Dollars (\$[*]) or the equivalent in any other currency and not being a claim arising out of a Total Loss.

14.13 Application of insurance proceeds

The Borrower shall apply or ensure the appliance of all such sums receivable in respect of the Insurances on the Ship for the purpose of making good the loss and fully repairing all damage in respect whereof the insurance monies shall have been received.

14.14 Insurance advisers

The Facility Agent shall be entitled, immediately prior to the Delivery Date and thereafter no more frequently than annually on renewals but also additionally at any time when there is a proposed change of underwriters or the terms of any Insurances, to instruct independent reputable insurance advisers for the purpose of obtaining any advice or information regarding any matter concerning the Insurances which the Facility Agent shall deem necessary, it being hereby specifically agreed that the Borrower shall reimburse the Facility Agent on demand for the costs and expenses incurred by the Facility Agent in connection with the instruction of such advisers subject to a limit of ten thousand Dollars (\$10,000) at the time of delivery of the Ship or in the event of a change of underwriters or of terms of any Insurances and otherwise ten thousand Dollars (\$10,000) annually thereafter.

15 SECURITY VALUE MAINTENANCE

15.1 Security Shortfall

If, upon receipt of a valuation of the Ship in accordance with Clause 13.4 (*Valuation of the Ship*), the Security Value shall be less than the Security Requirement, the Facility Agent may give notice to the Borrower requiring that such deficiency be remedied and then the Borrower shall (unless the Ship has become a Total Loss) either:

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

Clauses 15.2 (*Costs*) and 15.4 (*Documents and evidence*) and paragraph (c) of Clause 16.2 (*Voluntary prepayment*) shall apply to prepayments under paragraph (a) of Clause 15.1 (*Security Shortfall*).

15.2 Costs

All costs in connection with the Facility Agent obtaining any valuation of the Ship referred to in Clause 13.4 (*Valuation of the Ship*), and obtaining any valuation either of any additional security for the purposes of ascertaining the Security Value at any time or necessitated by the Borrower electing to constitute additional security pursuant to paragraph (b) of Clause 15.1 (*Security Shortfall*) shall be borne by the Borrower.

15.3 Valuation of additional security

For the purpose of this Clause 15 (*Security Value Maintenance*), the market value of any additional security provided or to be provided to the Facility Agent and/or the Security Trustee shall be determined by the Facility Agent and the Security Trustee in their absolute discretion without any necessity for the Facility Agent or the Security Trustee assigning any reason thereto.

15.4 Documents and evidence

In connection with any additional security provided in accordance with this Clause 15 (*Security Value Maintenance*), the Facility Agent shall be entitled to receive such evidence and documents of the kind referred to in Clause 3 (*Conditions Precedent*) in respect of other Finance Documents as may in the Facility Agent's opinion be appropriate.

15.5 Valuations binding

Any valuation under this Clause 15 (*Security Value Maintenance*) shall be binding and conclusive as regards the Borrower.

15.6 Provision of information

- (a) The Borrower shall promptly provide the Facility Agent (with copy to the Security Trustee) and any shipbroker acting under this Clause 15 (*Security Value Maintenance*) with any information which the Facility Agent or the shipbroker may reasonably request for the purposes of the valuation.
- (b) If the Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the shipbroker or the Facility Agent considers prudent.

16 CANCELLATION, PREPAYMENT AND MANDATORY PREPAYMENT

16.1 Cancellation

- (a) Subject to paragraph (b) below, at any time between the Effective Date and prior to the end of the Availability Period, the Borrower may give notice to the Facility Agent in writing that it wishes to cancel the whole or any part of the available Commitments whereupon (without penalty to the Borrower but without prejudice to any liabilities of the Borrower including, without limitation, in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such cancellation) such available Commitments shall terminate upon the date specified in such notice. Any cancellation under this Clause 16.1(a) shall reduce the remaining Commitments of the Lenders rateably.
- (b) If the SBC Effective Date has not occurred by 31 January 2019, then at any time thereafter, the Borrower may, by written notice (signed by the Borrower, the Member and the Guarantor) to the Facility Agent, terminate this Agreement and the other Finance Documents and, except for this Clause, Clause 10.11 (*Transaction Costs*), Clause 33 (*Confidentiality*) and the Fee Letter in relation to the Structuring Fee, this Agreement and the other Finance Documents shall, with effect from such termination, be null and void and no party nor any of its respective parents, subsidiaries, affiliates, officers or employees of any of the foregoing shall have any further liability or obligation whatsoever (including payment of fees and expenses other than in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such termination) under or in connection with this Agreement and/or any other Finance Document or their termination and clause 4(c) of the Fee Letter in relation to the Structuring Fee shall apply.

16.2 Voluntary prepayment

- (a) The Borrower may prepay all or part of the Loan (but if in part being an amount that reduces the Loan by a minimum amount of one (1) repayment instalment of principal of the Loan) together with interest thereon. Such prepayment shall, regardless of the date on which such prepayment is made, be made together with all of the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the Interest Make-up Agreement and Clause 20.2 (*Breakage costs and SIMEST arrangements*) but without any other penalty provided that the prepayment is made on the last day of an Interest Period and thirty-five (35) days prior written notice indicating the intended date of prepayment is given to the Facility Agent and the SACE Agent. However, the following amounts shall be payable to the Facility Agent if any prepayment made pursuant to this Clause 16.2 (*Voluntary prepayment*) is not made on the last day of an Interest Period:
- (i) for the account of the Lenders, whether the Borrower elected a Floating Interest Rate or a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the difference (if positive), calculated by the Lenders and notified by them to the Facility Agent, between the actual cost for the Lenders of the funding for the Loan and the rate of interest for the monies to be invested by the Lenders, applied to the amounts so prepaid for the period from the said prepayment until the last day of the Interest Period during which the prepayment occurs (if prepayment does not occur on the last day of that Interest Period), details of any such calculation being supplied to the Borrower by the Facility Agent on behalf of the Lenders; or
 - (ii) for the account of SIMEST, if the Borrower elected a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the sum of charges (if any) imposed by SIMEST representing funding or breakage costs of the Italian Authorities as more specifically set out in Clause 20 (*Indemnities*).
- (b) For the avoidance of doubt, regardless of the date on which a voluntary prepayment is made, such prepayment shall be paid together with all amounts payable in accordance with Clause 20.2 (*Breakage costs and SIMEST arrangements*) and if a voluntary prepayment is made other than on the last day of an Interest Period, the prepayment shall be paid together with such other amounts payable in accordance with Clauses 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and 20.2 (*Breakage costs and SIMEST arrangements*).
- (c) If the Borrower has selected the Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the SACE Agent shall give SIMEST thirty (30) days written notice of the intended date of prepayment.

16.3 Mandatory prepayment – Sale and Total Loss

The Borrower shall be obliged to prepay the whole of the Loan if the Ship is sold (without prejudice to Clause 12.9 *Disposals*) or becomes a Total Loss:

- (a) in the case of a sale, on or before the date on which the sale is completed by delivery of the Ship to the buyer; or

- (b) in the case of a Total Loss, on the earlier of the date falling 120 days after the Total Loss Date and the date of receipt by the Facility Agent or the Security Trustee (as the case may be) of the proceeds of insurance relating to such Total Loss.

16.4 Mandatory prepayment – SACE Insurance Policy

- (a) The Borrower shall be obliged to prepay the whole of the Loan if it is or becomes unlawful for SACE to perform or comply with any or all of its payment obligations pursuant to the SACE Insurance Policy, if the SACE Insurance Policy is revoked, rescinded, cancelled, terminated, suspended or otherwise becomes unenforceable or ceases to be valid, binding or in full force and effect.
- (b) In the event that any other event occurs or any other circumstances arise or develop which would have a material adverse effect on SACE's ability to perform its obligations under the SACE Insurance Policy, the Borrower and the Lenders shall, provided that no Event of Default has occurred and is continuing, negotiate in good faith for a period of not less than 30 days with a view to agreeing such revised terms and conditions as the Lenders may require to enable the Lenders to maintain the entire Loan (and during such 30 day period, no Lender shall be obliged to make available to the Borrower their portion of the Loan to the extent such amounts have not already been drawn). In the event that following such negotiations the Borrower and the Lenders fail to agree on such revised terms, the Borrower shall be obliged to prepay, on demand by the Facility Agent, the outstanding principal amount of the Loan to the extent of the amount covered pursuant to the SACE Insurance Policy. If, during the period while negotiations are on-going pursuant to this paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) the events described in paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) should occur, the Borrower shall be obliged to prepay the Loan in full as required by paragraph (a) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*).

16.5 Other amounts

Any prepayment of the whole of the Loan shall be made together with all other sums due under this Agreement (including, without limitation, the compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*)).

16.6 Application of partial prepayment

Amounts prepaid shall be applied in accordance with paragraph (b) of Clause 19.1 (*Receipts*).

16.7 No reborrowing

Amounts prepaid may not be reborrowed.

17 INTEREST ON LATE PAYMENTS

17.1 Default rate of interest

Without prejudice to the provisions of Clause 18 (*Events of Default*) and without this Clause in any way constituting a waiver of terms of payment, all sums due by the Borrower under this Agreement will automatically bear interest on a day to day basis from the date when they are payable until the date of actual payment at a rate per annum equal to the higher of:

- (a) where the Floating Interest Rate is applicable, the aggregate of:

- (i) Overnight LIBOR;
 - (ii) the applicable Margin; and
 - (iii) [*] per cent. ([*]%) per annum; or
- (b) where the Fixed Interest Rate is applicable, the higher of:
- (i) the Fixed Interest Rate plus [*] per cent. ([*]%) per annum; and
 - (ii) Overnight LIBOR plus the applicable Margin plus [*] per cent. ([*]%) per annum.

17.2 Compounding of default interest

To the extent permitted by applicable law, any such interest will itself bear interest at the above rate if it is due for at least three (3) months and thereafter at three monthly intervals.

18 EVENTS OF DEFAULT

18.1 Events of Default

An Event of Default occurs if any of the events or circumstances described in Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*) occur.

18.2 Non-payment

Any Obligor fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document and such failure is not remedied within three (3) Business Days of the due date or (if payable on demand) within three (3) Business Days of receiving the demand.

18.3 Non-remediable breaches

The Borrower fails to comply with the provisions of Clauses 12.4 (*Sanctions and Illicit payments*), 12.5 (*Prohibited payments*) 12.8 (*Negative pledge*), 12.9 (*Disposals*), 12.11 (*Mergers*) or 12.18 (*Loans and guarantees by the Borrower*).

18.4 Breach of other obligations

- (a) Any Obligor fails to comply with any provision of any Finance Document (other than a failure to comply covered by any of the other provisions of Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*)) and in particular but without limitation the Guarantor fails to comply with the provisions of clause 11 (*Undertakings*) of its Guarantee or there is any material breach in the opinion of the Majority Lenders and SACE of any of the Underlying Documents provided that (save in respect of Clause 12.27 (*Code of Ethics and Model*)) no Event of Default shall be deemed to have occurred if, in the opinion of the Majority Lenders and SACE, such failure or material breach is capable of remedy and is remedied within the Relevant Period (as defined below) from the date of its occurrence, if the failure or material breach was known to that Obligor, or from the date the relevant Obligor is notified by the Facility Agent of the failure or material breach, if the failure or material breach was not known to that Obligor, unless in any such case as aforesaid the Majority Lenders and SACE consider that the failure or material breach is or could reasonably be expected to become materially prejudicial to the interests, rights or position of the Lenders, "**Relevant Period**" meaning for the purposes of this Clause fifteen (15) days in respect of a remedy period commencing after the date of this Agreement.

- (b) There is a repudiation or termination of any Transaction Document (save for the Shipbuilding Contract and, to the extent replaced, any Management Agreement and any charter) or any of the parties thereto becomes entitled to terminate or repudiate any of them and evidences an intention so to do.

18.5 Misrepresentation

Any representation, warranty or statement made or repeated in, or in connection with, any Transaction Document or the SACE Insurance Policy or in any accounts, certificate, statement or opinion delivered by or on behalf of any Obligor thereunder or in connection therewith is materially incorrect or misleading when made or would, if repeated at any time hereafter by reference to the facts subsisting at such time, no longer be materially correct.

18.6 Cross default

- (a) Any event of default occurs under any financial contract or financial document relating to any Financial Indebtedness of the Borrower.
- (b) Any such Financial Indebtedness or any sum payable in respect thereof is not paid when due (after the expiry of any applicable grace period(s)) whether by acceleration or otherwise.
- (c) Any other Financial Indebtedness of any member of the Group is not paid when due or is or becomes capable of being declared due prematurely by reason of default or any Security Interest securing the same becomes enforceable by reason of default provided that no Event of Default will arise if the aggregate amount of the relevant Financial Indebtedness and liabilities secured by the relevant Security Interests is less than [*] Dollars (\$[*]) or its equivalent in other currencies.
- (d) Any other Security Interest over any assets of any member of the Group securing any alleged liability that does not qualify as Financial Indebtedness becomes enforceable where the alleged liability is in respect of a sum of, or sum aggregating, [*] Dollars (\$[*]) or its equivalent in other currencies, unless the alleged liability is being contested in good faith by appropriate means by the relevant Group member and the Facility Agent is reasonably satisfied that the relevant member of the Group has reasonable grounds for succeeding in its action.

18.7 Winding-up

Any order is made or an effective resolution passed or other action taken for the suspension of payments or reorganisation, dissolution, termination of existence, liquidation, winding-up or bankruptcy of any Obligor.

18.8 Appointment of liquidators etc.

A liquidator, trustee, administrator, receiver, administrative receiver, manager or similar officer is appointed in respect of any Obligor or in respect of all or any substantial part of the assets of any Obligor.

18.9 Enforcement of any security

Any corporate action, legal proceeding or other procedure or step is taken in relation to enforcement of any security interests over any assets of the Borrower.

18.10 Insolvency

- (a) An Obligor is unable or admits inability to pay its debts as they fall due, is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts.
- (b) The value of the assets of any Obligor is less than its liabilities (taking into account contingent liabilities).
- (c) A moratorium in respect of all or any debts of any Obligor or a compromise, composition, assignment or an arrangement with creditors of any Obligor or any similar proceeding or arrangement by which the assets of any Obligor are submitted to the control of its creditors is applied for, ordered or declared or any Obligor commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of all or a significant part of its Financial Indebtedness. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

18.11 Legal process

Any corporate action, legal proceeding, distress, execution, attachment or other process affects the whole or any substantial part of the assets of any Obligor and remains undischarged for a period of thirty (30) days, any step is taken in relation to enforcement of any security interests over any assets of any Obligor (other than the Borrower) or any uninsured judgment which, in each case, is in excess of [*] Dollars (\$[*]) following final appeal, remains unsatisfied for a period of ten (10) days.

18.12 Analogous events

Anything analogous to or having a substantially similar effect to any of the events specified in Clauses 18.7 (*Winding-up*) to 18.11 (*Legal process*) shall occur under the laws of any applicable jurisdiction.

18.13 Cessation of business

Any Obligor ceases to carry on all or a substantial part of its business.

18.14 Revocation of consents

Any authorisation, approval, consent, licence, exemption, filing, registration or notarisation or other requirement necessary to enable any Obligor to comply with any of its obligations under any of the Transaction Documents is materially adversely modified, revoked or withheld or does not remain in full force and effect and within ninety (90) days of the date of its occurrence such event is not remedied to the satisfaction of the Facility Agent consider that such failure is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the modification, revocation or withholding of the authorisation, approval or consent is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interests might reasonably be expected to be materially adversely affected.

18.15 Unlawfulness

At any time it is unlawful or impossible for any Obligor to perform any of its material (to the Secured Parties or any of them) obligations under any Transaction Document to which it is a party or it is unlawful or impossible for the Secured Parties or any Lender to exercise any of their or its rights under any of the Transaction Documents provided that no Event of Default shall be deemed to have occurred where the unlawfulness or impossibility does not relate to the payment obligation of any Obligor under any Transaction Document and is cured within the period of twenty one (21) days of the date of occurrence of the event giving rise to the unlawfulness or impossibility and the affected Obligor performs its obligation within such period.

18.16 Insurances

The Borrower fails to insure the Ship in the manner specified in Clause 14 (*Insurance Undertakings*) or fails to renew the Insurances at least five (5) days prior to the date of expiry thereof and produce prompt confirmation of such renewal to the Facility Agent provided that if the insurers withdraw their cover an Event of Default shall be deemed to have occurred upon issue of the insurer's notice of withdrawal.

18.17 Disposals

If the Borrower or any other Obligor shall have concealed, removed, or permitted to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or made or suffered a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of its property to or for the benefit of a creditor with the intention of preferring such creditor over any other creditor.

18.18 Prejudice to security

Anything is done or suffered or omitted to be done by any Obligor which in the reasonable opinion of the Facility Agent would or might be expected to imperil the security created by any of the Finance Documents.

18.19 Governmental intervention

The authority of any Obligor in the conduct of its business is wholly or substantially curtailed by any seizure or intervention by or on behalf of any authority and within ninety (90) days of the date of its occurrence any such seizure or intervention is not relinquished or withdrawn and the Facility Agent reasonably considers that the relevant occurrence is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the seizure or intervention executed by any authority is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interest might reasonably be expected to be materially adversely affected.

18.20 Material Adverse Change

- (a) Any event or circumstance occurs which results in a Material Adverse Effect.

- (b) Any event or circumstance occurs (including, without limitation, following the sending of a notice by the Borrower under paragraph (c) of Clause 12.27 *Code of Ethics and Model*), which results in a material adverse effect on the ability of the Borrower, also under an economic and/or financial standpoint, to perform its obligations under this Agreement.

18.21 Actions following an Event of Default

On, or at any time after, the occurrence of an Event of Default the Facility Agent may, and if so instructed by the Majority Lenders and SACE (acting through the SACE Agent), the Facility Agent shall:

- (a) serve on the Borrower a notice stating that the Commitments and all other obligations of each Lender to the Borrower under this Agreement are terminated; and/or
- (b) serve on the Borrower a notice stating that the Loan (including but without limitation the amount representing the financed First Instalment and Second Instalment of the SACE Premium), all accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
- (c) take any other action which, as a result of the Event of Default or any notice served under paragraph (a) or (b), the Facility Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law.

18.22 Termination of Commitments

On the service of a notice under paragraph (a) of Clause 18.21 (*Actions following an Event of Default*), the Commitments and all other obligations of each Lender to the Borrower under this Agreement shall terminate.

18.23 Acceleration of Loan

On the service of a notice under paragraph (b) of Clause 18.21 (*Actions following an Event of Default*), the Loan, all accrued interest and all other amounts accrued or owing from the Borrower or any Obligor under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

18.24 Further amounts payable

Upon an acceleration of repayment of the Loan following an Event of Default the Borrower shall be liable to pay compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*).

18.25 Multiple notices; action without notice

The Facility Agent may serve notices under paragraphs (a) and (b) of Clause 18.21 (*Actions following an Event of Default*) simultaneously or on different dates and it may take any action referred to in paragraph (c) of Clause 18.21 (*Actions following an Event of Default*) if no such notice is served simultaneously with or at any time after the service of both or either of such notices.

18.26 Notification of Secured Parties and Obligors

The Facility Agent shall send to the Italian Authorities, each Lender and each Obligor a copy or the text of any notice which the Facility Agent serves on the Borrower under Clause 18.21 (*Actions following an Event of Default*); but the notice shall become effective when it is served on the Borrower, and no failure or delay by the Facility Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide any Obligor with any form of claim or defence.

18.27 Lender's rights unimpaired

Nothing in this Clause 18 (*Events of Default*) shall be taken to impair or restrict the exercise of any right given to individual Lenders under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clauses 2.4 (*Creditor Parties' rights and obligations*) and 2.6 (*Obligations of Lenders several*).

18.28 Exclusion of Secured Party liability

No Secured Party, and no receiver or manager appointed by the Facility Agent, shall have any liability to an Obligor:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset.

19 APPLICATION OF SUMS RECEIVED

19.1 Receipts

- (a) Except as any Finance Document may otherwise provide, all sums received under this Agreement or any other Finance Document by the Facility Agent, on behalf of the Lenders, the SACE Agent, the Security Trustee, Receiver, Delegate or by any of the Lenders for any reason whatsoever will be applied in the following order of priority:
 - (i) first, in discharging any unpaid fees, costs and expenses of, and any amounts owed to the Facility Agent, SACE Agent, Security Trustee, any Receiver or any Delegate on a pro rata basis;
 - (ii) second, to payments of any kind due or in arrears in the order of their due payment dates due to the Lenders and Joint Mandated Lead Arrangers in the following order of priority:
 - (A) first, to interest payable pursuant to Clause 17 (*Interest on Late Payments*);
 - (B) second, to interest payable pursuant to Clause 6 (*Interest*);
 - (C) third, to the principal of the Loan payable pursuant to Clause 5 (*Repayment*);

(D) fourth, to any sums due pursuant to Clause 20.2 (*Breakage costs and SIMEST arrangements*); and

(E) fifth, to any other sums due under this Agreement or any other Finance Document,

and, if relevant, payments under paragraphs (a)(ii)(A) to (a)(ii)(E) above, shall be made *pro rata* to each of the Lenders and Joint Mandated Lead Arrangers as applicable.

(b) if no payments are in arrears or if these payments have been discharged as set out above, then and to sums remaining due under this Agreement or any other Finance Document and, if relevant, pro rata to each of the Lenders and in each case in inverse order of maturity, the interest being recalculated accordingly.

(c) The Facility Agent shall, if so directed by the Lenders and subject to SACE's prior written consent, vary the order set out in paragraphs (a)(ii)(A) to (a)(ii)(D) above.

(d) Paragraphs (a), (b) and (c) above will override any appropriation made by an Obligor.

20 INDEMNITIES

20.1 Indemnities regarding borrowing and repayment of Loan

(a) The Borrower shall fully indemnify the Facility Agent, SACE Agent, Security Trustee, any Delegate, any Receiver, each Lender, SACE and SIMEST (but without double counting to the extent that a Lender is making a claim in respect of amounts owing to SIMEST) on the Facility Agent's demand in respect of all costs, claims, expenses, liabilities and losses which are made or brought against or incurred by that Secured Party, or which that Secured Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:

- (i) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity;
- (ii) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
- (iii) any failure (for whatever reason) by the Borrower to comply with its obligations to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 17 (*Interest on Late Payments*));
- (iv) the occurrence and/or continuance of an Event of Default and/or the acceleration of repayment of the Loan under Clause 18 (*Events of Default*);
- (v) the taking, holding, protection or enforcement of a Security Interest;
- (vi) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Trustee, each Receiver and each Delegate by a Finance Document or by law;
- (vii) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; and

(viii) acting as Facility Agent, SACE Agent, Security Trustee, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Interests or Security Property (otherwise, in each case, excluding sub-paragraphs (v) and (vi) above, than by reason of the relevant Facility Agent's, Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct).

(b) The Security Trustee and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Security Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and shall have a lien on the Security Interests and the proceeds of the enforcement of the Security Interests for all moneys payable to it.

20.2 Breakage costs and SIMEST arrangements

Without limiting its generality, Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) covers:

- (a) any claim, expense, liability or loss, including a loss of a prospective profit, incurred by a Lender in liquidating or employing deposits from third parties acquired or arranged to fund or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount);
- (b) if the Borrower has selected the Fixed Interest Rate in accordance with Clause 6.1 (*Fixed or Floating Interest Rate*), the CIRR Break Costs; and
- (c) any other costs whatsoever or howsoever arising under or in respect of the Interest Make-up Agreement which are passed to the SACE Agent, and any such costs imposed by SIMEST shall be paid by the Borrower to SIMEST through the SACE Agent.

20.3 Miscellaneous indemnities

The Borrower shall fully indemnify each Secured Party severally on their respective demands in respect of all claims, expenses, liabilities and losses which may be made or brought against or incurred by a Secured Party, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Facility Agent or any other Secured Party or by any receiver appointed under a Finance Document;
- (b) any other Pertinent Matter,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the relevant Secured Party's (or its officers' or employees') Gross Negligence or wilful misconduct.

Without prejudice to its generality, this Clause 20.3 (*Miscellaneous indemnities*) covers (i) any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code or any Environmental Laws or any Sanctions and (ii) any claims, expenses, liabilities (including, without limitation, under a reputational standpoint) and losses which arise, or are asserted, against CDP under or in connection with any breach by the Borrower of any of the provisions of paragraphs (ll) to (pp) of Clause 11.2 (*Continuing representations and warranties*) and/or of Clause 12.27 (*Code of Ethics and Model*).

20.4 Currency indemnity

If any sum due from an Obligor to a Secured Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- (a) making or lodging any claim or proof against an Obligor, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrower shall indemnify the Secured Party concerned against the loss arising when the amount of the payment actually received by that Secured Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 20.4 (*Currency indemnity*) the "**available rate of exchange**" means the rate at which the Secured Party concerned is able at the opening of business (Paris time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 20.4 (*Currency indemnity*) creates a separate liability of the Borrower which is distinct from its other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

20.5 Certification of amounts

A notice which is signed by 2 officers of a Secured Party, which states that a specified amount, or aggregate amount, is due to that Secured Party under this Clause 20 (*Indemnities*) and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

20.6 Sums deemed due to a Lender

For the purposes of this Clause 20 (*Indemnities*), a sum payable by the Borrower to the Facility Agent for distribution to a Lender shall be treated as a sum due to that Lender.

20.7 SACE obligations

To the extent that this Clause 20 (*Indemnities*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

21 ILLEGALITY, ETC.

21.1 Illegality and Sanctions

This Clause 21 (*Illegality, etc.*) applies if:

- (a) a Lender (the "**Notifying Lender**") notifies the Facility Agent that:
 - (i) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to perform any of its obligations as contemplated by the Finance Documents or to fund its participation in the Loan; and/or
 - (ii) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to maintain its participation in the Loan; or
- (b) an Obligor is or becomes a Prohibited Person,
(such event, an "**Illegality or Sanctions Event**").

21.2 Notification of illegality

The Borrower shall promptly notify the Facility Agent of the occurrence of an event under Clause 21.1(b) above and the Facility Agent shall promptly notify the Lenders. The Facility Agent shall promptly notify the Borrower, the Obligors and the other Lenders of the notice under Clause 21.1(a) which the Facility Agent receives from the Notifying Lender.

21.3 Prepayment; termination of Commitment

- (a) Upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(i) above, the Notifying Lender's Commitment will be immediately suspended and that Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*) within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event), the Notifying Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment;
- (b) upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(ii) above, the Notifying Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) the Notifying Lender may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;

- (c) upon the Borrower notifying the Facility Agent and the Facility Agent notifying the Lenders of an event under Clause 21.1(b) above, the Lenders shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) any Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment and may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;
- (d) The date for repayment or prepayment of a Lender's share in the Loan will be:
 - (i) the date specified by the Facility Agent in the notification under Clause 21.2 above; or
 - (ii) the last day of the current Interest Period for the Loan or, if earlier, the date specified by the Lender in the notification under paragraph (a) above and which must not be earlier than the last day of any applicable grace period allowed by law.

21.4 Mitigation

- (a) Each Creditor Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to Clause 21.1 (*Illegality and Sanctions*) or Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) 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.

22 SET-OFF

22.1 Application of credit balances

Each Creditor Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from the Borrower to that Creditor Party under any of the Finance Documents; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars;
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

22.2 Existing rights unaffected

No Creditor Party shall be obliged to exercise any of its rights under Clause 22.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

22.3 Sums deemed due to a Lender

For the purposes of this Clause 22 (*Set-Off*), a sum payable by the Borrower to the Facility Agent for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to such Lender.

22.4 No Security Interest

This Clause 22 (*Set-Off*) gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

23 BAIL-IN

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each Party acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-in Action in relation to any such liability.

24 CHANGES TO THE LENDERS

24.1 Transfer by a Lender

Subject to Clause 24.2 (*Conditions of assignment or transfer*), Clause 24.5 (*No transfer without Transfer Certificate*), Clause 24.17 (*Assignment or transfer to SACE*) and Clause 24.14 (*Change of Facility Office*), a Lender (the "**Transferor Lender**") may at any time provided they have obtained the prior written consent of the Italian Authorities cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or

- (c) a combination of (a) and (b),

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, in whole or in part any of its Affiliates or another bank or financial institution or a trust, fund, insurance or reinsurance company or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a "**Transferee Lender**") by delivering to the Facility Agent a completed certificate in the form set out in Schedule 4 (*Form of Transfer Certificate*) with any modifications approved or required by the Facility Agent (a "**Transfer Certificate**") executed by the Transferor Lender and the Transferee Lender.

However any rights and obligations of the Transferor Lender in its capacity as Facility Agent or Security Trustee will have to be dealt with separately in accordance with the provisions of Clauses 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*) and 27 (*The Security Trustee*) respectively.

24.2 Conditions of assignment or transfer

- (a) The consent of the Borrower is required at all times (subject to the provisions of Clauses 24.5 (*No transfer without Transfer Certificate*) and 24.17 (*Assignment or transfer to SACE*)) for an assignment or transfer by an Transferor Lender, unless (i) there is an Event of Default or (ii) the assignment or transfer is to another Lender or an Affiliate of a Lender or a vehicle (including trusts or funds) whose majority shares or notes are held by a Lender or an Affiliate of a Lender.
- (b) The consent of the Borrower to an assignment or transfer must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent ten (10) Business Days after the Transferor Lender has requested it unless consent is expressly refused by that Borrower within that time.
- (c) The assignment or transfer must be with respect to a minimum Commitment of [*]Dollars (\$[*]) or, if less, the Transferor Lender's full Commitment.

24.3 Transfer Certificate, delivery and notification

As soon as reasonably practicable after a Transfer Certificate is delivered to the Facility Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrower, any other Obligors, the Security Trustee and each of the other Lenders;
- (b) on behalf of the Transferee Lender, send to the Borrower and each Obligor letters or faxes notifying them of the Transfer Certificate and attaching a copy of it; and
- (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above,

but the Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Transferor Lender and the Transferee Lender once it is satisfied that itself and the Security Trustee have complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to that Transferee Lender.

24.4 Effective Date of Transfer Certificate

A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date, provided that it is signed by the Facility Agent under Clause 24.3 (*Transfer Certificate, delivery and notification*) on or before that date.

24.5 No transfer without Transfer Certificate

Except as provided in Clause 24.16 (*Security over Lenders' rights*), no assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, the Borrower, any Obligor, the Facility Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

24.6 Lender re-organisation; waiver of Transfer Certificate

However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the "**successor**"), the Facility Agent may, if it sees fit, by notice to the successor and the Borrower and the Security Trustee waive the need for the execution and delivery of a Transfer Certificate; and, upon service of the Facility Agent's notice, the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender.

24.7 Effect of Transfer Certificate

A Transfer Certificate takes effect in accordance with English law as follows:

- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender's title and of any rights or equities which the Borrower or any Obligor had against the Transferor Lender;
- (b) the Transferor Lender's Commitment is discharged to the extent specified in the Transfer Certificate;
- (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
- (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Facility Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;
- (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate's effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the Transferor Lender, assuming that any defects in the Transferor Lender's title and any rights or equities of the Borrower or any Obligor against the Transferor Lender had not existed;
- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) and Clause 9 (*Fees*), and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and

- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of the Borrower or any Obligor referred to above include, but are not limited to, any right of set off and any other kind of cross-claim.

24.8 Maintenance of register of Lenders

During the Security Period the Facility Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the Facility Office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 24.4 (*Effective Date of Transfer Certificate*)) of the Transfer Certificate; and the Facility Agent shall make the register available for inspection by any Lender, the Security Trustee and the Borrower during normal banking hours, subject to receiving at least 3 Business Days' prior notice.

24.9 Reliance on register of Lenders

The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Facility Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.

24.10 Authorisation of Facility Agent to sign Transfer Certificates

The Borrower, the Security Trustee and each Lender irrevocably authorise the Facility Agent to sign Transfer Certificates on its behalf.

24.11 Fees and Costs

In respect of any Transfer Certificate:

- (a) the Facility Agent shall be entitled to recover a registration fee of five thousand Euros (€5,000) from the Transferor Lender or (at the Facility Agent's option) the Transferee Lender;
- (b) the Transferee Lender shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation legal costs and out of pocket expenses, incurred by the Facility Agent or the Lenders in connection with any necessary amendment to or supplementing of the Transaction Documents or any of them or the SACE Insurance Policy as a consequence of the assignment or transfer; and
- (c) the Transferee Lender shall pay to the Facility Agent, upon demand, such amount as is payable to the Italian Authorities to cover its costs of giving its approval under Clause 24.1 (*Transfer by a Lender*).

24.12 Sub-participation; subrogation assignment

A Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the Borrower, any Obligor, the Facility Agent or the Security Trustee but with the prior written consent of SACE.

24.13 Disclosure of information

A Lender may disclose to a potential Transferee Lender or sub participant any information which the Lender has received in relation to the Borrower, any Obligor or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature.

24.14 Change of Facility Office

Subject to the prior written consent of SACE, a Lender may change its Facility Office by giving notice to the Facility Agent and the change shall become effective on the later of:

- (a) the date on which the Facility Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect, provided that 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 or an increased payment to the new Lender or Lender acting through its new Facility Office under Clause 10 (*Taxes, Increased Costs, Costs and related Charges*), 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.

24.15 Notification

On receiving such a notice, the Facility Agent shall notify the Borrower and the Security Trustee; and, until the Facility Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the Facility Office of which the Facility Agent last had notice.

24.16 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 24 (*Changes to the Lenders*) each Lender may without consulting with or obtaining consent from the Borrower or any Obligor but subject to the prior written consent of SACE, 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 (i) to the benefit of any Affiliate and/or (ii) within the framework of its, or its Affiliates', direct or indirect funding operations including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve, central bank or a multilateral development bank (including the European Investment Bank and the European Investment Fund); and

- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities;

except that no such charge, assignment or Security Interest shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
- (ii) alter the obligations of the Obligor or require any payments to be made by the Borrower or any Obligor 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.

Notwithstanding any provision to the contrary, upon the enforcement of any charge, assignment or other Security Interest referred to in paragraph (a) above, the beneficiary thereof (the "Beneficiary") shall deliver a notice of that enforcement to the Facility Agent (such notice to take effect in accordance with its terms) and the Beneficiary shall, upon fulfilment of the conditions referred to in Clauses 24.2 and 24.3, become party as a new Lender in respect of the rights which are subject to that charge, assignment or Security Interest.

The Borrower shall comply with all necessary formalities, if any, and take all steps necessary in order to ensure the enforceability, recognition, priority and enforcement of the charge, assignment or Security Interest granted pursuant to this Clause 24.16.

24.17 Assignment or transfer to SACE or as directed by SACE

- (a) Notwithstanding the above provisions of this Clause 24 (*Changes to the Lenders*) each Lender and the Facility Agent may, if so requested by SACE in accordance with the provisions of the SACE Insurance Policy and without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights and obligations to SACE or to any person specified by SACE (but for the avoidance of doubt, SACE will not assume any of the Lenders' obligations (if any) under this Agreement), which assignment or transfer shall take effect upon the date stated in the relevant documentation subject to the relevant parties being satisfied that they have complied with all necessary "know your customer" requirements in relation to such assignment or transfer.
- (b) The Facility Agent shall promptly notify the Borrower of any such assignment or transfer to SACE (or as directed by SACE) and, following an Event of Default, the Borrower shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.18 Assignment or transfer by SACE

- (a) SACE may, without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights under this Agreement, the Finance Documents or the SACE Insurance Policy to:
 - (i) providers of reinsurance, counter-guarantee or any form of risk enhancement (in each case, in favour of SACE);

- (ii) pursuant to article 32 of the Italian law decree no. 91/2014 converted into law 116/2014; or
 - (iii) following any payment under the SACE Insurance Policy, any person.
- (b) The Facility Agent shall promptly notify the Obligors of such assignment or transfer by SACE and, following an Event of Default, the Obligors shall pay to the Facility Agent, within three (3) Business Days of a demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.19 No prejudice to SACE rights

Nothing in the Finance Documents shall prejudice or otherwise limit:

- (a) the rights of any Lender to assign its rights or transfer its rights and obligations, under or in connection with, any Finance Document, to SACE or as directed by SACE, or the rights of SACE to assign its rights or (as the case may be) transfer its rights and obligations pursuant to Clause 24.18 (*Assignment or transfer by SACE*); and
- (b) the right of SACE to be subrogated to any Lender's rights under, or in connection with, any Finance Document.

24.20 SACE's power to direct

- (a) The Creditor Parties agree and the Obligors acknowledge that SACE has the right to direct the decision making of the Facility Agent, including (without limitation) following an Event of Default; and
- (b) to the extent SACE makes any payment to the Creditor Parties under the SACE Insurance Policy in respect of principal and/or following an assignment or transfer pursuant to Clause 24.17 (*Assignment or transfer to SACE or as directed by SACE*) or Clause 24.18 (*Assignment or transfer by SACE*), SACE shall be entitled to exercise all voting rights with respect to the relevant principal as if the relevant corresponding Commitment had been transferred to it.

24.21 Definition of Affiliate

For the purposes of this Clause 24 (*Changes to the Lenders*), the definition of "Affiliate" in respect of Crédit Agricole Corporate and Investment Bank shall, for the avoidance of doubt, include any other member of Crédit Agricole Group, and in particular:

- (a) Crédit Agricole S.A.;
- (b) Caisses Régionales de Crédit Agricole;
- (c) Crédit Agricole Assurances;
- (d) LCL SA; and/or
- (e) any company or legal entity in which one or more of the companies or entities referred to in paragraphs (a) to (d) above, together or separately, owns a direct majority interest.

25 CHANGES TO THE OBLIGORS

25.1 No change without consent

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

26 ROLE OF THE FACILITY AGENT, THE JOINT MANDATED LEAD ARRANGERS, THE SACE AGENT AND THE REFERENCE BANKS

26.1 Appointment of the Facility Agent

- (a) Each other Creditor Party appoints the Facility Agent to act as its agent under and in connection with this Agreement, the other Finance Documents and the Interest Make-Up Agreement.
- (b) Each other Creditor Party authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

26.2 Duties of the Facility Agent

- (a) The Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Facility Agent receives notice from a Party referring to this Agreement, describing an Event of Default and stating that the circumstance described is an Event of Default, it shall promptly notify the other Secured Parties.
- (d) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Secured Party (other than the Facility Agent or a Joint Mandated Lead Arranger) under this Agreement it shall promptly notify the other Secured Parties.
- (e) The Facility Agent's duties under the Finance Documents are solely administrative in nature.

26.3 Role of Joint Mandated Lead Arrangers

None of the Joint Mandated Lead Arrangers has any obligations of any kind to any other Party under or in connection with any Transaction Document, the Interest Make-Up Agreement or the SACE Insurance Policy.

26.4 No fiduciary duties

- (a) Nothing in this Agreement constitutes the Facility Agent or any of the Joint Mandated Lead Arrangers as a trustee or fiduciary of any other person.

- (b) Neither the Facility Agent nor any of the Joint Mandated Lead Arrangers shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

26.5 Business with the Guarantor

The Facility Agent and each of the Joint Mandated Lead Arrangers may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Affiliate or Subsidiary of the Guarantor.

26.6 Rights and discretions of the Facility Agent

- (a) The Facility Agent may rely on:
 - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and
 - (ii) any statement made by a director, manager, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Event of Default has occurred (unless it has actual knowledge of an Event of Default); and
 - (ii) any right, power, authority or discretion vested in any Party or the Lenders has not been exercised.
- (c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as the Facility Agent under this Agreement.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor any of the Joint Mandated Lead Arrangers 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.

26.7 Lenders' and SACE's instructions

- (a) Unless a contrary indication appears in a Finance Document, the Facility Agent (and in the case of SACE, the SACE Agent) shall:
 - (i) exercise any right, power, authority or discretion vested in it as Facility Agent (or as SACE Agent as the case may be) in accordance with any instructions given to it by the Majority Lenders (or in the case of the SACE Agent, by SACE) (or, if so instructed by the Majority Lenders or, in the case of the SACE Agent, by SACE, refrain from exercising any right, power, authority or discretion vested in it as the Facility Agent or as the SACE Agent (as the case may be)); and

- (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders and/or SACE (as applicable).
- (b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders and SACE will be binding on all the Secured Parties.
- (c) The Facility Agent (and the SACE Agent as regards SACE) may refrain from acting in accordance with the instructions of the Majority Lenders and SACE until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.
- (d) In the absence of instructions from the Majority Lenders and SACE, the Facility Agent (or the SACE Agent as the case may be) may act (or refrain from taking action) as it considers to be in the best interest of the Secured Parties.
- (e) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.
- (f) Notwithstanding anything to the contrary, the Lenders agree that if the Facility Agent (acting in its sole discretion) is of the opinion that or if any Lender notifies the Facility Agent that it is of the opinion that, the prior approval of the Italian Authorities should be obtained in relation to the exercise or non-exercise by the Facility Agent or the Lenders of any power, authority or discretion specifically given to them under or in connection with the Finance Documents or in relation to any other incidental rights, powers, authorities or discretions, then the SACE Agent shall seek such approval of the Italian Authorities prior to such exercise or non-exercise.

26.8 Responsibility for documentation

The Facility Agent is not responsible for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, a Joint Mandated Lead Arranger, an Obligor or any other person given in or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-Up Agreement; nor for
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document the SACE Insurance Policy or the Interest Make-Up Agreement or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-up Agreement.

26.9 Exclusion of liability

- (a) Without limiting paragraph (b) of Clause 26.9 (*Exclusion of liability*), the Facility Agent will not be liable for any action taken by it under or in connection with any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement, unless directly caused by its Gross Negligence or wilful misconduct.

- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents, the SACE Insurance Policy or the Interest Make-Up Agreement to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or a Joint Mandated Lead Arranger to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent and the Joint Mandated Lead 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 Facility Agent or a Joint Mandated Lead Arranger.

26.10 Lenders' indemnity to the Facility Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three (3) Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's Gross Negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).

26.11 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Creditor Parties, the Borrower and SACE and with the consent of SACE.
- (b) Alternatively the Facility Agent may resign by giving notice to the other Secured Parties and the Borrower, in which case the Lenders (after consultation with the Borrower and the prior consent of SACE) may appoint a successor Facility Agent.
- (c) If the Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) within thirty (30) days after notice of resignation was given, the Facility Agent (after consultation with the Borrower and SACE) may appoint a successor Facility Agent.
- (d) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.

- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Italian Authorities, the Majority Lenders may, subject to the prior consent of the Italian Authorities, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*). In this event, the Facility Agent shall resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The appointment of a successor Facility Agent pursuant to this Clause 26.11 (*Resignation of the Facility Agent*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

26.12 Confidentiality

- (a) In acting as agent for the Secured Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

26.13 Relationship with the Lenders

The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

26.14 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and each of the Joint Mandated Lead 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 the Guarantor and each Subsidiary of the Guarantor;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the 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;

- (d) the adequacy, accuracy and/or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by 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; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Charged Property, the priority of any Security Interests or the existence of any Security Interest affecting the Charged Property.

26.15 Deduction from amounts payable by the Facility Agent

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

26.16 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Facility Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Facility Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

26.17 SACE Agent, SACE Insurance Policy and Interest Make-Up Agreement

With the prior written consent of each of the Lenders, the SACE Agent (with a copy to the Facility Agent) may require SACE or SIMEST to amend or modify the SACE Insurance Policy and the Interest Make-up Agreement provided that such amendments are not inconsistent with the commercial terms of this Agreement, otherwise, the SACE Agent (with a copy to the Facility Agent) undertakes not to require SACE or SIMEST to amend or modify the SACE Insurance Policy or the Interest Make-up Agreement.

26.18 Resignation of the Facility Agent in relation to FATCA

The Facility Agent shall resign in accordance with Clause 26.11 (*Resignation of the Facility Agent*) (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) of Clause 26.11 (*Resignation of the Facility Agent*)) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:

- (a) the Facility Agent fails to respond to a request under Clause 10.9 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
- (b) the information supplied by the Facility Agent pursuant to Clause 10.9 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (c) the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

26.19 No duty to monitor

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Event of 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.

26.20 Appointment of the SACE Agent

- (a) Each Lender and each Joint Mandated Lead Arranger irrevocably appoints the SACE Agent to act as its agent under and in connection with:
 - (i) the SACE Insurance Policy; and
 - (ii) the Finance Documents in relation to matters involving SACE, SIMEST and the SACE Insurance Policy.

- (b) Each Lender and each Joint Mandated Lead Arranger irrevocably authorises the SACE Agent to:
- (i) perform the duties, obligation and responsibilities and exercise the rights, powers, authorities and discretions specifically given to the SACE Agent under or in connection with the Finance Documents and the SACE Insurance Policy, together with any other incidental rights, powers, authorities and discretions; and
 - (ii) execute the SACE Insurance Policy.

26.21 Application of certain Clauses

The provisions of Clauses 26.2 (*Duties of the Facility Agent*), 26.4 (*No fiduciary duties*), 26.6 (*Rights and discretions of the Facility Agent*), 26.7 (*Lenders' and SACE's instructions*), 26.8 (*Responsibility for documentation*), 26.9 (*Exclusion of liability*), 26.10 (*Lenders' indemnity to the Facility Agent*), 26.11 (*Resignation of the Facility Agent*), 26.12 (*Confidentiality*), 26.13 (*Relationship with the Lenders*), 26.14 (*Credit appraisal by the Lenders*), 26.16 (*Full freedom to enter into transactions*), 26.19 (*No duty to monitor*) and 27.23 (*Business with the Group*) shall apply in respect of the SACE Agent in its capacity as such as if each reference to the Facility Agent (or Security Trustee in the case of Clause 27.23 (*Business with the Group*)) were a reference to the SACE Agent and each reference to the Finance Documents or Transaction Documents included a reference to the SACE Insurance Policy.

26.22 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 26.22 (*Role of Reference Banks*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

26.23 Third Party Reference Banks

A Reference Bank which is not a Party may rely on Clause 26.22 (*Role of Reference Banks*) and Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

27 THE SECURITY TRUSTEE

27.1 Trust

- (a) The Security Trustee declares that it shall hold the Security Property on trust for the Secured Parties on the terms contained in this Agreement and shall deal with the Security Property in accordance with this Clause 27 (*The Security Trustee*) and the other provisions of the Finance Documents.

- (b) Each of the parties to this Agreement agrees that the Security Trustee shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Finance Documents (and no others shall be implied).
- (c) The Security Trustee shall not have any liability to any person in respect of its duties, obligations and responsibilities under this Agreement or the other Finance Documents except as expressly set out in paragraph (a) of Clause 27.1 (*Trust*) and as excluded or limited by this Clause 27 (*The Security Trustee*) including in particular Clause 27.8 (*Instructions to Security Trustee and exercise of discretion*), Clause 27.13 (*Responsibility for documentation*), Clause 27.14 (*Exclusion of liability*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*), Clause 27.23 (*Business with the Group*) and Clause 27.28 (*Full freedom to enter into transactions*).

27.2 Parallel Debt (Covenant to pay the Security Trustee)

- (a) Each Obligor irrevocably and unconditionally undertakes to pay to the Security Trustee its Parallel Debt which shall be amounts equal to, and in the currency or currencies of, its Corresponding Debt.
- (b) The Parallel Debt of an Obligor:
 - (i) shall become due and payable at the same time as its Corresponding Debt;
 - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For purposes of this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*), the Security Trustee:
 - (i) is the independent and separate creditor of each Parallel Debt;
 - (ii) acts in its own name and not as agent, representative or trustee of the Secured Parties and its claims in respect of each Parallel Debt shall not be held on trust; and
 - (iii) shall have the independent and separate right to demand payment of each Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).
- (d) The Parallel Debt of an Obligor shall be:
 - (i) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged; and
 - (ii) increased to the extent that its Corresponding Debt has increased,and the Corresponding Debt of an Obligor shall be:
 - (A) decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged; and

(B) increased to the extent that its Parallel Debt has increased,

in each case provided that the Parallel Debt of an Obligor shall never exceed its Corresponding Debt.

- (e) All amounts received or recovered by the Security Trustee in connection with this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) to the extent permitted by applicable law, shall be applied in accordance with Clause 19 (*Application of sums received*).
- (f) This Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) shall apply, with any necessary modifications, to each Finance Document.

27.3 No independent power

The Secured Parties shall not have any independent power to enforce, or have recourse to, any Security Interest created by any of the Finance Documents or to exercise any rights or powers arising under the Finance Documents creating the Security Interest except through the Security Trustee.

27.4 Application of receipts

- (a) Except as expressly stated to the contrary in any Finance Document, any moneys which the Security Trustee receives or recovers and which are, or are attributable to, Security Property (for the purposes of this Clause 27 (*The Security Trustee*), the "**Recoveries**") shall be transferred to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*).
- (b) Paragraph (a) above is without prejudice to the rights of the Security Trustee, any Receiver or any Delegate:
 - (i) under Clause 26.10 (*Lenders' indemnity to the Facility Agent*) to be indemnified out of the Charged Property; and
 - (ii) under any Finance Document to credit any moneys received or recovered by it to any suspense account.
- (c) Any transfer by the Security Trustee to the Facility Agent in accordance with paragraph (a) above shall be a good discharge, to the extent of that payment, by the Security Trustee.
- (d) The Security Trustee is under no obligation to make the payments to the Facility Agent under paragraph (a) of this Clause 27.4 (*Application of receipts*) in the same currency as that in which the obligations and liabilities owing to the relevant Secured Party are denominated.

27.5 Deductions from receipts

- (a) Before transferring any moneys to the Facility Agent under Clause 27.4 (*Application of receipts*), the Security Trustee may, in its discretion:
 - (i) deduct any sum then due and payable under this Agreement or any other Finance Documents to the Security Trustee or any receiver and retain that sum for itself or, as the case may require, pay it to another person to whom it is then due and payable;

- (ii) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
 - (iii) pay all Taxes which may be assessed against it in respect of any of the Security Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).
- (b) For the purposes of paragraph (a)(i) above, if the Security Trustee has become entitled to require a sum to be paid to it on demand, that sum shall be treated as due and payable, even if no demand has yet been served.

27.6 Prospective liabilities

Following acceleration of any Security Interest, the Security Trustee may, in its discretion, or at the request of the Facility Agent, hold any recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) for later payment to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*) in respect of:

- (a) any sum to the Security Trustee, any Receiver or Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Trustee or, in the case of paragraph (b) only, the Facility Agent, reasonably considers, in each case, might become due or owing at any time in the future.

27.7 Investment of proceeds

Prior to the payment of the proceeds of the recoveries to the Facility Agent for application in accordance with Clause 27.4 (*Application of receipts*) the Security Trustee may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) pending the payment from time to time of those moneys in the Security Trustee's discretion in accordance with the provisions of this Clause 27.7 (*Investment of proceeds*).

27.8 Instructions to Security Trustee and exercise of discretion

- (a) Subject to paragraph (d) below, the Security Trustee shall act in accordance with any instructions given to it by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) or, if so instructed by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)), refrain from exercising any right, power, authority or discretion vested in it as Security Trustee and shall be entitled to assume that:
 - (i) any instructions received by it from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) are duly given in accordance with the terms of the Finance Documents; and

- (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.
- (b) The Security Trustee shall be entitled to request instructions, or clarification of any direction, from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Trustee may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Any instructions given to the Security Trustee by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) shall override any conflicting instructions given by any other Party.
- (d) Paragraph (a) above shall not apply:
 - (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement requires the Security Trustee to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Trustee's own position in its personal capacity as opposed to its role of Security Trustee for the Secured Parties including, without limitation, the provisions set out in Clauses 27.10 (*Security Trustee's discretions*) to Clause 27.28 (*Full freedom to enter into transactions*); and
 - (iv) in respect of the exercise of the Security Trustee's discretion to exercise a right, power or authority under any of Clause 27.5 (*Deductions from receipts*) and Clause 27.6 (*Prospective liabilities*).

27.9 Security Trustee's Actions

Without prejudice to the provisions of Clause 27.4 (*Application of receipts*), the Security Trustee may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.

27.10 Security Trustee's discretions

- (a) The Security Trustee may:
 - (i) assume (unless it has received actual notice to the contrary from the Facility Agent) that (i) no Event of Default has occurred and no Obligor is in breach of or default under its obligations under any of the Finance Documents and (ii) any right, power, authority or discretion vested by any Finance Document in any person has not been exercised;
 - (ii) assume that any notice or request made by the Borrower (other than a Drawdown Notice) is made on behalf of and with the consent and knowledge of all the Obligors;
 - (iii) if it receives any instructions or directions to take any action in relation to a Security Interest under the Finance Documents, assume that all applicable conditions under the Finance Documents for taking that action have been satisfied;

- (iv) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Trustee or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;
 - (v) act in relation to the Finance Documents through its personnel and agents;
 - (vi) disclose to any other Party any information it reasonably believes it has received as Security Trustee under this Agreement;
 - (vii) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party or an Obligor, upon a certificate signed by or on behalf of that person; and
 - (viii) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received any indemnification and/or security that it may in its discretion require (which may be greater than that contained in the Finance Documents and which may include payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting.
- (b) Notwithstanding any other provision of any Finance Document to the contrary, the Security Trustee is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
 - (c) Notwithstanding any provision of any Finance Document to the contrary, the Security Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion, if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not assured to it.

27.11 Security Trustee's obligations

The Security Trustee shall promptly:

- (a) copy to the Facility Agent the contents of any notice or document received by it from any Obligor under any Finance Document;
- (b) forward to a Party the original or a copy of any document which is delivered to the Security Trustee for that Party by any other Party provided that the Security Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform the Facility Agent of the occurrence of any Event of Default or any default by an Obligor in the due performance of or compliance with its obligations under any Finance Document of which the Security Trustee has received notice from any other party to this Agreement.

27.12 Excluded obligations

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee shall not:

- (a) be bound to enquire as to (i) whether or not any Event of Default has occurred or (ii) the performance, default or any breach by an Obligor of its obligations under any of the Finance Documents;
- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (d) be or be deemed to be an agent, trustee or fiduciary of any Obligor.

27.13 Responsibility for documentation

None of the Security Trustee, any Receiver or Delegate shall accept responsibility or be liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Trustee or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

27.14 Exclusion of liability

- (a) Without limiting Clause 27.15 (*No proceedings*), (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate), none of the Security Trustee or any Receiver nor any Delegate will be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of any action taken by it or not taken by it under or in connection with any Finance Document or any Security Interest, 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 of the Finance Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Finance Documents or the Security Property;

- (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) Nothing in this Agreement shall oblige the Security Trustee to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Security Trustee that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Trustee.
- (c) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate, any liability of the Security Trustee, any Receiver or Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Trustee, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Trustee, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Trustee, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Trustee, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

27.15 No proceedings

No Party (other than the Security Trustee or that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Trustee, Receiver or Delegate in respect of any claim it might have against the Security Trustee, Receiver or Delegate in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Property and any officer, employee or agent of the Security Trustee, Receiver or Delegate may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.

27.16 Lenders' indemnity to the Security Trustee

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Security Trustee and every Receiver and every Delegate within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct) in acting as Security Trustee, Receiver or Delegate under the Finance Documents (unless the relevant Security Trustee, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).

27.17 Own responsibility

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Creditor Party confirms to the Security Trustee that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Finance Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) whether that Creditor Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Trustee or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Security Interests created by the Finance Documents or the existence of any Security Interest affecting the Charged Property,

and each Creditor Party warrants to the Security Trustee that it has not relied on and will not at any time rely on the Security Trustee in respect of any of these matters.

27.18 No responsibility to perfect Security Interests

The Security Trustee shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;

- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Finance Documents or any Security Interest;
- (c) register, file or record or otherwise protect any Security Interests (or the priority of any of Security Interest) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Finance Documents or of any Security Interest;
- (d) take, or to require any of the Obligors to take, any steps to perfect its title to any of the Charged Property or to render any Security Interest effective or to secure the creation of any ancillary Security Interest under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Finance Documents creating the Security Interests.

27.19 Insurance by Security Trustee

- (a) The Security Trustee shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Finance Documents. The Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.
- (b) Where the Security Trustee is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Facility Agent shall have requested it to do so in writing and the Security Trustee shall have failed to do so within fourteen (14) days after receipt of that request.

27.20 Custodians and nominees

The Security Trustee may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Trustee 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 Trustee 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.

27.21 Acceptance of title

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Obligors 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.

27.22 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Trustee may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

27.23 Business with the Group

The Security Trustee may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

27.24 Winding up of trust

If the Security Trustee, with the approval of the Facility Agent determines that (a) all of the Secured Liabilities and all other obligations secured by the Finance Documents creating the Security Interests have been fully and finally discharged and (b) none of the Secured Parties 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:

- (a) the trusts set out in this Agreement shall be wound up and the Security Trustee shall release, without recourse or warranty, all of the Security Interests and the rights of the Security Trustee under each of the Finance Documents creating the Security Interests; and
- (b) any Retiring Security Trustee shall release, without recourse or warranty, all of its rights under each of the Finance Documents creating the Security Interests.

27.25 Powers supplemental

The rights, powers and discretions conferred upon the Security Trustee by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Trustee by general law or otherwise.

27.26 Trustee division separate

- (a) In acting as trustee for the Secured Parties, the Security Trustee shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Trustee, it may be treated as confidential to that division or department and the Security Trustee shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.

27.27 Disapplication

In addition to its rights under or by virtue of this Agreement and the other Finance Documents, the Security Trustee shall have all the rights conferred on a trustee by the Trustee Act 1925, the Trustee Delegation Act 1999, the Trustee Act 2000 and by general law or otherwise, provided that:

- (a) section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by this Agreement and the other Finance Documents; and
- (b) where there are any inconsistencies between (i) the Trustee Acts 1925 and 2000 and (ii) the provisions of this Agreement and any other Finance Document, the provisions of this Agreement and any other Finance Document shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, such provisions shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000.

27.28 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Security Trustee shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security trustee for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, each Servicing Party shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

27.29 Resignation of the Security Trustee

- (a) The Security Trustee may resign and appoint one of its affiliates as successor by giving notice to the Borrower and each Secured Party.
- (b) Alternatively the Security Trustee may resign by giving notice to the other Parties in which case the Majority Lenders (with the prior consent of SACE) may appoint a successor Security Trustee.
- (c) If the Majority Lenders have not appointed a successor Security Trustee in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Trustee (after consultation with the Facility Agent and SACE) may appoint a successor Security Trustee.
- (d) The retiring Security Trustee (the "**Retiring Security Trustee**") shall, at its own cost, make available to the successor Security Trustee such documents and records and provide such assistance as the successor Security Trustee may reasonably request for the purposes of performing its functions as Security Trustee under the Finance Documents.

- (e) The Security Trustee's resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer, by way of a document expressed as a deed, of all of the Security Property to that successor.
- (f) Upon the appointment of a successor, the Retiring Security Trustee shall be discharged, by way of a document executed as a deed, from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 27.24 (*Winding up of trust*) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Trustee, remain entitled to the benefit of Clause 27 (*The Security Trustee*), Clause 27.5 (*Deductions from receipts*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability in acting as Security Trustee. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Majority Lenders may, by notice to the Security Trustee, require it to resign in accordance with paragraph (b) above. In this event, the Security Trustee shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The consent of the Borrower (or any other Obligor) is not required for an assignment or transfer of rights and/or obligations by the Security Trustee.
- (i) The appointment of a successor Security Trustee pursuant to this Clause 27.29 (*Resignation of the Security Trustee*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

27.30 Delegation

- (a) Each of the Security Trustee, any Receiver or any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Finance Documents.
- (b) That delegation may be made upon any terms and conditions and subject to any restrictions that the Security Trustee, that Receiver or that Delegate (as the case may be) considers in its discretion to be appropriate and it shall not be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct or default on the part of any such delegate or sub delegate.
- (c) The Security Trustee shall exercise reasonable care in the selection of any such delegate or sub delegate.

27.31 Additional Security Trustee

- (a) The Security Trustee 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 appropriate; or
 - (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Trustee deems to be relevant; or
 - (iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Trustee shall give prior notice to the Borrower and the Facility Agent of that appointment.

- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Trustee by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Trustee 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 Trustee.

27.32 Financial Services and Markets Act 2000

- (a) Notwithstanding anything in any Finance Document to the contrary, the Security Trustee shall not do, or be authorised or required to do, anything which might constitute a regulated activity for the purpose of the Financial Services and Markets Act 2000 ("FSMA"), unless it is authorised under FSMA to do so.
- (b) The Security Trustee shall have the discretion at any time:
 - (i) to delegate any of the functions which fall to be performed by an authorised person under FSMA to any other agent or person which also has the necessary authorisations and licences; and
 - (ii) to apply for authorisation under FSMA and perform any or all such functions itself if, in its absolute discretion, it considers it necessary, desirable or appropriate to do so.

28 CONDUCT OF BUSINESS BY THE CREDITOR PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Creditor Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Creditor 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 Creditor Party to disclose any information relating to its affairs (Tax or otherwise) or any computations in respect of Tax.

29 SHARING AMONG THE CREDITOR PARTIES

29.1 Payments to Creditor Parties

If a Creditor Party (a "**Recovering Creditor Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 29 *Sharing among the Creditor Parties*) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Creditor Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Facility Agent;

- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Creditor Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Creditor Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the **Sharing Payment**) equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Creditor Party as its share of any payment to be made, in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Creditor Parties (other than the Recovering Creditor Party) in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.3 Recovering Creditor Party's rights

- (a) On a distribution by the Facility Agent under Clause 29.2 (*Redistribution of payments*), the Recovering Creditor Party will, if possible under the relevant applicable laws, be subrogated to the rights of the Creditor Parties which have shared in the redistribution.
- (b) If and to the extent that the Recovering Creditor Party is not able to rely on its rights under paragraph (a) of Clause 29.3 (*Recovering Creditor Party's rights*), the relevant Obligor shall be liable to the Recovering Creditor Party for a debt equal to the Sharing Payment which is immediately due and payable.

29.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Creditor Party becomes repayable and is repaid by that Recovering Creditor Party, then:

- (a) each Lender which has received a share of the relevant Sharing Payment pursuant to Clause 29.2 (*Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Creditor 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 Creditor Party for its proportion of any interest on the Sharing Payment which that Recovering Creditor Party is required to pay); and
- (b) that Recovering Creditor Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Creditor Party for the amount so reimbursed.

29.5 Exceptions

- (a) This Clause 29 (*Sharing among the Creditor Parties*) shall not apply to the extent that the Recovering Creditor Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.

- (b) A Recovering Creditor Party is not obliged to share with any other Creditor Party any amount which the Recovering Creditor Party has received or recovered as a result of taking legal or arbitration proceedings, if:
- (i) it notified that other Creditor Party of the legal or arbitration proceedings; and
 - (ii) that other Creditor 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.
- (c) Following full indemnification by SACE of the SACE Agent (on behalf of the Lenders) under the SACE Insurance Policy, the provisions relating to the sharing of proceeds among the Creditor Parties in this Clause 29 (*Sharing among the Creditor Parties*) shall not apply to any payment made to SACE by a Lender or the Borrower following a payment by SACE to any Lender under the SACE Insurance Policy.

30 PAYMENT MECHANICS

30.1 Payments to the Facility 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 Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to Euro, in a principal financial centre in a Participating Member State or London) with such bank as the Facility Agent specifies.
- (c) Payment shall be made before 11.00 a.m. New York time or 11.00 a.m. Paris time (in the case of a payment in Euro).
- (d) For each payment by the Borrower, it shall notify the Facility Agent on the third Business Day prior to the due date for payment that it will issue to its bank (which shall be named in such notification) to make the payment.

30.2 Distributions by the Facility Agent or the SACE Agent

Each payment received by the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party shall, subject to Clause 30.3 (*Distributions to an Obligor*), Clause 30.4 (*Clawback*) be made available by the Facility Agent or SACE Agent (as the case may be) as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent (following which the Facility Agent shall promptly notify the SACE Agent, if relevant to it) by not less than five (5) Business Days' notice with a bank in the principal financial centre of the country of that currency.

30.3 Distributions to an Obligor

The Facility Agent may in accordance with Clause 22 (*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.

30.4 Clawback

- (a) Where a sum is to be paid to the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

30.5 No set-off by Obligor

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

30.6 Business Days

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (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.

30.7 Currency of account

- (a) Subject to paragraphs (b) and (c) of Clause 30.7 (*Currency of account*) Dollars is the currency of account and payment for any sum from an Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than Dollars shall be paid in that other currency.

30.8 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Lenders and 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 Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Lenders and the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

30.9 Distributions under the Interest Make-up Agreement

Each payment received by the Facility Agent under the Interest Make-up Agreement for a Lender shall be made available by the Facility Agent as soon as practicable after receipt to the Lender entitled to receive such payment in accordance with this Agreement (for the account of its Facility Office), to such account as that Lender may notify to the Facility Agent by not less than five (5) Business Days' notice with a bank 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).

31 VARIATIONS AND WAIVERS

31.1 Variations, waivers etc. by Majority Lenders

Subject to Clause 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), a document shall be effective to vary, waive, amend, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by fax, by the Borrower, by the Facility Agent on behalf of the Majority Lenders, by the Facility Agent and the Security Trustee in their own rights, and, if the document relates to a Finance Document to which an Obligor is party, by an Obligor (provided that no amendment or variation may be made to this Agreement or any other Finance Document without the consent of the Italian Authorities); provided, further, that no amendment or variation may be made before the date falling ten Business Days after the terms of that amendment or variation have been notified by the Facility Agent to the Lenders. The Facility Agent shall notify the Lenders reasonably promptly of any amendments or variations proposed by the Borrower.

31.2 Variations, waivers etc. requiring agreement of all Lenders

However, as regards the following, Clause 31.1 (*Variations, waivers etc. by Majority Lenders*) applies as if the words "by the Facility Agent on behalf of the Majority Lenders" were replaced by the words "by or on behalf of every Lender":

- (a) a reduction in the Margin;
- (b) a postponement to the date for, or a reduction in the amount of, any payment of principal, interest, fees, commission or other sum payable under this Agreement;
- (c) an increase in or extension of any Lender's Commitment or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Loan;
- (d) a change to the definition of "**Majority Lenders**";

- (e) a change to Clause 2 (*Facility*), Clause 6 (*Interest*), Clause 24 (*Changes to the Lenders*) or this Clause 31 (*Variations and Waivers*);
- (f) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
- (g) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender's consent is required.

31.3 Exclusion of other or implied variations

Except for a document which satisfies the requirements of Clauses 31.1 (*Variations, waivers etc. by Majority Lenders*) and 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower or an Obligor of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

32 NOTICES

32.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

32.2 Addresses for communications

A notice shall be sent:

- (a) to the Borrower: 7665 Corporate Center Drive
Miami FL 33126 USA
Fax No: (00) 1 305 436 4140
- (b) to a Lender: At the address below its name in Schedule 1 (*Lenders and Commitments*) or (as the case may require) in the relevant Transfer Certificate.

- (c) to the Facility Agent: CIB- COO Office-TMEF
Millénaire 4
35 rue de la gare
75019 Paris
Fax No. (33) 1 43 16 81 84
Attn: Attention: S. CASET-CARRICABURU/B. SOHIER
Email: sylvie.casetcarricaburu@bnpparibas.com
beatrice.sohier@bnpparibas.com
- (d) to the SACE Agent: 12, place des Etats-Unis
CS 70052
92547 Montrouge cedex
Paris
Fax No. (33) 1 41 89 19 34
Attn: Shipping Middle Office – Ms Clémentine Costil and Romy Roussel
E-mail: clementine.costil@ca-cib.com
romy.rousseau@ca-cib.com
- (e) to the Security Trustee: 8 Canada Square
London
E14 5HQ
Fax: +44 20 7991 4350
Email: Ctla.trustee.admin@hsbc.com
Attention: CTLA Trustee Services Administration

or to such other address as the relevant party may notify the Facility Agent or, if the relevant party is the Facility Agent, the Borrower and the Lenders.

32.3 Effective date of notices

Subject to Clauses 32.4 (*Service outside business hours*) and 32.5 (*Electronic communication*):

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered;
- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.

32.4 Service outside business hours

However, if under Clause 32.3 (*Effective date of notices*) a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
- (b) on such a business day, but after 6 p.m. local time;

the notice shall (subject to Clause 32.5 (*Electronic communication*)) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

32.5 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means, to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

32.6 Illegible notices

Clauses 32.3 (*Effective date of notices*) and 32.4 (*Service outside business hours*) do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

32.7 Valid notices

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

32.8 English language

Any notice under or in connection with a Finance Document shall be in English.

32.9 Meaning of "notice"

In this Clause 32 (*Notices*), "**notice**" includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

33 CONFIDENTIALITY

33.1 Confidential Information

Each Creditor Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 *Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

33.2 Disclosure of Confidential Information

Any Creditor Party may disclose:

- (a) to the Italian Authorities, to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Creditor Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates, Representatives and professional advisers;
 - (ii) who is an insurer or reinsurer of any Creditor Party and requests such information;
 - (iii) 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, Representatives and professional advisers;
 - (iv) appointed by any Creditor Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
 - (v) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
 - (vi) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;

- (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (viii) who is a Party, a member of the Group or any related entity of an Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document; or
- (x) with the consent of the Guarantor; or
- (xi) any employee, officer, director or Representative of any Italian Authorities to whom information is required to be disclosed in the course of such person's employment or duties;
- (xii) to whom or for whose benefit that Creditor Party charges, assigns or otherwise creates a Security Interest (or may do so) pursuant to Clause 24.16 ~~Security over Lenders' rights~~.

in each case, such Confidential Information as that Creditor Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii) and (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to paragraph (b)(v) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(vi), (b)(vii) and (b)(xii) 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 Creditor Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Creditor Party or by a person to whom sub-paragraphs (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Creditor Party;

- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the 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.

33.3 Entire agreement

This Clause 33 (*Confidentiality*) constitutes the entire agreement between the Parties in relation to the obligations of the Creditor Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

33.4 Disclosure to information services

- (a) Any Creditor Party may disclose to any national or international information service company such as Dealogic, TF, GTR, TXF, IFR and any other similar information service company appointed by that Creditor Party, the following information:

- (i) names of Parties;
- (ii) country of domicile of Obligors;
- (iii) place of incorporation or formation, as the case may be, of Obligors;
- (iv) date of this Agreement and Effective Date;
- (v) Clause 38 (*Governing Law*);
- (vi) the name of the Facility Agent;
- (vii) amount of Total Commitments;
- (viii) currency of the Facility;
- (ix) type of Facility;
- (x) ranking of Facility; and
- (xi) duration of Facility,

to enable such information service company to provide its usual services.

- (b) Each Obligor represents that none of the information set out in sub-paragraphs (i) to (xi) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.

33.5 Inside information

Each of the Creditor Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Creditor Parties undertakes not to use any Confidential Information for any unlawful purpose.

33.6 Notification of disclosure

Each of the Creditor Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(vi) of Clause 33.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 33 (*Confidentiality*).

33.7 Continuing obligations

The obligations in this Clause 33 (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each Creditor Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Creditor Party otherwise ceases to be a Creditor Party.

33.8 Disclosure by SACE

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information:

- (a) as required to be disclosed by applicable law, regulation, rule or order of a competent authority in the context of litigation, arbitration or administrative proceedings to which SACE is subject or as required to be disclosed as a consequence of the participation of SACE and/or the Republic of Italy to an international organisation of which SACE and/or the Republic of Italy is a member (and in such event, upon notification from SACE, the SACE Agent shall inform the Obligors of such requirement as soon as reasonably practicable to the extent permitted by law, regulation, rule or order of a competent authority and the person to whom such Confidential Information is to be given is informed of its confidential nature);
- (b) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (c) to any providers of any reinsurance, counter-guarantee or any form of risk enhancement (including but not limited to SACE's agents, brokers and consultants) subject to such persons entering into confidentiality arrangements with SACE unless such persons are subject to professional obligations of confidentiality;
- (d) if required for the purposes of the state guarantee in favour of SACE pursuant to article 32 of law-decree no. 91/2014 converted into law 116/2014 in the Republic of Italy;

- (e) following any payment due under the SACE Insurance Policy; or
- (f) with the consent of the Borrower, such consent not to be unreasonably withheld.

33.9 Disclosure by SIMEST

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information to SIMEST provided that SIMEST may, in turn, disclose such Confidential Information:

- (a) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (b) to its professional advisers provided that such advisers are under a professional duty to keep such information confidential;
- (c) to providers of hedging arrangements entered into by SIMEST in connection with the Facility (including their agents, brokers and consultants) subject to such persons undertaking confidentiality obligations with SIMEST (unless they are subject to professional duties of confidentiality) and with the written consent of the Borrower (such consent not to be unreasonably withheld); or
- (d) with the consent of the Borrower.

33.10 Press release

Neither SACE nor the Borrower will issue any press release or make any public announcement in relation to the SACE Insurance Policy without the prior consent of the other party (such consent not to be unreasonably withheld).

34 CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

34.1 Confidentiality and disclosure

- (a) The Facility Agent and the Borrower agree to keep each Funding Rate (and, in case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.
- (b) The Facility Agent may disclose any Funding Rate or Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation and the Borrower may disclose any Funding Rate to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives, if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this sub-paragraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;

- (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
- (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
- (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.

34.2 Related obligations

- (a) The Facility Agent and the Borrower acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and the Borrower undertake not to use any Funding Rate (or, in the case of the Facility Agent, any Reference Bank Quotation) for any unlawful purpose.
- (b) The Facility Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (c) of Clause 34.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

35 LEGAL INDEPENDENCE AND UNCONDITIONAL OBLIGATIONS OF THE BORROWER

35.1 Legal independence and Unconditional Obligations of the Borrower

This Agreement is legally independent from the Shipbuilding Contract. The obligations of the Borrower to make payments and to observe and perform its obligations under the Transaction Documents are absolute, unconditional, irrevocable and several and such obligations shall not:

- (a) in any way be affected or discharged by reason of any matter affecting the Shipbuilding Contract including its performance, frustration or validity, the insolvency or dissolution of any party to the Shipbuilding Contract or the destruction, non-completion or non-functioning of the goods and equipment supplied under the Shipbuilding Contract;
- (b) in any way be affected or discharged by reason of any dispute under the Shipbuilding Contract or any claim which it or any other person may have against, or consider that it has against, any person under the Shipbuilding Contract;
- (c) in any way be affected or discharged by reason of unenforceability, illegality or invalidity of any obligation of the Borrower or any other person under the Shipbuilding Contract or any documents or agreements relating to the Shipbuilding Contract;
- (d) in any way be affected by the fact that all or any part of the amount requested referred to in the Drawdown Notice is not or was not due or payable to the Builder;
- (e) be conditional on the performance by the Creditor Parties of any obligations (except as otherwise stated herein) in order to give rise to a relevant obligation of the Borrower hereunder; or
- (f) in any way be affected or discharged by the insolvency or dissolution of the Borrower.

36 SACE SUBROGATION AND REIMBURSEMENT

36.1 Acknowledgement of Subrogation

Each of the Parties acknowledges that, upon any payment being made by or on behalf of SACE of any amount under the SACE Insurance Policy, SACE will be immediately and automatically subrogated to the rights of the Lenders in the amount of such payment under the Finance Documents in accordance with the SACE Insurance Policy. Following such subrogation, the Creditor Parties shall provide all assistance required by SACE to enforce its rights under this Agreement and the other Finance Documents.

36.2 Reimbursement

- (a) Without prejudice to Clause 36.1 (*Acknowledgement of Subrogation*), each Obligor, jointly and severally undertakes to pay to SACE, and keep SACE indemnified from and against, each and every amount paid (whether by direct payment or set-off) by SACE to the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy;
- (b) Each Obligor undertakes to pay SACE an amount in Dollars equal to:
 - (i) for each payment made by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such payment; and
 - (ii) for each deduction or withholding imposed, levied, collected, withheld or assessed on any payment by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such deduction or withholding.

in each case together with interest thereon (calculated in accordance with Clause 17.1 *Default rate of interest*) of this Agreement).

- (c) Each Obligor further agrees that its obligations under this Clause 36.2 (*Reimbursement*) are separate from and in no way conditional upon the Obligor's obligations under this Agreement or any of the other Finance Documents and will not be affected or discharged by any matter relating thereto including, but not limited to, whether or not the Obligor is itself liable to make payment, or is disputing its liability to make payment, under this Agreement or any of the other Finance Documents.
- (d) SACE will promptly inform the Obligors of any amounts to be reimbursed and indemnified under this Clause 36.2 (*Reimbursement*).
- (e) Each amount that is payable by the Obligors pursuant to Clause 36.2 (*Reimbursement*) is due and payable to SACE in Dollars within five (5) Business Days of demand by SACE to the Obligors.

36.3 Obligations Absolute

The obligations of the Obligors under this Clause 36.2 (*Reimbursement*), to the extent permitted by applicable law:

- (a) are absolute and unconditional;
- (b) are to be discharged and/or performed strictly in accordance with this Agreement under all circumstances;
- (c) are continuing obligations and will extend to the ultimate balance of sums payable by SACE to any Creditor Party or any person on any of their behalf under the SACE Insurance Policy, regardless of any intermediate payment or discharge in whole or in part;
- (d) will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under Clause 36.2 (*Reimbursement*) (without limitation and whether or not known to it or any Creditor Party) including:
 - (i) any time, waiver or consent granted to, or composition with any Obligor;
 - (ii) any lack of validity or enforceability of, or any amendment or other modifications of, or waiver with respect to, any of the Finance Documents;
 - (iii) any reduction or release of any other obligations under this Agreement;
 - (iv) the release of any Obligor or any other person under the terms of any composition or arrangement;
 - (v) the taking, variation, compromise, exchange, renewal, discharge, substitution or release of, or refusal or neglect to perfect, take up, realise or enforce, any rights against, or security over assets of, any Obligor or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - (vi) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor, any Creditor Party or any other person;

- (vii) any amendment (however fundamental) or replacement of a Finance Document, the SACE Insurance Policy or any other document or security;
- (viii) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, the SACE Insurance Policy or any other document or security;
- (ix) any insolvency or similar proceedings;
- (x) the existence of any claim, set-off, defence, reduction, abatement or other right which any Obligor may have at any time against SACE;
- (xi) any document presented in connection with the SACE Insurance Policy proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
- (xii) any payment by SACE against presentation of a demand for payment substantially, on its face, in the form of a claim under the SACE Insurance Policy where any certificate or other document required to be provided with such claim in accordance with the terms of the SACE Insurance Policy either is not provided or does not comply with the terms of the SACE Insurance Policy; and
- (xiii) any other circumstances which might otherwise constitute a defence available to, or discharge of any Obligor.

37 SUPPLEMENTAL

37.1 Rights cumulative, non-exclusive

The rights and remedies which the Finance Documents give to each Secured Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

37.2 Severability of provisions

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

37.3 Counterparts

A Finance Document may be executed in any number of counterparts.

37.4 Third party rights

- (a) Except for SACE, SIMEST and their successors, transferees and assignees or as otherwise provided in a Finance Document, a person who is not a Party has no right under the Third Party Act to enforce or to enjoy the benefit of any term of this Agreement.

- (b) Notwithstanding any provision of any Finance Document, the consent of any person (other than SACE, SIMEST or their successors, transferees and assignees) who is not a party to a Finance Document is not required to rescind, vary or terminate any Finance Document at any time.
- (c) Subject to the provisions of the Third Party Act, and without prejudice to the provisions of paragraphs (a) and (b) above, each of SACE and/or SIMEST (as applicable) has the right to enforce and to enjoy the benefit of Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clause 20.2 (*Breakage costs and SIMEST arrangements*), Clause 20.3 (*Miscellaneous indemnities*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 10.6 (*VAT*), Clause 10.13 (*SACE obligations*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable).
- (d) Any amendment or waiver which relates to the rights of SACE and/or SIMEST (as applicable) under this Agreement, including under Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 20.3 (*Miscellaneous indemnities*), Clause 10.6 (*VAT*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), 33.10 (*Press release*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable) may not be effected without the consent of SACE and/or SIMEST (as applicable).

37.5 No waiver

No failure or delay on the part of a Secured Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise thereof preclude any other or further exercise thereof by the Secured Parties or the exercise by the Secured Parties of any other right, power or privilege. The rights and remedies of the Secured Parties herein provided are cumulative and not exclusive of any rights or remedies provided by law.

37.6 Writing required

This Agreement shall not be capable of being modified otherwise than by an express modification in writing signed by the Borrower, the Facility Agent and the Lenders.

37.7 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under paragraph (e) of Clause 12.2 (*Information*), Clause 12.4 (*Sanctions and Illicit Payments*), Clause 12.5 (*Prohibited Payments*), Clause 12.25 (*Compliance with laws etc.*) or provisions contained in Clause 20.3 (*Miscellaneous indemnities*) or Clause 21.1 (*Illegality and Sanctions*) and the representations and warranties given under paragraphs (u), (v), (y), (z) and (jj) of Clause 11.2 (*Continuing representations and warranties*) and paragraph (j) of Clause 11.3 (*Representations on the Delivery Date*) respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.

- (b) If a Creditor Party elects to be a Restricted Creditor Party, in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

38 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with English law.

39 ENFORCEMENT

39.1 Jurisdiction of English Courts

The courts of England have exclusive jurisdiction to settle any Dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**"). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

39.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.

If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within 15 days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

40 WAIVER OF IMMUNITY

40.1 To the fullest extent permitted by applicable law, the Borrower hereby irrevocably and unconditionally:

- (a) submits to the jurisdiction of the English courts in accordance with Clause 39 (*Enforcement*) and agrees not to claim any sovereign or other immunity from the jurisdiction of any such court;
- (b) submits to the jurisdiction of the English courts in respect of any proceedings arising out of or connected with the enforcement and/or execution of any judgment made against it and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to the recognition of any such judgment or court order and agrees to ensure that no such claim is made on its behalf;
- (c) consents generally in respect of any such proceedings to the giving of any relief in the English courts and the courts of any other jurisdiction whether before or after a final judgment including, without limitation: suit, relief by way of interim or final injunction or order for specific performance or recovery of any property, attachment of its assets prior to judgment, other attachment, the obtaining of judgment and enforcement or execution against any property, revenues or other assets whatsoever (irrespective of their use or intended use) and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to such enforcement and the giving of such relief (including to the extent that such immunity may be attributed to it) against itself or with respect to its assets, and agrees to ensure that no such claim is made on its behalf or with respect to its assets;
- (d) waives any right of immunity which it or its assets now has or may subsequently acquire; and
- (e) agrees not to claim any sovereign or other immunity from service of process against its assets or revenues for the enforcement of a judgment or an action in rem, for the arrest, detention or sale of any of its assets and revenues.

40.2 The Borrower agrees that in any proceedings in the English courts this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 (the "**Act**") and that this waiver is intended to be irrevocable for the purposes of such Act.

41 EFFECTIVE DATE

This Agreement and the other Finance Documents shall not come into force or have any legal effect until the occurrence of the Effective Date.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

LENDERS AND COMMITMENTS

| Lender | Facility Office | Commitment (%) | Amount (US\$) |
|---|---|-----------------------|----------------------|
| Banco Santander S.A. | Avda. Cantabria s/n. 28660 Boadilla del Monte, Madrid, Spain | [*]% | [*] |
| BNP Paribas Fortis S.A./N.V. | 3, Montagne du Parc, 1 KA1E 1000 Brussels, Belgium | [*]% | [*] |
| Cassa Depositi e Prestiti S.p.A. | Via Goito, 4 – 00185, Rome, Italy | [*]% | [*] |
| Crédit Agricole Corporate and Investment Bank | 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France | [*]% | [*] |
| HSBC Bank plc | Level 2, 8 Canada Square, London E14 5HQ, United Kingdom | [*]% | [*] |
| KfW IPEX-Bank GmbH | Palmengartenstr. 5-9 60325 Frankfurt Germany | [*]% | [*] |
| Société Générale | 29, boulevard Haussmann 75009 Paris France | [*]% | [*] |

SCHEDULE 2

FORM OF DRAWDOWN NOTICE

To: BNP Paribas
Attention: Loans Administration

[·]

DRAWDOWN NOTICE

- 1 We refer to the loan agreement (the "**Loan Agreement**") dated [·] 2018 and made between, *inter alios*, ourselves, as Borrower, the Lenders, and the Joint Mandated Lead Arrangers referred to therein and yourselves as Facility Agent in connection with a facility of the Dollar Equivalent of up to € [·]. Terms defined in the Loan Agreement have their defined meanings when used in this Drawdown Notice.
- 2 We request to borrow as follows:-
- (a) Amount:
- (i) \$[·] in respect of the payment of part of the Eligible Amount of the Final Contract Price to be paid to the Builder to the account specified in paragraph (d) below;
- (ii) \$[·] in respect of the First Instalment of the SACE Premium to be reimbursed to the Borrower to the account specified in paragraph (d) below;
- (iii) \$[·] in respect of the Second Instalment of the SACE Premium to be paid, in accordance with paragraph (d) below to SACE.
- (b) Drawdown Date: [·];
- (c) Duration of the first Interest Period shall be 6 months;
- (d) Payment instructions:
- (i) in respect of Clause 2(a)(i) above and for the countervalue in EUR at the Conversion Rate:
Beneficiary: FINCANTIERI S.p.A.
[account details to be completed]
- (ii) [in respect of Clause 2(a)(ii) above:
Beneficiary: O CLASS PLUS ONE, LLC
[account details to be completed]
- (iii) [in respect of Clause 2(a)(iii) above:
Beneficiary: SACE S.p.A.
[account details to be completed]
- 3 We represent and warrant that:

- (a) the representations and warranties in Clauses 11.2 (*Continuing representations and warranties*) and 11.3 (*Representations on the Delivery Date*) of the Loan Agreement would remain true and not misleading if repeated on the date of this notice with reference to the circumstances now existing;
 - (b) no Event of Default has occurred or will result from the borrowing of the Loan.
- 4 This notice cannot be revoked without the prior consent of the Facility Agent.

[Name of Signatory]

Manager

for and on behalf of
O CLASS PLUS ONE, LLC

SCHEDULE 3

DOCUMENTS TO BE PRODUCED BY THE BUILDER TO THE FACILITY AGENT ON DELIVERY

- 1 Qualifying Certificate, duly signed by the Builder, and the related attachments:
 - 1.1 a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined under the Shipbuilding Contract), as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - 1.2 a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract);
 - 1.3 a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract; and
 - 1.4 a duly executed Exporter Declaration.
 - 2 Certified copy of the acknowledgement of the notice of assignment of the Borrower's rights under the post-delivery warranty given by the Builder under the Shipbuilding Contract pursuant to the Post-Delivery Assignment.
 - 3 Certified Copy of the power of attorney pursuant to which the authorised signatory of the Builder signed the documents referred to in this Schedule 3 *Documents to be produced by the Builder to the Facility Agent on Delivery*) and a specimen of his signature.
 - 4 Evidence that, at the time of delivery of the Ship on the Delivery Date, no encumbrances whatsoever are registered against the Ship in the competent Italian registry of ships under construction.
-

SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

The Transferor and the Transferee accept exclusive responsibility for ensuring that this Certificate and the transaction to which it relates comply with all legal and regulatory requirements applicable to them respectively.

To: [Name of Facility Agent] for itself and for and on behalf of the Borrower, any other Obligor, the Security Trustee and each Lender, as defined in the Loan Agreement referred to below.

[]

1 This Certificate relates to Loan Agreement (the "**Loan Agreement**") dated [] 2018 and made between (1) O CLASS PLUS ONE, LLC (the "**Borrower**"), (2) the banks and financial institutions named therein as lenders (3) BNP Paribas as Facility Agent and (4) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a loan facility of up to \$[].

2 In this Certificate, terms defined in the Loan Agreement shall, unless the contrary intention appears, have the same meanings and:

"**Relevant Parties**" means the Facility Agent, the Borrower, any other Obligor, the Security Trustee and each Lender.

"**Transferee**" means [full name] of [facility office].

"**Transferor**" means [full name] of [facility office].

3 The effective date of this Certificate is [], **provided that** this Certificate shall not come into effect unless it is signed by the Facility Agent on or before that date.

4 The Transferor assigns to the Transferee absolutely all rights and interests (present, future or contingent) which the Transferor has as Lender under or by virtue of the Loan Agreement and every other Finance Document in relation to [] per cent. of its Contribution, which percentage represents \$[].

5 By virtue of this Certificate and clause 24 (*Changes to the Lender*) of the Loan Agreement, the Transferor is discharged [entirely from its Commitment which amounts to \$][] from [] per cent. of its Commitment, which percentage represents \$[] and the Transferee acquires a Commitment of \$[].

6 The Transferee undertakes with the Transferor and each of the Relevant Parties that the Transferee will observe and perform all the obligations under the Finance Documents which clause 24 (*Changes to the Lender*) of the Loan Agreement provides will become binding on it upon this Certificate taking effect.

7 The Facility Agent, at the request of the Transferee (which request is hereby made) accepts, for the Facility Agent itself and for and on behalf of every other Relevant Party, this Certificate as a Transfer Certificate taking effect in accordance with clause 24 (*Changes to the Lender*) of the Loan Agreement.

- 8 The Transferor:
- (a) warrants to the Transferee and each Relevant Party that:
 - (i) the Transferor has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which are in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferor;
 - (b) warrants to the Transferee that the Transferor is absolutely entitled, free of encumbrances, to all the rights and interests covered by the assignment in paragraph 4 above; and
 - (c) undertakes with the Transferee that the Transferor will, at its own expense, execute any documents which the Transferee reasonably requests for perfecting in any relevant jurisdiction the Transferee's title under this Certificate or for a similar purpose.
- 9 The Transferee:
- (a) confirms that it has received a copy of the Loan Agreement and each of the other Finance Documents;
 - (b) agrees that it will have no rights of recourse on any ground against either the Transferor, the Facility Agent, the Security Trustee or any Lender in the event that:
 - (i) any of the Finance Documents prove to be invalid or ineffective;
 - (ii) the Borrower or any Obligor fails to observe or perform its obligations, or to discharge its liabilities, under any of the Finance Documents;
 - (iii) it proves impossible to realise any asset covered by a Security Interest created by a Finance Document, or the proceeds of such assets are insufficient to discharge the liabilities of the Borrower or other Obligors under the Finance Documents;
 - (c) agrees that it will have no rights of recourse on any ground against the Facility Agent, the Security Trustee or any Lender in the event that this Certificate proves to be invalid or ineffective;
 - (d) warrants to the Transferor and each Relevant Party that:
 - (i) it has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which it needs to take or obtain in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferee; and
 - (e) confirms the accuracy of the administrative details set out below regarding the Transferee.
- 10 The Transferor and the Transferee each undertake with the Facility Agent and the Security Trustee severally, on demand, fully to indemnify the Facility Agent and/or the Security Trustee in respect of any claim, proceeding, liability or expense (including all legal expenses) which they or either of them may incur in connection with this Certificate or any matter arising out of it, except such as are shown to have been mainly and directly caused by the gross and culpable negligence or dishonesty of the Facility Agent's or the Security Trustee's own officers or employees.

11 The Transferee shall repay to the Transferor on demand so much of any sum paid by the Transferor under paragraph 10 as exceeds one-half of the amount demanded by the Facility Agent or the Security Trustee in respect of a claim, proceeding, liability or expense which was not reasonably foreseeable at the date of this Certificate; but nothing in this paragraph shall affect the liability of each of the Transferor and the Transferee to the Facility Agent or the Security Trustee for the full amount demanded by it.

[Name of Transferor]

[Name of Transferee]

By:

By:

Date:

Date:

Facility Agent

Signed for itself and for and on behalf of itself

as Facility Agent and for every other Relevant Party

[Name of Facility Agent]

By:

Date:

Administrative Details of Transferee

Name of Transferee:

Facility Office:

Contact Person

(Loan Administration Department):

Telephone:

Fax:

Contact Person

(Credit Administration Department):

Telephone:

Fax:

Account for payments:

Note: This Transfer Certificate alone may not be sufficient to transfer a proportionate share of the Transferor's interest in the security constituted by the Finance Documents in the Transferor's or Transferee's jurisdiction. It is the responsibility of each Lender to ascertain whether any other documents are required for this purpose.

SCHEDULE 5

QUALIFYING CERTIFICATE

To: BNP Paribas as Facility Agent (the "**Facility Agent**")

cc: O CLASS PLUS ONE, LLC. as Borrower

From: Fincantieri S.p.A (the "**Builder**")

Date: [-]

Dear Sirs,

- 1 We refer to the SACE backed term facility agreement dated [-] 2018 (as supplemented, amended and/or restated from time to time, the "**Facility Agreement**") and entered into between, among others, the Facility Agent, the Borrower and the financial institutions named therein as Lenders. Terms defined in the Facility Agreement shall have the same meaning when used herein.
- 2 This is a Qualifying Certificate.
- 3 This Qualifying Certificate relates to the Drawdown Notice dated [-].
- 4 We attach hereto the following documents in respect of the Ship to be delivered on the Delivery Date under the Shipbuilding Contract:
 - (a) a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined in the Shipbuilding Contract) as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - (b) a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract) duly executed by the Builder;
 - (c) a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract duly executed by the Builder and the Borrower; and
 - (d) a duly executed Exporter Declaration.
- 5 We hereby certify that the cumulative total amount invoiced by us pursuant to the Contract Price (as defined in the Shipbuilding Contract) paid by the Borrower as direct payment is as follows: €[-] corresponding to not less than twenty per cent. (20)% of the Final Contract Price of the Ship.
- 6 We hereby warrant that:
 - (a) the amount claimed does not include any sum in respect of any matter currently the subject of arbitration or other proceeding nor to the best of our knowledge and belief will it be the subject of arbitration or other proceeding;

- (b) the Shipbuilding Contract has not been terminated, suspended or amended and to the best of our knowledge and belief no action is proceeding which might lead to the termination or suspension thereof;
- (c) all relevant authorisations (if any) in respect of the Ship intended to be financed by the proposed Loan have been obtained and are in full force and effect;
- (d) all documents supplied by us in support of this Qualifying Certificate are in all material respect in conformity with the Shipbuilding Contract and SACE's requirements; you may rely on the accuracy and completeness of all information and documents contained in or supplied with this Qualifying Certificate or delivered pursuant thereto:
- (i) the goods incorporated in and used for the construction of the Ship have the origin set out in the table below and complies with the requirements of the SACE Insurance Policy; and

| Origin of the goods incorporated in the Ship | Value in percentage of the total Contract Price of the Ship | Relevant portion of the Contract Price of the Ship |
|---|--|---|
| Italian goods | [.]% | € [.] |
| Other EU goods | [.]% | € [.] |
| Extra EU goods (if any) | [.]% | € [.] |
| Total Contract Price of the Ship (in percentage) = | | Total Contract Price of the Ship = € [.] |
| 100% | | |

- (ii) the aggregate amounts transferred abroad (*importi trasferiti all'estero*) up to the date hereof and to be transferred abroad following the Drawdown Date for any reason connected to the performance of the Shipbuilding Contract, are equal to € [.]

Yours faithfully,

Fincantieri S.p.A
 For and on behalf of the Builder
 (the Authorised Signatory of the Builder)

EXECUTION PAGES

BORROWER

SIGNED by
for and on behalf of
O CLASS PLUS ONE, LLC

) /s/Paul A. Turner
) Paul A. Turner
) Attorney-in-Fact

in the presence of:

) /s/Nicholas Block
Solicitor
Clyde & Co LLP
The St. Botolph Building
138 Houndsditch
London EC3A 7AR
United Kingdom

LENDERS

SIGNED by
for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND
) Jerome LEBLOND
)
) /s/Anne-Laure ORANGE
) Anne-Laure ORANGE
)
/s/Anne-Sophie Spach
Anne-Sophie Spach

SIGNED by
for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

) /s/Véronique DE BLIC
) Véronique DE BLIC
) Head of Export Finance EMEA
)
) /s/Bruno CLOQUET
Bruno CLOQUET
Global Head of Exporters and ECAs Origination

/s/Scheerlinck Lieve
Scheerlinck Lieve

SIGNED by
for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

) /s/Parit Patani
) Parit Patani
) Attorney-in-Fact
)
) /s/Pierre Welch
Pierre Welch

SIGNED by

) /s/Philip E. Lewis

) Philip E. Lewis

)

) /s/Kirstie Moore

) Kirstie Moore

for and on behalf of
HSBC BANK PLC
in the presence of:

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

) /s/Francesco De Bartolo

) Francesco De Bartolo
) Head of Execution Export Banca
)
) /s/Giulio Dal Magro

Giulio Dal Magro
Head of International Financing

) /s/Matteo Primicerio

Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

) /s/Jose Luis Vicent

) Jose Luis Vicent
)
) /s/Antonio Sala

) Antonio Sala

) /s/Juan Carlos García Rosas

Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

) /s/Konstantina Kyprianidou

) Konstantina Kyprianidou
) Attorney-in-Fact
)
) /s/Natasha Seel

Natasha Seel
Solicitor
Watson Farley & Williams LLP
28 avenue Victor Hugo
75116 Paris

JOINT MANDATED LEAD ARRANGERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND
)
) /s/Anne-Laure ORANGE

) Anne-Laure ORANGE
)
) /s/Anne-Sophie Spach

Anne-Sophie Spach

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

) /s/ Véronique DE BLIC

) Véronique DE BLIC
) Head of Export Finance EMEA
)

) /s/ Bruno CLOQUET

Bruno CLOQUET
Global Head of Exporters and ECAs Origination

/s/ Scheerlinck Lieve

Scheerlinck Lieve

SIGNED by
for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

) /s/Parit Patani

) Parit Patani
) Attorney-in-Fact
)
) /s/Pierre Welch

Pierre Welch

SIGNED by
for and on behalf of
HSBC BANK PLC
in the presence of:

) /s/Philip E. Lewis

) Philip E. Lewis
)
) /s/Kirstie Moore

) Kirstie Moore

SIGNED by
for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

) /s/Francesco De Bartolo

) Francesco De Bartolo
) Head of Execution Export Banca
)
) /s/Giulio Dal Magro

Giulio Dal Magro
Head of International Financing

) /s/Matteo Primicerio

Matteo Primicerio

SIGNED by
for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

) /s/Jose Luis Vicent

) Jose Luis Vicent
)
) /s/Antonio Sala

) Antonio Sala

) /s/Juan Carlos García Rosas

Juan Carlos García Rosas

SIGNED by
for and on behalf of
SOCIETE GENERALE
in the presence of:

) /s/Konstantina Kyprianidou

) Konstantina Kyprianidou
) Attorney-in-Fact
)
) /s/Natasha Seel

Natasha Seel
Solicitor
Watson Farley & Williams LLP
28 avenue Victor Hugo
75116 Paris

FACILITY AGENT

SIGNED by

for and on behalf of
BNP PARIBAS
in the presence of:

) /s/Luca Lunari

) Luca Lunari
) Head of Export Finance Italy BNP Paribas
)
) /s/Stefano Leo

Stefano Leo
Deputy Head of Export Finance Italy BNP Paribas

) /s/Lorenzo Canestri

Lorenzo Canestri

SACE AGENT

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND
)
) /s/Anne-Laure ORANGE

) Anne-Laure ORANGE
)
) /s/Anna-Sophie Spach

Anna-Sophie Spach

SECURITY TRUSTEE

SIGNED by

for and on behalf of
**HSBC CORPORATE TRUSTEE
COMPANY (UK) LIMITED**
in the presence of:

) /s/Andrea Stevenson

) Andrea Stevenson
) Authorised Signatory
)
) /s/Hanish Bhatt

) Hanish Bhatt

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution version

Dated 19 December 2018

NCL CORPORATION LTD.
as Guarantor

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

GUARANTEE

relating to a Loan Agreement dated 19 December 2018 in respect of
the passenger cruise ship newbuilding presently designated as Hull No. [*]

**WATSON FARLEY
&
WILLIAMS**

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THIS GUARANTEE is made on 19 December 2018

PARTIES

- (1) **NCL CORPORATION LTD.**, an exempted company incorporated under the laws of Bermuda with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda (the "**Guarantor**")
- (2) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, a company incorporated in England and Wales (with registered number 06447555) whose registered office is at 8 Canada Square, London E14 5HQ as security trustee on behalf of the Secured Parties (the "**Security Trustee**", which expression includes its successors, transferees and assigns)

BACKGROUND

- (A) By a shipbuilding contract dated 31 October 2018 (as amended from time to time) (the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A, a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) O Class Plus One, LLC (the "**Borrower**"), the Builder has agreed to design, construct and deliver, and the Borrower has agreed to purchase, a 1,258 passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
- (B) By a loan agreement dated 19 December 2018 (as amended from time to time), and made between (i) the Borrower, (ii) the Lenders, (iii) the Joint Mandated Lead Arrangers, (iv) the Facility Agent, (v) the SACE Agent and (vi) the Security Trustee, it was agreed that the Lenders would make available to the Borrower, a facility of the Dollar Equivalent of up to four hundred and sixty two million and nine hundred and sixty thousand Euros (€ 462,960,000) and the amount of the SACE Premium (but not exceeding six hundred and ninety million, seven hundred and eighteen thousand and seventy Dollars and fifty four cents (\$ 690,718,070.54)) for the purpose of assisting the Borrower, in financing (a) payment or reimbursement under the Shipbuilding Contract of all or part of 80% of the Final Contract Price up to the Eligible Amount and (b) reimbursement to the Borrower of 100% of the First Instalment of the SACE Premium paid by it to SACE and payment to SACE of 100% of the Second Instalment of the SACE Premium (as defined therein).
- (C) The execution and delivery to the Security Trustee of this Guarantee is one of the conditions precedent to the availability of the facility under the Loan Agreement.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Defined expressions

Words and expressions defined in the Loan Agreement shall have the same meanings when used in this Guarantee unless the context otherwise requires.

1.2 Construction of certain terms

In this Guarantee:

"**Bankruptcy**" includes a liquidation, receivership or administration and any form of suspension of payments, arrangement with creditors or reorganisation under any corporate or insolvency law of any country.

"**Capital Stock**" means:

- (a) in the case of a corporation or company, corporate stock or shares;
- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person.

"**First Financial Quarter**" means the financial quarter ending immediately prior to or on the date falling forty five (45) days before the Intended Delivery Date.

"**Loan Agreement**" means the loan agreement dated 19 December 2018 referred to in Recital (B) and includes any existing or future amendments, restatements, or supplements, whether made with the Guarantor's consent or otherwise.

"**Management**" means the employees of the Guarantor and its subsidiaries or their dependants or any trust for which such persons are the intended beneficiary.

"**Party**" means a party to this Guarantee.

1.3 Application of construction and interpretation provisions of Loan Agreement

Clauses 1.2 (*Construction of certain terms*) to 1.5 (*General Interpretation*) of the Loan Agreement apply, with any necessary modifications, to this Guarantee.

1.4 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under any of Clause 10.12 (*Sanctions*) or any undertakings in Clause 11.19 (*Sanctions and Illicit Payments*), Clause 11.20 (*Prohibited Payments*) and Clause 11.21 (*Sanctions*) of this Guarantee respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.
- (b) If a Creditor Party elects to be a Restricted Creditor Party pursuant to the foregoing paragraph (a), in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

2 GUARANTEE

2.1 Guarantee and indemnity

The Guarantor unconditionally and irrevocably:

- (a) guarantees to the Security Trustee (acting on behalf of the Secured Parties) punctual performance by the Borrower of all the Borrower's obligations under or in connection with the Loan Agreement and every other Finance Document;
- (b) undertakes to the Security Trustee that whenever the Borrower does not pay any amount when due under or in connection with the Loan Agreement and the other Finance Documents, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor;
- (c) agrees that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Security Trustee and each other Secured Party immediately on demand by the Security Trustee against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Loan Agreement or any other Finance Document on the date when it would have been due. Any such demand for indemnification shall be made through the Security Trustee, for itself or on behalf of the Secured Parties. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 2.1 (*Guarantee and indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

2.2 No limit on number of demands

The Security Trustee may serve any number of demands under Clause 2.1 (*Guarantee and indemnity*).

3 LIABILITY AS PRINCIPAL AND INDEPENDENT DEBTOR

3.1 Principal and independent debtor

The Guarantor shall be liable under this Guarantee as a principal and independent debtor and accordingly it shall not have, as regards this Guarantee, any of the rights or defences of a surety.

3.2 Waiver of rights and defences

Without limiting the generality of Clause 3.1 (*Principal and independent debtor*), the obligations of the Guarantor under this Guarantee will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Borrower or other person;
- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of any affiliate of the Borrower;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any insolvency or similar proceedings;
- (g) any arrangement or concession (including a rescheduling or acceptance of partial payments) relating to, or affecting, the Finance Documents;
- (h) any release or loss whatsoever of any guarantee, right or Security Interest created by the Finance Documents;
- (i) any failure whatsoever promptly or properly to exercise or enforce any such right or Security Interest, including a failure to realise for its full market value an asset covered by such a Security Interest; or
- (j) any other Finance Document or any Security Interest now being or later becoming void, unenforceable, illegal or invalid or otherwise defective for any reason, including a neglect to register it.

4 EXPENSES

4.1 Costs of preservation of rights, enforcement etc.

The Guarantor shall pay to the Security Trustee on its demand the amount of all expenses incurred by the Security Trustee or any other Secured Party in connection with any matter arising out of this Guarantee or any Security Interest connected with it, including any advice, claim or proceedings relating to this Guarantee or such a Security Interest.

4.2 Fees and expenses payable under Loan Agreement

Clause 4.1 (*Costs of preservation of rights, enforcement etc.*) is without prejudice to the Guarantor's liabilities in respect of the Borrower's obligations under clauses 9 (*Fees*) and 10 (*Taxes, Increased Costs, Costs and Related Charges*) of the Loan Agreement and under similar provisions of other Finance Documents.

5 ADJUSTMENT OF TRANSACTIONS

5.1 Reinstatement of obligation to pay

The Guarantor shall pay to the Security Trustee on its demand any amount which any Secured Party is required, or agrees, to pay pursuant to any claim by, or settlement with, a trustee in bankruptcy of the Borrower or of any other Obligor (or similar person) on the ground that the Loan Agreement or any other Finance Document, or a payment by the Borrower or of such other Obligor, was invalid or on any similar ground.

6 PAYMENTS

6.1 Method of payments

Any amount due under this Guarantee shall be paid:

- (a) in immediately available funds;
- (b) to such account as the Security Trustee may from time to time notify to the Guarantor;
- (c) without any form of set-off, cross-claim or condition; and
- (d) free and clear of any Tax Deduction except a Tax Deduction which the Guarantor is required by law to make.

6.2 Grossing-up for taxes

If the Guarantor is required by law to make a Tax Deduction, the amount due to the Security Trustee shall be increased by the amount necessary to ensure that the Security Trustee and (if the payment is not due to the Security Trustee for its own account) the Secured Party beneficially interested in the payment receives and retains a net amount which, after the Tax Deduction, is equal to the full amount that it would otherwise have received; provided that a payment shall not be increased under this Clause 6.2 if clause 10.2(d) of the Loan Agreement applies *mutatis mutandis*.

6.3 Tax Credits

If an additional payment is made by the Guarantor under this Clause and any Secured Party determines that it has received or been granted a credit against or relief of or calculated with reference to the deduction giving rise to such additional payment, such Secured Party shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment and provided that it has received the cash benefit of such credit, relief or remission, pay to the Guarantor such amount as such Secured Party shall in its reasonable opinion have concluded to be attributable to the relevant deduction. Any such payment shall be conclusive evidence of the amount due to the Guarantor hereunder and shall be accepted by the Guarantor in full and final settlement of its rights of reimbursement hereunder in respect of such deduction. Nothing herein contained shall interfere with the right of each Secured Party to arrange its tax affairs in whatever manner it thinks fit.

6.4 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, the Facility Agent and the other Secured Parties.

6.5 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 the Security Trustee to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

6.6 No obligations on SACE

To the extent that this Clause 6 (*Payments*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

7 INTEREST

7.1 Accrual of interest

Any amount due under this Guarantee shall carry interest after the date on which the Security Trustee demands payment of it until it is actually paid, unless interest on that same amount also accrues under the Loan Agreement.

7.2 Calculation of interest

Interest on sums payable under this Guarantee shall be calculated and accrue in the same way as interest under clause 6 (*Interest*) of the Loan Agreement.

7.3 Guarantee extends to interest payable under Loan Agreement

For the avoidance of doubt, it is confirmed that this Guarantee covers all interest payable under the Loan Agreement, including that payable under clause 17 (*Interest on Late Payments*) of the Loan Agreement.

8 SUBORDINATION

8.1 Subordination of rights of Guarantor

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, all rights which the Guarantor at any time has (whether in respect of this Guarantee or any other transaction) against the Borrower, any other Obligor or their respective assets shall be fully subordinated to the rights of the Secured Parties under the Finance Documents; and in particular, the Guarantor shall not:

- (a) claim, or in a bankruptcy of the Borrower or any other Obligor prove for, any amount payable to the Guarantor by the Borrower or any other Obligor, whether in respect of this Guarantee or any other transaction;
- (b) take or enforce any Security Interest for any such amount;
- (c) exercise any right to be indemnified by an Obligor;
- (d) bring legal or other proceedings for an order requiring the Borrower or any other Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under this Guarantee;
- (e) claim to set-off any such amount against any amount payable by the Guarantor to the Borrower or any other Obligor; or

- (f) claim any subrogation or right of contribution or other right in respect of any Finance Document or any sum received or recovered by any Secured Party under a Finance Document.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with the Loan Agreement and the Finance Documents.

9 ENFORCEMENT

9.1 No requirement to commence proceedings against Borrower

The Guarantor waives any right it may have of first requiring the Security Trustee or any other Secured Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Guarantee. Neither the Security Trustee nor any other Secured Party will need to make any demand under, commence any proceedings under, or enforce any guarantee or any Security Interest contained in or created by, the Loan Agreement or any other Finance Document before claiming or commencing proceedings under this Guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

9.2 Conclusive evidence of certain matters

However, as against the Guarantor:

- (a) any judgment or order of a court in England or the jurisdiction of the Approved Flag or Bermuda or the United States of America in connection with the Loan Agreement; and
 - (b) any statement or admission by the Borrower in connection with the Loan Agreement,
- shall be binding and conclusive as to all matters of fact and law to which it relates.

9.3 Suspense account

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, the Security Trustee and any Secured Party may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by it (or any trustee or agent on its behalf which, in the case of a Secured Party, shall include the Facility Agent and the Security Trustee) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Guarantee.

10 REPRESENTATIONS AND WARRANTIES

10.1 General

The Guarantor represents and warrants to the Security Trustee as follows on the Effective Date, which representations and warranties shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day from the Effective Date to the end of the Security Period.

10.2 Status

The Guarantor is duly incorporated and validly existing and in good standing under the laws of Bermuda as an exempted company.

10.3 Corporate power

The Guarantor has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute this Guarantee; and
- (b) to make all the payments contemplated by, and to comply with, this Guarantee.

10.4 Consents in force

All the consents referred to in Clause 10.3 (*Corporate power*) remain in force and nothing has occurred which makes any of them liable to revocation.

10.5 Legal validity

This Guarantee constitutes the Guarantor's legal, valid and binding obligations enforceable against the Guarantor in accordance with its terms subject to any relevant insolvency laws affecting creditors' rights generally.

10.6 No conflicts

The execution by the Guarantor of this Guarantee and its compliance with this Guarantee will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of the Guarantor; or
- (c) any contractual or other obligation or restriction which is binding on the Guarantor or any of its assets.

10.7 No withholding taxes

All payments which the Guarantor is liable to make under this Guarantee may be made without deduction or withholding for or on account of any tax payable under any law of Bermuda or the United States of America (other than a FATCA Deduction).

10.8 No default

To the knowledge of the Guarantor, no Event of Default has occurred which is continuing.

10.9 Information

All information which has been provided in writing by or on behalf of the Guarantor to the Security Trustee or any other Secured Party in connection with any Finance Document satisfied the requirements of Clause 11.2 (*Information provided to be accurate*); all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 11.4 (*Form of financial statements*); and there has been no material adverse change in the financial position or state of affairs of the Guarantor from that disclosed in the latest of those accounts.

10.10 No litigation

No legal or administrative action involving the Guarantor has been commenced or taken or, to the Guarantor's knowledge, is likely to be commenced or taken which, in either case, would be likely to have a material adverse effect on the Guarantor's ability to perform its obligations under this Guarantee.

10.11 No Security Interests

None of the assets or rights of the Guarantor is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Guarantor or (ii) is permitted by Clause 11.11 (*Negative pledge*).

10.12 Sanctions

- (a) No investments made and no payments made, received or to be made by the Guarantor under the Loan Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business, whether directly or, to the knowledge of the Guarantor, indirectly, are of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (b) No Prohibited Payment has been or will be made, received or provided, directly or indirectly, by (or on behalf of) it or the Borrower (to the best of the Guarantor's knowledge), any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or any public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, the Loan Agreement and/or the Finance Documents.
- (c) The Guarantor:
 - (i) nor to its knowledge any director, officer, or Affiliate of any Obligor or member of the Group, is not a Prohibited Person;

- (ii) is not owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
- (iii) does not own or control a Prohibited Person.

11 UNDERTAKINGS

11.1 General

The Guarantor undertakes with the Security Trustee to comply with the following provisions of this Clause 11 (*Undertakings*) at all times from the Effective Date to the end of the Security Period, except as the Security Trustee may otherwise permit.

11.2 Information provided to be accurate

All financial and other information (but, in respect of information relating to the business and affairs of the Guarantor, excluding any forward looking statements and projections) which is provided in writing by or on behalf of the Guarantor under or in connection with this Guarantee will be true and not misleading and will not omit any material fact or consideration.

11.3 Provision of financial statements

The Guarantor will send to the Security Trustee:

- (a) as soon as practicable, but in no event later than 120 days after the end of each financial year of the Guarantor beginning with the year ending 31 December 2018, the audited consolidated accounts of the Guarantor and its subsidiaries;
- (b) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter in respect of the first three quarters of each fiscal year and 90 days in respect of the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year to date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor certified as to their correctness by the chief financial officer of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of this paragraph (b));
- (c) a compliance certificate in the form set out in Schedule 1 (*Form of Compliance Certificate*) to this Guarantee or in such other form as the Security Trustee may reasonably require (each a "**Compliance Certificate**"):
 - (i) for the first time, no later than the First Financial Quarter on the basis of the latest available quarterly financial statements, and
 - (ii) at the same time as there is delivered to the Security Trustee, and together with, each set of unaudited consolidated quarterly management accounts under paragraph (b) and, if applicable, audited consolidated accounts under paragraph (a), duly signed by the chief financial officer of the Guarantor and certifying whether or not the requirements of Clause 11.15 (*Financial Covenants*) are then complied with;

- (d) such additional financial or other relevant information regarding the Guarantor and the Group as the Security Trustee may reasonably request;
- (e) as soon as practicable (and in any event within 120 days after the close of each fiscal year), commencing with the fiscal year ending 31 December 2018, annual cash flow projections on a consolidated basis of the Group showing on a monthly basis advance ticket sales (for at least 12 months following the date of such statement) for the Group;
- (f) as soon as practicable (and in any event not later than January 31 of each fiscal year):
 - (i) a budget for the Group for such new fiscal year including a 12 month liquidity budget for such new fiscal year;
 - (ii) updated financial projections of the Group for at least the next five years (including an income statement, balance sheet statement and cash flow statement and quarterly break downs for the first of those five years); and
 - (iii) an outline of the assumptions supporting such budget and financial projections including but without limitation any scheduled drydockings.

11.4 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 11.3 (*Provision of financial statements*) will:

- (a) be prepared in accordance with GAAP;
- (b) when required to be audited, be audited by the auditors which are the Guarantor's auditors at the Effective Date or other auditors approved by the Security Trustee, provided that, such approval by the Security Trustee shall not be unreasonably withheld or delayed;
- (c) give a true and fair view of the state of affairs of the Guarantor and its subsidiaries at the date of those accounts and of their profit for the period to which those accounts relate; and
- (d) fully disclose or provide for all significant liabilities of the Guarantor and its subsidiaries.

11.5 Shareholder and creditor notices

The Guarantor will send the Security Trustee, at the same time as they are despatched, copies of all communications which are despatched to the Guarantor's shareholders or creditors generally or any class of them.

11.6 Consents

The Guarantor will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Security Trustee of, all consents required:

- (a) for the Guarantor to perform its obligations under this Guarantee;
- (b) for the validity or enforceability of this Guarantee,

and the Guarantor will comply with the terms of all such consents.

11.7 Notification of litigation

The Guarantor will provide the Security Trustee with details of any material legal or administrative action involving the Guarantor as soon as such action is instituted or it becomes apparent to the Guarantor that it is likely to be instituted (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency).

11.8 Domicile and principal place of business

The Guarantor:

- (a) will maintain its domicile and registered office at the address stated at the commencement of this Guarantee or at such other address in Bermuda as is notified beforehand to the Security Trustee;
- (b) will maintain its principal place of business and keep its corporate documents and records in the United States of America at 7665 Corporate Center Drive, Miami, 33126, Florida (Fax: (305) 436 4140) or at such other address in the United States of America as is notified beforehand to the Security Trustee; and
- (c) will not move its domicile out of Bermuda nor its principal place of business out of the United States of America without the prior agreement of the Security Trustee, acting with the authorisation of the Secured Parties, such agreement not to be unreasonably withheld.

11.9 Notification of default

The Guarantor will notify the Security Trustee as soon as the Guarantor becomes aware of the occurrence of an Event of Default and will thereafter keep the Security Trustee fully up-to-date with all developments.

11.10 Maintenance of status

The Guarantor will maintain its separate corporate existence and remain in good standing under the laws of Bermuda.

11.11 Negative pledge

The Guarantor shall not, and shall procure that the Borrower will not, create or permit to arise any Security Interest over any asset present or future except Security Interests created or permitted by the Finance Documents and except for the following:

- (a) Security Interests created with the prior consent of the Security Trustee or otherwise permitted by the Finance Documents;
- (b) in the case of the Guarantor, Security Interests which qualify as Permitted Security Interests with respect to the Guarantor;
- (c) in the case of the Borrower, Security Interests permitted under clause 12.8 (*Negative pledge*) of the Loan Agreement;

- (d) Security Interests provided in favour of lenders under and in connection with any refinancing of the Existing Indebtedness or any financing arrangements entered into by any member of the Group for the acquisition of additional or replacement ship(s) (including any refinancing of any such arrangement) but limited to:
 - (i) pledges of the share capital of the relevant ship owning subsidiary(/ies); and/or
 - (ii) ship mortgages and other securities over the financed ship(s).

11.12 No disposal of assets, change of business

The Guarantor will:

- (a) not, and shall procure that its subsidiaries, as a group, shall not, transfer all or substantially all of the cruise vessels owned by them and shall procure that any cruise vessels which are disposed of in compliance with the foregoing shall be disposed on a willing seller willing buyer basis at or about market rate and at arm's length subject always to the provisions of any pertinent loan documentation, and
- (b) continue to be a holding company for a group of companies whose main business is the operation of cruise vessels as well as the marketing of cruises on board such vessels and the Guarantor will not change its main line of business so as to affect any Obligor's ability to perform its obligations under the Finance Documents or to imperil, in the opinion of the Security Trustee, the security created by any of the Finance Documents or the SACE Insurance Policy.

11.13 No merger etc.

The Guarantor shall not enter into any form of merger, sub-division, amalgamation, restructuring, consolidation, winding-up, dissolution or anything analogous thereto or acquire any entity, share capital or obligations of any corporation or other entity (each of the foregoing being a "**Transaction**") unless:

- (a) the Guarantor has notified the Security Trustee in writing of the agreed terms of the relevant Transaction promptly after such terms have been agreed as heads of terms (or similar) and thereafter notified the Security Trustee in writing of any significant amendments to such terms during the course of the negotiation of the relevant Transaction; and
- (b) the relevant Transaction does not require or involve or result in any dissolution of the Guarantor so that at all times the Guarantor remains in existence; and
- (c) each notice delivered to the Security Trustee pursuant to paragraph (a) above is accompanied by a certificate signed by the chief financial officer of the Guarantor whereby the Guarantor represents and warrants to the Security Trustee that the relevant Transaction will not:
 - (i) adversely affect the ability of any Obligor to perform its obligations under the Finance Documents;
 - (ii) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; or

- (iii) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 (*Financial Covenants*); and
- (d) if the merger or analogous transaction involves the Guarantor or the Borrower, all the necessary "Know your customer requirements" have been complied with.

11.14 Maintenance of ownership of Borrower and Guarantor.

- (a) The Guarantor shall remain the direct or indirect beneficial owner of the entire issued and allotted share capital of the Shareholder, free from any Security Interest and the Shareholder shall remain the legal holder and direct beneficial owner of all shares in the Borrower, free from any Security Interest, except that created in favour of the Security Trustee.
- (b) No person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934 (15 USC §78a et seq.) as in effect on the date of this Guarantee) shall acquire beneficial ownership of 35% or more on a fully diluted basis of the voting interest in the Guarantor's equity interests unless the Management shall own directly or indirectly, more than such person or "group" on a fully diluted basis of the voting interest in the Guarantor's equity interests.

11.15 Financial Covenants

- (a) The Guarantor will not permit the Free Liquidity to be less than fifty million Dollars (\$50,000,000) at any time.
- (b) The Guarantor will not permit the ratio of Total Net Funded Debt to Total Capitalization to be greater than 0.70:1.00 at any time.
- (c) The Guarantor will not permit the ratio of Consolidated EBITDA to Consolidated Debt Service for the Group at the end of any fiscal quarter, computed for the period of the four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter, to be less than 1.25:1.00 unless the Free Liquidity of the Group at all times during such period of four consecutive fiscal quarters ending as at the end of such fiscal quarter was equal to or greater than one hundred million Dollars (\$100,000,000).

11.16 Financial definitions

For the purposes of Clause 11.15 (*Financial Covenants*):

- (a) "**Cash Balance**" shall mean, at any date of determination, the unencumbered and otherwise unrestricted cash and Cash Equivalents of the Group;
- (b) "**Cash Equivalents**" shall mean (i) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one year from the date of acquisition, (ii) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company having capital, surplus and undivided profits aggregating in excess of two hundred million Dollars (\$200,000,000), with maturities of not more than one year from the date of acquisition by any person, (iii) repurchase obligations with a term of not more than 90 days for underlying securities of the types described in clause (i) above entered into with any bank meeting the qualifications specified in clause (ii) above, (iv) commercial paper issued by any person incorporated in the United States rated at least A-1 or the equivalent thereof by S&P or at least P-1 or the equivalent thereof by Moody's and in each case maturing not more than one year after the date of acquisition by any other person, and (v) investments in money market funds substantially all of whose assets are comprised of securities of the types described in clauses (i) through (iv) above;

- (c) **"Consolidated Debt Service"** shall mean, for any relevant period, the sum (without double counting), determined in accordance with GAAP, of:
- (i) the aggregate principal payable or paid during such period on any Indebtedness for Borrowed Money of any member of the Group, other than:
 - (A) principal of any such Indebtedness for Borrowed Money prepaid at the option of the relevant member of the Group or by virtue of "cash sweep" or "special liquidity" cash sweep provisions (or analogous provisions) in any debt facility of the Group;
 - (B) principal of any such Indebtedness for Borrowed Money prepaid upon a sale or a Total Loss of any ship (as if references in that definition were to all ships and not just the Ship) owned or leased under a capital lease by any member of the Group; and
 - (C) balloon payments of any such Indebtedness for Borrowed Money payable during such period (and for the purpose of this paragraph (c) a "balloon payment" shall not include any scheduled repayment instalment of such Indebtedness for Borrowed Money which forms part of the balloon);
 - (ii) Consolidated Interest Expense for such period;
 - (iii) the aggregate amount of any dividend or distribution of present or future assets, undertakings, rights or revenues to any shareholder of any member of the Group (other than the Guarantor, or one of its wholly owned Subsidiaries) or any dividends or distributions other than tax distributions in each case paid during such period; and
 - (iv) all rent under any capital lease obligations by which the Guarantor or any consolidated Subsidiary is bound which are payable or paid during such period and the portion of any debt discount that must be amortized in such period;
- as calculated in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 *Provision of financial statements*);
- (d) **"Consolidated EBITDA"** shall mean, for any relevant period, the aggregate of:
- (i) Consolidated Net Income from the Guarantor's operations for such period; and
 - (ii) the aggregate amounts deducted in determining Consolidated Net Income for such period in respect of gains and losses from the sale of assets or reserves relating thereto, Consolidated Interest Expense, depreciation and amortization, impairment charges and any other non-cash charges and deferred income tax expense for such period.

- (e) **"Consolidated Interest Expense"** shall mean, for any relevant period, the consolidated interest expense (excluding capitalized interest) of the Group for such period;
 - (f) **"Consolidated Net Income"** shall mean, for any relevant period, the consolidated net income (or loss) of the Group for such period as determined in accordance with GAAP;
 - (g) **"Free Liquidity"** shall mean, at any date of determination, the aggregate of the Cash Balance or any other amounts available for drawing under other revolving or other credit facilities of the Group, which remain undrawn, could be drawn for general working capital purposes or other general corporate purposes and would not, if drawn, be repayable within six months;
 - (h) **"Indebtedness"** shall mean any obligation for the payment or repayment of money, whether as principal or as surety and whether present or future, actual or contingent including, without limitation, pursuant to an Interest Rate Protection Agreement or Other Hedging Agreement;
 - (i) **"Indebtedness for Borrowed Money"** shall mean Indebtedness (whether present or future, actual or contingent, long-term or short-term, secured or unsecured) in respect of:
 - (i) moneys borrowed or raised;
 - (ii) the advance or extension of credit (including interest and other charges on or in respect of any of the foregoing);
 - (iii) the amount of any liability in respect of leases which, in accordance with GAAP, are capital leases;
 - (iv) the amount of any liability in respect of the purchase price for assets or services payment of which is deferred for a period in excess of 180 days;
 - (v) all reimbursement obligations whether contingent or not in respect of amounts paid under a letter of credit or similar instrument; and
 - (vi) (without double counting) any guarantee of Indebtedness falling within paragraphs (i) to (v) above;
- PROVIDED THAT** the following shall not constitute Indebtedness for Borrowed Money:
- (A) loans and advances made by other members of the Group which are subordinated to the rights of the Secured Parties;
 - (B) loans and advances made by any shareholder of the Guarantor which are subordinated to the rights of the Secured Parties on terms reasonably satisfactory to the Facility Agent; and
 - (C) any liabilities of the Guarantor or any other member of the Group under any Interest Rate Protection Agreement or any Other Hedging Agreement or other derivative transactions of a non-speculative nature;
- (j) **"Interest Rate Protection Agreement"** shall mean any interest rate swap agreement, interest rate cap agreement, interest collar agreement, interest rate hedging agreement, interest rate floor agreement or other similar agreement or arrangement entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliate, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement;

- (k) **"Other Hedging Agreement"** shall mean any foreign exchange contracts, currency swap agreements, commodity agreements or other similar agreements or arrangements entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliates, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement and designed to protect against the fluctuations in currency or commodity values;
- (l) **"Total Capitalization"** means, at any date of determination, the Total Net Funded Debt plus the consolidated stockholders' equity of the Group at such date determined in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 (*Provision of financial statements*); provided it is understood that the effect of any impairment of intangible assets shall be added back to stockholders' equity; and
- (m) **"Total Net Funded Debt"** shall mean, as at any relevant date:
 - (i) Indebtedness for Borrowed Money of the Group on a consolidated basis; and
 - (ii) the amount of any Indebtedness for Borrowed Money of any person which is not a member of the Group but which is guaranteed by a member of the Group as at such date;

less an amount equal to any Cash Balance as at such date; provided that any Commitments and other amounts available for drawing under other revolving or other credit facilities of the Group which remain undrawn shall not be counted as cash or indebtedness for the purposes of this Guarantee.

11.17 Negative Undertakings

- (a) The Guarantor may:
 - (i) at any time prior to the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee;
 - (ii) at any time after the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee, subject to it on each such occasion satisfying the Security Trustee acting on behalf of the Secured Parties that it will continue to meet all the requirements of Clause 11.15 (*Financial Covenants*), if such covenants were to be tested immediately following the payment of any such dividend; and
 - (iii) pay dividends (x) to persons responsible for paying the tax liability in respect of consolidated, combined, unitary or affiliated tax returns for each relevant jurisdiction of the Group, or (y) to holders of the Guarantor's Capital Stock with respect to income taxable as a result of a member of the Group being taxed as a pass-through entity for U.S. Federal, state and local income tax purposes or attributable to any member of the Group,

provided that the actions in paragraphs (ii) and (iii) above shall only be permitted if there is no Event of Default which is continuing under the Loan Agreement and no Event of Default would arise from the payment of such dividend.

(b) The Guarantor shall not, and shall procure that none of its subsidiaries shall:

- (i) make loans to any person that is not the Guarantor or a direct or indirect subsidiary of the Guarantor; or
- (ii) issue or enter into one or more guarantees covering the obligations of any person which is not the Guarantor or a direct or indirect subsidiary of the Guarantor, except if such loan is granted to a non subsidiary or such guarantee is issued in the ordinary course of business covering the obligations of a non subsidiary and the aggregate amount of all such loans and guarantees made or issued by the Guarantor and its subsidiaries does not exceed [*] Dollars (\$[*]) or is otherwise approved by the Security Trustee which approval shall not be unreasonably withheld if such loan or guarantee in respect of a non subsidiary would neither:
 - (A) affect the ability of any Obligor to perform its obligations under the Finance Documents; nor
 - (B) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; nor
 - (C) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 (*Financial Covenants*) if such covenants were to be tested immediately following the grant of such loan or the issuance of such guarantee, as demonstrated by evidence satisfactory to the Security Trustee.

11.18 Most favoured nations

The Guarantor undertakes that if at any time after the Effective Date it enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of clause 11.2 (*Continuing representations and warranties*) of the Loan Agreement and clause 18.6 (*Cross default*) of the Loan Agreement respectively, the Guarantor shall immediately notify the Borrower and the Facility Agent of such provisions and the relevant provisions contained in the Loan Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to the Loan Agreement.

11.19 Sanctions and Illicit Payments

No payments made or received by the Guarantor under the Loan Agreement or any Finance Document shall be funded directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Guarantor, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.

11.20 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Guarantor or any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, this Agreement, the Loan Agreement and/or the other Finance Documents.

11.21 Sanctions

The Guarantor shall comply, or procure compliance by the entities and persons referred to in Clause 11.20, with all Sanctions and shall provide details of any material litigation, arbitration or administrative proceedings relating to any alleged or actual breach of Sanctions.

11.22 Additional Undertakings

The Guarantor shall not and shall procure that no Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest created under the Finance Documents to lose its priority or ranking; and
- (e) imperil or jeopardise any Security Interest created under the Finance Documents.

12 JUDGMENTS AND CURRENCY INDEMNITY

12.1 Judgments relating to Loan Agreement

This Guarantee shall cover any amount payable by the Borrower under or in connection with any judgment relating to the Loan Agreement.

12.2 Currency indemnity

In addition, clause 20.4 (*Currency indemnity*) of the Loan Agreement shall apply, with any necessary adaptations, in relation to this Guarantee.

13 SET-OFF

13.1 Application of credit balances

Each Secured Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Guarantor at any office in any country of that Secured Party in or towards satisfaction of any sum then due from the Guarantor to that Secured Party under this Guarantee; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Guarantor;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; or
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Secured Party concerned considers appropriate.

13.2 Existing rights unaffected

No Secured Party shall be obliged to exercise any of its rights under Clause 13.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Secured Party is entitled (whether under the general law or any document).

13.3 Sums deemed due to a Lender

For the purposes of this Clause 13 (*Set-Off*), a sum payable by the Guarantor to the Security Trustee for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to that Lender.

14 SUPPLEMENTAL

14.1 Continuing guarantee

This Guarantee shall remain in force as a continuing security at all times during the Security Period, regardless of any intermediate payment or discharge in whole or in part.

14.2 Rights cumulative, non-exclusive

The Security Trustee's rights under and in connection with this Guarantee are cumulative, may be exercised as often as appears expedient and shall not be taken to exclude or limit any right or remedy conferred by law.

14.3 No impairment of rights under Guarantee

If the Security Trustee omits to exercise, delays in exercising or invalidly exercises any of its rights under this Guarantee, that shall not impair that or any other right of the Security Trustee under this Guarantee.

14.4 Severability of provisions

If any provision of this Guarantee is or subsequently becomes void, illegal, unenforceable or otherwise invalid, that shall not affect the validity, legality or enforceability of its other provisions.

14.5 Guarantee not affected by other security

This Guarantee is in addition to and shall not impair, nor be impaired by, any other guarantee, any Security Interest or any right of set-off or netting or to combine accounts which the Security Trustee or any Secured Party may now or later hold in connection with the Loan Agreement.

14.6 Guarantor bound by Loan Agreement

The Guarantor agrees with the Security Trustee to be bound by all provisions of the Loan Agreement which are applicable to the Obligors in the same way as if those provisions had been set out (with any necessary modifications) in this Guarantee.

14.7 Applicability of provisions of Guarantee to other Security Interests

Any Security Interest which the Guarantor creates (whether at the time at which it signs this Guarantee or at any later time) to secure any liability under this Guarantee shall be a principal and independent security, and Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall, with any necessary modifications, apply to it, notwithstanding that the document creating the Security Interest neither describes it as a principal or independent security nor includes provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*).

14.8 Applicability of provisions of Guarantee to other rights

Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall also apply to any right of set-off or netting or to combine accounts which the Guarantor creates by an agreement entered into at the time of this Guarantee or at any later time (notwithstanding that the agreement does not include provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*)), being an agreement referring to this Guarantee.

14.9 Third party rights

Other than a Secured Party or the Italian Authorities, no person who is not a party to this Guarantee has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Guarantee.

14.10 Waiver of rights against SACE

Nothing in this Guarantee or any of the Finance Documents is intended to grant to the Guarantor or any other person any right of contribution from or any other right or claim against SACE and the Guarantor hereby waives irrevocably any right of contribution or other right or claim as between itself and SACE.

14.11 Certification or determination

Any certification or determination by the Security Trustee of a rate or amount under any Finance Document or this Guarantee is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

14.12 SACE subrogation

The Guarantor acknowledges that immediately upon any payment by SACE of any amount due under the SACE Insurance Policy, SACE shall be automatically subrogated to the extent of such payment to the rights of the Security Trustee under this Guarantee in accordance with the SACE Insurance Policy.

15 ASSIGNMENT AND TRANSFER

15.1 Assignment and transfer by Security Trustee

- (a) The Security Trustee may assign or transfer its rights under and in connection with this Guarantee to the same extent as it may assign or transfer its rights under the Loan Agreement.
- (b) The Guarantor may not assign or transfer its rights under and in connection with this Guarantee.

16 NOTICES

16.1 Notices to Guarantor

Any notice or demand to the Guarantor under or in connection with this Guarantee shall be given by letter or fax at:

NCL Corporation Ltd.
7665 Corporate Center Drive
Miami
Florida, 33126
Fax: (305) 436 4140

or to such other address which the Guarantor may notify to the Security Trustee.

16.2 Application of certain provisions of Loan Agreement

Clauses 32.3 (*Effective date of notices*) to 32.9 (*Meaning of "notice"*) of the Loan Agreement apply to any notice or demand under or in connection with this Guarantee.

16.3 Validity of demands

A demand under this Guarantee shall be valid notwithstanding that it is served:

- (a) on the date on which the amount to which it relates is payable by the Borrower under the Loan Agreement; or
- (b) at the same time as the service of a notice under clause 18.21 (*Actions following an Event of Default*) of the Loan Agreement;

and a demand under this Guarantee may refer to all amounts payable under or in connection with the Loan Agreement without specifying a particular sum or aggregate sum.

16.4 Notices to Security Trustee

Any notice to the Security Trustee under or in connection with this Guarantee shall be sent to the same address and in the same manner as notices to the Security Trustee under the Loan Agreement.

17 INVALIDITY OF LOAN AGREEMENT

17.1 Invalidity of Loan Agreement

In the event of:

- (a) the Loan Agreement or any provision thereof now being or later becoming, with immediate or retrospective effect, void, illegal, unenforceable or otherwise invalid for any reason whatsoever; or
- (b) without limiting the scope of paragraph (a) above, a bankruptcy of the Borrower, the introduction of any law or any other matter resulting in the Borrower being discharged from liability under the Loan Agreement, or the Loan Agreement ceasing to operate (for example, by interest ceasing to accrue);

this Guarantee shall cover any amount which would have been or become payable under or in connection with the Loan Agreement if the Loan Agreement had been and remained entirely valid, legal and enforceable, or the Borrower had not suffered bankruptcy, or any combination of such events or circumstances, as the case may be, and the Borrower had remained fully liable under it for liabilities whether invalidly incurred or validly incurred but subsequently retrospectively invalidated; and references in this Guarantee to amounts payable by the Borrower under or in connection with the Loan Agreement shall include references to any amount which would have so been or become payable as aforesaid.

17.2 Invalidity of Finance Documents

Clause 17.1 (*Invalidity of Loan Agreement*) also applies to each of the other Finance Documents to which the Borrower is a party.

18 GOVERNING LAW AND JURISDICTION

18.1 English law

This Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

18.2 Exclusive English jurisdiction

The courts of England shall have exclusive jurisdiction to settle any Dispute.

18.3 Process agent

The Guarantor irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

18.4 Secured Parties' rights unaffected

Nothing in this Clause 18 (*Governing Law and Jurisdiction*) shall exclude or limit any right which any Secured Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

18.5 Meaning of "proceedings"

In this Clause 18 (*Governing Law and Jurisdiction*), "**proceedings**" means proceedings of any kind, including an application for a provisional or protective measure and a "**Dispute**" means any dispute arising out of or in connection with this Guarantee (including a dispute relating to the existence, validity or termination of this Guarantee) or any non-contractual obligation arising out of or in connection with this Guarantee.

THIS GUARANTEE has been entered into on the date stated at the beginning of this Guarantee.

SCHEDULE 1

FORM OF COMPLIANCE CERTIFICATE

To: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**
8 Canada Square
London
E14 5HQ

Attn: [●]

[●] 20[●]

Dear Sirs

Loan Agreement dated [●] 2018 (as amended from time to time, the "Loan Agreement") made between (1) O Class Plus One, LLC (the "Borrower"), (2) the banks and financial institutions named at schedule 1 therein as lenders, (3) Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-BANK GmbH, Cassa di Risparmio di Padova e Rovigo S.p.A., Banco Santander S.A. and Société Générale as Joint Mandated Lead Arrangers, (4) Crédit Agricole Corporate and Investment Bank as SACE Agent (5) BNP Paribas as Facility Agent and (6) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a facility of up to the aggregate of the Dollar Equivalent of up to four hundred and sixty two million and nine hundred and sixty thousand Euros (€ 462,960,000) and the amount of the SACE Premium (but not exceeding six hundred and ninety million, seven hundred and eighteen thousand and seventy Dollars and fifty four cents (\$ 690,718,070.54)) and Guarantee dated [●] 2018 (the "Guarantee") made between (1) us as guarantor and (2) HSBC Corporate Trustee Company (UK) Limited as Security Trustee.

We refer to the Loan Agreement and the Guarantee. Terms defined in the Loan Agreement and the Guarantee have their defined meanings when used in this Compliance Certificate.

We also refer to the financial covenants set out in Clause 11.15 (*Financial Covenants*) of the Guarantee.

We certify that in relation to such covenants and by reference to the latest accounts provided under Clause 11.3[(11.3(a))/(11.3(b))] of the Guarantee:

- (a) Free Liquidity is \$[●] and [was / was not] less than fifty million Dollars (\$50,000,000) at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided;
- (b) the ratio of Total Net Funded Debt to Total Capitalization is [●] and therefore [was/was not] greater than 0.70:1.00 at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided; and
- (c) [the Free Liquidity of the Group at all times during the period of four consecutive fiscal quarters ending as at the end of the fiscal quarter for which the latest accounts have been provided was equal to or greater than one hundred million Dollars (\$100,000,000)] [as at the end of the fiscal quarter for which the latest accounts have been provided, computed for the period of four consecutive fiscal quarters ending at the end of such fiscal quarter, Consolidated EBITDA to Consolidated Debt Service is [●] and therefore [is/is not] less than 1.25:1.00].

To evidence compliance with the terms of Clause 11.15 (*Financial Covenants*), we attach:

a copy of the latest quarterly consolidated accounts of the Group as Appendix A [and a copy of the latest annual consolidated accounts of the Group as Appendix B].

No Event of Default has occurred in relation to the Borrower or the Guarantor.

Signed: _____

Chief Financial Officer of
NCL Corporation Ltd.

EXECUTION PAGE

GUARANTOR

SIGNED by
for and on behalf of
NCL CORPORATION LTD.
as its duly appointed attorney-in-fact
in the presence of:

) /s/Paul A. Turner

) Paul A. Turner
) Attorney-in-Fact
)
) /s/Nicholas Block

Nicholas Block
Solicitor
Clyde & Co LLP
The St. Botolph Building
138 Houndsditch
London EC3A 7AR
United Kingdom

SECURITY TRUSTEE

SIGNED by
for and on behalf of
HSBC CORPORATE TRUSTEE COMPANY
(UK) LIMITED
acting by its attorney/~~director~~
in the presence of:

) /s/Andrea Stevenson

) Andrea Stevenson
) Authorised Signatory
)
) /s/Hanish Bhatt

) Hanish Bhatt

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution version

DATED 19 December 2018

O CLASS PLUS TWO, LLC
as Borrower

and

**THE BANKS AND FINANCIAL INSTITUTIONS
LISTED IN SCHEDULE 1**
as Lenders

and

**CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
BNP PARIBAS FORTIS S.A./N.V.
HSBC BANK PLC
KFW IPEX-BANK GMBH
CASSA DEPOSITI E PRESTITI S.P.A.
BANCO SANTANDER, S.A.
SOCIÉTÉ GÉNÉRALE**
as Joint Mandated Lead Arrangers

and

BNP PARIBAS
as Facility Agent

and

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
as SACE Agent

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

with the support of

SACE S.P.A.

LOAN AGREEMENT

relating to
the part financing of the 1,258 passenger cruise ship
newbuilding presently designated as
Hull No. [*] at Fincantieri S.p.A.

**WATSON FARLEY
&
WILLIAMS**

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THIS AGREEMENT is made on 19 December 2018.

PARTIES

- (1) **O CLASS PLUS TWO, LLC**, a limited liability company formed in the state of Delaware, United States of America whose registered office is at c/o Corporate Creations Network Inc., 3411 Silverside Road, Tatnall Building 104, Wilmington, DE 19810 as borrower (the "**Borrower**")
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1 (*Lenders and Commitments*) as lenders (the "**Lenders**")
- (3) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK, BNP PARIBAS FORTIS S.A./N.V., KFW IPEX-BANK GMBH, HSBC BANK PLC, CASSA DEPOSITI E PRESTITI S.P.A., SOCIÉTÉ GÉNÉRALE and BANCO SANTANDER S.A.** as joint mandated lead arrangers (the "**Joint Mandated Lead Arrangers**")
- (4) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK**, as SACE agent (the "**SACE Agent**")
- (5) **BNP PARIBAS**, as facility agent (the "**Facility Agent**")
- (6) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, as security trustee (the "**Security Trustee**")

BACKGROUND

- (A) By a shipbuilding contract dated as of 31 October 2018 (as amended or supplemented from time to time, the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A., a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) the Borrower, the Builder agreed to design, construct and deliver, and the Borrower agreed to purchase, a 1,258 passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on or about [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
 - (B) The total price payable by the Borrower to the Builder under the Shipbuilding Contract is five hundred and seventy eight million and seven hundred thousand Euros (€578,700,000) (the "**Initial Contract Price**"). The Initial Contract Price is payable on the following terms and:
 - (i) as to [*], being [*], by an initial payment which is to be within 5 Business Days after the effective date of the Shipbuilding Contract in accordance with Article 10.1(A) of the Shipbuilding Contract ("**First Shipbuilding Contract Instalment**");
 - (ii) as to [*], being [*], on the later of the date of commencement of steel cutting and the date falling 36 months prior to the Intended Delivery Date;
 - (iii) as to [*], being [*], on the later of keel laying in dry-dock and the date falling 24 months prior to the Intended Delivery Date;
 - (iv) as to [*], being [*], on the later of launching and the date falling 12 months prior to the Intended Delivery Date; and
 - (v) as to [*], being [*], on delivery of the Ship on the Delivery Date,
-

as each such event is described in the Shipbuilding Contract.

- (C) The Initial Contract Price may be decreased at delivery of the Ship under Articles 13, 14, 16, 17, 19 and 20 of the Shipbuilding Contract (in aggregate the **Liquidated Damages**) or by mutual agreement between the parties (the Initial Contract Price adjusted as aforesaid being the **Final Contract Price**). For the avoidance of doubt, under the Shipbuilding Contract the price of the Ship may be increased or decreased pursuant to Article 24 thereof but, for the purposes of this Agreement, the Final Contract Price will not include any increase in the price under Article 24.
- (D) The Lenders have agreed to make available to the Borrower a Euro loan facility for the purpose of assisting the Borrower in financing, up to eighty per cent. (80%) of the Final Contract Price (and subject to an aggregate amount no greater than the Eligible Amount) and one hundred per cent. (100%) of the SACE Premium.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Definitions

Subject to Clause 1.5 (*General Interpretation*), in this Agreement:

"**Affected Lender**" has the meaning given in Clause 6.6 (*Unavailability of Screen Rate*).

"**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.

"**Annex VI**" means Annex VI (Regulations for the Prevention of Air Pollution from Ships, entered into on 19 May, 2005) to the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 (MARPOL) and as further revised in October 2008 with such revised version having entered into force on 1 July 2010.

"**Approved Broker**" means Clarkson plc, Barry Rogliano Salles, Fearnleys, Rocca & Partners, Brax Shipbrokers AS (or any Affiliate of such person through which valuations are commonly issued) or such other shipbroker or ship valuer experienced in valuing cruise ships nominated by the Borrower and approved by the Facility Agent.

"**Approved Flag**" means the Bermuda flag, the Marshall Islands flag, the Bahamas flag or such other flag as the Facility Agent may, with the approval of the Italian Authorities and at least four Lenders representing as a minimum the Majority Lenders, approve from time to time.

"**Approved Manager**" means any of the Borrower, NCL Corporation Ltd., NCL (Bahamas) Ltd., the Member as bareboat charterer or other member of the Group, or any company which is not a member of the Group which the Facility Agent may, with the authorisation of the Majority Lenders, approve from time to time as manager of the Ship.

"**Approved Manager's Undertaking**" means, in the event that the Approved Manager is a company other than the Borrower or the Member as bareboat charterer, a letter of undertaking executed or to be executed by the Approved Manager in favour of the Facility Agent, which will include, without limitation, an agreement by the Approved Manager to subordinate its rights against the Ship and the Borrower to the rights of the Secured Parties under the Finance Documents, in the agreed form.

"**Availability Period**" means the period commencing on the Effective Date and ending on:

- (a) the earlier to occur of (i) the Delivery Date and (ii) 10 November 2025 (or such later date as the Facility Agent may, with the authorisation of the Lenders, agree with the Borrower); or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated.

"**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.

"**Bareboat Charter**" means the bareboat charter of the Ship by the Borrower as owner to the Member as bareboat charterer which shall be entered into no later than the Delivery Date in a form of draft approved by the Facility Agent before the date of this Agreement with such reasonable changes thereto as the Facility Agent may approve from time to time.

"**Builder**" has the meaning given in Recital (A).

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open in New York, Milan, Frankfurt, Brussels, Madrid, Paris, Rome and (in relation to any payment or purchase of Euros) which is a TARGET Day; and

"**CDP**" means Cassa Depositi e Prestiti S.p.A.

"**Certified Copy**" means in relation to any document delivered or issued by or on behalf of any company, a copy of such document certified as a true, complete and up-to-date copy of the original by any of the directors or the secretary or assistant secretary or any attorney-in-fact for the time being of that company or, in the case of the Borrower, the sole manager of the Borrower.

"**Charged Property**" means all of the assets which from time to time are, or are expressed to be, the subject of Security Interests pursuant to the Finance Documents.

"**CIRR**" means, in relation to the Loan, the applicable Commercial Interest Reference Rate determined in accordance with the OECD Arrangement on Guidelines for Officially Supported Export Credits, to be notified by SIMEST to the Facility Agent (through the SACE Agent) and expected to be one point zero six per cent. (1.06%) per annum.

"**CIRR Break Costs**" means, in respect of the Loan, all the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the relevant Interest Make-up Agreement, including without limitation, as a result of any prepayment of all or any part of the Loan under this Agreement (whether voluntary, following acceleration of the Loan or otherwise), as a result of an Interest Make-up Event and/or as a result of the Borrower deciding to switch from the Fixed Interest Rate to another interest rate after the Drawdown Date. Such amounts include, without limitation, (i) breakage costs calculated on the basis of the net present value referred to in the relevant Interest Make-up Agreement, (ii) any amount due as a consequence of the close-out of any hedging arrangement entered into by SIMEST in relation to this Agreement, (iii) default interest and penalties (*maggiorazioni*) whenever applicable, and (iv) all amounts (if any) to be returned by the SACE Agent or the Facility Agent (as applicable) to SIMEST under and pursuant to the Interest Make-up Agreement.

"**Code**" means the United States Internal Revenue Code of 1986.

"**Code of Ethics**" means the code of ethics adopted by CDP, available on CDP's website (http://www.cdp.it/static/upload/cdp/cdp_code_ethics.pdf).

"**Commitment**" means, in relation to a Lender, the amount equal to the percentage of the Maximum Loan Amount set opposite its name in Schedule 1 (*Lenders and Commitments*), or, as the case may require, the amount specified in the relevant Transfer Certificate, in each case as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and "**Total Commitments**" means the aggregate of the Commitments of all the Lenders).

"**Common Units**" means all membership interests held at any time during the term of the limited liability company agreement of the Borrower by the Member, including, without limitation, the Member's (i) right to a distributive share of the income, gain, losses and deductions of the Borrower in accordance with the limited liability company agreement, (ii) the right to a distributive share of the Borrower's assets, and (iii) any securities issued in respect of or in exchange for common units, whether by way of dividend or other distribution, split reverse split, recapitalization, merger, rollup transaction, consolidation conversion or reorganization.

"**Compliance Certificate**" has the meaning given to the term "Compliance Certificate" in the Guarantee.

"**Confidential Information**" means all information relating to any Obligor, the Group, the Finance Documents or the Loan of which a Creditor Party becomes aware in its capacity as, or for the purpose of becoming, a Creditor Party or which is received by a Creditor Party from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Creditor Party, if the information was obtained by that Creditor Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Creditor Party of Clause 33 *Confidentiality*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Creditor Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Creditor Party after that date, from a source which is, as far as that Creditor Party is aware, unconnected with the Group and which, in either case, as far as that Creditor Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or
- (iv) any Reference Bank Quotation.

"Confidentiality Undertaking" means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrower and the Facility Agent.

"Contribution" means, in relation to a Lender, the amount of the Loan which is owing to that Lender.

"Corresponding Debt" means any amount, other than any Parallel Debt, which an Obligor owes to a Creditor Party under or in connection with the Finance Documents.

"Creditor Party" means the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender, whether as at the date of this Agreement or at any later time.

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee

"Delivery Date" means the date and time of delivery of the Ship by the Builder to the Borrower as stated in the Protocol of Delivery and Acceptance.

"Document of Compliance" has the meaning given to it in the ISM Code.

"Dollars", "\$" and "USD" means the lawful currency for the time being of the United States of America.

"Drawdown Date" means the date on which the Loan is drawn down and applied in accordance with Clause 2 *Facility*).

"Drawdown Notice" means a notice in the form set out in Schedule 2 *(Form of Drawdown Notice)* (or in any other form which the Facility Agent approves or reasonably requires).

"Earnings" means all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower, by the Member as bareboat charterer and which arise out of the use or operation of the Ship, including (but not limited to):

- (a) all freight, hire, fare and passage moneys, compensation payable to the Borrower, the Facility Agent or the Security Trustee (as the case may be) in the event of requisition of the Ship for hire, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of the Ship;
- (b) all moneys which are at any time payable under Insurances in respect of loss of earnings;
- (c) all moneys which are at any time payable to the Borrower in respect of the general average contribution; and
- (d) if and whenever the Ship is employed on terms whereby any moneys falling within paragraphs (a) or (b) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Ship.

"EEA Member Country" means any member state of the European Union, Iceland, Liechtenstein and Norway.

"Effective Date" means the earlier of:

- (a) the Guarantor providing the Facility Agent with written notice stating that this Agreement and the other Finance Documents signed on or about the date hereof have become effective; and
- (b) 16.00 Central European time on 31 January 2019.

"Eligible Amount" means eighty per cent. (80%) of the lesser of:

- (a) five hundred and seventy eight million and seven hundred thousand Euros (€578,700,000); and
- (b) the Final Contract Price.

"Environmental Approval" means any present or future permit, ruling, variance or other authorisation required under Environmental Laws.

"Environmental Claim" means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, "claim" includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

"Environmental Incident" means:

- (a) any release, emission, spill or discharge into the Ship or into or upon the air, sea, land or soils (including the seabed) or surface water of Environmentally Sensitive Material within or from the Ship; or

- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or potentially liable to be arrested, attached, detained or enjoined and/or the Ship and/or any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water otherwise than from the Ship and in connection with which the Ship is actually or potentially liable to be arrested and/or where any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

"Environmental Law" means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

"Environmentally Sensitive Material" means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

"EONIA" means, on any date, the effective overnight reference rate for the Euro administered by the European Money Markets Institute (or any other person which takes over the administration of that rate), computed as a weighted average of all overnight unsecured lending transactions in the European interbank market, undertaking in the European Union and European Free Trade Association countries, provided that if the rate is less than zero, EONIA shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

"Equator Principles" means the standards entitled "A financial industry benchmark for determining, assessing and managing environmental and social risk in projects" dated June 2013 and adopted by certain financial institutions, as the same may be amended or supplemented from time to time.

"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.

"EU Blocking Regulation" means EU Regulation (EC) 2271/96 of 22 November 1996.

"EURIBOR" means, in relation to the Loan or any part of the Loan:

- (a) the applicable Screen Rate as of the Quotation Date for Euros and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or
- (b) as otherwise determined pursuant to Clause 6.6(*Unavailability of Screen Rate*).

and if in either case, that rate is less than zero, EURIBOR shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

"Euro", "Euros" and "EUR" means the single currency of the Participating Member States.

"Event of Default" means any of the events or circumstances described in Clause 18.1 (*Events of Default*).

"Existing Indebtedness" means Financial Indebtedness referred to in the financial statements of the Guarantor delivered to the Facility Agent prior to the date of this Agreement.

"Exporter Declaration" means a declaration in the form required by SIMEST at the relevant time duly signed by an authorised signatory of the Builder.

"Facility" means the term loan facility made available under this Agreement as described in Clause 2.1 (*Amount of facility*).

"Facility Agent" means BNP Paribas, a French *société anonyme*, having a share capital of two billion four hundred ninety-nine million five hundred ninety-seven thousand one hundred and twenty-two Euros (€2,499,597,122) and its registered office located at 16 Boulevard des Italiens, 75009, Paris, France, registered under the n° Siren 662.042.449 at the *Registre du Commerce et des Sociétés* of Paris or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

"Facility Office" means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"FATCA" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"FATCA Application Date" means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or

(c) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019, or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

"FATCA Deduction" means a deduction or withholding from a payment under a Finance Document required by FATCA.

"FATCA Exempt Party" means a Party that is entitled to receive payments free from any FATCA Deduction.

"Fee Letter" means any letter dated on or about the date of this Agreement between:

- (a) the Facility Agent and the Borrower setting out the fees referred to in paragraph (a) of Clause 9.1 *Fees*;
- (b) the Facility Agent and the Borrower setting out the fees referred to in paragraph (b) of Clause 9.1 *Fees*;
- (c) the SACE Agent and the Borrower setting out the fees referred to in paragraph (d) of Clause 9.1 *Fees*;
- (d) the Security Trustee and the Borrower setting out the fees referred to in paragraph (e) of Clause 9.1 *Fees*; or
- (e) the Borrower and a Creditor Party setting out the fees payable to such Creditor Party pursuant to the terms of this Agreement.

"Finance Documents" means:

- (a) this Agreement;
- (b) any Fee Letter;
- (c) the Guarantee;
- (d) the General Assignment;
- (e) the Mortgage;
- (f) the Pledge Agreement;
- (g) the Post-Delivery Assignment;
- (h) any Subordinated Debt Security;
- (i) the Approved Manager's Undertaking;
- (j) any Transfer Certificate;
- (k) any Compliance Certificate;

- (l) any Drawdown Notice;
- (m) any other document (whether creating a Security Interest or not) which is executed as security for, or for the purpose of establishing any priority or subordination arrangement in relation to, the Secured Liabilities; and
- (n) any other document (whether creating a Security Interest or not) which is designated as a Finance Document by agreement between the Borrower, SACE and the Facility Agent.

"**Final Contract Price**" has the meaning given in Recital (C).

"**Financial Indebtedness**" means, in relation to a person (the "**debtor**"), an indebtedness of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount;
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person; or
- (g) arising from receivables sold or discounted (other than receivables to the extent they are sold on a non-recourse basis).

"**First Instalment**" means the first instalment of the SACE Premium as more particularly described in paragraph (a) of Clause 8.1 *§ACE Premium*).

"**Fixed Interest Rate**" means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) the CIRR.

"**Fixed Rate Margin**" means the difference between the Floating Rate Margin and the SIMEST Margin Contribution.

"**Floating Interest Rate**" means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) EURIBOR for the relevant period.

"**Floating Rate Margin**" means one point fifteen per cent. (1.15%)

"**Funding Rate**" means any individual rate notified by a Lender to the Facility Agent pursuant to Clause 6.11(b).

"**GAAP**" means generally accepted accounting principles in the United States of America consistently applied (or, if not consistently applied, accompanied by details of the inconsistencies) including, without limitation, those set forth in the opinion and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

"**General Assignment**" means an assignment of, *inter alia*, any Management Agreement, the Earnings, the Insurances, any charter and any Requisition Compensation, executed or to be executed by the Borrower, the Member as charterer and, in the event that the Approved Manager is not a member of the Group and is named as a co-assured in the Insurances, the Approved Manager in favour of the Security Trustee in the agreed form.

"**German Blocking Provisions**" means section 7 of the German Foreign Trade Regulation (AWV) (*Außenwirtschaftsverordnung*) (in connection with section 4 paragraph 1 a no. 3 German Foreign Trade Law (AWG) (*Außenwirtschaftsgesetz*)).

"**Gross Negligence**" means any act or omission, whether deliberate or not, which in the circumstances (including both the probability and seriousness of the consequences likely to result) would reasonably be regarded by those familiar with the nature of the activity in question and with the surrounding circumstances, as amounting to the reckless disregard of, or serious indifference to, the consequences, being in any case more than a negligent failure to exercise proper skill and care.

"**Group**" means the Guarantor and its Subsidiaries.

"**Guarantee**" means a guarantee issued by the Guarantor in favour of the Security Trustee in the agreed form.

"**Guarantor**" means NCL Corporation Ltd., a Bermuda company with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda.

"**Holding Company**" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"**IAPPC**" means a valid international air pollution prevention certificate for the Ship issued under Annex VI.

"**Illicit Origin**" means any origin which is illicit, fraudulent or in breach of Sanctions including, without limitation, drug trafficking, corruption, organised criminal activities, terrorism, money laundering or fraud.

"**Initial Contract Price**" has the meaning given in Recital (B).

"**Insurances**" means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are effected in respect of the Ship, its Earnings or otherwise in relation to it; and
- (b) all rights and other assets relating to, or derived from any of such policies, contracts or entries, including any rights to a return of a premium.

"**Intended Delivery Date**" means [*] (the date on which the Ship will be ready for delivery pursuant to the Shipbuilding Contract as at the date of this Agreement) or any other date notified by the Borrower to the Facility Agent in accordance with paragraph (a) of Clause 3.5 (*No later than sixty (60) days before the Intended Delivery Date*) or paragraph (c) of Clause 3.9 (*No later than five (5) Business Days before the Intended Delivery Date*) as being the date on which the Builder and the Borrower have agreed that the Ship will be ready for delivery pursuant to the Shipbuilding Contract.

"**Interest Make-up Agreement**" means an agreement on interest stabilisation (*Capitolato per il Contributo Interessi*) to be entered into between SIMEST and the SACE Agent on behalf of the Lenders and in form and substance acceptable to the SACE Agent, the Facility Agent and the Lenders, which provides, *inter alia*, for the applicable CIRR to be subsidised in relation to the Loan made available under this Agreement and to which the CIRR applies.

"**Interest Make-up Event**" means the occurrence of any circumstances which result in the termination, cancellation, revocation, cessation or suspension (in each case, in whole or in part) of the Interest Make-up Agreement or the Interest Make-up Agreement otherwise ceases or may cease to be in full force and effect or the SACE Agent notifies the Borrower that the Fixed Interest Rate is not available for any reason, in each case, in accordance with the terms of the Interest Make-up Agreement.

"**Interest Period**" means a period determined in accordance with Clause 7 (*Interest Periods*).

"**ISM Code**" means the International Safety Management Code for the safe operation of ships and for pollution prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation as the same may be amended or supplemented from time to time.

"**ISPS Code**" means the International Ship and Port Facility Security (ISPS) Code adopted by the International Maritime Organisation (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

"**Italian Authorities**" means SACE and/or SIMEST and any other relevant Italian authorities involved in the implementation of the Loan.

"**Legislative Decree 231/01**" means the Italian legislative decree of 8 June 2001, no. 231 (*Disciplina della responsabilità amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica, a norma dell'articolo 11 della legge 29 settembre 2000, n.300*) as amended from time to time, on administrative vicarious liability of corporate entities.

"**Lender**" means a bank, financial institution, trust, fund or other entity listed in Schedule 1 (*Lenders and Commitments*) and acting through its Facility Office or its transferee, successor or assign.

"**Loan**" means the principal amount for the time being outstanding under this Agreement.

"**Majority Lenders**" means:

- (a) before the Loan has been made, Lenders whose Commitments total [*] per cent. of the Total Commitments; and
- (b) after the Loan has been made, Lenders whose Contributions total [*] per cent. of the Loan.

"**Management Agreement**" means the management agreement (if any) entered or to be entered into between the Borrower and an Approved Manager which is not a member of the Group with respect to the Ship on terms reasonably acceptable to the Majority Lenders and SACE.

"**Margin**" means:

- (a) in relation to the Fixed Interest Rate, the Fixed Rate Margin; and
- (b) in relation to the Floating Interest Rate, the Floating Rate Margin.

"**Maritime Registry**" means the maritime registry which the Borrower will specify to the Lenders no later than 90 days before the Intended Delivery Date, being that of Bermuda, the Marshall Islands, Bahamas or such other registry as the Facility Agent may, with the approval of the Italian Authorities and at least three Lenders representing as a minimum the Majority Lenders, approve.

"**Material Adverse Effect**" means the occurrence of any event or circumstance which reasonably would be expected to have a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) of any Obligor or the Group as a whole;
- (b) the ability of any Obligor to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Secured Party under any of the Finance Documents.

"**Maximum Loan Amount**" means the aggregate of:

- (a) four hundred and sixty two million nine hundred and sixty thousand Euros (€462,960,000); and
- (b) one hundred per cent. (100%) of the SACE Premium to be paid in accordance with Clause 8.1 (*SACE Premium*),

provided that such amount shall not, at any time, exceed four hundred and eighty million two hundred and forty eight thousand nine hundred and sixty two Euros and sixty six cents (€480,248,962.66).

"**Member**" means Oceania Cruises S. de R.L., a Panamanian *sociedad de responsabilidad limitada* domiciled in Panama whose resident agent is PH Arifa, 9th and 10th Floors, West Boulevard, Santa Maria Business District, Panama, Republic of Panama as the sole member of the Borrower.

"**Minor Modification**" means a modification of the plans or the specification or the construction of the Ship under Article 24 of the Shipbuilding Contract, resulting in a contract price increase or decrease of less than [*] Euros (€[*]).

"**Model**" means the principles of the compliance system adopted by CDP pursuant to Legislative Decree 231/01, available on CDP's website (https://en.cdp.it/kdocs/1896656/Organization_Management_and_Control_Model_pursuant_to_Italian_Legislative_Decree_No._231-01_EN.pdf).

"**Mortgage**" means the first priority mortgage on the Ship acceptable for registration on the Approved Flag and, if applicable, deed of covenant, executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

"**Negotiation Period**" has the meaning given in Clause 6.9 (*Negotiation of alternative rate of interest*).

"**Obligors**" means the Borrower, the Guarantor, the Member and (in the event that the Approved Manager is a member of the Group) the Approved Manager.

"**Original Jurisdiction**" means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated or formed, as the case may be, as at the date of this Agreement.

"**Parallel Debt**" means any amount which an Obligor owes to the Security Trustee under Clause 27.2 *Parallel Debt (Covenant to pay the Security Trustee)*.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement from time to time.

"**Permitted Financial Indebtedness**" means any Financial Indebtedness:

- (a) incurred under the Finance Documents; or
- (b) permitted pursuant to Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

"**Permitted Security Interests**" means:

- (a) in the case of the Borrower:
 - (i) any of the Security Interests referred to in paragraph (b)(ii)(A) below; and

- (ii) any of the Security Interests referred to in paragraphs (b)(ii)(B), (b)(ii)(C), (b)(ii)(E), (b)(ii)(H) and (b)(ii)(I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Borrower in the case of paragraphs (b)(ii)(C) or (b)(ii)(E) or incurred by the Borrower in the case of paragraphs (b)(ii)(B), (b)(ii)(H) or (b)(ii)(I); and

(b) in the case of the Guarantor:

- (i) any of the Security Interests referred to in paragraphs (ii)(A), (ii)(D), (ii)(F) and (ii)(G) below; and
- (ii) any of the Security Interests referred to in paragraphs (C), (E), (H) and (I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Guarantor in the case of paragraph (C) or (E) or incurred by the Guarantor in the case of paragraph (H) or (I);
 - (A) any Security Interest created by or pursuant to the Finance Documents and any deposits or other Security Interests placed or incurred in connection with any bond or other surety from time to time provided to the US Federal Maritime Commission in order to comply with laws, regulations and rules applicable to the operators of passenger vessels operating to or from ports in the United States of America;
 - (B) liens on the Ship up to an aggregate amount at any time not exceeding [*] for current crew's wages and salvage and liens incurred in the ordinary course of trading the Ship;
 - (C) any deposits or pledges up to an aggregate amount at any time not exceeding [*] to secure the performance of bids, tenders, bonds or contracts required in the ordinary course of business;
 - (D) any other Security Interest including in relation to the Existing Indebtedness over the assets of any Obligor other than the Borrower notified by the Borrower or any of the Obligors to the Facility Agent and accepted by it prior to the date of this Agreement;
 - (E) (without prejudice to the provisions of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*)) liens on assets leased, acquired or upgraded after the date of this Agreement or assets newly constructed or converted after the date of this Agreement provided that (i) such liens secure Financial Indebtedness otherwise permitted under this Agreement, (ii) such liens are incurred at the time of such lease, acquisition, upgrade, construction or conversion and (iii) the Financial Indebtedness secured by such liens does not exceed the cost of such upgrade or the cost of such assets acquired or leased;

- (F) other liens arising in the ordinary course of business of the Group unrelated to Financial Indebtedness and securing obligations not yet delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established provided that (i) the aggregate amount of all cash and the fair market value of all other property subject to such liens as are described in this paragraph (F) does not exceed [*] and (ii) such cash and/or other property is not an asset of the Borrower;
- (G) subject to the other provisions of this Agreement and the Guarantee, any Security Interest in respect of existing Financial Indebtedness of a person which becomes a Subsidiary of the Guarantor or is merged with or into the Guarantor or any of its subsidiaries;
- (H) liens in favour of credit card companies on unearned customer deposits pursuant to agreements therewith; and
- (I) liens in favour of customers on unearned customer deposits.

"Pertinent Document" means:

- (a) any Finance Document;
- (b) any policy or contract of insurance contemplated by or referred to in Clause 12 (*General Undertakings*) or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and
- (d) any document which has been or is at any time sent by or to the Facility Agent in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraph (b) or (c).

"Pertinent Matter" means:

- (a) any transaction or matter contemplated by, arising out of, or in connection with a Pertinent Document; or
- (b) any statement relating to a Pertinent Document or to a transaction or matter falling within paragraph (a);

and covers any such transaction, matter or statement, whether entered into, arising or made at any time before the signing of this Agreement or on or at any time after that signing.

"Pledge Agreement" means a document creating security over the limited liability company interests in the Borrower in the agreed form.

"Post-Delivery Assignment" means an assignment of the rights of the Borrower in respect of the post-delivery guarantee liability of the Builder under Article 25 of the Shipbuilding Contract executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

"Prohibited Jurisdiction" means any country or territory which is, or whose government is, the target of country-wide or territory-wide Sanctions.

"Prohibited Payment" means:

- (a) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would constitute bribery or an improper gift or payment under, or a breach of Sanctions, any laws of the Republic of Italy, England and Wales, Panama, the Council of the European Union, Germany, the United States of America or any other applicable jurisdiction; or
- (b) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would or might constitute bribery within the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997.

"Prohibited Person" means any person that (i) appears on any Sanctions list of prohibited persons, (ii) is directly or indirectly owned 50 percent or more by, or directly or indirectly controlled by, one or more persons covered by sub-section (i) above, or (iii) is located, is resident in or is incorporated or formed, as the case may be, under the laws of a Prohibited Jurisdiction.

"Protocol of Delivery and Acceptance" means the protocol of delivery and acceptance of the Ship to be signed by the Borrower and the Builder in accordance with Article 8 of the Shipbuilding Contract.

"Quotation Date" means, in relation to any Interest Period (or any period for which an interest rate is to be determined under any provision of a Finance Document), two TARGET Days before the first day of that period, unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Date will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Date will be the last of those days).

"Qualifying Certificate" means the certificate to be issued by the Builder on the Delivery Date and issued to the Facility Agent and copied to the Borrower substantially in the form set out in Schedule 5 (*Qualifying Certificate*).

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property

"Reference Bank Quotation" means any quotation supplied to the Facility Agent by a Reference Bank.

"Reference Bank Rate" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks:

- (a) (other than where paragraph (b) below applies) as the rate at which the relevant Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States for the relevant period; or

- (b) if different, as the rate (if any and applied to the relevant Reference Bank and the relevant period) which contributors to the Screen Rate are asked to submit to the relevant administrator.

"Reference Banks" means such entities as may be appointed by the Facility Agent in consultation with the Borrower.

"Relevant Interbank Market" means the European Interbank Market.

"Relevant Jurisdiction" means, in relation to an Obligor:

- (a) its jurisdiction of incorporation, or formation, as the case may be;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party.

"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 (or any successor organization).

"Repayment Date" means a date on which a repayment is required to be made under Clause 5 (*Repayment*).

"Replacement Benchmark" means a benchmark rate which is:

- (a) a formally designated, nominated or recommended as the replacement for the Screen Rate by:
 - (i) the administrator of the Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by the 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" shall be the replacement under paragraph (ii) above;
- (b) in the opinion of the Majority Lenders and the Obligors, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor of that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Obligors, an appropriate successor to that Screen Rate.

"**Representative**" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

"**Requisition Compensation**" includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of "**Total Loss**".

"**Restricted Creditor Party**" means a Creditor Party which serves a notice pursuant to paragraph (a) of Clause 37.7 *Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation*.

"**Resolution Authority**" means any body which has authority to exercise any Write-down and Conversion Powers.

"**SACE**" means SACE S.p.A.

"**SACE Agent**" means Crédit Agricole Corporate and Investment Bank, a French "*société anonyme*", having a share capital of seven billion eight hundred and fifty one million six hundred and thirty six thousand three hundred and forty two Euros (€7,851,636,342) and its registered office located at 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France, registered under the n° Siren 304 187 701 at the Registre du Commerce et des Sociétés of Nanterre or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

"**SACE Insurance Policy**" means the insurance policy in respect of this Agreement (which, in all material respects, is not inconsistent with the commercial terms of this Agreement) to be issued by SACE for the benefit of the Lenders in respect of one hundred per cent. (100%) of the Loan together with interest thereon in form and substance satisfactory to the Facility Agent, the SACE Agent and all the Lenders.

"**SACE Premium**" means the amount payable by the Borrower to SACE directly or through the SACE Agent in two instalments in respect of the SACE Insurance Policy as set out in Clause 8 (*SACE Premium and Italian Authorities*).

"**SACE Premium Instalments**" means each of the First Instalment and Second Instalment.

"**SACE Required Documents**" means in relation to the Drawdown Notice:

- (a) a duly completed and executed Qualifying Certificate; and
- (b) each of the other documents, information and other evidence specified in or required to be enclosed with such Qualifying Certificate.

"**Safety Management Certificate**" has the meaning given to it in the ISM Code.

"**Sanctions**" means any financial, economic or trade sanctions, embargoes or other restrictions relating to trading, doing business, investment, exporting, importing, travelling, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Hong Kong Monetary Authority, the European Union or the Council of the European Union, the United Nations or its Security Council or imposed by any member state of the European Union or Switzerland;

- (b) imposed by the US, including the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC); or
- (c) otherwise imposed by any law or regulation.

"**SBC Effective Date**" means the effective date under the Shipbuilding Contract.

"**Screen Rate**" means, in relation to a particular period, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) at or about 11 a.m (CET time) for spot value on the Quotation Date for such period as displayed on page EURIBOR01 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 (and if such page ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consulting with the Borrower).

"**Screen Rate Replacement Event**" means, in relation to the Screen Rate:

- (a) the methodology, formula or other means of determining the Screen Rate has, in the opinion of the Majority Lenders and the Obligors materially changed;

(b)

(i)

- (A) the administrator of the Screen Rate or its supervisor publicly announces that such administrator is insolvent;
- (B) information is published in any order, decree, notice, petition or filing, however, described of or filed with a court, tribunal, exchange, regulatory authority or judicial body which reasonably confirms that the administrator of the Screen Rate is insolvent,

provided that in each case, at that time, there is no successor or administrator to continue to provide the Screen Rate;

- (ii) the administrator of the Screen Rate publicly announces that it has ceased or will cease, to provide the Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the Screen Rate;
 - (iii) the supervisor of the administrator of the Screen Rate publicly announces that the Screen Rate has been or will be permanently or indefinitely discontinued;
 - (iv) the administrator of the Screen Rate or its supervisor announces that the Screen Rate may no longer be used;
- (c) the administrator of the Screen Rate determines that the Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:

- (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Obligors) temporary; or
 - (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the period of fifteen (15) Business Days;
- (d) in the opinion of the Majority Lenders and the Obligors, the Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

"**Second Instalment**" means the second instalment of the SACE Premium as more particularly described in paragraph (b) of Clause 8.1 *SACE Premium*).

"**Secured Liabilities**" means all liabilities which the Borrower, the Obligors or any of them have, at the Effective Date or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country.

"**Secured Party**" means SACE, the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender whether at the date of this Agreement or any later time, a Receiver or any Delegate.

"**Security Interest**" means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien, assignment, hypothecation or any other security interest of any kind or other agreement or arrangement having the effect of conferring security;
- (b) the security rights of a plaintiff under an action *in rem*; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution.

"**Security Period**" means the period commencing on the Effective Date and ending on the date on which:

- (a) all amounts which have become due for payment by the Borrower or any Obligor under the Finance Documents have been fully and irrevocably paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) neither the Borrower nor any other Obligor has any future or contingent liability under Clause 19 *(Application of sums received)* below or any other provision of this Agreement or another Finance Document; and
- (d) the Facility Agent does not consider that there is a significant risk that any payment or transaction under a Finance Document would be set aside, or would have to be reversed or adjusted, in any present or possible future bankruptcy of the Borrower or an Obligor or in any present or possible future proceeding relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created by a Finance Document.

"Security Property" means:

- (a) the Security Interests expressed to be granted in favour of the Security Trustee as trustee for the Secured Parties and all proceeds received or recovered by or on behalf of the Security Trustee under or by virtue of any Security Interest including any money or other assets which are received or recovered by it as a result of the enforcement or exercise by it of such a Security Interest or right;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Trustee as trustee for the Secured Parties and secured by the Security Interests together with all representations and warranties expressed to be given by an Obligor in favour of the Security Trustee as trustee for the Secured Parties;
- (c) the Security Trustee's interest in any turnover trust created under the Finance Documents;
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Trustee is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties,

except:

- (i) rights intended for the sole benefit of the Security Trustee; and
- (ii) any moneys or other assets which the Security Trustee has transferred to the Facility Agent or (being entitled to do so) has retained in accordance with the provisions of this Agreement.

"Security Requirement" means the amount in Euros (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which is at any relevant time one hundred and twenty-five per cent. (125%) of the Loan.

"Security Trustee" means HSBC Corporate Trustee Company (UK) Limited, a company incorporated in England and Wales (with registered number 6447555) whose registered office is located at 8 Canada Square, London, E14 5HQ or any successor of it appointed under Clause 27 (*The Security Trustee*).

"Security Value" means the amount in Euros (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which, at any relevant time, is the aggregate of (i) the charter free market value of the Ship as most recently determined in accordance with Clause 13.4 (*Valuation of the Ship*); and (ii) the market value of any additional security for the time being actually provided to the Facility Agent pursuant to Clause 15 (*Security Value Maintenance*).

"Servicing Party" means the Facility Agent or the Security Trustee.

"**Ship**" means the passenger cruise ship currently designated with Hull No.[*] (as more particularly described in the Shipbuilding Contract) to be constructed under the Shipbuilding Contract and to be delivered to, and purchased by, the Borrower and registered in its name under an Approved Flag.

"**Shipbuilding Contract**" has the meaning given in Recital (A).

"**SIMEST**" means Società Italiana per Le Imprese all'Estero - SIMEST S.p.A., which grants export subsidies in Italy under and according to the Italian Legislative Decree n. 143/98 and its amendments.

"**SIMEST Margin Contribution**" means the margin contribution approved and granted by SIMEST to the Lenders under the Interest Make-up Agreement as communicated by the SACE Agent to the Creditor Parties and the Borrower following the date of this Agreement as soon as the SACE Agent is made aware of it.

"**Structuring Fee**" has the meaning given in paragraph 9.1(a) of Clause 9.1 (*Fees*).

"**Subordinated Debt Security**" has the meaning given in paragraph (b)(ii) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

"**Subsidiary**" has the following meaning:

A company (S) is a subsidiary of another company (P) if:

- (a) a majority of the issued equity interests in S (or a majority of the issued equity interests in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; or
- (b) P has direct or indirect control over a majority of the voting rights attaching to the issued equity interests of S; or
- (c) P has the direct or indirect power to appoint or remove a majority of the directors (or equivalent) of S; or
- (d) P otherwise has the direct or indirect power to ensure that the affairs of S are conducted in accordance with the wishes of P;

and any company of which S is a subsidiary is a parent company of S.

"**TARGET2**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payment in Euros.

"**Tax**" means any tax, levy, impost, duty, assessment, fee, deduction or other charge or withholding of a similar nature imposed by any governmental authority (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Third Party Act**" means the Contracts (Rights of Third Parties) Act 1999.

"Total Loss" means:

- (a) actual, constructive, compromised, agreed or arranged total loss of the Ship;
- (b) any expropriation, confiscation, requisition or acquisition of the Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority, (excluding a requisition for hire for a fixed period not exceeding 1 year without any right to an extension) unless it is within 1 month redelivered to the Borrower's full control;
- (c) any arrest, capture, seizure or detention of the Ship (including any hijacking or theft) unless it is within 1 month redelivered to the Borrower's full control.

"Total Loss Date" means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earliest of:
 - (i) the date on which a notice of abandonment is given to the insurers (or deemed or agreed to be given); and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower with the Ship's insurers in which the insurers agree to treat the Ship as a total loss; and
- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Facility Agent acting reasonably and in consultation with the Borrower that the event constituting the total loss occurred.

"Transaction Documents" means the Finance Documents and the Underlying Documents.

"Transfer Certificate" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrower.

"Underlying Documents" means the Shipbuilding Contract, any Management Agreement, any bareboat charter and any charter and associated guarantee in respect of which a notice of assignment is required to be served under the terms of the General Assignment.

"Unpaid Sum" means (i) any sum due and payable but unpaid by an Obligor under the Finance Documents and (ii) any part of the SACE Premium unpaid by the Borrower.

"US" means the United States of America.

"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 of certain terms

In this Agreement:

"Facility Agent", the **"SACE Agent"**, the **"Joint Mandated Lead Arranger"**, the **"Security Trustee"**, **"SACE"**, any **"Creditor Party"**, any **"Secured Party"**, any **"Lender"**, any **"Obligor"** or any other **"person"**, shall be construed so as to include its successors in title, permitted assigns and permitted transferees.

"approved by the Lenders" (or any similar determination or instruction by the Lenders) means approved in writing by the Facility Agent acting on the instructions of all the Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and any requirement for approval by all the Lenders shall mean prior approval.

"approved by the Majority Lenders" (or any similar determination or instruction by the Majority Lenders) means approved in writing by the Facility Agent acting on the instructions of the Majority Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Majority Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and otherwise **"approved"** means approved in writing by the Facility Agent (on such conditions as the Facility Agent may impose) and **"approval"** and **"approve"** shall be construed accordingly and any requirement for approval by the Facility Agent, the SACE Agent or the Majority Lenders shall mean prior approval.

"asset" includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment.

"**company**" includes any partnership, joint venture and unincorporated association.

"**consent**" includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation.

"**contingent liability**" means a liability which is not certain to arise and/or the amount of which remains unascertained.

"**date of this Agreement**" means 19 December 2018.

"**document**" includes a deed; also a letter, fax or electronic mail.

"**expense**" means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Taxes including VAT.

"**including**" and "**in particular**" (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.

"**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;

"**law**" includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council.

"**legal or administrative action**" means any legal proceeding or arbitration and any administrative or regulatory action or investigation.

"**liability**" includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise.

"**months**" shall be construed in accordance with Clause 1.4 (*Meaning of "month"*).

"**parent company**" has the meaning given in the definition of "Subsidiary".

"**person**" includes any individual, firm, company, corporation, government, any state, political sub-division of a state and local or municipal authority, agency of a state or any association, trust, joint venture, consortium or partnership; and any international organisation (whether or not having a separate legal personality).

"**proceedings**" means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure.

"**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Construction of Insurance Terms

"**approved**" means, for the purposes of Clause 14 (*Insurance Undertakings*), approved in writing by the Facility Agent.

"**excess risks**" means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims.

"**obligatory insurances**" means all insurances effected, or which the Borrower is obliged to effect, under Clause 14 (*Insurance Undertakings*) or any other provision of this Agreement or another Finance Document.

"**policy**" in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms.

"**protection and indemnity risks**" means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02) (1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/10/83) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision.

"**war risks**" includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24 of the Institute Time Clauses (Hulls) (1/11/95) or clause 23 of the Institute Time Clauses (Hulls)(1/10/83).

1.4 Meaning of "month"

A period of one or more "**months**" ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started ("**the numerically corresponding day**"), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;

and "**month**" and "**monthly**" shall be construed accordingly.

1.5 General Interpretation

In this Agreement:

- (a) references in Clause 1.1 (*Definitions*) to a Finance Document or any other document being an "**agreed form**" are to the form agreed between the Facility Agent (acting with the authorisation of each of the Creditor Parties and SACE) and the Borrower with any modifications to that form which the Facility Agent (with the authorisation of the Majority Lenders and SACE in the case of substantial modifications) approves or reasonably requires;
- (b) references to, or to a provision of, a Finance Document or any other document are references to it as amended, amended and restated or supplemented, whether before the date of this Agreement or otherwise;

- (c) references to Sanctions, for the purposes of Clause 11 (*Representations and Warranties*), Clause 12 (*General Undertakings*), Clause 20 (*Indemnities*), Clause 21 (*Illegality, etc.*) and the Finance Documents shall mean "Sanctions" as defined in Clause 1.1 (*Definitions*), by which any Obligor, any Creditor Party or any party involved in the transactions contemplated in the Finance Documents is bound or to which it is subject or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of any Obligor or any Creditor Party;
- (d) references to, or to a provision of, any law or regulation include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (e) references to Dollar amounts in Clause 10.11 (*Transaction Costs*), Clause 12 (*General Undertakings*), Clause 13 (*Ship Undertakings*), Clause 14 (*Insurance Undertakings*) and Clause 18 (*Events of Default*) shall be a reference to Dollars (or the equivalent amount in any other currency);
- (f) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;
- (g) words denoting the singular number shall include the plural and vice versa; and
- (h) Clauses 1.1 (*Definitions*) to 1.5 (*General Interpretation*) apply unless the contrary intention appears.

1.6 Headings

In interpreting a Finance Document or any provision of a Finance Document, all clauses, sub-clauses and other headings in that and any other Finance Document shall be entirely disregarded.

1.7 Schedules

The schedules form an integral part of this Agreement.

2 FACILITY

2.1 Amount of facility

Subject to the other provisions of this Agreement, the Lenders agree to make available to the Borrower a loan not exceeding the Maximum Loan Amount intended to be applied as follows:

- (a) in payment to the Builder, up to the Eligible Amount, of all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) in reimbursement to the Borrower of the amount of the First Instalment of the SACE Premium paid by it to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and

- (c) in payment to SACE of the amount of the Second Instalment of the SACE Premium payable by the Borrower to SACE in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.2 Lenders' participations in Loan

Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

2.3 Purpose of Loan

The Borrower undertakes with each Secured Party to use the Loan only to pay for:

- (a) goods and services of Italian origin incorporated in the design, construction or delivery of the Ship;
- (b) subject to the limits and conditions fixed by the Italian Authorities, goods and services incorporated in the design, construction or delivery of the Ship and originating from countries other than Italy where the provision of such goods or services has been sub-contracted by the Builder and therefore remains the Builder's responsibility under the Shipbuilding Contract;
- (c) all or part of eighty per cent. (80%) of the Final Contract Price;
- (d) reimbursement to the Borrower of the First Instalment of the SACE Premium paid by the Borrower direct to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (e) the Second Instalment of the SACE Premium payable in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.4 Creditor Parties' rights and obligations

- (a) The obligations of each Creditor Party under the Finance Documents are several. Failure by a Creditor Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Creditor Party is responsible for the obligations of any other Creditor Party under the Finance Documents.
- (b) The rights of each Creditor Party and SACE under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Creditor Party and SACE from an Obligor shall be a separate and independent debt.
- (c) A Creditor Party and SACE may not, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.
- (d) Notwithstanding any other provision of the Finance Documents and subject to the prior written consent of SACE, a Creditor Party may separately sue for any Unpaid Sum due to it without the consent of any other Creditor Party or joining any other Creditor Party to the relevant proceedings (it being understood that a Creditor Party may file a claim noting the amounts due to it in the event insolvency proceedings are commenced against the Borrower by a third party).

2.5 Monitoring

No Creditor Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

2.6 Obligations of Lenders several

The obligations of the Lenders under this Agreement are several; and a failure of a Lender to perform its obligations under this Agreement shall not result in:

- (a) the obligations of the other Lenders being increased; nor
 - (b) any Obligor or any other Lender being discharged (in whole or in part) from its obligations under any Finance Document,
- and in no circumstances shall a Lender have any responsibility for a failure of another Lender to perform its obligations under this Agreement or any other Finance Document.

3 CONDITIONS PRECEDENT

3.1 General

The Borrower may only draw the Loan when the following conditions have been fulfilled to the satisfaction of the Facility Agent and provided no Event of Default shall have occurred and remains unremedied or is likely to occur as a consequence of the drawing of the Loan:

3.2 No later than the Effective Date

The Facility Agent shall have received no later than the Effective Date:

- (a) an opinion from legal counsel to the Secured Parties as to the laws of the state of Delaware in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Borrower's execution of any Finance Documents to which they are party on the Effective Date;
- (b) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of this Agreement and the Guarantee;
- (c) an opinion from legal counsel to the Secured Parties as to Bermuda law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Guarantor's execution of the Guarantee;
- (d) an opinion from legal counsel to the Secured Parties as to the laws of the state of New York in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the Pledge Agreement;
- (e) an opinion from legal counsel to the Secured Parties as to Panamanian law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Member's execution of the Pledge Agreement;
- (f) a Certified Copy of the executed Shipbuilding Contract;

- (g) such documentary evidence as the Facility Agent and its legal advisers may require in relation to the due authorisation and execution by the Borrower and the Builder of the Shipbuilding Contract and of all documents to be executed by the Borrower and the Builder;
- (h) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom that it will act for the Borrower and the Guarantor as agent for service of process in England in respect of this Agreement and any other Finance Document;
- (i) duly executed originals of the Guarantee and the Pledge Agreement and of each document to be submitted pursuant to it;
- (j) such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender or SACE) or any Lender or SACE (for itself) in order for the Facility Agent and such Lender or SACE 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;
- (k) payment of the initial portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter; and
- (l) payment of the initial portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the initial portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the initial portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter.

3.3 No later than two (2) years before the Intended Delivery Date

The Facility Agent shall have received no later than two (2) years before the Intended Delivery Date, payment of the remaining portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter.

3.4 No later than ninety (90) days before the Intended Delivery Date

The Facility Agent (or the SACE Agent in respect of paragraphs (c), (e) and (f) below) shall have received no later than ninety (90) days before the Intended Delivery Date:

- (a) notification from the Borrower of its chosen Maritime Registry;
- (b) notification of the Approved Manager;
- (c) the SACE Insurance Policy documentation relating to the transaction contemplated by this Agreement issued on terms whereby the SACE Insurance Policy will enter into full force and effect upon fulfilment of the conditions specified therein to be fulfilled on or before the Drawdown Date;
- (d) evidence that the First Instalment has been paid;
- (e) an original of the Interest Make-up Agreement relative to the Loan and in full force and effect;
- (f) an original of the SACE Insurance Policy; and

- (g) an opinion from legal counsel to the Creditor Parties as to Italian law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of SACE's issuance of the SACE Insurance Policy and compliance with the principles governing the eligibility of credit risk mitigation techniques as per Article 194, paragraph 1, of the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013.

3.5 No later than sixty (60) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than sixty (60) days before the Intended Delivery Date:

- (a) notification of the Intended Delivery Date;
- (b) a notice from the Borrower as described in paragraph (a) of Clause 8.4 (*Refund*); and
- (c) a U.S. tax opinion from legal counsel to the Secured Parties in respect of the tax treatment of the entry by the U.S. incorporated Borrower into this Agreement and the other Finance Documents substantially in the form notified to the Borrower on or around the Effective Date and updated to reflect any changes in law.

3.6 No later than forty-five (45) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than forty five (45) days before the Intended Delivery Date (and on each subsequent date on which a Compliance Certificate is to be received by the Security Trustee pursuant to clause 11.3(c) of the Guarantee) a duly completed Compliance Certificate from the Guarantor;

3.7 No later than [*] ([*]) days before the Intended Delivery Date

The SACE Agent (with a copy to the Facility Agent) shall have received from the Borrower no later than [*] ([*]) days before the Intended Delivery Date notification, signed by a duly authorised signatory of the Borrower, specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable to the Loan until the date of payment of the final repayment instalment of the Loan.

3.8 No later than fifteen (15) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than fifteen (15) Business Days before the Intended Delivery Date insurance documents in form and substance satisfactory to the Lenders confirming that the Insurances have been effected and will be in full force and effect on the Delivery Date.

3.9 No later than five (5) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than five (5) Business Days before the Intended Delivery Date:

- (a) the Drawdown Notice from the Borrower, signed by a duly authorised signatory of the Borrower, specifying the amount of the Loan to be drawn down;
- (b) a Certified Copy of any amendments to the Shipbuilding Contract which are not Minor Modifications and of the power of attorney pursuant to which the authorised signatory of the Borrower signed the Drawdown Notice and a specimen of his signature; and

- (c) a final confirmation of the Intended Delivery Date signed by a duly authorised signatory of the Borrower, and counter-signed by a duly authorised signatory of the Builder.

3.10 No later than the Delivery Date

The Facility Agent shall have received no later than the Delivery Date:

- (a) if applicable, a duly executed original of the Subordinated Debt Security;
- (b) any opinions from legal counsel to the Secured Parties relating to the due execution, validity and enforceability of the Subordinated Debt Security, in form and substance satisfactory to the Facility Agent and the Secured Parties;
- (c) evidence of payment to and receipt by the Builder of:
 - (i) the four (4) pre-delivery instalments of the Final Contract Price; and
 - (ii) any other part of the Final Contract Price as at the Delivery Date not being financed hereunder;
- (d) payment of the relevant portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the relevant portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the relevant portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter;
- (e) evidence of payment of all amounts which are due and payable hereunder by the Borrower on or prior to the Delivery Date;
- (f) a certificate from the Borrower, signed by an authorised representative of the Borrower, confirming that:
 - (i) the representations and warranties contained in Clause 11 (*Representations and Warranties*) are true and correct as of the Delivery Date in consideration of the facts and circumstances existing as of the Delivery Date; and
 - (ii) no mandatory prepayment event pursuant to Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) is continuing or would result from the Loan;
- (g) an original or a certified copy of each of the SACE Required Documents and the Facility Agent and the SACE Agent shall be satisfied that the SACE Required Documents on their face appear properly completed and comply with the requirements of this Agreement and the requirements of the SACE Insurance Policy; and
- (h) provided always that the obligations of the Lenders to make the Loan available on the Delivery Date are subject to the Lenders remaining satisfied that each of the SACE Insurance Policy and the Interest Make-up Agreement will cover the Loan following the advance of the Loan, payment of the Second Instalment and delivery to the Facility Agent of the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.11 At Delivery

Immediately prior to the delivery of the Ship by the Builder to the Borrower, the Facility Agent shall have received:

- (a) evidence that immediately following delivery:
 - (i) the Ship will be registered in the name of the Borrower in the Maritime Registry;
 - (ii) title to the Ship will be held by the Borrower free of all Security Interests other than any maritime lien in respect of crew's wages and trade debts arising out of equipment, consumable and other stores placed on board the Ship prior to or concurrently with delivery, none of which is overdue;
 - (iii) the Mortgage will be duly registered in the Maritime Registry and constitutes a first priority security interest over the Ship and that all taxes and fees payable to the Maritime Registry in respect of the Ship have been paid in full; and
 - (iv) the opinions mentioned in paragraphs (b), (c) and (d) of Clause 3.12 (*Immediately following Delivery*), in draft form immediately prior to the delivery of the Ship, and the documents mentioned in paragraph (e) of Clause 3.12 (*Immediately following Delivery*) will be issued to and received by the Facility Agent;
- (b) a Certified Copy of a classification certificate (or interim classification certificate) showing the Ship to be classed in accordance with paragraph (c) of Clause 11.3 (*Representations on the Delivery Date*).
- (c) duly executed originals of the General Assignment, any Approved Manager's Undertaking and the Post-Delivery Assignment together with relevant notices of assignment and the acknowledgement of the notice of assignment to be issued pursuant to the General Assignment and the Post-Delivery Assignment;
- (d) a Certified Copy of any executed Management Agreement, any bareboat charter and any related security pursuant to paragraph (b) of Clause 13.1 (*Pooling of earnings and charters*) (if applicable) and any time charterparty in respect of the Ship;
- (e) a Certified Copy of any current certificate of financial responsibility in respect of the Ship issued under OPA, a valid Safety Management Certificate (or interim Safety Management Certificate) issued to the Ship in respect of its management by the Approved Manager pursuant to the ISM Code, a valid Document of Compliance (or interim Document of Compliance) issued to the Approved Manager in respect of ships of the same type as the Ship pursuant to the ISM Code, a valid International Ship Security Certificate issued to the Ship in accordance with the ISPS Code and a valid IAPPC issued to the Ship in accordance with Annex VI and, if entered into, any carrier initiative agreement with the United States' Customs and Border Protection under the Customs-Trade Partnership Against Terrorism (C-TPAT) programme along with any other documents required under the ISM Code and the ISPS Code;
- (f) a Certified Copy of the power of attorney pursuant to which the authorised signatory(ies) of the Borrower signed the documents referred to in this Clause 3.11 (*At Delivery*) and to which the Borrower is a party and a specimen of his or their signature(s); and

- (g) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom (or any replacement process agent satisfactory to the Facility Agent acting reasonably) that it will act for each of the relevant Obligors as agent for service of process in England in respect of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment and the Post-Delivery Assignment.

3.12 Immediately following Delivery

Immediately following the delivery of the Ship by the Builder to the Borrower, the Facility Agent (with copy to the Security Trustee), or, in the case of paragraph (a) below, the Security Trustee (with copy to the Facility Agent), shall receive:

- (a) a duly executed original of the Mortgage;
- (b) an opinion from legal counsel acceptable to the Secured Parties as to the law of the Maritime Registry in form and substance satisfactory to the Facility Agent and the Secured Parties confirming:
 - (i) the valid registration of the Ship in the Maritime Registry; and
 - (ii) the Mortgage over the Ship is a first priority security and has been validly registered in the Maritime Registry;
- (c) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and any other relevant security document entered into at delivery;
- (d) an opinion from legal counsel acceptable to the Secured Parties as to the laws of the state of Delaware in form and substance satisfactory to the Facility Agent and the Secured Parties together with the company documentation of the Borrower and a certificate of a competent officer or manager of the Borrower containing specimen signatures of the persons authorised to sign the documents on behalf of the Borrower, confirming that, without limitation:
 - (i) the Mortgage, the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) fall within the scope of the Borrower's company purpose as defined by its Memorandum of Association and By-laws and are binding on it; and
 - (ii) the Borrower's representatives are fully empowered to sign the Protocol of Delivery and Acceptance, the Mortgage, the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) and any related security pursuant to paragraph (b) of Clause 13.1 (*Pooling of earnings and charters*); and
- (e) an opinion from legal counsel to acceptable to the Secured Parties as to Panamanian law in form and substance satisfactory to the Facility Agent and the Secured Parties together with the corporate documentation of the Member as bareboat charterer and a certificate of a competent officer of the Shareolder containing specimen signatures of the persons authorised to sign the documents on behalf of the Member, confirming that, without limitation:

- (i) the General Assignment falls within the scope of the Member's corporate purpose as defined by its Articles of Incorporation and By-laws; and
 - (ii) the representative of the Member is fully empowered to sign the General Assignment;
- (f) the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.13 Notification of satisfaction of conditions precedent

The Facility Agent shall notify the Lenders and SACE promptly upon being satisfied as to the satisfaction of the conditions precedent referred to in this Clause 3 (*Conditions Precedent*).

3.14 Waiver of conditions precedent

If the Majority Lenders, at their discretion, subject to the prior written consent of SACE, permit the Loan to be borrowed before any of the conditions precedent referred to in Clause 3 (*Conditions Precedent*) has been satisfied, the Borrower shall ensure that that condition is satisfied within five (5) Business Days after the date (as specified in the relevant part of Clause 3 (*Conditions Precedent*)) or such later date as the Facility Agent may agree in writing with the Borrower.

3.15 Changes to SACE's or SIMEST's requirements

- (a) If SACE or SIMEST notifies the SACE Agent in writing of a change of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), or gives instructions to the SACE Agent with the effect that, in the opinion of the SACE Agent, this Agreement or certain documents which the Borrower is or may be required to provide for the purpose of drawing the Loan under this Agreement shall be amended to comply with such change or instructions, then the SACE Agent shall promptly notify the Borrower of such a change in SACE's or SIMEST's requirements (as applicable) and of the relevant amendments to be made to this Agreement or any such documents as the SACE Agent considers appropriate.
- (b) If the SACE Agent notifies the Borrower of any proposed changes to this Agreement under paragraph (a) above, and provided that:
 - (i) all the Lenders and the Borrower agree with such changes; and
 - (ii) the Borrower indemnifies and holds harmless the SACE Agent, the Facility Agent and the Lenders for any reasonable costs that it may incur arising from or in connection with any such amendments (including legal fees),

then such changes will be made to this Agreement in accordance with the terms hereof.

- (c) If, in the opinion of the Lenders, there are any provisions of this Agreement that contradict or conflict with any provision of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), such that compliance by any Creditor Party with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) may result in a breach by such Creditor Party of the any of the terms of this Agreement or to an extent that the same may have the effect of rendering all or any part of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) void, voidable or otherwise not in full force and effect, the Borrower agrees that any relevant terms of this Agreement will be amended to the extent agreed in writing between the Borrower, the Facility Agent and the SACE Agent to ensure compliance with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable).

3.16 No claim against the Creditor Parties

The Borrower agrees that the Creditor Parties may act on the instructions of the Italian Authorities in relation to this Agreement.

3.17 Examination and reliance on documents by the Facility Agent

- (a) The SACE Agent shall ensure that an officer or employee or other person designated by it as its authorised representative is present at the Builder on the Delivery Date for the purpose of examining originals (or certified copies) of the SACE Required Documents duly signed by the parties thereto and collecting copies thereof (which copies shall be certified as true copies by an authorised signatory of the Builder and/or the Borrower, as applicable).
- (b) The Facility Agent shall be entitled (but not obliged) to rely and act upon any documentation or information provided under this Clause 3 *Conditions Precedent*, which appears on its face to have been duly completed.
- (c) The Facility Agent's responsibility to the Borrower and the Lenders for the examination of the Drawdown Notice, and, when applicable, the documents provided by any person other than the Borrower in connection with the Drawdown Notice, shall be limited to the examination of their apparent compliance with the terms and conditions thereof in accordance with Articles 14 (Standard of examination of documents) and 34 (Disclaimer on effectiveness of documents) of the "Uniform Customs and Practice for Documentary Credits" (currently publication number 600 of the International Chamber of Commerce, latest edition) (except that no time limit for examination of documents shall apply).
- (d) The Facility Agent and the Lenders shall not be obliged to enquire as to, or be responsible for, the validity, truthfulness and genuineness and (where the relevant document is a conformed copy) conformity to the original of the Drawdown Notice or any other document which appears on its face to be in order, or of any signatures thereon or any of the statements set out therein and shall be entitled to rely on the accuracy of any such statements.
- (e) In case of any discrepancy in any such documents, the Facility Agent shall notify the Borrower in writing thereof and shall request its approval of such discrepancy in writing.
- (f) The Facility Agent and the Lenders shall not be responsible for any delay in making available the Loan resulting from any requirement for the delivery of further information or documents reasonably required by the Facility Agent for the relevant conditions precedent in this Agreement to be satisfied.

4 DRAWDOWN

4.1 Borrower's irrevocable payment instructions

The Lenders shall not be obliged to fulfil their obligation to make the Loan available other than (i) by paying the Builder all or part of eighty per cent. (80%) of the Final Contract Price on behalf of and in the name of the Borrower, (ii) by reimbursing the Borrower for the First Instalment of the SACE Premium which was paid by the Borrower to SACE on the earlier of (A) the date falling 30 days after the issuance of the SACE Insurance Policy and (B) the date falling 6 months after the date of SACE's board approval and (iii) by payment to SACE of the Second Instalment of the SACE Premium payable on the Drawdown Date. For the avoidance of doubt, the amount of the Loan shall not exceed the Maximum Loan Amount.

The Borrower hereby instructs the Lenders in accordance with this Clause 4.1 (*Borrower's irrevocable payment instructions*):

- (a) to pay to the Builder, up to the Eligible Amount, all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) to reimburse the Borrower the amount of the First Instalment of the SACE Premium already paid by the Borrower to SACE on the date specified in paragraph (a) of Clause 8.1; and
- (c) to pay to the Facility Agent on behalf of the Lenders for onward payment to SACE (such payment to SACE to be made for value on the Drawdown Date), by drawing under this Agreement, the amount of the Second Instalment of the SACE Premium.

Payment to the Builder of the amount drawn under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) above shall be made on the Drawdown Date during usual banking hours in Italy to the Builder's account as specified by the Builder in accordance with the Shipbuilding Contract after receipt and verification by the Facility Agent of the documents provided under Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

Save as contemplated in Clause 4.2 (*Modification of payment terms*) below, the payment instruction contained in this Clause 4.1 (*Borrower's irrevocable payment instructions*) is irrevocable.

4.2 Modification of payment terms

The Borrower expressly acknowledges that the payment terms set out in this Clause may only be modified with the agreement of the Italian Authorities, the Facility Agent, the Security Trustee, the Lenders and the Borrower in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) and with the agreement of the Italian Authorities, the Facility Agent, the Lenders and the Borrower in the case of paragraphs (b) and (c) of Clause 4.1 (*Borrower's irrevocable payment instructions*).

4.3 Availability and conditions

- (a) Drawing may not be made under this Agreement (and the Loan shall not be available) after the expiry of the Availability Period.
- (b) There will be only one drawing under this Agreement.
- (c) The aggregate amount of the Loan cannot exceed the Maximum Loan Amount.

4.4 Notification to Lenders of receipt of a Drawdown Notice

The Facility Agent shall promptly and, in any case, by no later than three (3) Business Days before the Drawdown Date, notify the Lenders that it has received a Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;

- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the first Interest Period.

4.5 Lenders to make available Contributions

Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Facility Agent the amount due from that Lender under Clause 2.2 (*Lenders' participations in Loan*).

4.6 Disbursement of Loan

Subject to the provisions of this Agreement, the Facility Agent shall on the Drawdown Date pay the amounts which the Facility Agent receives from the Lenders under Clause 4.5 (*Lenders to make available Contributions*) in the like funds as the Facility Agent received the payments from the Lenders:

- (a) in the case of the amount referred to in paragraph (a) of Clause 4.1 *Borrower's irrevocable payment instructions*), to the account of the Builder which the Borrower specifies in the Drawdown Notice; and
- (b) in the case of an amount referred to in paragraph (b) of Clause 4.1 *Borrower's irrevocable payment instructions*) to the account of the Borrower which the Borrower shall specify; and
- (c) in the case of an amount referred to in paragraph (c) of Clause 4.1 *Borrower's irrevocable payment instructions*) to the account of SACE which the SACE Agent shall specify.

4.7 Disbursement of Loan to third party

The payment by the Facility Agent under Clause 4.6 (*Disbursement of Loan*) shall constitute the making of the Loan and the Borrower shall at that time become indebted, as principal and direct obligor, to each Lender in an amount equal to that Lender's Contribution.

5 REPAYMENT

5.1 Number of repayment instalments

The Borrower shall repay the Loan by twenty-four (24) consecutive six-monthly instalments from the earlier of (i) the Delivery Date and (ii) the date of actual disbursement of the Loan (the "**Starting Point of Repayment**").

5.2 Repayment Dates

The first repayment instalment shall be repaid on the date falling six (6) months after the Starting Point of Repayment and the last repayment instalment on the date falling one hundred and forty-four (144) months after the Starting Point of Repayment, each date of payment of an instalment being a "**Repayment Date**".

5.3 Amount of repayment instalments

Each repayment instalment of the Loan shall be of an equal amount.

5.4 Final Repayment Date

On the final Repayment Date, the Borrower shall additionally pay to the Facility Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.

6 INTEREST

6.1 Fixed or Floating Interest Rate

The Borrower shall provide notification, signed by a duly authorised signatory of the Borrower, to the SACE Agent (with a copy to the Facility Agent) at least [*] days before the Drawdown Date specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable until the date of payment of the final repayment instalment of the Loan.

6.2 Fixed Interest Rate

If the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the Loan shall bear interest in respect of each Interest Period at the Fixed Interest Rate. Such interest shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid on the last day of each Interest Period.

6.3 Floating Interest Rate

If:

- (a) the Borrower has specified a Floating Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*); or
- (b) the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*) but thereafter for any reason whatsoever the Interest Make-up Agreement is suspended or otherwise ceases to be in effect; or
- (c) SIMEST has requested a change of currency pursuant to the Interest Make-up Agreement and such change of currency is not agreed by the Borrower or Lenders in accordance with Clause 6.16 (*Change of currency*); or
- (d) SIMEST has failed to make a net payment of interest to the Lenders pursuant to the Interest Make-up Agreement,

the rate of interest on the Loan in respect of any Interest Period shall be the Floating Interest Rate applicable for that Interest Period and the following provisions of this Clause 6 (*Interest*) shall apply (in the case of the circumstances referred to in paragraph (b) above, with effect from the date on which the Interest Make-up Agreement ceases to be in effect, with such consequential amendments as shall be necessary to give effect to the switch from a Fixed Interest Rate to a Floating Interest Rate).

6.4 Payment of Floating Interest Rate

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid by the Borrower on the last day of that Interest Period.

6.5 Notification of Interest Periods and Floating Interest Rate

The Facility Agent shall notify the Borrower and each Lender of each Floating Interest Rate and the duration of each Interest Period as soon as reasonably practicable after each is determined and no later than the Quotation Date.

6.6 Unavailability of Screen Rate

- (a) *Market disruption:* If, on a Quotation Date, no Screen Rate is available for EURIBOR, EURIBOR shall be the rate quoted to the Facility Agent by the Lenders who are able to quote such rate at the request of the Facility Agent as those Lenders' offered rate for deposits of Euros in an amount approximately equal to the amount in relation to which EURIBOR is to be determined for a period equivalent to such period to prime banks in the European interbank eurocurrency market at or about 11 a.m. (CET time) on the Quotation Date for such period.
- (b) If:
- (i) no Screen Rate is quoted and the Lenders do not (pursuant to paragraph (a) above), before 1.00 p.m. (CET) on the Quotation Date for an Interest Period, provide quotations to the Facility Agent in order to fix EURIBOR; or
 - (ii) at least 1 Business Day before the start of an Interest Period, Lenders having Contributions together amounting to more than [*] per cent. of the Loan (or, if the Loan has not been made, Commitments amounting to more than [*] per cent. of the Total Commitments) notify the Facility Agent that EURIBOR fixed by the Facility Agent would not accurately reflect the cost to those Lenders of funding their respective Contributions (or any part of them) during the Interest Period in the Relevant Interbank Market at or about 11.00 a.m. (CET) on the Quotation Date for the Interest Period; or
 - (iii) at least 1 Business Day before the start of an Interest Period, the Facility Agent is notified by a Lender (the "**Affected Lender**") that for any reason it is unable to obtain Euros in the Relevant Interbank Market in order to fund its Contribution (or any part of it) during the Interest Period,

the following provisions of this Clause 6 (*Interest*) apply.

6.7 Notification of market disruption

The Facility Agent shall promptly notify the Borrower and each of the Lenders stating the circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which have caused its notice to be given.

6.8 Suspension of drawdown

If the Facility Agent's notice under Clause 6.6 (*Unavailability of Screen Rate*) is served before the Loan is made:

- (a) in a case falling within sub-paragraphs (i) or (ii) of paragraph (b) of Clause 6.6 *Unavailability of Screen Rate*, the Lenders' obligations to make the Loan;
 - (b) in a case falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 *Unavailability of Screen Rate*, the Affected Lender's obligation to participate in the Loan;
- shall be suspended while the circumstances referred to in the Facility Agent's notice continue.

6.9 Negotiation of alternative rate of interest

If the Facility Agent's notice under Clause 6.7 (*Notification of market disruption*) is served after the Loan is made, the Borrower, the Facility Agent and the Lenders or (as the case may be) the Affected Lender shall use reasonable endeavours to agree, in consultation with SACE and SIMEST, within the 30 days after the date on which the Facility Agent serves its notice under Clause 6.7 (*Notification of market disruption*) (the "**Negotiation Period**"), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.

6.10 Application of agreed alternative rate of interest

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

6.11 Alternative rate of interest in absence of agreement

- (a) If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the Reference Bank Rate for Euros.
- (b) If, following the end of the Negotiation Period and request by the Facility Agent for a quotation by the Reference Banks pursuant to paragraph (a) above, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period and the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the cost of funding of the Lenders or (as the case may be) the Affected Lender in Euros or in any available currency of their or its contribution plus the Margin; and the procedure provided for by this Clause 6.11 (*Alternative rate of interest in absence of agreement*) shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Facility Agent.

6.12 Notice of prepayment

If the Borrower does not agree with an interest rate set by the Facility Agent under Clause 6.11 (*Alternative rate of interest in absence of agreement*), the Borrower may give the Facility Agent not less than 15 Business Days', or, if the Fixed Interest Rate has been selected pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), 30 days, notice of its intention to prepay at the end of the interest period set by the Facility Agent.

6.13 Prepayment; termination of Commitments

A notice under Clause 6.12 (*Notice of prepayment*) shall be irrevocable; the Facility Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender and, if the Fixed Interest Rate has been selected by the Borrower, SIMEST of the Borrower's notice of intended prepayment, and:

- (a) on the date on which the Facility Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender shall be cancelled; and 6.6(b)(i); and
- (b) on the last Business Day of the Interest Period set by the Facility Agent, the Borrower shall prepay (without premium or penalty subject to the provisions of Clause 20.2 (*Breakage costs and SIMEST arrangements*)) the Loan or, as the case may be, the Affected Lender's Contribution, together with accrued interest thereon at the applicable rate (being either the Floating Interest Rate or the Fixed Interest Rate as specified by the Borrower pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*)).

6.14 Application of prepayment

The provisions of Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) shall apply in relation to the prepayment.

6.15 Certain Circumstances

Notwithstanding anything to the contrary in this Agreement:

- (a) in the event of any circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which might affect the advance of the Loan on the Drawdown Date (the "**Relevant Circumstances**"):
 - (i) occurring and being continuing on the date falling ninety (90) days before the Intended Delivery Date (the "**Relevant Date**"), each Lender will notify the Borrower (through the Facility Agent) of the Relevant Circumstances on the Relevant Date or, if the Relevant Date is not a Business Day, on the next following Business Day; and
 - (ii) occurring after the Relevant Date, each Lender will notify the Borrower (through the Facility Agent) immediately upon such Lender becoming aware of the Relevant Circumstances;
- (b) in the event of any Relevant Circumstances falling within sub-paragraphs (i) or (ii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Pricing-Related Relevant Circumstances**") occurring before the Loan is made available and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will fund its respective Contributions by reference to the agreed alternative rate of interest in accordance with Clauses 6.9 (*Negotiation of alternative rate of interest*), 6.10 (*Application of agreed alternative rate of interest*) and 6.11 (*Alternative rate of interest in absence of agreement*) as if the provisions of such Clauses applied not only in the event that the Pricing-Related Relevant Circumstances have been notified by the Facility Agent to the Borrower after the making of the Loan but also before the making of the Loan;
- (c) in the event of any Relevant Circumstances falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Availability-Related Relevant Circumstances**") occurring before the Loan is made and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will enter into good faith discussions with the Borrower for a period not exceeding 10 Business Days in order to discuss a basis on which the Lenders could be able to fund their respective Contributions in Euros (or, if unavailable in Euros, then in any available currency). Such discussions shall be without obligation on the Lenders provided that during such discussion period, such circumstances continue.

6.16 Change of currency

- (a) In the event that the SACE Agent notifies the Borrower that SIMEST has requested a change in the currency of the Loan in accordance with clause 6.3 of the Interest Make-up Agreement, the Borrower and the Lenders shall, without obligation, consider such request for a change of currency acting reasonably for a period of not exceeding 10 Business Days. Following such discussions the SACE Agent shall report the decision of the Facility Agent, the Borrower and the Lenders to SIMEST, providing their reason for any negative decision.
- (b) In the event that a change of currency is agreed the Parties agree to negotiate in good faith the necessary changes to this Agreement, the Finance Documents, the SACE Insurance Policy and the Interest Make-up Agreement in order to document the change in currency.
- (c) In the event that a change in currency is not acceptable to the Lenders or the Borrower, the provision of paragraph (c) of Clause 6.3 *Floating Interest Rate* shall apply.

6.17 Modification and/or discontinuation of certain benchmarks

Without prejudice to any other provisions of this Agreement, each Party acknowledges and agrees to the benefit of the other Party that:

- (a) EURIBOR and EONIA benchmarks (i) may be subject to methodological or other changes which could affect their value, (ii) may not comply with applicable laws and regulations (such as the European Benchmark Regulation as far as EURIBOR and EONIA are concerned) and/or (iii) may be permanently discontinued (in particular LIBOR which may be phased out after 2021).
- (b) The occurrence of any of the aforementioned events and/or a Screen Rate Replacement Event may have adverse consequences which may materially impact the economics of the financing transaction contemplated under this Agreement.
- (c) The Parties further acknowledge that if any of the aforementioned events and/or a Screen Rate Replacement Event is forthcoming, they shall enter into negotiations with a view to agreeing the necessary changes to this Agreement in order to preserve the economics of the financing transaction contemplated therein and, in particular, the margin initially agreed between the Parties. Such negotiations shall be carried out by each Party in good faith and in consideration of the then prevailing market practice (without prejudice to the particularities, as the case may be, of the transaction).

6.18 Replacement rate

- (a) If any of the events described in clause 6.17 (including a Screen Rate Replacement Event in relation to the Screen Rate) has occurred, 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 fall back and market disruption provisions for that Replacement Benchmark;
- (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practical, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders) and the Obligors.

- (b) If any Lender fails to respond to a request for an amendment to waiver described in paragraph (a) above, within fifteen (15) Business Days (or such longer period in relation to any request which the Borrower and the Facility Agent may agree) of that request being made:
 - (i) its Commitment shall not be included for the purpose of calculating the Total Commitments under the relevant Loan when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
 - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

7 INTEREST PERIODS

7.1 Commencement of Interest Periods

The first Interest Period applicable to the Loan shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period.

7.2 Duration of Interest Periods

Subject to Clause 7.3 (*Duration of Interest Periods for Repayment Instalments*), each Interest Period shall be 6 months.

7.3 Duration of Interest Periods for Repayment Instalments

Any Interest Period that includes a Repayment Date shall expire on such Repayment Date.

8 SACE PREMIUM AND ITALIAN AUTHORITIES

8.1 SACE Premium

The estimated SACE Premium for an amount equal to[*] (being [*] per cent. ([*]%) of the Maximum Loan Amount), or any other amount communicated by SACE subject to the approval of all Lenders and the Borrower, is due and payable in two instalments as follows:

- (a) the first instalment of the SACE Premium being an amount of [*] per cent. ([*]%) of the SACE Premium (the "**First Instalment**") shall be paid by the Borrower to SACE (provided that the Borrower and the Lenders have been notified by the SACE Agent that the SACE Insurance Policy has been issued) on the earlier of (i) the date falling 30 days after the issuance of the SACE Insurance Policy and (ii) the date falling 6 months after the date of SACE's board approval or any other later date as communicated by SACE; and
- (b) the second instalment of the SACE Premium being an amount of [*] per cent. ([*]%) of the SACE Premium (the "**Second Instalment**") and shall be payable on or prior to the Drawdown Date. For the sake of clarity, no set-off with the First Instalment shall be permitted.

8.2 Reimbursement by the Borrower of the SACE Premium

The Borrower irrevocably agrees to pay the First Instalment, and to instruct the Lenders to pay the Second Instalment on behalf of the Borrower as follows:

- (a) the Borrower has requested and the Lenders have agreed to reimburse the payment of one hundred per cent. (100%) of the First Instalment to the Borrower on the Drawdown Date, it being agreed that such First Instalment shall be paid to SACE by the Borrower in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*) and upon notification by the Facility Agent to the Borrower (i) of the issuance of the SACE Insurance Policy documentation in the form required by paragraph (g) of Clause 3.4 (*No later than ninety (90) days before the Intended Delivery Date*), and (ii) of the amount of the First Instalment; and
- (b) the Borrower has requested and the Lenders have agreed to finance the payment of one hundred per cent. (100%) of the Second Instalment on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement.

Consequently, the Borrower hereby irrevocably instructs the Facility Agent on behalf of the Lenders to pay the Second Instalment to SACE on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement and to reimburse the Borrower by the Borrower drawing under the Loan the amount of the First Instalment in accordance with paragraph (b) of Clause 2.1 (*Amount of facility*) of this Agreement.

The First Instalment and Second Instalment each financed by the Loan will be repayable in any event by the Borrower to the Lenders in the manner specified in Clause 5 (*Repayment*) and under any and all circumstances including but without limitation in the event of prepayment or acceleration of the Loan.

8.3 Italian Authorities

- (a) The Borrower acknowledges and agrees that the Facility Agent, the SACE Agent and the Lenders are entitled to provide the Italian Authorities with any information they may have relative to the Loan and the business of the Group, to allow the Italian Authorities to inspect all their records relating to this Agreement and the other Transaction Documents and to furnish them with copies thereof. Any such information relative to the Loan may also be given by any Italian Authorities to international institutions charged with collecting statistical data.

- (b) The Borrower acknowledges that, in the making of any decision or determination or the exercise of any discretion or the taking or refraining to take any action under this Agreement or any of the other Finance Documents, the Facility Agent, the SACE Agent and the Lenders shall be deemed to have acted reasonably if they have acted on the instructions of either of the Italian Authorities.
- (c) Each Party further undertakes not to act in a manner which is inconsistent with the terms of the SACE Insurance Policy and the Interest Make-up Agreement.

8.4 Refund

- (a) The Borrower shall, at the latest on the date falling sixty (60) days before the Intended Delivery Date, provide a notice in writing to the SACE Agent (who will promptly forward it to other Lenders and SACE), signed by an authorised signatory of the Borrower, indicating the amount of the Loan to be drawn on the Delivery Date less (i) any amount cancelled and (ii) the Refund (as defined below) to be refunded in accordance with paragraph (b), such amount of the Refund to be confirmed by SACE at least six (6) Business Days prior to the Delivery Date. The Borrower hereby agrees and shall confirm in such notice that the remaining Commitments shall be deemed to be cancelled. The Borrower acknowledges, for the avoidance of doubt, that the shortfall to be paid to the Builder at the Delivery Date shall be funded and paid directly by the Borrower to the Builder.
- (b) If the Loan is less than the Maximum Loan Amount, and provided that no Event of Default has occurred and is then continuing and no loss has occurred under the SACE Insurance Policy, the Borrower shall be entitled to a refund of the Second Instalment of the SACE Premium in an amount calculated by SACE on the undrawn amount (the "**Refund**"). For the avoidance of doubt, the First Instalment of the SACE Premium is non-refundable, irrespective of whether any disbursements have been made under this Agreement and irrespective of whether the SACE Insurance Policy has been terminated.
- (c) Any refund of the Second Instalment of the SACE Premium, whether in whole or in part, must be expressly requested by the SACE Agent to SACE in writing following receipt by the SACE Agent of the Borrower's notice referred to in paragraph (a) above.
- (d) To the extent the Borrower is entitled to the Refund, SACE shall transfer the Refund as soon as practicably possible to the SACE Agent who shall as soon as practicably possible following receipt thereof transfer such amount to the Borrower. The Borrower hereby acknowledges that SACE shall not be liable to pay interest to the Borrower on the amount of the Refund.
- (e) Under the terms of the SACE Insurance Policy, the Parties acknowledge that SACE will withhold an amount of [*] per cent. ([*]%) from the amount of the SACE Premium to be refunded. Such withholding, charged as a lump sum to cover administration and management costs for the SACE Insurance Policy, may not, in any event, amount to less than [*] Euros (€[*]) or more than [*] Euros (€[*]), calculated by SACE as at the date of the refund request.
- (f) Except as set out in paragraphs (a) to (c) above, no part of the SACE Premium is refundable to any Obligor.

(g) In no event shall the SACE Agent be liable for any refund of the SACE Premium to be made by SACE or for the calculation of any Refund and/or withholding thereof.

9 FEES

9.1 Fees

The following fees shall be due by the Borrower and payable as required hereunder:

- (a) to the Facility Agent, for the benefit of the Joint Mandated Lead Arrangers, a Joint Mandated Lead Arranger structuring fee (the "**Structuring Fee**") in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (b) to the Facility Agent, for the benefit of the Lenders, a commitment fee in Euros for the period from the Effective Date to the Delivery Date of the Ship, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, computed at the rate of:
 - (i) from the Effective Date to and including 31 December 2019, [*] per cent. ([*]%) per annum;
 - (ii) from 1 January 2020 to and including 31 December 2020, [*] per cent. ([*]%) per annum;
 - (iii) from 1 January 2021 to and including 31 October 2022, [*] per cent. ([*]%) per annum;
 - (iv) from 1 November 2022 to 31 March 2024, [*] per cent. ([*]%) per annum;
 - (v) from 1 April 2024 to and including the Delivery Date, [*] per cent. ([*]%) per annum;

and calculated on the undrawn amount of the Maximum Loan Amount and payable in arrears on the date falling six (6) months after the Effective Date and on each date falling at the end of each following consecutive six (6) month period, with the exception of the commitment fee due in respect of the last period, which shall be paid on the Delivery Date, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, such commitment fee to be calculated on the actual number of days elapsed divided by three hundred and sixty (360). For the purpose of the computation of the periodical commitment fee payable to the Lenders, the Maximum Loan Amount is assumed to be four hundred and eighty million two hundred and forty eight thousand, nine hundred and sixty two Euros and sixty six cents (€480,248,962.66);

- (c) to the Facility Agent, for its own account, an agency fee in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (d) to the SACE Agent, a SACE agency fee in the amount and payable at the time separately agreed in writing between the SACE Agent and the Borrower; and
- (e) to the Security Trustee, a security trustee fee in the amount and payable at the time separately agreed in writing between the Security Trustee and the Borrower.

10 TAXES, INCREASED COSTS, COSTS AND RELATED CHARGES

10.1 Definitions

(a) In this Agreement:

"**Protected Party**" means a Secured Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Tax Credit**" means a credit against, relief or remission for, or repayment of any Tax.

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

"**Tax Payment**" means either the increase in a payment made by an Obligor to a Secured Party under Clause 10.2 (*Tax gross-up*) or a payment under Clause 10.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) reference to "**determines**" or "**determined**" means a determination made in the absolute discretion of the person making the determination.

10.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it under the Finance Documents 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 Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the 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 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) A payment shall not be increased under paragraph (c) above if on the date on which the payment falls due the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender (having been given notice of the documentation requested under Clause 10.7 (*Lender Status*) at least 30 Business Days prior to such payment date) complied with its obligations under Clause 10.7 (*Lender Status*).

(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 thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Secured Party entitled to the payment evidence reasonably satisfactory to that Secured Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

10.3 Tax indemnity

- (a) The Borrower shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Secured Party:
 - (A) under the law of the jurisdiction in which that Secured Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Secured Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction, if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Secured Party; or
 - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) or would have been compensated for by an increased payment under Clause 10.2 (*Tax gross-up*) but was not so compensated solely because an exclusion in paragraph (d) of Clause 10.2 (*Tax gross-up*) applied, or relates to a FATCA Deduction required to be made by a Party; or
 - (iii) with respect to the Taxes in the nature of a branch profits tax imposed by Section 884(a) of the Code that is imposed by any jurisdiction described in paragraph (b)(i)(B) above.
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 10.3 (*Tax indemnity*), notify the Facility Agent.

10.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Creditor Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Creditor Party has obtained, retained and utilised that Tax Credit,

the Creditor Party shall pay an amount to the Obligor which that Creditor 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.

10.5 Stamp taxes

The Borrower shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

10.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Secured 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 Secured Party to any Party under a Finance Document and such Secured Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Secured 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 Secured Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Secured Party (the "**Supplier**") to any other Secured Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Secured Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Secured Party for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that such Secured 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 10.6 (*VAT*) to any Party being required to account to a tax authority for VAT shall, at any time when such Party is treated as a member of a group for VAT purposes, include a reference to another member of that group being required to so account to the relevant tax authority.

- (c) In relation to any supply made by a Secured Party to any Party under a Finance Document, if reasonably requested by such Secured Party, that Party must promptly provide such Secured Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Secured Party's VAT reporting requirements in relation to such supply.

10.7 Lender Status

- (a) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under a Finance Document shall deliver to the Facility Agent and the Borrower, at the time or times reasonably requested by the Facility Agent or the Borrower, such properly completed and executed documentation reasonably requested by the Facility Agent or the Borrower (and which it is reasonable for the Lender to complete and execute) as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Facility Agent or the Borrower, shall deliver such other documentation as prescribed by applicable law and reasonably requested by the Facility Agent or the Borrower as will enable the Facility Agent or the Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements.
- (b) Any Lender shall, to the extent it is legally entitled to do so, and where it is entitled to an exemption from, or reduction of, U.S. federal withholding tax, deliver to the Facility Agent and the Borrower on or prior to the date on which such Lender becomes a Lender under this Agreement or promptly thereafter (and from time to time thereafter as prescribed by applicable law or upon the request of the Facility Agent or the Borrower), duly executed and properly completed copies of Internal Revenue Service Form W-9 or W-8, as applicable, certifying that it is not subject to U.S. federal backup withholding and, in the case of a non-U.S. Lender that is eligible for an exemption from, or reduction of, U.S. federal withholding Tax establishing an exemption from, or reduction of, U.S. federal withholding Tax.

10.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower, the Facility Agent and the other Secured Parties.

10.9 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 Creditor 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 paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) Each Lender shall, within ten Business Days of (i) where the relevant Lender is a Lender at the date of this Agreement, the date of this Agreement and (ii) where the relevant Lender is a Transferee Lender, the effective date of a Transfer Certificate under Clause 24.4 (*Effective Date of Transfer Certificate*), supply to the Facility Agent:
 - (i) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (ii) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.

- (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.
- (i) Each Party acknowledges that CDP is a FATCA Exempt Party pursuant to article 1, paragraph 11.1(e) of the Italian Mef Decree dated 6 August 2015 enacting Italian law of 18 June 2015 no. 95, which ratified the agreement between the Government of the US and the Government of the Republic of Italy to improve international tax compliance and to implement FATCA, signed in Rome in 10 January 2014.

10.10 Increased Costs

- (a) If after the date of this Agreement by reason of (x) any change in law or in its interpretation or administration and/or (y) compliance with any request from or requirement of any central bank or other fiscal, monetary or other authority including but without limitation the Basel Committee on Banking Regulations and Supervisory Practices whether or not having the force of law:
 - (i) any of the Lenders incurs a cost as a result of its performing its obligations under this Agreement and/or its making available its Commitment hereunder; or
 - (ii) there is any increase in the cost to any of the Lenders of funding or maintaining all or any of the advances comprised in a class of advances formed by or including its Commitment advanced or to be advanced by it hereunder; or
 - (iii) any of the Lenders incurs a cost as a result of its having entered into and/or its assuming or maintaining its commitment under this Agreement; or
 - (iv) any of the Lenders becomes liable to make any payment on account of Tax or otherwise (other than Tax on its overall net income) on or calculated by reference to the amount of its Commitment advanced or to be advanced hereunder and/or any sum received or receivable by it hereunder; or
 - (v) any of the Lenders suffers any decrease in its rate of return as a result of any changes in the requirements relating to capital ratios, monetary control ratios, the payment of special deposits, liquidity costs or other similar requirements affecting that Lender,then the Borrower shall on demand pay to the Facility Agent for the account of the relevant Lender or Lenders amounts sufficient to indemnify the relevant Lender or Lenders against, as the case may be, such cost, such increased cost (or such proportion of such increased cost as is in the reasonable opinion of the relevant Lender or Lenders attributable to the funding or maintaining of its or their Commitment(s) hereunder) or such liability.
- (b) This Clause 10.10 (*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 10.3 (*Tax indemnity*) (or would have been compensated for under Clause 10.3 (*Tax indemnity*) but was not compensated solely because any of the exclusions in paragraph (b) of Clause 10.3 (*Tax indemnity*) applied); or

(iv) attributable to the wilful breach by the relevant Creditor Party or its Affiliates of any law of regulation.

In this Clause 10.10 (*Increased Costs*), a reference to a "Tax Deduction" has the same meaning given to the term in Clause 10.1 (*Definitions*).

(c) A Lender affected by any provision of this Clause 10.10 (*Increased Costs*) shall promptly inform the Facility Agent after becoming aware of the relevant change and its possible results (which notice shall be conclusive evidence of the relevant change and its possible results) and the Facility Agent shall, as soon as reasonably practicable thereafter, notify the Borrower of the change and its possible results. Without affecting the Borrower's obligations under this Clause 10.10 (*Increased Costs*) and in consultation with the Facility Agent and the Italian Authorities, the affected Lender will then take all such reasonable steps as may be open to it to mitigate the effect of the change (for example (if then possible) by changing its Facility Office or transferring some or all of its rights and obligations under this Agreement to another financial institution reasonably acceptable to the Borrower, the Facility Agent and the Italian Authorities). The reasonable costs of mitigating the effect of any such change shall be borne by the Borrower save where such costs are of an internal administrative nature and are not incurred in dealings by any Lender with third parties.

10.11 Transaction Costs

(a) The Borrower undertakes to pay to the Facility Agent, the SACE Agent and the Security Trustee as applicable:

- (i) upon demand, all costs and expenses, duties and fees, including, but without limitation, pre-agreed legal costs (which, for avoidance of doubt are exclusive of VAT and disbursements) out of pocket expenses and travel costs, reasonably incurred by the Italian Authorities, the Joint Mandated Lead Arrangers, the Security Trustee, the Facility Agent, the SACE Agent and the Lenders (but not including any bank which becomes a Lender after the date of this Agreement) in connection with the negotiation, preparation, execution and perfection of all agreements, guarantees, security agreements and related documents entered into, or to be entered into, for the purpose of the transaction contemplated hereby; and
- (ii) all costs and expenses (including legal fees) (together with any applicable VAT), duties and fees incurred by the Facility Agent, the Security Trustee, the Joint Mandated Lead Arrangers, the SACE Agent, the Lenders or the Italian Authorities in connection with the registration, filing, enforcement or discharge of the said guarantees or security interests, including, without limitation, the fees and expenses of legal advisers and insurance experts (provided that such insurance costs are not to exceed ten thousand Dollars (\$10,000)) and the related travel and out of pocket expenses.

(b) the Borrower further undertakes to pay:

- (i) to the Facility Agent, all costs, expenses, duties and fees incurred by the Facility Agent, the SACE Agent, the Security Trustee, the Lenders and the Italian Authorities in connection with any amendment or variation of this Agreement and the related documents, guarantees and security agreements, any supplements thereto and waiver given in relation thereto and in connection with the investigation of any potential Event of Default;

- (ii) to the Security Trustee the amount of all costs and expenses (together with any applicable VAT) incurred in connection with the enforcement or preservation of any rights under this Agreement and/or the related guarantees and security agreements, (including in each case the fees and expenses of legal advisers) and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security Interest and/or the Security Property or enforcing these rights.

10.12 Costs of delayed Delivery Date

The Borrower undertakes to pay to the Facility Agent, upon demand, any costs incurred by the Lenders and/or the Italian Authorities in funding the Loan in the event that the Delivery Date is later than the Intended Delivery Date unless the Borrower has given the Facility Agent at least three (3) Business Days' notification of such delay in the Delivery Date.

10.13 SACE obligations

To the extent that this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

11 REPRESENTATIONS AND WARRANTIES

11.1 Timing and repetition

The following applies in relation to the time at which representations and warranties are made and repeated:

- (a) the representations and warranties in Clause 11.2 (*Continuing representations and warranties*) are made on the date of this Agreement (apart from the representation at paragraphs (ee) and (ff) of Clause 11.2 (*Continuing representations and warranties*) which shall only be made on the date of this Agreement and the Effective Date and shall not be further repeated) and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents; and
- (b) the representations and warranties in Clause 11.3 (*Representations on the Delivery Date*) are made on the Delivery Date and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made thereafter on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents.

11.2 Continuing representations and warranties

The Borrower represents and warrants to each of the Secured Parties that:

- (a) each Obligor is a limited liability company or body corporate duly organised, formed or (as the case may be) incorporated, constituted and validly existing under the laws of the country of its formation or (as the case may be) incorporation, possessing perpetual existence, the capacity to sue and be sued in its own name and the power to own and charge its assets and carry on its business as it is now being conducted;

- (b) the membership interests of the Member in the Borrower are represented by Common Units. 1,000 Common Units are authorised for issuance, all of which are held by the Member;
- (c) the legal title to and beneficial interest in the equity in the Borrower is held free of any Security Interest (other than pursuant to the Pledge Agreement) or any other claim by the Member;
- (d) none of the equity in the Borrower is subject to any option to purchase, pre-emption rights or similar rights;
- (e) each Obligor has the power to enter into and perform this Agreement and those of the other Transaction Documents to which it is a party and the transactions contemplated hereby and thereby and has taken all necessary action to authorise the entry into and performance of this Agreement and such other Transaction Documents and such transactions;
- (f) this Agreement and each other Transaction Document constitutes (or will constitute when executed) legal, valid and binding obligations of each Obligor expressed to be a party thereto enforceable in accordance with their respective terms and in entering into this Agreement and borrowing the Loan, the Borrower is acting on its own account;
- (g) the entry into and performance of this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby do not and will not conflict with:
 - (i) any law or regulation or any official or judicial order; or
 - (ii) the constitutional documents of any Obligor; or
 - (iii) any agreement or document to which any Obligor is a party or which is binding upon such Obligor or any of its assets,

nor result in the creation or imposition of any Security Interest on the Borrower or its assets pursuant to the provisions of any such agreement or document, except for Security Interests which qualify as Permitted Security Interests with respect to the Borrower;

- (h) except for:
 - (i) the filing of UCC-1 financing statements against the Borrower in respect of those Finance Documents to which it is a party and which create Security Interests;
 - (ii) the recording of the Mortgage in the office of the Marshall Islands Registry; and
 - (iii) the registration of the Ship under an Approved Flag,

all authorisations, approvals, consents, licences, exemptions, filings, registrations, notarisations and other matters, official or otherwise, required in connection with the entry into, performance, validity and enforceability of this Agreement and each of the other Transaction Documents to which any Obligor is a party and the transactions contemplated thereby have been obtained or effected and are in full force and effect except authorisations, approvals, consents, licences, exemptions, filings and registrations required in the normal day to day course of the operation of the Ship and not already obtained by the Borrower;

- (i) it is disregarded as an entity separate from its owner for U.S. federal Tax purposes;

- (j) all written information furnished by any Obligor relating to the business and affairs of any Obligor in connection with this Agreement and the other Transaction Documents (but excluding any forward looking statements and projections) was and remains true and correct in all material respects and there are no other material facts or considerations the omission of which would render any such information misleading;
- (k) each Obligor has fully disclosed to the Facility Agent all facts relating to each Obligor which it knows or should reasonably know and which might reasonably be expected to influence the Lenders in deciding whether or not to enter into this Agreement;
- (l) the obligations of the Borrower, the Member and the Guarantor under the Finance Documents rank at least *pari passu* with all its other present unsecured and unsubordinated indebtedness with the exception of any obligations which are mandatorily preferred by law;
- (m) the Borrower is and shall remain, after the advance to it of the Loan, solvent in accordance with the laws of the state of Delaware and the United Kingdom and in particular with the provisions of the Insolvency Act 1986 (as from time to time amended) and the requirements thereof;
- (n) neither the Borrower nor any other Obligor has taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against any of them for the reorganisation, winding-up, dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of any of them or any or all of their assets or revenues nor has it sought any other relief under any applicable insolvency or bankruptcy law;
- (o) (in relation to any date on which this representation and warranty is deemed to be repeated pursuant to paragraph (a) of Clause 11.1 (*Timing and repetition*)) the latest available annual consolidated audited accounts of the Guarantor at the date of repetition (which accounts have been prepared in accordance with GAAP) fairly represent the financial condition of the Guarantor as shown in such audited accounts;
- (p) none of the Obligors nor any of their respective assets enjoys any right of immunity (sovereign or otherwise) from set-off, any legal action or proceeding including, without limitation, suit, attachment prior to judgment, execution or other enforcement in respect of their obligations under this Agreement or any of the other Transaction Documents or by any relevant or applicable law;
- (q) all of the limited liability company interest in the Borrower and all shares or limited liability company interest in any Approved Manager which is a member of the Group shall be legally and beneficially owned directly or indirectly by (in the case of the Borrower), the Member and (in the case of such Approved Manager) the Guarantor and such structure shall remain so throughout the Security Period;
- (r) the copy of the Shipbuilding Contract is a true and complete copy of such document constituting valid and binding obligations of the parties thereto enforceable in accordance with its terms and, subject to Clause 12.23 (*Shipbuilding Contract*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable;
- (s) the Borrower is the sole legal and beneficial owner of all rights and interests which the Shipbuilding Contract creates in favour of the Borrower;

- (t) any borrowing by the Borrower under this Agreement, and the performance of its obligations under this Agreement and the other Transaction Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to "money laundering" as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities (as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001); and
- (u) no Obligor:
 - (i) nor to its knowledge, any director, manager, officer or Affiliate of any Obligor or any member of the Group, is a Prohibited Person;
 - (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
 - (iii) owns or controls a Prohibited Person;
- (v) no proceeds of the Loan shall be made available directly or indirectly to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party;
- (w) the choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions and any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions;
- (x) for the purposes of The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast) (the **Regulation**"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated outside of the European Union and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in a European Union country;
- (y) no investments made and no payments made, received or to be made by the Borrower, the Member or the Guarantor under this Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Borrower, indirectly, out of funds of Illicit Origin or otherwise derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Borrower, the Member or the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business are, whether directly or, to the knowledge of the Borrower, indirectly, of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction;
- (z) no Prohibited Payment has been or will be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Member or the Guarantor (with respect to the Member and the Guarantor, to the best of the Borrower's knowledge), any of its affiliates or its officers, directors, managers, or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, manager, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents;

- (aa) no event has occurred which constitutes a default under or in respect of any Transaction Document to which any Obligor or the Builder is a party or by which any Obligor or the Builder may be bound (including (inter alia) this Agreement) and no event has occurred which constitutes a default under or in respect of any agreement or document to which any Obligor is a party or by which any Obligor may be bound to an extent or in a manner which might have a material adverse effect on the ability of that Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (bb) none of the assets or rights of the Borrower is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Borrower or (ii) is permitted by Clause 12.8 (*Negative pledge*) of this Agreement;
- (cc) no litigation, arbitration or administrative proceedings are current or pending or, to its knowledge, threatened, which might, if adversely determined, have a material adverse effect on the ability of an Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (dd) to the best of its knowledge, each of the Obligors has complied in all material respects with all taxation laws in all jurisdictions in which it is subject to taxation and has paid all material Taxes due and payable by it;
- (ee) it is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document to which it is a party with respect to any Lender that provides the documentation described in paragraph (b) of Clause 10.7 (*Lender Status*) indicating that it is not subject to tax withholding;
- (ff) under the laws of its Relevant Jurisdictions it is not necessary that any stamp or similar taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents;
- (gg) each member of the Group has good and marketable title to all its assets which are reflected in the audited accounts referred to in paragraph (o) of Clause 11.2 (*Continuing representations and warranties*);
- (hh) none of the Obligors has a place of business in any jurisdiction (except as already disclosed) which requires any of the Finance Documents to be filed or registered in that jurisdiction to ensure the validity of the Finance Documents to which it is a party;
- (ii) the Borrower does not have a place of business in any country (except as already disclosed) other than that of its Original Jurisdiction;
- (jj) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to it and its business generally;
- (kk) each of the Obligors and each member of the Group:
 - (i) is in compliance with all Environmental Laws and Environmental Approvals provided that any non-compliance would not be expected to result in a Material Adverse Effect;
 - (ii) has not received any notice or threat of any Environmental Claim against any member of the Group and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;

- (iii) confirms that no Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;
- (ll) the Borrower has read and acknowledged the principles provided under the Code of Ethics and Model;
- (mm) the Borrower has implemented adequate internal procedures aimed at preventing commission of crimes provided under Legislative Decree 231/01;
- (nn) no litigation is pending against the Borrower in relation to administrative liability provided under Legislative Decree 231/01;
- (oo) no final judgment under Legislative Decree 231/01 has been issued against the Borrower and no plea bargain (also known as *spatteggiamento* under Italian law) has been agreed by the Borrower pursuant to article 444 of the Italian code of criminal procedure; and
- (pp) neither the Borrower nor any of its assets are subject to any precautionary measure provided under Legislative Decree 231/01.

11.3 Representations on the Delivery Date

The Borrower further represents and warrants to each of the Secured Parties at the Delivery Date that:

- (a) the Ship is in its absolute and unencumbered ownership save as contemplated by the Finance Documents;
- (b) the Ship is registered in its name under the laws and flag of the Maritime Registry;
- (c) the Ship is classed with the highest classification available for a Ship of its type free of all recommendations and qualifications with Lloyd's Register, RINA or Bureau Veritas;
- (d) the Ship is operationally seaworthy and in compliance with all relevant provisions, regulations and requirements (statutory or otherwise) applicable to ships registered under the laws and flag of the Maritime Registry;
- (e) the Ship is in compliance with the ISM Code, the ISPS Code and Annex VI as they relate to the Borrower, any Approved Manager and the Ship;
- (f) the Ship is insured in accordance with the provisions of Clause 14 (*Insurance Undertakings*) and in compliance with the requirements therein in respect of such insurances;
- (g) the Ship is managed by the Approved Manager and, in the event that the Approved Manager is not a member of the Group, on and subject to the terms set out in the Management Agreement;
- (h) there is no agreement or understanding to allow or pay any rebate, premium, inducement, commission, discount or other benefit or payment (however described) to the Borrower or any other member of the Group, the Builder or a third party in connection with the purchase by the Borrower of the Ship, other than as disclosed to the Facility Agent in writing on or before the date of this Agreement;

- (i) no Obligor has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Facility Agent sufficient details to enable an accurate search against it to be undertaken by the Lenders at the Companies Registry;
- (j) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration; and
- (k) the copies of any Management Agreement, any charter and any charter guarantee which require a notice of assignment to be served under the terms of the General Assignment (if any) and any other relevant third party agreements including but without limitation the copies of any documents in respect of the Insurances delivered to the Facility Agent are true and complete copies of each such document constituting valid and binding obligations of the parties thereto enforceable in accordance with their respective terms and, subject to Clause 13.2 (*Management and employment*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable.

12 GENERAL UNDERTAKINGS

12.1 General

The Borrower undertakes with each Secured Party to comply with the following undertakings during the Security Period:

12.2 Information

The Borrower will provide to the Facility Agent for the benefit of the Lenders and SACE (or will procure the provision of):

- (a) as soon as practicable (and in any event within one hundred and twenty (120) days after the close of its financial year) a Certified Copy of the audited consolidated accounts of the Guarantor and its subsidiaries for that year (commencing with accounts made up to 31 December 2018 in the case of the consolidated accounts of the Guarantor);
- (b) as soon as practicable (and in any event within ninety (90) days of the commencement of each financial year) the budgetary forecast (profit and loss statement, balance sheet statement and cash flow statement) for the two following years for the Guarantor;
- (c) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter for the first three quarters in any fiscal year and within 90 days for the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year-to-date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of paragraph (a) and of this paragraph (c));

- (d) promptly, such further information in its possession or control regarding the condition or operations of the Ship and its financial condition and operations of the Borrower and those of any company in the Group as the Facility Agent may reasonably request for the benefit of the Secured Parties; and
- (e) details of any material litigation, arbitration or administrative proceedings (including proceedings relating to any alleged or actual breach of Sanctions, the ISM Code of the ISPS Code) which affect any company in the Group as soon as the same are instituted and served, or, to the knowledge of the Borrower, threatened (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency provided that this threshold shall not apply to any proceedings relating to Sanctions).

All accounts required under this Clause 12.2 (*Information*) shall be prepared in accordance with GAAP and shall fairly represent the financial condition of the relevant company.

12.3 Equator Principles Compliance

Upon the request of the Facility Agent, the Borrower shall provide to the Facility Agent information as may be reasonably requested by the Lenders for the purposes of monitoring that the Borrower conducts its operations in all material respects in accordance with the Equator Principles.

12.4 Sanctions and Illicit Payments

- (a) The Borrower shall not directly or indirectly use or make available any of the proceeds of the Loan to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party.
- (b) No payments made or received by the Borrower, the Member, the Guarantor or any Approved Manager which is a member of the Group under this Agreement or any Finance Document shall be funded directly or, to the knowledge of the Borrower, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Borrower, the Member, the Guarantor or any Approved Manager which is a member of the Group in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Borrower, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (c) Without limiting the generality of the foregoing, no Loan nor any proceeds of the Loan shall be used to finance trade of equipment or any other kind of activity in relation to goods, technologies or sectors in a manner or for a purpose prohibited by Sanctions.

12.5 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Member, the Guarantor or any of their affiliates, officers, directors, managers or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, manager, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents.

12.6 Notification of default

The Borrower will notify the Facility Agent of any Event of Default forthwith upon becoming aware of the occurrence thereof. Upon the Facility Agent's request from time to time the Borrower will issue a certificate stating whether any Obligor is aware of the occurrence of any Event of Default.

12.7 Consents and registrations

The Borrower will procure that (and will promptly furnish Certified Copies to the Facility Agent on the request of the Facility Agent of) all such authorisations, approvals, consents, licences and exemptions as may be required under any applicable law or regulation to enable it or any Obligor to perform its obligations under, and ensure the validity or enforceability of, each of the Transaction Documents are obtained and promptly renewed from time to time and will procure that the terms of the same are complied with at all times. Insofar as such filings or registrations have not been completed on or before the Drawdown Date the Borrower will procure the filing or registration within applicable time limits of each Finance Document which requires filing or registration together with all ancillary documents required to preserve the priority and enforceability of the Finance Documents.

12.8 Negative pledge

The Borrower will not create or permit to subsist any Security Interest on the whole or any part of its present or future assets, except for the following:

- (a) Security Interests created with the prior consent of the Facility Agent and the Security Trustee; or
- (b) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraphs (a) and (b) of the definition of "Permitted Security Interests" in Clause 1.1 (*Definitions*); or
- (c) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraph (C), (E), (H) or (I) of such definition, provided that insofar as they are enforceable against the Ship they do not prevail over the Mortgage.

12.9 Disposals

Except in the case of a sale of the Ship if the completion of the sale is contemporaneous with prepayment of the Loan in accordance with the provisions of Clause 16.3 (*Mandatory prepayment – Sale and Total Loss*) and except for charters and other arrangements complying with Clause 13.1 (*Pooling of earnings and charters*) the Borrower shall not without the consent of the Majority Lenders and SACE, either in a single transaction or in a series of transactions whether related or not and whether voluntarily or involuntarily:

- (a) sell, transfer, lease or otherwise dispose of the Ship or any of the Ship's equipment except in the case of items:
 - (i) being replaced (by an equivalent or superior item) or renewed; or

(ii) that are being disposed of in the ordinary course of business,

provided that in the case of both sub-paragraphs (i) and (ii) above the net impact does not reduce the value of the Ship and, in the case of sub-paragraph (ii), the value of any such disposals during the term of this Agreement do not, in aggregate, exceed ten million Dollars (\$10,000,000);

- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having the same 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.

12.10 Change of business

Except with the prior consent of the Facility Agent, the Borrower shall not make or threaten to make any substantial change in its business as presently conducted, namely that of a single ship owning company for the Ship, or change its place of business to any country other than that of its Original Jurisdiction, or carry on any other business which is substantial in relation to its business as presently conducted so as to affect, in the opinion of the Facility Agent, the Borrower's ability to perform its obligations hereunder.

12.11 Mergers

Except with the prior consent of the Lenders and SACE and subject to compliance with all necessary "know your customer" requirements, the Borrower will not enter into any amalgamation, restructure, substantial reorganisation, merger, de-merger or consolidation or anything analogous to the foregoing nor will it acquire any equity, share capital or obligations of any corporation or other entity.

12.12 Maintenance of status and franchises

The Borrower will do all such things as are necessary to maintain its limited liability company existence in good standing and will ensure that it has the right and is duly qualified to conduct its business as it is conducted in all applicable jurisdictions and will obtain and maintain all franchises and rights necessary for the conduct of its business.

12.13 Financial records

The Borrower will keep proper books of record and account, in which proper and correct entries shall be made of all financial transactions and the assets, liabilities and business of the Borrower in accordance with GAAP.

12.14 Financial Indebtedness and subordination of indebtedness

The following restrictions shall apply:

- (a) otherwise than in the ordinary course of business as owner of the Ship, except as contemplated by this Agreement and except any loan, advance or credit extended by the Guarantor or any member of the Group which is a wholly owned Subsidiary of the Guarantor, the Borrower will not create, incur, assume or allow to exist any financial indebtedness, enter into any finance lease or undertake any material capital commitment (including but not limited to the purchase of any capital asset); and

- (b) the Borrower shall procure that:
- (i) any and all indebtedness (and in particular with any other Obligor) is at all times fully subordinated to the Finance Documents and the obligations of the Borrower hereunder; and
 - (ii) if required by any applicable laws, the subordinated liabilities created pursuant to such indebtedness shall be subject to security (in form and substance satisfactory to the Secured Parties) in favour of the Security Trustee ("**Subordinated Debt Security**") and any related legal opinions shall be issued if so required by the Secured Parties; and
 - (iii) upon the occurrence of an Event of Default, the Borrower shall not make any repayments of principal, payments of interest or of any other costs, fees, expenses or liabilities arising from or representing such indebtedness. In this paragraph (b) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*) "fully subordinated" shall mean that any claim of the lender against the Borrower in relation to such indebtedness shall rank after and be in all respects subordinate to all of the rights and claims of the Secured Parties under this Agreement and the other Finance Documents and that the lender shall not take any steps to enforce its rights to recover any monies owing to it by the Borrower and in particular but without limitation the lender will not institute any legal or quasi-legal proceedings under any jurisdiction at any time against the Ship, her Earnings or Insurances or the Borrower and it will not compete with the Secured Parties or any of them in a liquidation or other winding-up or bankruptcy of the Borrower or in any proceedings in connection with the Ship, her Earnings or Insurances.

12.15 Investments

The Borrower shall not:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Obligor and where such loan or form of credit is Permitted Financial Indebtedness;
- (b) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which the Borrower assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents.
- (c) enter into any material agreement other than:
 - (i) the Transaction Documents;
 - (ii) any other agreement expressly allowed under any other term of this Agreement; and
- (d) enter into any transaction on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms' length; or

- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks.

12.16 Unlawfulness, invalidity and ranking; security imperilled

No Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest to rank after, or lose its priority to, any other Security Interest; and
- (e) imperil or jeopardise any Security Interest.

12.17 Distributions

The Borrower shall not make or pay any distribution (in cash or in kind) in respect of its equity interests other than distributions that are transferred to the Member or the Guarantor provided that no Event of Default has occurred or is continuing or would result from the payment of any distribution.

12.18 Loans and guarantees by the Borrower

Otherwise than in the ordinary course of business in its ownership and operation of the Ship following the Delivery Date, the Borrower will not make any loan or advance or extend credit to any person, firm or corporation (other than as permitted pursuant to paragraph (a) of Clause 12.15 (*Investments*)), or issue or enter into any guarantee or indemnity or otherwise become directly or contingently liable for the obligations of any other person, firm or corporation.

12.19 Acquisition of shares

The Borrower will not:

- (a) acquire any equity, share capital, assets or obligations of any corporation or other entity; or
- (b) permit any of its limited liability company interests to be directly held other than by the Member.

12.20 Further assurance

The Borrower will, from time to time on being required to do so by the Facility Agent, do or procure the doing of all such acts and/or execute or procure the execution of all such documents in a form satisfactory to the Facility Agent as the Facility Agent may reasonably consider necessary for giving full effect to any of the Transaction Documents, the Interest Make-up Agreement or the SACE Insurance Policy or securing to the Secured Parties the full benefit of the rights, powers and remedies conferred upon the Secured Parties or any of them in any such Transaction Document, the Interest Make-up Agreement or the SACE Insurance Policy.

12.21 Irrevocable payment instructions

The Borrower shall not modify, revoke or withhold the payment instructions set out in Clause 4.1 (*Borrower's irrevocable payment instructions*) without the agreement of the Builder (in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) only), the Facility Agent, SACE and the Lenders.

12.22 "Know your customer" checks

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of the Borrower after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Facility Agent or any Lender (or, in the case of paragraph (a)(iii) of Clause 12.22 (*"Know your customer" checks*), 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 or the Lenders (acting reasonably) require any additional documents to supplement those already provided, the Borrower shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (a)(iii) of Clause 12.22 (*"Know your customer" checks*), on behalf of any prospective new Lender) in order for the Facility Agent and, such Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of a Servicing Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Servicing Party (for itself) in order for that Servicing Party to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

12.23 Shipbuilding Contract

- (a) The Shipbuilding Contract constitutes legal, valid and binding and enforceable obligations of the Builder and accordingly the Borrower shall not modify the Shipbuilding Contract, directly or indirectly, in such a manner that would result in a change of the type, principal dimensions or class of the Ship or decrease the value of the Ship by equal to or greater than 5 per cent. (in aggregate) without the prior written consent of the Lenders and SACE.

- (b) The Borrower will, therefore, submit to the Facility Agent any proposals for any such modification and SACE and the Facility Agent on behalf of the Lenders will indicate in a timely manner whether the modification proposed will allow the Loan to be maintained.
- (c) The Borrower also undertakes to notify the Facility Agent of any change in the Intended Delivery Date as soon as practicable after each change has occurred.
- (d) The Borrower shall notify the Facility Agent promptly, and in any event within ten (10) Business Days of any other changes to the Shipbuilding Contract (other than Minor Modifications) and provide copies of the same to the Facility Agent.
- (e) The Borrower undertakes to notify the Facility Agent promptly of any termination and/or repudiation of the Shipbuilding Contract (including a termination and/or repudiation pursuant to article 32 of the Shipbuilding Contract).
- (f) For the avoidance of doubt, all modifications not falling under paragraph (a) above shall be permitted and the Borrower shall not be obliged to seek or obtain any consent from the Lenders and/or SACE in respect of any such modifications subject to the notification requirements as set out in paragraphs (d) and (e) above.

12.24 Compliance with laws etc.

The Borrower shall:

- (a) comply, or procure compliance with:
 - (i) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws and regulations relating to it and its business generally; and
 - (ii) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration,
including the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;
- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals which are applicable to it; and
- (c) without limiting paragraph (a) above, not employ the Ship nor allow its employment, operation or management in any Prohibited Jurisdiction or in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and all Sanctions and applicable anti-corruption laws.

12.25 Most favoured nations

The Borrower shall procure that if at any time after the date of this Agreement the Guarantor enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of Clause 11.2 (*Continuing representations and warranties*) and Clause 18.6 (*Cross default*) respectively, the Borrower or the Guarantor shall immediately notify the Facility Agent of such provisions and the relevant provisions contained in this Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to this Agreement.

12.26 Code of Ethics and Model

- (a) The Borrower shall not behave so as to cause any of the following persons to violate the principles set out in the Code of Ethics and/or Model:
- (i) persons who are representatives, administrators or managers of CDP or of any of its organizational units with financial and functional independence;
 - (ii) persons who are managed or supervised by one of the persons referred to in paragraph (i) above; or
 - (iii) external advisors of CDP.
- (b) The Borrower shall maintain adequate internal procedures aimed at preventing liabilities provided under Legislative Decree 231/01.
- (c) The Borrower shall inform CDP of any (i) new pending litigation against it in relation to administrative liability provided under Legislative Decree 231/01; (ii) new final judgment under Legislative Decree 231/01, including, without limitation, any plea bargain (also known as *patteggiamento* under Italian law) pursuant to article 444 of the Italian code of criminal procedure; and (iii) new precautionary measures under Legislative Decree 231/01.

13 SHIP UNDERTAKINGS

13.1 Pooling of earnings and charters

The Borrower will not without the prior written consent of the Facility Agent or SACE enter into in respect of the Ship (such consent for the purposes of paragraph (c) of Clause 13.1 (*Pooling of earnings and charters*) shall not be unreasonably withheld or delayed), nor permit to exist at any time following the Delivery Date:

- (a) any pooling agreement or other arrangement for the sharing of any of the Earnings or the expenses of the Ship except with a member of the Group and provided that it does not adversely affect the rights of the Secured Parties under the Finance Documents in the reasonable opinion of the Facility Agent; or
- (b) any demise or bareboat charter (other than the Bareboat Charter), provided however that such consent shall not be unreasonably withheld in the event that the Borrower wishes to enter into a bareboat charter in a form approved by the Facility Agent with another member of the Group on condition that if so requested by the Facility Agent and without limitation:
- (i) any such bareboat charterer shall enter into such deeds (including but not limited to a full subordination and assignment deed in respect of its rights under the bareboat charter and its interest in the Insurances and earnings payable to it arising out of its use of the Ship), agreements and indemnities as the Majority Lenders and SACE shall require prior to entering into the bareboat charter with the Borrower; and

- (ii) the Borrower shall assign the benefit of any such bareboat charter and its interest in the Insurances to the Secured Parties by way of further security for the Borrower's obligations under the Finance Documents; or
- (c) any charter whereunder two (2) months' charterhire (or the equivalent thereof) is payable in advance in respect of the Ship; or
- (d) any charter of the Ship or employment which, with the exercise of options for extension, could be for a period longer than [*]; or
- (e) any time charter of the Ship with a company outside the Group (other than a time charter entered into in the ordinary course of business which does not exceed [*] **provided that** (x) any such time charter is assigned to the Security Trustee and (y) during the period of such time charter, the Ship continues to be managed by the existing Approved Manager), provided however that such consent shall not be unreasonably withheld in the event that:
 - (i) such time charter is assigned to the Security Trustee and the Borrower agrees to:
 - (A) serve a notice of assignment of any time charter, the Earnings therefrom and any guarantee of the charterer's obligations on the time charterer and any time charter guarantor; and
 - (B) use commercially reasonable endeavours to obtain an acknowledgement of such assignment,and each of the notice of assignment and acknowledgement of assignment being substantially in the form appended to the General Assignment;
 - (ii) the Facility Agent is satisfied that the income from such time charter will be sufficient to cover the expenses of the Ship and to service repayment of the Loan and all other amounts from time to time outstanding under this Agreement; and
 - (iii) during the term of such time charter, the Ship continues to be managed by the existing Approved Manager.

13.2 Management and employment

The Borrower will not as from the Delivery Date:

- (a) permit any person other than an Approved Manager to be the manager of, including providing crewing services to, the Ship, at all times acting upon terms approved in writing by the Facility Agent and having entered into (in the case of the Approved Manager) an Approved Manager's Undertaking;
- (b) permit any amendment to be made to the terms of any Management Agreement unless the amendment is advised by the Borrower's tax counsel or is deemed necessary by the parties thereto to reflect the prevailing circumstances but provided that the amendment does not imperil the security to be provided pursuant to the Finance Documents or adversely affect the ability of any Obligor to perform its obligations under the Transaction Documents; or

- (c) permit the Ship to be employed other than within the Norwegian Cruise Line brand unless the Borrower notifies the Lenders that they intend to employ the Ship within another brand of the Group and the ship remains employed within the Group.

13.3 Trading with the United States of America

The Borrower shall in respect of the Ship take all reasonable precautions as from the Delivery Date to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America (as the same may be amended and/or re-enacted from time to time hereafter) or any similar legislation applicable to the Ship in any other jurisdiction in which the Ship shall trade (a "**Trading Jurisdiction**") where the Ship trades in the territorial waters of the United States of America or a Trading Jurisdiction.

13.4 Valuation of the Ship

The following shall apply in relation to the valuation of the Ship:

- (a) the Borrower will on or before 31 May of each year that commences after the delivery of the Ship, unless an Event of Default has occurred and remains unremedied, at the Borrower's expense, procure that the Ship is valued by an Approved Broker (such valuation to be made without taking into account the benefit or otherwise of any fixed employment relating to the Ship);
- (b) the Borrower shall procure that forthwith upon the issuance of any valuation obtained pursuant to this Clause 13.4 (*Valuation of the Ship*) a copy thereof is sent directly to the Facility Agent and the Security Trustee for review; and
- (c) in the event that the Borrower fails to procure a valuation in accordance with paragraph (a) of Clause 13.4 (*Valuation of the Ship*), the Facility Agent shall be entitled to procure a valuation of the Ship on the same basis.

13.5 Earnings

The Borrower will procure that the Earnings (if any) are paid in full without set off and free and clear of and without deduction for any taxes, levies, duties, imposts, charges, fees, restrictions or conditions of any nature whatsoever.

13.6 Operation and maintenance of the Ship

From the Delivery Date until the end of the Security Period at its own expense the Borrower will keep the Ship in a good and efficient state of repair so as to maintain it to the highest classification notation available for the Ship of its age and type free of all recommendations and qualifications with Bureau Veritas. On the Delivery Date and annually thereafter, it will furnish to the Facility Agent (with copy to the Security Trustee) a statement by such classification society that such classification notation is maintained. It will comply with all recommendations, regulations and requirements (statutory or otherwise) from time to time applicable to the Ship and shall have on board as and when required thereby valid certificates showing compliance therewith and shall procure that all repairs to or replacements of any damaged, worn or lost parts or equipment are carried out (both as regards workmanship and quality of materials) so as not to diminish the value or class of the Ship. It will not make any substantial modifications or alterations to the Ship or any part thereof which would reduce the market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*).

13.7 Surveys and inspections

The Borrower will:

- (a) submit the Ship to continuous survey in respect of its machinery and hull and such other surveys as may be required for classification purposes and, if so required by the Facility Agent, supply to the Facility Agent (with copy to the Security Trustee) copies in English of the survey reports;
- (b) permit surveyors or agents appointed by the Facility Agent to board the Ship to inspect its condition or satisfy themselves as to repairs proposed or already carried out and afford all proper facilities for such inspections **provided that**, unless an Event of Default has occurred or there is an accident to the Ship involving repairs the cost of which will or is likely to exceed [*], such inspections shall be limited to one a year and shall all be at reasonable times.

13.8 ISM Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISM Code (as the same may be amended from time to time) or any replacement of the ISM Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISM Code and at all times thereafter:

- (a) hold, or procure that the Approved Manager holds, a valid Document of Compliance duly issued to the Borrower or the Approved Manager (as the case may be) pursuant to the ISM Code and a valid Safety Management Certificate duly issued to the Ship pursuant to the ISM Code;
- (b) provide the Facility Agent (with copy to the Security Trustee) with copies of any such Document of Compliance and Safety Management Certificate as soon as the same are issued; and
- (c) keep, or procure that there is kept, on board the Ship a copy of any such Document of Compliance and the original of any such Safety Management Certificate.

13.9 ISPS Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISPS Code (as the same may be amended from time to time) or any replacement of the ISPS Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISPS Code and at all times thereafter:

- (a) keep, or procure that there is kept, on board the Ship the original of the International Ship Security Certificate required by the ISPS Code; and
- (b) keep, or procure that there is kept, on board the Ship a copy of the ship security plan prepared pursuant to the ISPS Code.

13.10 Annex VI

The Borrower will comply with Annex VI (as the same may be amended from time to time) or any replacement of Annex VI (as the same may be amended from time to time) and in particular, without limitation, to:

- (a) procure that the Ship's master and crew are familiar with, and that the Ship complies with, Annex VI; and
- (b) maintain for the Ship throughout the Security Period a valid and current IAPPC and provide a copy to the Facility Agent (with copy to the Security Trustee); and
- (c) notify the Facility Agent (with copy to the Security Trustee) immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the IAPPC.

13.11 Employment of Ship

The Borrower shall:

- (a) not employ the Ship or permit its employment in any trade or business which is forbidden by any applicable law or is otherwise illicit or in carrying illicit or prohibited goods or in any manner whatsoever which may render it liable to condemnation in a prize court or to destruction, seizure or confiscation or that may expose the Ship to penalties. In the event of hostilities in any part of the world (whether war be declared or not) it will not employ the Ship or permit its employment in carrying any contraband goods; and
- (b) promptly provide the Facility Agent (with copy to the Security Trustee) with (i) all information which the Facility Agent may reasonably require regarding the Ship, its employment, earnings, position and engagements (ii) particulars of all towages and salvages and (iii) copies of all charters and other contracts for its employment and otherwise concerning it.

13.12 Provision of information

The Borrower shall give notice to the Facility Agent and the Security Trustee promptly and in reasonable detail upon the Borrower or any other Obligor becoming aware of:

- (a) accidents to the Ship involving repairs the cost of which will or is likely to exceed [*];
- (b) the Ship becoming or being likely to become a Total Loss;
- (c) any recommendation or requirement made by any insurer or classification society or by any competent authority which is not complied with, or cannot be complied with, within any time limit relating thereto and that might reasonably affect the maintenance of either the Insurances or the classification of the Ship;
- (d) any writ or claim served against or any arrest of the Ship or the exercise of any lien or purported lien on the Ship, her Earnings or Insurances;
- (e) the Ship ceasing to be registered under the flag of the Maritime Registry or anything which is done or not done whereby such registration may be imperilled;
- (f) it becoming impossible or unlawful for it to fulfil any of its obligations under the Finance Documents; and

- (g) anything done or permitted or not done in respect of the Ship by any person which is likely to imperil the security created by the Finance Documents.

13.13 Payment of liabilities

The Borrower shall promptly pay and discharge:

- (a) all debts, damages and liabilities, taxes, assessments, charges, fines, penalties, tolls, dues and other outgoings in respect of the Ship and keep proper books of account in respect thereof provided always that the Borrower shall not be obliged to compromise any debts, damages and liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested debt, damage or liability which, either individually or in aggregate exceeds [*] shall forthwith be provided to the Facility Agent (with copy to the Security Trustee). As and when the Facility Agent may so require the Borrower will make such books available for inspection on behalf of the Facility Agent and provide evidence satisfactory to the Facility Agent that the wages and allotments and the insurance and pension contributions of the master and crew are being regularly paid, that all deductions of crew's wages in respect of any tax liability are being properly accounted for and that the master has no claim for disbursements other than those incurred in the ordinary course of trading on the voyage then in progress or completed prior to such inspection;
- (b) all liabilities which have given rise, or may give rise, to liens or claims enforceable against the Ship under the laws of all countries to whose jurisdiction the Ship may from time to time be subject and in particular the Borrower hereby agrees to indemnify and hold the Secured Parties, their successors, assigns, directors, officers, shareholders, employees and agents harmless from and against any and all claims, losses, liabilities, damages, expenses (including attorneys, fees and expenses and consultant fees) and injuries of any kind whatsoever asserted against the Secured Parties, with respect to or as a result of the presence, escape, seepage, spillage, release, leaking, discharge or migration from the Ship or other properties owned or operated by the Borrower of any hazardous substance, including without limitation, any claims asserted or arising under any applicable environmental, health and safety laws, codes and ordinances, and all rules and regulations promulgated thereunder of all governmental agencies, regardless of whether or not caused by or within the control of the Borrower subject to the following:
 - (i) it is the parties' understanding that the Secured Parties do not now, have never and do not intend in the future to exercise any operational control or maintenance over the Ship or any other properties and operations owned or operated by the Borrower, nor in the past, presently, or intend in the future to, maintain an ownership interest in the Ship or any other properties owned or operated by the Borrower except as may arise upon enforcement of the Lenders' rights under the Mortgage;
 - (ii) unless and until an Event of Default shall have occurred and without prejudice to the right of each Lender to be indemnified pursuant to this paragraph (b) of Clause 13.13 (*Payment of liabilities*):
 - (A) each Lender will, if it is reasonably practicable to do so, notify the Borrower upon receiving a claim in respect of which the relevant Lender is or may become entitled to an indemnity under this paragraph (b) of Clause 13.13 (*Payment of liabilities*); and

- (B) subject to the prior written approval of the relevant Lender which the Lender shall have the right to withhold, the Borrower will be entitled to take, in the name of the relevant Lender, such action as the Borrower may see fit to avoid, dispute, resist, appeal, compromise or defend any such claims, losses, liabilities, damages, expenses and injuries as are referred to above in this paragraph (b) of Clause 13.13 (*Payment of liabilities*) or to recover the same from any third party, subject to the Borrower first ensuring that the relevant Lender is secured to its reasonable satisfaction against all expenses thereby incurred or to be incurred,

provided always that the Borrower shall not be obliged to compromise any liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested liabilities which, either individually or in aggregate, exceed [*] shall be forthwith provided to the Facility Agent (with copy to the Security Trustee). If the Ship is arrested or detained for any reason it will procure its immediate release by providing bail or taking such other steps as the circumstances may require.

13.14 Certificate as to liabilities

The Borrower shall give to the Facility Agent (with copy to the Security Trustee) at such times as it may from time to time reasonably require a certificate, duly signed on its behalf, as to the total amount of any debts, damages and liabilities relating to the Ship and details of such of those debts, damages and liabilities as are over a certain amount to be specified by the Facility Agent at the relevant time and, if so required by the Facility Agent, forthwith discharge such of those debts, damages and liabilities as the Facility Agent shall require other than those being contested in good faith.

13.15 Modifications

The Borrower shall maintain the type of the Ship as at the Delivery Date and not put the Ship into the possession of any person for the purpose of work being done on it in an amount exceeding or likely to exceed [*] unless such person shall first have given to the Facility Agent a written undertaking addressed to the Facility Agent in terms satisfactory to the Facility Agent agreeing not to exercise a lien on the Ship or her Earnings for the cost of such work or for any other reason (or the Borrower is able to demonstrate to the reasonable satisfaction of the Facility Agent that the Borrower or the relevant Group company has set aside and will have funds readily available for payment when due of the cost of the work (to the extent not fully covered by insurance proceeds in the case of a partial loss)).

13.16 Registration of Ship

The Borrower shall maintain the registration of the Ship under and fly the flag of the Maritime Registry and not do or permit anything to be done whereby such registration may be forfeited or imperilled.

13.17 Environmental Law

The Borrower shall comply with all Environmental Laws, obtain, maintain and ensure compliance with all requisite Environmental Approvals, and implement procedures to monitor compliance with and to prevent liability under any Environmental Law.

13.18 Notice of Mortgage

The Borrower shall keep the Mortgage registered against the Ship as a valid first preferred mortgage, carry on board the Ship a certified copy of the Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of the Ship a framed printed notice stating that the Ship is mortgaged by the Borrower to the Security Trustee.

13.19 Environmental claims

Each Obligor shall, (through the Guarantor), promptly upon becoming aware of the same, inform the Facility Agent in writing of:

- (a) any Environmental Claim which is likely to result in a Material Adverse Effect against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group which is likely to result in a Material Adverse Effect.

13.20 Trading in war zones

In the event of hostilities in any part of the world (whether war is declared or not), the Borrower shall not cause or permit the Ship to enter or trade to any zone which is declared a war zone by the Ship's war risks insurers unless:

- (a) the prior written consent of the Security Trustee has been given; and
- (b) the Borrower has (at its expense) effected any special, additional or modified insurance cover which the Security Trustee may require.

14 INSURANCE UNDERTAKINGS

14.1 General

The undertakings in this Clause 14 (*Insurance Undertakings*) remain in force on and from the Delivery Date and throughout the rest of the Security Period except as the Facility Agent may otherwise permit.

14.2 Maintenance of obligatory insurances

The Borrower shall insure the Ship in its name and keep the Ship insured on an agreed value basis for an amount in the currency in which the Loan is denominated approved by the Facility Agent (acting on the instructions of the Majority Lenders) but not being less than the greater of (x) [*]per cent. ([*]%) of the amount of the Loan; and (y) the full market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*) from time to time through internationally recognised independent first class insurance companies, underwriters, war risks and protection and indemnity associations acceptable to the Facility Agent (acting on the instruction of the Majority Lenders), acting reasonably, in each instance on terms and conditions approved by the Facility Agent including as to deductibles but at least in respect of:

- (a) fire and marine risks including but without limitation hull and machinery and all other risks customarily and usually covered by first-class and prudent shipowners in the global insurance markets under English or Norwegian marine policies or Facility Agent-approved policies containing the ordinary conditions applicable to similar Ships;

- (b) war risks (including terrorism, piracy, blocking and trapping and protection and indemnity war risks) up to the insured amount;
- (c) excess risks that is to say the proportion of claims for general average and salvage charges and under the running down clause not recoverable in consequence of the value at which the Ship is assessed for the purpose of such claims exceeding the insured value;
- (d) protection and indemnity risks with full standard coverage as offered by first-class protection and indemnity associations which are a member of the International Group of P&I Association and up to the highest limit of liability available (for oil pollution risk the highest limit currently available is one billion Dollars (\$1,000,000,000) and this to be increased if reasonably requested by the Facility Agent and the increase is possible in accordance with the standard protection and indemnity cover for Ships of its type and is compatible with prudent insurance practice for first class cruise shipowners or operators in waters where the Ship trades from time to time from the Delivery Date until the end of the Security Period);
- (e) when and while the Ship is laid-up, in lieu of hull insurance, normal port risks; and
- (f) such other risks as the Facility Agent may from time to time reasonably require;

and in any event in respect of those risks and at those levels covered by first class and prudent owners and/or financiers in the international market in respect of similar tonnage provided that if any of such insurances are also effected in the name of any other person (other than the Borrower and/or a Secured Party) such person shall if so required by the Facility Agent execute a first priority assignment of its interest in such insurances in favour of the Secured Parties in similar terms *mutatis mutandis* to the relevant provisions of the General Assignment.

14.3 Mortgagee's interest and pollution risks insurances

The Facility Agent shall take out mortgagee interest insurance on such conditions as the Facility Agent may reasonably require and mortgagee interest insurance for pollution risks as from time to time agreed each for an amount in the currency in which the Loan is denominated of [*] per cent. ([*]%) of the amount of the Loan, the Borrower having no interest or entitlement in respect of such policies; the Borrower shall upon demand of the Facility Agent reimburse the Facility Agent for the costs of effecting and/or maintaining any such insurance(s).

14.4 Trading in the United States of America

If the Ship shall trade in the United States of America and/or the Exclusive Economic Zone of the United States of America (the "EEZ") as such term is defined in the US Oil Pollution Act 1990 ("OPA"), to comply strictly with the requirements of OPA and any similar legislation which may from time to time be enacted in any jurisdiction in which the Ship presently trades or may or will trade at any time during the existence of this Agreement and in particular before such trade is commenced and during the entire period during which such trade is carried on:

- (a) to pay any additional premiums required to maintain full standard protection and indemnity cover for oil pollution up to the highest limit available to it for the Ship in the market;

- (b) to make all such quarterly or other voyage declarations as may from time to time be required by the Ship's protection and indemnity association and to comply with all obligations in order to maintain such cover, and promptly to deliver to the Facility Agent (with copy to the Security Trustee) copies of such declarations;
- (c) to submit the Ship to such additional periodic, classification, structural or other surveys which may be required by the Ship's protection and indemnity insurers to maintain cover for such trade and promptly to deliver to the Facility Agent copies of reports made in respect of such surveys;
- (d) to implement any recommendations contained in the reports issued following the surveys referred to in paragraph (c) of Clause 14.4 *Trading in the United States of America*) within the time limit specified therein and to provide evidence satisfactory to the Facility Agent that the protection and indemnity insurers are satisfied that this has been done;
- (e) in particular strictly to comply with the requirements of any applicable law, convention, regulation, proclamation or order with regard to financial responsibility for liabilities imposed on the Borrower or the Ship with respect to pollution by any state or nation or political subdivision thereof, including but not limited to OPA, and to provide the Facility Agent on demand with such information or evidence as it may reasonably require of such compliance;
- (f) to procure that the protection and indemnity insurances do not contain a clause excluding the Ship from trading in waters of the United States of America and the EEZ or any other provision analogous thereto and to provide the Facility Agent with evidence that this is so; and
- (g) strictly to comply with any operational or structural regulations issued from time to time by any relevant authorities under OPA so that at all times the Ship falls within the provisions which limit strict liability under OPA for oil pollution.

14.5 Protections for Secured Parties

- (a) The Borrower shall give notice forthwith of any assignment of its interest in the Insurances to the relevant brokers, insurance companies, underwriters and/or associations in the form approved by the Facility Agent.
- (b) The Borrower shall execute and deliver all such documents and do all such things as may be necessary to confer upon the Secured Parties legal title to the Insurances in respect of the Ship and to procure that the interest of the Secured Parties is at all times filed with all slips, cover notes, policies and certificates of entry and to procure (a) that a loss payable clause in the form approved by the Facility Agent shall be filed with all the hull, machinery and equipment and war risks policies in respect of the Ship and (b) that a loss payable clause in the form approved by the Facility Agent shall be endorsed upon the protection and indemnity certificates of entry in respect of the Ship.
- (c) In the event of the Borrower making default in insuring and keeping insured the Ship as hereinbefore provided then the Facility Agent may (but shall not be bound to) insure the Ship or enter the Ship in such manner and to such extent as the Facility Agent in its discretion thinks fit and in such case all the cost of effecting and maintaining such insurance together with interest thereon at the interest rate shall be paid on demand by the Borrower to the Facility Agent.

14.6 Copies of policies; letters of undertaking

The Borrower will procure that each of the relevant brokers and associations furnishes the Facility Agent with a letter of undertaking in the standard form available in the relevant insurance market or otherwise in such form as may be required by the Facility Agent and waives any lien for premiums or calls except in relation to premiums or calls solely attributable to the Ship.

14.7 Payment of premiums

The Borrower shall punctually pay all premiums, calls, contributions or other sums payable in respect of the Insurances on the Ship and to produce all relevant receipts when so required by the Facility Agent.

14.8 Renewal of obligatory insurances

The Borrower shall notify the Facility Agent (with copy to the Security Trustee) of the renewal of the obligatory insurances at least five (5) days before the expiry thereof and shall procure that the relevant brokers or associations shall promptly confirm in writing to the Facility Agent (with copy to the Security Trustee) that such renewal is effected, it being understood by the Borrower that any failure to renew the Insurances on the Ship at least two (2) days before the expiry thereof or to give or procure the relevant notices of such renewal shall constitute an Event of Default.

14.9 Guarantees

The Borrower shall arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity and/or war risks association.

14.10 Provision of insurances information

The Borrower will furnish the Facility Agent (with copy to the Security Trustee) from time to time on request with full information about all Insurances maintained on the Ship and the names of the offices, companies, underwriters, associations or clubs with which such Insurances are placed.

14.11 Alteration to terms of insurances

The Borrower shall not make or agree to any variation in the terms of any of the Insurances on the Ship without the prior approval of the Facility Agent nor to do any act or voluntarily suffer or permit any act to be done whereby any Insurances shall or may be rendered invalid, void, voidable, suspended, defeated or unenforceable and not to suffer or permit the Ship to engage in any voyage nor to carry any cargo not permitted under any of the Insurances without first obtaining the consent of the insurers or reinsurers concerned and complying with such requirements as to payment of extra premiums or otherwise as the insurers or reinsurers may impose.

14.12 Settlement of claims

The Borrower shall not settle, compromise or abandon any claim in respect of any of the Insurances on the Ship other than a claim of less than [*] Dollars (\$[*]) or the equivalent in any other currency and not being a claim arising out of a Total Loss.

14.13 Application of insurance proceeds

The Borrower shall apply or ensure the appliance of all such sums receivable in respect of the Insurances on the Ship for the purpose of making good the loss and fully repairing all damage in respect whereof the insurance monies shall have been received.

14.14 Insurance advisers

The Facility Agent shall be entitled, immediately prior to the Delivery Date and thereafter no more frequently than annually on renewals but also additionally at any time when there is a proposed change of underwriters or the terms of any Insurances, to instruct independent reputable insurance advisers for the purpose of obtaining any advice or information regarding any matter concerning the Insurances which the Facility Agent shall deem necessary, it being hereby specifically agreed that the Borrower shall reimburse the Facility Agent on demand for the costs and expenses incurred by the Facility Agent in connection with the instruction of such advisers subject to a limit of ten thousand Dollars (\$10,000) at the time of delivery of the Ship or in the event of a change of underwriters or of terms of any Insurances and otherwise ten thousand Dollars (\$10,000) annually thereafter.

15 SECURITY VALUE MAINTENANCE

15.1 Security Shortfall

If, upon receipt of a valuation of the Ship in accordance with Clause 13.4 (*Valuation of the Ship*), the Security Value shall be less than the Security Requirement, the Facility Agent may give notice to the Borrower requiring that such deficiency be remedied and then the Borrower shall (unless the Ship has become a Total Loss) either:

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

Clauses 15.2 (*Costs*) and 15.4 (*Documents and evidence*) and paragraph (c) of Clause 16.2 (*Voluntary prepayment*) shall apply to prepayments under paragraph (a) of Clause 15.1 (*Security Shortfall*).

15.2 Costs

All costs in connection with the Facility Agent obtaining any valuation of the Ship referred to in Clause 13.4 (*Valuation of the Ship*), and obtaining any valuation either of any additional security for the purposes of ascertaining the Security Value at any time or necessitated by the Borrower electing to constitute additional security pursuant to paragraph (b) of Clause 15.1 (*Security Shortfall*) shall be borne by the Borrower.

15.3 Valuation of additional security

For the purpose of this Clause 15 (*Security Value Maintenance*), the market value of any additional security provided or to be provided to the Facility Agent and/or the Security Trustee shall be determined by the Facility Agent and the Security Trustee in their absolute discretion without any necessity for the Facility Agent or the Security Trustee assigning any reason thereto.

15.4 Documents and evidence

In connection with any additional security provided in accordance with this Clause 15 (*Security Value Maintenance*), the Facility Agent shall be entitled to receive such evidence and documents of the kind referred to in Clause 3 (*Conditions Precedent*) in respect of other Finance Documents as may in the Facility Agent's opinion be appropriate.

15.5 Valuations binding

Any valuation under this Clause 15 (*Security Value Maintenance*) shall be binding and conclusive as regards the Borrower.

15.6 Provision of information

- (a) The Borrower shall promptly provide the Facility Agent (with copy to the Security Trustee) and any shipbroker acting under this Clause 15 (*Security Value Maintenance*) with any information which the Facility Agent or the shipbroker may reasonably request for the purposes of the valuation.
- (b) If the Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the shipbroker or the Facility Agent considers prudent.

16 CANCELLATION, PREPAYMENT AND MANDATORY PREPAYMENT

16.1 Cancellation

- (a) Subject to paragraph (b) below, at any time between the Effective Date and prior to the end of the Availability Period, the Borrower may give notice to the Facility Agent in writing that it wishes to cancel the whole or any part of the available Commitments whereupon (without penalty to the Borrower but without prejudice to any liabilities of the Borrower including, without limitation, in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such cancellation) such available Commitments shall terminate upon the date specified in such notice. Any cancellation under this Clause 16.1(a) shall reduce the remaining Commitments of the Lenders rateably.
- (b) If the SBC Effective Date has not occurred by 31 January 2019, then at any time thereafter, the Borrower may, by written notice (signed by the Borrower, the Member and the Guarantor) to the Facility Agent, terminate this Agreement and the other Finance Documents and, except for this Clause, Clause 10.11 (*Transaction Costs*), Clause 33 (*Confidentiality*) and the Fee Letter in relation to the Structuring Fee, this Agreement and the other Finance Documents shall, with effect from such termination, be null and void and no party nor any of its respective parents, subsidiaries, affiliates, officers or employees of any of the foregoing shall have any further liability or obligation whatsoever (including payment of fees and expenses other than in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such termination) under or in connection with this Agreement and/or any other Finance Document or their termination and clause 4(c) of the Fee Letter in relation to the Structuring Fee shall apply.

16.2 Voluntary prepayment

- (a) The Borrower may prepay all or part of the Loan (but if in part being an amount that reduces the Loan by a minimum amount of one (1) repayment instalment of principal of the Loan) together with interest thereon. Such prepayment shall, regardless of the date on which such prepayment is made, be made together with all of the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the Interest Make-up Agreement and Clause 20.2 (*Breakage costs and SIMEST arrangements*) but without any other penalty provided that the prepayment is made on the last day of an Interest Period and thirty-five (35) days prior written notice indicating the intended date of prepayment is given to the Facility Agent and the SACE Agent. However, the following amounts shall be payable to the Facility Agent if any prepayment made pursuant to this Clause 16.2 (*Voluntary prepayment*) is not made on the last day of an Interest Period:
- (i) for the account of the Lenders, whether the Borrower elected a Floating Interest Rate or a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the difference (if positive), calculated by the Lenders and notified by them to the Facility Agent, between the actual cost for the Lenders of the funding for the Loan and the rate of interest for the monies to be invested by the Lenders, applied to the amounts so prepaid for the period from the said prepayment until the last day of the Interest Period during which the prepayment occurs (if prepayment does not occur on the last day of that Interest Period), details of any such calculation being supplied to the Borrower by the Facility Agent on behalf of the Lenders; or
 - (ii) for the account of SIMEST, if the Borrower elected a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the sum of charges (if any) imposed by SIMEST representing funding or breakage costs of the Italian Authorities as more specifically set out in Clause 20 (*Indemnities*).
- (b) For the avoidance of doubt, regardless of the date on which a voluntary prepayment is made, such prepayment shall be paid together with all amounts payable in accordance with Clause 20.2 (*Breakage costs and SIMEST arrangements*) and if a voluntary prepayment is made other than on the last day of an Interest Period, the prepayment shall be paid together with such other amounts payable in accordance with Clauses 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and 20.2 (*Breakage costs and SIMEST arrangements*).
- (c) If the Borrower has selected the Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the SACE Agent shall give SIMEST thirty (30) days written notice of the intended date of prepayment.

16.3 Mandatory prepayment – Sale and Total Loss

The Borrower shall be obliged to prepay the whole of the Loan if the Ship is sold (without prejudice to Clause 12.9 *Disposals*)) or becomes a Total Loss:

- (a) in the case of a sale, on or before the date on which the sale is completed by delivery of the Ship to the buyer; or

- (b) in the case of a Total Loss, on the earlier of the date falling 120 days after the Total Loss Date and the date of receipt by the Facility Agent or the Security Trustee (as the case may be) of the proceeds of insurance relating to such Total Loss.

16.4 Mandatory prepayment – SACE Insurance Policy

- (a) The Borrower shall be obliged to prepay the whole of the Loan if it is or becomes unlawful for SACE to perform or comply with any or all of its payment obligations pursuant to the SACE Insurance Policy, if the SACE Insurance Policy is revoked, rescinded, cancelled, terminated, suspended or otherwise becomes unenforceable or ceases to be valid, binding or in full force and effect.
- (b) In the event that any other event occurs or any other circumstances arise or develop which would have a material adverse effect on SACE's ability to perform its obligations under the SACE Insurance Policy, the Borrower and the Lenders shall, provided that no Event of Default has occurred and is continuing, negotiate in good faith for a period of not less than 30 days with a view to agreeing such revised terms and conditions as the Lenders may require to enable the Lenders to maintain the entire Loan (and during such 30 day period, no Lender shall be obliged to make available to the Borrower their portion of the Loan to the extent such amounts have not already been drawn). In the event that following such negotiations the Borrower and the Lenders fail to agree on such revised terms, the Borrower shall be obliged to prepay, on demand by the Facility Agent, the outstanding principal amount of the Loan to the extent of the amount covered pursuant to the SACE Insurance Policy. If, during the period while negotiations are on-going pursuant to this paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) the events described in paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) should occur, the Borrower shall be obliged to prepay the Loan in full as required by paragraph (a) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*).

16.5 Other amounts

Any prepayment of the whole of the Loan shall be made together with all other sums due under this Agreement (including, without limitation, the compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*)).

16.6 Application of partial prepayment

Amounts prepaid shall be applied in accordance with paragraph (b) of Clause 19.1 (*Receipts*).

16.7 No reborrowing

Amounts prepaid may not be reborrowed.

17 INTEREST ON LATE PAYMENTS

17.1 Default rate of interest

Without prejudice to the provisions of Clause 18 (*Events of Default*) and without this Clause in any way constituting a waiver of terms of payment, all sums due by the Borrower under this Agreement will automatically bear interest on a day to day basis from the date when they are payable until the date of actual payment at a rate per annum equal to the higher of:

- (a) where the Floating Interest Rate is applicable, the aggregate of:

- (i) EONIA;
 - (ii) the applicable Margin; and
 - (iii) [*] per cent. ([*]%) per annum; or
- (b) where the Fixed Interest Rate is applicable, the higher of:
- (i) the Fixed Interest Rate plus [*] per cent. ([*]%) per annum; and
 - (ii) EONIA plus the applicable Margin plus [*] per cent. ([*]%) per annum.

17.2 Compounding of default interest

To the extent permitted by applicable law, any such interest will itself bear interest at the above rate if it is due for at least three (3) months and thereafter at three monthly intervals.

18 EVENTS OF DEFAULT

18.1 Events of Default

An Event of Default occurs if any of the events or circumstances described in Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*) occur.

18.2 Non-payment

Any Obligor fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document and such failure is not remedied within three (3) Business Days of the due date or (if payable on demand) within three (3) Business Days of receiving the demand.

18.3 Non-remediable breaches

The Borrower fails to comply with the provisions of Clauses 12.4 (*Sanctions and Illicit payments*), 12.5 (*Prohibited payments*) 12.8 (*Negative pledge*), 12.9 (*Disposals*), 12.11 (*Mergers*) or 12.18 (*Loans and guarantees by the Borrower*).

18.4 Breach of other obligations

- (a) Any Obligor fails to comply with any provision of any Finance Document (other than a failure to comply covered by any of the other provisions of Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*)) and in particular but without limitation the Guarantor fails to comply with the provisions of clause 11 (*Undertakings*) of its Guarantee or there is any material breach in the opinion of the Majority Lenders and SACE of any of the Underlying Documents provided that (save in respect of Clause 12.26 (*Code of Ethics and Model*)) no Event of Default shall be deemed to have occurred if, in the opinion of the Majority Lenders and SACE, such failure or material breach is capable of remedy and is remedied within the Relevant Period (as defined below) from the date of its occurrence, if the failure or material breach was known to that Obligor, or from the date the relevant Obligor is notified by the Facility Agent of the failure or material breach, if the failure or material breach was not known to that Obligor, unless in any such case as aforesaid the Majority Lenders and SACE consider that the failure or material breach is or could reasonably be expected to become materially prejudicial to the interests, rights or position of the Lenders, "**Relevant Period**" meaning for the purposes of this Clause fifteen (15) days in respect of a remedy period commencing after the date of this Agreement.

- (b) There is a repudiation or termination of any Transaction Document (save for the Shipbuilding Contract and, to the extent replaced, any Management Agreement and any charter) or any of the parties thereto becomes entitled to terminate or repudiate any of them and evidences an intention so to do.

18.5 Misrepresentation

Any representation, warranty or statement made or repeated in, or in connection with, any Transaction Document or the SACE Insurance Policy or in any accounts, certificate, statement or opinion delivered by or on behalf of any Obligor thereunder or in connection therewith is materially incorrect or misleading when made or would, if repeated at any time hereafter by reference to the facts subsisting at such time, no longer be materially correct.

18.6 Cross default

- (a) Any event of default occurs under any financial contract or financial document relating to any Financial Indebtedness of the Borrower.
- (b) Any such Financial Indebtedness or any sum payable in respect thereof is not paid when due (after the expiry of any applicable grace period(s)) whether by acceleration or otherwise.
- (c) Any other Financial Indebtedness of any member of the Group is not paid when due or is or becomes capable of being declared due prematurely by reason of default or any Security Interest securing the same becomes enforceable by reason of default provided that no Event of Default will arise if the aggregate amount of the relevant Financial Indebtedness and liabilities secured by the relevant Security Interests is less than [*] Dollars (\$[*]) or its equivalent in other currencies.
- (d) Any other Security Interest over any assets of any member of the Group securing any alleged liability that does not qualify as Financial Indebtedness becomes enforceable where the alleged liability is in respect of a sum of, or sum aggregating, [*] Dollars (\$[*]) or its equivalent in other currencies, unless the alleged liability is being contested in good faith by appropriate means by the relevant Group member and the Facility Agent is reasonably satisfied that the relevant member of the Group has reasonable grounds for succeeding in its action.

18.7 Winding-up

Any order is made or an effective resolution passed or other action taken for the suspension of payments or reorganisation, dissolution, termination of existence, liquidation, winding-up or bankruptcy of any Obligor.

18.8 Appointment of liquidators etc.

A liquidator, trustee, administrator, receiver, administrative receiver, manager or similar officer is appointed in respect of any Obligor or in respect of all or any substantial part of the assets of any Obligor.

18.9 Enforcement of any security

Any corporate action, legal proceeding or other procedure or step is taken in relation to enforcement of any security interests over any assets of the Borrower.

18.10 Insolvency

- (a) An Obligor is unable or admits inability to pay its debts as they fall due, is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts.
- (b) The value of the assets of any Obligor is less than its liabilities (taking into account contingent liabilities).
- (c) A moratorium in respect of all or any debts of any Obligor or a compromise, composition, assignment or an arrangement with creditors of any Obligor or any similar proceeding or arrangement by which the assets of any Obligor are submitted to the control of its creditors is applied for, ordered or declared or any Obligor commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of all or a significant part of its Financial Indebtedness. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

18.11 Legal process

Any corporate action, legal proceeding, distress, execution, attachment or other process affects the whole or any substantial part of the assets of any Obligor and remains undischarged for a period of thirty (30) days, any step is taken in relation to enforcement of any security interests over any assets of any Obligor (other than the Borrower) or any uninsured judgment which, in each case, is in excess of [*] Dollars (\$[*]) following final appeal, remains unsatisfied for a period of ten (10) days.

18.12 Analogous events

Anything analogous to or having a substantially similar effect to any of the events specified in Clauses 18.7 (*Winding-up*) to 18.11 (*Legal process*) shall occur under the laws of any applicable jurisdiction.

18.13 Cessation of business

Any Obligor ceases to carry on all or a substantial part of its business.

18.14 Revocation of consents

Any authorisation, approval, consent, licence, exemption, filing, registration or notarisation or other requirement necessary to enable any Obligor to comply with any of its obligations under any of the Transaction Documents is materially adversely modified, revoked or withheld or does not remain in full force and effect and within ninety (90) days of the date of its occurrence such event is not remedied to the satisfaction of the Facility Agent consider that such failure is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the modification, revocation or withholding of the authorisation, approval or consent is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interests might reasonably be expected to be materially adversely affected.

18.15 Unlawfulness

At any time it is unlawful or impossible for any Obligor to perform any of its material (to the Secured Parties or any of them) obligations under any Transaction Document to which it is a party or it is unlawful or impossible for the Secured Parties or any Lender to exercise any of their or its rights under any of the Transaction Documents provided that no Event of Default shall be deemed to have occurred where the unlawfulness or impossibility does not relate to the payment obligation of any Obligor under any Transaction Document and is cured within the period of twenty one (21) days of the date of occurrence of the event giving rise to the unlawfulness or impossibility and the affected Obligor performs its obligation within such period.

18.16 Insurances

The Borrower fails to insure the Ship in the manner specified in Clause 14 (*Insurance Undertakings*) or fails to renew the Insurances at least five (5) days prior to the date of expiry thereof and produce prompt confirmation of such renewal to the Facility Agent provided that if the insurers withdraw their cover an Event of Default shall be deemed to have occurred upon issue of the insurer's notice of withdrawal.

18.17 Disposals

If the Borrower or any other Obligor shall have concealed, removed, or permitted to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or made or suffered a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of its property to or for the benefit of a creditor with the intention of preferring such creditor over any other creditor.

18.18 Prejudice to security

Anything is done or suffered or omitted to be done by any Obligor which in the reasonable opinion of the Facility Agent would or might be expected to imperil the security created by any of the Finance Documents.

18.19 Governmental intervention

The authority of any Obligor in the conduct of its business is wholly or substantially curtailed by any seizure or intervention by or on behalf of any authority and within ninety (90) days of the date of its occurrence any such seizure or intervention is not relinquished or withdrawn and the Facility Agent reasonably considers that the relevant occurrence is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the seizure or intervention executed by any authority is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interest might reasonably be expected to be materially adversely affected.

18.20 Material Adverse Change

- (a) Any event or circumstance occurs which results in a Material Adverse Effect.

- (b) Any event or circumstance occurs (including, without limitation, following the sending of a notice by the Borrower under paragraph (c) of Clause 12.26 *Code of Ethics and Model*), which results in a material adverse effect on the ability of the Borrower, also under an economic and/or financial standpoint, to perform its obligations under this Agreement.

18.21 Actions following an Event of Default

On, or at any time after, the occurrence of an Event of Default the Facility Agent may, and if so instructed by the Majority Lenders and SACE (acting through the SACE Agent), the Facility Agent shall:

- (a) serve on the Borrower a notice stating that the Commitments and all other obligations of each Lender to the Borrower under this Agreement are terminated; and/or
- (b) serve on the Borrower a notice stating that the Loan (including but without limitation the amount representing the financed First Instalment and Second Instalment of the SACE Premium), all accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
- (c) take any other action which, as a result of the Event of Default or any notice served under paragraph (a) or (b), the Facility Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law.

18.22 Termination of Commitments

On the service of a notice under paragraph (a) of Clause 18.21 (*Actions following an Event of Default*), the Commitments and all other obligations of each Lender to the Borrower under this Agreement shall terminate.

18.23 Acceleration of Loan

On the service of a notice under paragraph (b) of Clause 18.21 (*Actions following an Event of Default*), the Loan, all accrued interest and all other amounts accrued or owing from the Borrower or any Obligor under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

18.24 Further amounts payable

Upon an acceleration of repayment of the Loan following an Event of Default the Borrower shall be liable to pay compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*).

18.25 Multiple notices; action without notice

The Facility Agent may serve notices under paragraphs (a) and (b) of Clause 18.21 (*Actions following an Event of Default*) simultaneously or on different dates and it may take any action referred to in paragraph (c) of Clause 18.21 (*Actions following an Event of Default*) if no such notice is served simultaneously with or at any time after the service of both or either of such notices.

18.26 Notification of Secured Parties and Obligors

The Facility Agent shall send to the Italian Authorities, each Lender and each Obligor a copy or the text of any notice which the Facility Agent serves on the Borrower under Clause 18.21 (*Actions following an Event of Default*); but the notice shall become effective when it is served on the Borrower, and no failure or delay by the Facility Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide any Obligor with any form of claim or defence.

18.27 Lender's rights unimpaired

Nothing in this Clause 18 (*Events of Default*) shall be taken to impair or restrict the exercise of any right given to individual Lenders under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clauses 2.4 (*Creditor Parties' rights and obligations*) and 2.6 (*Obligations of Lenders several*).

18.28 Exclusion of Secured Party liability

No Secured Party, and no receiver or manager appointed by the Facility Agent, shall have any liability to an Obligor:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset.

19 APPLICATION OF SUMS RECEIVED

19.1 Receipts

- (a) Except as any Finance Document may otherwise provide, all sums received under this Agreement or any other Finance Document by the Facility Agent, on behalf of the Lenders, the SACE Agent, the Security Trustee, Receiver, Delegate or by any of the Lenders for any reason whatsoever will be applied in the following order of priority:
 - (i) first, in discharging any unpaid fees, costs and expenses of, and any amounts owed to the Facility Agent, SACE Agent, Security Trustee, any Receiver or any Delegate on a pro rata basis;
 - (ii) second, to payments of any kind due or in arrears in the order of their due payment dates due to the Lenders and Joint Mandated Lead Arrangers in the following order of priority:
 - (A) first, to interest payable pursuant to Clause 17 (*Interest on Late Payments*);
 - (B) second, to interest payable pursuant to Clause 6 (*Interest*);
 - (C) third, to the principal of the Loan payable pursuant to Clause 5 (*Repayment*);

(D) fourth, to any sums due pursuant to Clause 20.2 (*Breakage costs and SIMEST arrangements*); and

(E) fifth, to any other sums due under this Agreement or any other Finance Document,

and, if relevant, payments under paragraphs (a)(ii)(A) to (a)(ii)(E) above, shall be made *pro rata* to each of the Lenders and Joint Mandated Lead Arrangers as applicable.

(b) if no payments are in arrears or if these payments have been discharged as set out above, then and to sums remaining due under this Agreement or any other Finance Document and, if relevant, pro rata to each of the Lenders and in each case in inverse order of maturity, the interest being recalculated accordingly.

(c) The Facility Agent shall, if so directed by the Lenders and subject to SACE's prior written consent, vary the order set out in paragraphs (a)(ii)(A) to (a)(ii)(D) above.

(d) Paragraphs (a), (b) and (c) above will override any appropriation made by an Obligor.

20 INDEMNITIES

20.1 Indemnities regarding borrowing and repayment of Loan

(a) The Borrower shall fully indemnify the Facility Agent, SACE Agent, Security Trustee, any Delegate, any Receiver, each Lender, SACE and SIMEST (but without double counting to the extent that a Lender is making a claim in respect of amounts owing to SIMEST) on the Facility Agent's demand in respect of all costs, claims, expenses, liabilities and losses which are made or brought against or incurred by that Secured Party, or which that Secured Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:

- (i) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity;
- (ii) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
- (iii) any failure (for whatever reason) by the Borrower to comply with its obligations to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 17 (*Interest on Late Payments*));
- (iv) the occurrence and/or continuance of an Event of Default and/or the acceleration of repayment of the Loan under Clause 18 (*Events of Default*);
- (v) the taking, holding, protection or enforcement of a Security Interest;
- (vi) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Trustee, each Receiver and each Delegate by a Finance Document or by law;
- (vii) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; and

(viii) acting as Facility Agent, SACE Agent, Security Trustee, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Interests or Security Property (otherwise, in each case, excluding sub-paragraphs (v) and (vi) above, than by reason of the relevant Facility Agent's, Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct).

(b) The Security Trustee and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Security Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and shall have a lien on the Security Interests and the proceeds of the enforcement of the Security Interests for all moneys payable to it.

20.2 Breakage costs and SIMEST arrangements

Without limiting its generality, Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) covers:

- (a) any claim, expense, liability or loss, including a loss of a prospective profit, incurred by a Lender in liquidating or employing deposits from third parties acquired or arranged to fund or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount);
- (b) if the Borrower has selected the Fixed Interest Rate in accordance with Clause 6.1 (*Fixed or Floating Interest Rate*), the CIRR Break Costs; and
- (c) any other costs whatsoever or howsoever arising under or in respect of the Interest Make-up Agreement which are passed to the SACE Agent, and any such costs imposed by SIMEST shall be paid by the Borrower to SIMEST through the SACE Agent.

20.3 Miscellaneous indemnities

The Borrower shall fully indemnify each Secured Party severally on their respective demands in respect of all claims, expenses, liabilities and losses which may be made or brought against or incurred by a Secured Party, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Facility Agent or any other Secured Party or by any receiver appointed under a Finance Document;
- (b) any other Pertinent Matter,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the relevant Secured Party's (or its officers' or employees') Gross Negligence or wilful misconduct.

Without prejudice to its generality, this Clause 20.3 (*Miscellaneous indemnities*) covers (i) any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code or any Environmental Laws or any Sanctions and (ii) any claims, expenses, liabilities (including, without limitation, under a reputational standpoint) and losses which arise, or are asserted, against CDP under or in connection with any breach by the Borrower of any of the provisions of paragraphs (ll) to (pp) of Clause 11.2 (*Continuing representations and warranties*) and/or of Clause 12.26 (*Code of Ethics and Model*).

20.4 Currency indemnity

If any sum due from an Obligor to a Secured Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- (a) making or lodging any claim or proof against an Obligor, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrower shall indemnify the Secured Party concerned against the loss arising when the amount of the payment actually received by that Secured Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 20.4 (*Currency indemnity*) the "**available rate of exchange**" means the rate at which the Secured Party concerned is able at the opening of business (Paris time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 20.4 (*Currency indemnity*) creates a separate liability of the Borrower which is distinct from its other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

20.5 Certification of amounts

A notice which is signed by 2 officers of a Secured Party, which states that a specified amount, or aggregate amount, is due to that Secured Party under this Clause 20 (*Indemnities*) and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

20.6 Sums deemed due to a Lender

For the purposes of this Clause 20 (*Indemnities*), a sum payable by the Borrower to the Facility Agent for distribution to a Lender shall be treated as a sum due to that Lender.

20.7 SACE obligations

To the extent that this Clause 20 (*Indemnities*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

21 ILLEGALITY, ETC.

21.1 Illegality and Sanctions

This Clause 21 (*Illegality, etc.*) applies if:

- (a) a Lender (the "**Notifying Lender**") notifies the Facility Agent that:
 - (i) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to perform any of its obligations as contemplated by the Finance Documents or to fund its participation in the Loan; and/or
 - (ii) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to maintain its participation in the Loan; or
- (b) an Obligor is or becomes a Prohibited Person,
(such event, an "**Illegality or Sanctions Event**").

21.2 Notification of illegality

The Borrower shall promptly notify the Facility Agent of the occurrence of an event under Clause 21.1(b) above and the Facility Agent shall promptly notify the Lenders. The Facility Agent shall promptly notify the Borrower, the Obligors and the other Lenders of the notice under Clause 21.1(a) which the Facility Agent receives from the Notifying Lender.

21.3 Prepayment; termination of Commitment

- (a) Upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(i) above, the Notifying Lender's Commitment will be immediately suspended and that Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*) within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event), the Notifying Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment;
- (b) upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(ii) above, the Notifying Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) the Notifying Lender may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;

- (c) upon the Borrower notifying the Facility Agent and the Facility Agent notifying the Lenders of an event under Clause 21.1(b) above, the Lenders shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) any Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment and may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;
- (d) The date for repayment or prepayment of a Lender's share in the Loan will be:
 - (i) the date specified by the Facility Agent in the notification under Clause 21.2 above; or
 - (ii) the last day of the current Interest Period for the Loan or, if earlier, the date specified by the Lender in the notification under paragraph (a) above and which must not be earlier than the last day of any applicable grace period allowed by law.

21.4 Mitigation

- (a) Each Creditor Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to Clause 21.1 (*Illegality and Sanctions*) or Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) 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.

22 SET-OFF

22.1 Application of credit balances

Each Creditor Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from the Borrower to that Creditor Party under any of the Finance Documents; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Euros;
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

22.2 Existing rights unaffected

No Creditor Party shall be obliged to exercise any of its rights under Clause 22.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

22.3 Sums deemed due to a Lender

For the purposes of this Clause 22 (*Set-Off*), a sum payable by the Borrower to the Facility Agent for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to such Lender.

22.4 No Security Interest

This Clause 22 (*Set-Off*) gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

23 BAIL-IN

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each Party acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-in Action in relation to any such liability.

24 CHANGES TO THE LENDERS

24.1 Transfer by a Lender

Subject to Clause 24.2 (*Conditions of assignment or transfer*), Clause 24.5 (*No transfer without Transfer Certificate*), Clause 24.17 (*Assignment or transfer to SACE*) and Clause 24.14 (*Change of Facility Office*), a Lender (the "**Transferor Lender**") may at any time provided they have obtained the prior written consent of the Italian Authorities cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or

- (c) a combination of (a) and (b),

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, in whole or in part any of its Affiliates or another bank or financial institution or a trust, fund, insurance or reinsurance company or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a "**Transferee Lender**") by delivering to the Facility Agent a completed certificate in the form set out in Schedule 4 (*Form of Transfer Certificate*) with any modifications approved or required by the Facility Agent (a "**Transfer Certificate**") executed by the Transferor Lender and the Transferee Lender.

However any rights and obligations of the Transferor Lender in its capacity as Facility Agent or Security Trustee will have to be dealt with separately in accordance with the provisions of Clauses 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*) and 27 (*The Security Trustee*) respectively.

24.2 Conditions of assignment or transfer

- (a) The consent of the Borrower is required at all times (subject to the provisions of Clauses 24.5 (*No transfer without Transfer Certificate*) and 24.17 (*Assignment or transfer to SACE*)) for an assignment or transfer by an Transferor Lender, unless (i) there is an Event of Default or (ii) the assignment or transfer is to another Lender or an Affiliate of a Lender or a vehicle (including trusts or funds) whose majority shares or notes are held by a Lender or an Affiliate of a Lender.
- (b) The consent of the Borrower to an assignment or transfer must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent ten (10) Business Days after the Transferor Lender has requested it unless consent is expressly refused by that Borrower within that time.
- (c) The assignment or transfer must be with respect to a minimum Commitment of [*] Euros (€[*]) or, if less, the Transferor Lender's full Commitment.

24.3 Transfer Certificate, delivery and notification

As soon as reasonably practicable after a Transfer Certificate is delivered to the Facility Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrower, any other Obligors, the Security Trustee and each of the other Lenders;
- (b) on behalf of the Transferee Lender, send to the Borrower and each Obligor letters or faxes notifying them of the Transfer Certificate and attaching a copy of it; and
- (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above,

but the Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Transferor Lender and the Transferee Lender once it is satisfied that itself and the Security Trustee have complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to that Transferee Lender.

24.4 Effective Date of Transfer Certificate

A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date, provided that it is signed by the Facility Agent under Clause 24.3 (*Transfer Certificate, delivery and notification*) on or before that date.

24.5 No transfer without Transfer Certificate

Except as provided in Clause 24.16 (*Security over Lenders' rights*), no assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, the Borrower, any Obligor, the Facility Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

24.6 Lender re-organisation; waiver of Transfer Certificate

However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the "**successor**"), the Facility Agent may, if it sees fit, by notice to the successor and the Borrower and the Security Trustee waive the need for the execution and delivery of a Transfer Certificate; and, upon service of the Facility Agent's notice, the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender.

24.7 Effect of Transfer Certificate

A Transfer Certificate takes effect in accordance with English law as follows:

- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender's title and of any rights or equities which the Borrower or any Obligor had against the Transferor Lender;
- (b) the Transferor Lender's Commitment is discharged to the extent specified in the Transfer Certificate;
- (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
- (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Facility Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;
- (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate's effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the Transferor Lender, assuming that any defects in the Transferor Lender's title and any rights or equities of the Borrower or any Obligor against the Transferor Lender had not existed;
- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) and Clause 9 (*Fees*), and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and

- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of the Borrower or any Obligor referred to above include, but are not limited to, any right of set off and any other kind of cross-claim.

24.8 Maintenance of register of Lenders

During the Security Period the Facility Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the Facility Office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 24.4 (*Effective Date of Transfer Certificate*)) of the Transfer Certificate; and the Facility Agent shall make the register available for inspection by any Lender, the Security Trustee and the Borrower during normal banking hours, subject to receiving at least 3 Business Days' prior notice.

24.9 Reliance on register of Lenders

The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Facility Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.

24.10 Authorisation of Facility Agent to sign Transfer Certificates

The Borrower, the Security Trustee and each Lender irrevocably authorise the Facility Agent to sign Transfer Certificates on its behalf.

24.11 Fees and Costs

In respect of any Transfer Certificate:

- (a) the Facility Agent shall be entitled to recover a registration fee of five thousand Euros (€5,000) from the Transferor Lender or (at the Facility Agent's option) the Transferee Lender;
- (b) the Transferee Lender shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation legal costs and out of pocket expenses, incurred by the Facility Agent or the Lenders in connection with any necessary amendment to or supplementing of the Transaction Documents or any of them or the SACE Insurance Policy as a consequence of the assignment or transfer; and
- (c) the Transferee Lender shall pay to the Facility Agent, upon demand, such amount as is payable to the Italian Authorities to cover its costs of giving its approval under Clause 24.1 (*Transfer by a Lender*).

24.12 Sub-participation; subrogation assignment

A Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the Borrower, any Obligor, the Facility Agent or the Security Trustee but with the prior written consent of SACE.

24.13 Disclosure of information

A Lender may disclose to a potential Transferee Lender or sub participant any information which the Lender has received in relation to the Borrower, any Obligor or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature.

24.14 Change of Facility Office

Subject to the prior written consent of SACE, a Lender may change its Facility Office by giving notice to the Facility Agent and the change shall become effective on the later of:

- (a) the date on which the Facility Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect, provided that 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 or an increased payment to the new Lender or Lender acting through its new Facility Office under Clause 10 (*Taxes, Increased Costs, Costs and related Charges*), 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.

24.15 Notification

On receiving such a notice, the Facility Agent shall notify the Borrower and the Security Trustee; and, until the Facility Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the Facility Office of which the Facility Agent last had notice.

24.16 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 24 (*Changes to the Lenders*) each Lender may without consulting with or obtaining consent from the Borrower or any Obligor but subject to the prior written consent of SACE, 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 (i) to the benefit of any Affiliate and/or (ii) within the framework of its, or its Affiliates', direct or indirect funding operations including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve, central bank or a multilateral development bank (including the European Investment Bank and the European Investment Fund); and

- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities;

except that no such charge, assignment or Security Interest shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
- (ii) alter the obligations of the Obligor or require any payments to be made by the Borrower or any Obligor 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.

Notwithstanding any provision to the contrary, upon the enforcement of any charge, assignment or other Security Interest referred to in paragraph (a) above, the beneficiary thereof (the "Beneficiary") shall deliver a notice of that enforcement to the Facility Agent (such notice to take effect in accordance with its terms) and the Beneficiary shall, upon fulfilment of the conditions referred to in Clauses 24.2 and 24.3, become party as a new Lender in respect of the rights which are subject to that charge, assignment or Security Interest.

The Borrower shall comply with all necessary formalities, if any, and take all steps necessary in order to ensure the enforceability, recognition, priority and enforcement of the charge, assignment or Security Interest granted pursuant to this Clause 24.16.

24.17 Assignment or transfer to SACE or as directed by SACE

- (a) Notwithstanding the above provisions of this Clause 24 (*Changes to the Lenders*) each Lender and the Facility Agent may, if so requested by SACE in accordance with the provisions of the SACE Insurance Policy and without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights and obligations to SACE or to any person specified by SACE (but for the avoidance of doubt, SACE will not assume any of the Lenders' obligations (if any) under this Agreement), which assignment or transfer shall take effect upon the date stated in the relevant documentation subject to the relevant parties being satisfied that they have complied with all necessary "know your customer" requirements in relation to such assignment or transfer.
- (b) The Facility Agent shall promptly notify the Borrower of any such assignment or transfer to SACE (or as directed by SACE) and, following an Event of Default, the Borrower shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.18 Assignment or transfer by SACE

- (a) SACE may, without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights under this Agreement, the Finance Documents or the SACE Insurance Policy to:
 - (i) providers of reinsurance, counter-guarantee or any form of risk enhancement (in each case, in favour of SACE);

- (ii) pursuant to article 32 of the Italian law decree no. 91/2014 converted into law 116/2014; or
 - (iii) following any payment under the SACE Insurance Policy, any person.
- (b) The Facility Agent shall promptly notify the Obligors of such assignment or transfer by SACE and, following an Event of Default, the Obligors shall pay to the Facility Agent, within three (3) Business Days of a demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.19 No prejudice to SACE rights

Nothing in the Finance Documents shall prejudice or otherwise limit:

- (a) the rights of any Lender to assign its rights or transfer its rights and obligations, under or in connection with, any Finance Document, to SACE or as directed by SACE, or the rights of SACE to assign its rights or (as the case may be) transfer its rights and obligations pursuant to Clause 24.18 (*Assignment or transfer by SACE*); and
- (b) the right of SACE to be subrogated to any Lender's rights under, or in connection with, any Finance Document.

24.20 SACE's power to direct

- (a) The Creditor Parties agree and the Obligors acknowledge that SACE has the right to direct the decision making of the Facility Agent, including (without limitation) following an Event of Default; and
- (b) to the extent SACE makes any payment to the Creditor Parties under the SACE Insurance Policy in respect of principal and/or following an assignment or transfer pursuant to Clause 24.17 (*Assignment or transfer to SACE or as directed by SACE*) or Clause 24.18 (*Assignment or transfer by SACE*), SACE shall be entitled to exercise all voting rights with respect to the relevant principal as if the relevant corresponding Commitment had been transferred to it.

24.21 Definition of Affiliate

For the purposes of this Clause 24 (*Changes to the Lenders*), the definition of "Affiliate" in respect of Crédit Agricole Corporate and Investment Bank shall, for the avoidance of doubt, include any other member of Crédit Agricole Group, and in particular:

- (a) Crédit Agricole S.A.;
- (b) Caisses Régionales de Crédit Agricole;
- (c) Crédit Agricole Assurances;
- (d) LCL SA; and/or
- (e) any company or legal entity in which one or more of the companies or entities referred to in paragraphs (a) to (d) above, together or separately, owns a direct majority interest.

25 CHANGES TO THE OBLIGORS

25.1 No change without consent

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

26 ROLE OF THE FACILITY AGENT, THE JOINT MANDATED LEAD ARRANGERS, THE SACE AGENT AND THE REFERENCE BANKS

26.1 Appointment of the Facility Agent

- (a) Each other Creditor Party appoints the Facility Agent to act as its agent under and in connection with this Agreement, the other Finance Documents and the Interest Make-Up Agreement.
- (b) Each other Creditor Party authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

26.2 Duties of the Facility Agent

- (a) The Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Facility Agent receives notice from a Party referring to this Agreement, describing an Event of Default and stating that the circumstance described is an Event of Default, it shall promptly notify the other Secured Parties.
- (d) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Secured Party (other than the Facility Agent or a Joint Mandated Lead Arranger) under this Agreement it shall promptly notify the other Secured Parties.
- (e) The Facility Agent's duties under the Finance Documents are solely administrative in nature.

26.3 Role of Joint Mandated Lead Arrangers

None of the Joint Mandated Lead Arrangers has any obligations of any kind to any other Party under or in connection with any Transaction Document, the Interest Make-Up Agreement or the SACE Insurance Policy.

26.4 No fiduciary duties

- (a) Nothing in this Agreement constitutes the Facility Agent or any of the Joint Mandated Lead Arrangers as a trustee or fiduciary of any other person.

- (b) Neither the Facility Agent nor any of the Joint Mandated Lead Arrangers shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

26.5 Business with the Guarantor

The Facility Agent and each of the Joint Mandated Lead Arrangers may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Affiliate or Subsidiary of the Guarantor.

26.6 Rights and discretions of the Facility Agent

- (a) The Facility Agent may rely on:
 - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and
 - (ii) any statement made by a director, manager, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Event of Default has occurred (unless it has actual knowledge of an Event of Default); and
 - (ii) any right, power, authority or discretion vested in any Party or the Lenders has not been exercised.
- (c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as the Facility Agent under this Agreement.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor any of the Joint Mandated Lead Arrangers 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.

26.7 Lenders' and SACE's instructions

- (a) Unless a contrary indication appears in a Finance Document, the Facility Agent (and in the case of SACE, the SACE Agent) shall:
 - (i) exercise any right, power, authority or discretion vested in it as Facility Agent (or as SACE Agent as the case may be) in accordance with any instructions given to it by the Majority Lenders (or in the case of the SACE Agent, by SACE) (or, if so instructed by the Majority Lenders or, in the case of the SACE Agent, by SACE, refrain from exercising any right, power, authority or discretion vested in it as the Facility Agent or as the SACE Agent (as the case may be)); and

- (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders and/or SACE (as applicable).
- (b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders and SACE will be binding on all the Secured Parties.
- (c) The Facility Agent (and the SACE Agent as regards SACE) may refrain from acting in accordance with the instructions of the Majority Lenders and SACE until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.
- (d) In the absence of instructions from the Majority Lenders and SACE, the Facility Agent (or the SACE Agent as the case may be) may act (or refrain from taking action) as it considers to be in the best interest of the Secured Parties.
- (e) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.
- (f) Notwithstanding anything to the contrary, the Lenders agree that if the Facility Agent (acting in its sole discretion) is of the opinion that or if any Lender notifies the Facility Agent that it is of the opinion that, the prior approval of the Italian Authorities should be obtained in relation to the exercise or non-exercise by the Facility Agent or the Lenders of any power, authority or discretion specifically given to them under or in connection with the Finance Documents or in relation to any other incidental rights, powers, authorities or discretions, then the SACE Agent shall seek such approval of the Italian Authorities prior to such exercise or non-exercise.

26.8 Responsibility for documentation

The Facility Agent is not responsible for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, a Joint Mandated Lead Arranger, an Obligor or any other person given in or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-Up Agreement; nor for
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document the SACE Insurance Policy or the Interest Make-Up Agreement or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-up Agreement.

26.9 Exclusion of liability

- (a) Without limiting paragraph (b) of Clause 26.9 (*Exclusion of liability*), the Facility Agent will not be liable for any action taken by it under or in connection with any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement, unless directly caused by its Gross Negligence or wilful misconduct.

- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents, the SACE Insurance Policy or the Interest Make-Up Agreement to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or a Joint Mandated Lead Arranger to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent and the Joint Mandated Lead 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 Facility Agent or a Joint Mandated Lead Arranger.

26.10 Lenders' indemnity to the Facility Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three (3) Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's Gross Negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).

26.11 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Creditor Parties, the Borrower and SACE and with the consent of SACE.
- (b) Alternatively the Facility Agent may resign by giving notice to the other Secured Parties and the Borrower, in which case the Lenders (after consultation with the Borrower and the prior consent of SACE) may appoint a successor Facility Agent.
- (c) If the Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) within thirty (30) days after notice of resignation was given, the Facility Agent (after consultation with the Borrower and SACE) may appoint a successor Facility Agent.
- (d) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.

- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Italian Authorities, the Majority Lenders may, subject to the prior consent of the Italian Authorities, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*). In this event, the Facility Agent shall resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The appointment of a successor Facility Agent pursuant to this Clause 26.11 (*Resignation of the Facility Agent*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

26.12 Confidentiality

- (a) In acting as agent for the Secured Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

26.13 Relationship with the Lenders

The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

26.14 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and each of the Joint Mandated Lead 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 the Guarantor and each Subsidiary of the Guarantor;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the 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;

- (d) the adequacy, accuracy and/or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by 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; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Charged Property, the priority of any Security Interests or the existence of any Security Interest affecting the Charged Property.

26.15 Deduction from amounts payable by the Facility Agent

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

26.16 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Facility Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Facility Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

26.17 SACE Agent, SACE Insurance Policy and Interest Make-Up Agreement

With the prior written consent of each of the Lenders, the SACE Agent (with a copy to the Facility Agent) may require SACE or SIMEST to amend or modify the SACE Insurance Policy and the Interest Make-up Agreement provided that such amendments are not inconsistent with the commercial terms of this Agreement, otherwise, the SACE Agent (with a copy to the Facility Agent) undertakes not to require SACE or SIMEST to amend or modify the SACE Insurance Policy or the Interest Make-up Agreement.

26.18 Resignation of the Facility Agent in relation to FATCA

The Facility Agent shall resign in accordance with Clause 26.11 (*Resignation of the Facility Agent*) (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) of Clause 26.11 (*Resignation of the Facility Agent*)) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:

- (a) the Facility Agent fails to respond to a request under Clause 10.9 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
- (b) the information supplied by the Facility Agent pursuant to Clause 10.9 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (c) the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

26.19 No duty to monitor

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Event of 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.

26.20 Appointment of the SACE Agent

- (a) Each Lender and each Joint Mandated Lead Arranger irrevocably appoints the SACE Agent to act as its agent under and in connection with:
 - (i) the SACE Insurance Policy; and
 - (ii) the Finance Documents in relation to matters involving SACE, SIMEST and the SACE Insurance Policy.

- (b) Each Lender and each Joint Mandated Lead Arranger irrevocably authorises the SACE Agent to:
- (i) perform the duties, obligation and responsibilities and exercise the rights, powers, authorities and discretions specifically given to the SACE Agent under or in connection with the Finance Documents and the SACE Insurance Policy, together with any other incidental rights, powers, authorities and discretions; and
 - (ii) execute the SACE Insurance Policy.

26.21 Application of certain Clauses

The provisions of Clauses 26.2 (*Duties of the Facility Agent*), 26.4 (*No fiduciary duties*), 26.6 (*Rights and discretions of the Facility Agent*), 26.7 (*Lenders' and SACE's instructions*), 26.8 (*Responsibility for documentation*), 26.9 (*Exclusion of liability*), 26.10 (*Lenders' indemnity to the Facility Agent*), 26.11 (*Resignation of the Facility Agent*), 26.12 (*Confidentiality*), 26.13 (*Relationship with the Lenders*), 26.14 (*Credit appraisal by the Lenders*), 26.16 (*Full freedom to enter into transactions*), 26.19 (*No duty to monitor*) and 27.23 (*Business with the Group*) shall apply in respect of the SACE Agent in its capacity as such as if each reference to the Facility Agent (or Security Trustee in the case of Clause 27.23 (*Business with the Group*)) were a reference to the SACE Agent and each reference to the Finance Documents or Transaction Documents included a reference to the SACE Insurance Policy.

26.22 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 26.22 (*Role of Reference Banks*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

26.23 Third Party Reference Banks

A Reference Bank which is not a Party may rely on Clause 26.22 (*Role of Reference Banks*) and Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

27 THE SECURITY TRUSTEE

27.1 Trust

- (a) The Security Trustee declares that it shall hold the Security Property on trust for the Secured Parties on the terms contained in this Agreement and shall deal with the Security Property in accordance with this Clause 27 (*The Security Trustee*) and the other provisions of the Finance Documents.

- (b) Each of the parties to this Agreement agrees that the Security Trustee shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Finance Documents (and no others shall be implied).
- (c) The Security Trustee shall not have any liability to any person in respect of its duties, obligations and responsibilities under this Agreement or the other Finance Documents except as expressly set out in paragraph (a) of Clause 27.1 (*Trust*) and as excluded or limited by this Clause 27 (*The Security Trustee*) including in particular Clause 27.8 (*Instructions to Security Trustee and exercise of discretion*), Clause 27.13 (*Responsibility for documentation*), Clause 27.14 (*Exclusion of liability*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*), Clause 27.23 (*Business with the Group*) and Clause 27.28 (*Full freedom to enter into transactions*).

27.2 Parallel Debt (Covenant to pay the Security Trustee)

- (a) Each Obligor irrevocably and unconditionally undertakes to pay to the Security Trustee its Parallel Debt which shall be amounts equal to, and in the currency or currencies of, its Corresponding Debt.
- (b) The Parallel Debt of an Obligor:
 - (i) shall become due and payable at the same time as its Corresponding Debt;
 - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For purposes of this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*), the Security Trustee:
 - (i) is the independent and separate creditor of each Parallel Debt;
 - (ii) acts in its own name and not as agent, representative or trustee of the Secured Parties and its claims in respect of each Parallel Debt shall not be held on trust; and
 - (iii) shall have the independent and separate right to demand payment of each Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).
- (d) The Parallel Debt of an Obligor shall be:
 - (i) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged; and
 - (ii) increased to the extent that its Corresponding Debt has increased,and the Corresponding Debt of an Obligor shall be:
 - (A) decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged; and

(B) increased to the extent that its Parallel Debt has increased,

in each case provided that the Parallel Debt of an Obligor shall never exceed its Corresponding Debt.

- (e) All amounts received or recovered by the Security Trustee in connection with this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) to the extent permitted by applicable law, shall be applied in accordance with Clause 19 (*Application of sums received*).
- (f) This Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) shall apply, with any necessary modifications, to each Finance Document.

27.3 No independent power

The Secured Parties shall not have any independent power to enforce, or have recourse to, any Security Interest created by any of the Finance Documents or to exercise any rights or powers arising under the Finance Documents creating the Security Interest except through the Security Trustee.

27.4 Application of receipts

- (a) Except as expressly stated to the contrary in any Finance Document, any moneys which the Security Trustee receives or recovers and which are, or are attributable to, Security Property (for the purposes of this Clause 27 (*The Security Trustee*), the "**Recoveries**") shall be transferred to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*).
- (b) Paragraph (a) above is without prejudice to the rights of the Security Trustee, any Receiver or any Delegate:
 - (i) under Clause 26.10 (*Lenders' indemnity to the Facility Agent*) to be indemnified out of the Charged Property; and
 - (ii) under any Finance Document to credit any moneys received or recovered by it to any suspense account.
- (c) Any transfer by the Security Trustee to the Facility Agent in accordance with paragraph (a) above shall be a good discharge, to the extent of that payment, by the Security Trustee.
- (d) The Security Trustee is under no obligation to make the payments to the Facility Agent under paragraph (a) of this Clause 27.4 (*Application of receipts*) in the same currency as that in which the obligations and liabilities owing to the relevant Secured Party are denominated.

27.5 Deductions from receipts

- (a) Before transferring any moneys to the Facility Agent under Clause 27.4 (*Application of receipts*), the Security Trustee may, in its discretion:
 - (i) deduct any sum then due and payable under this Agreement or any other Finance Documents to the Security Trustee or any receiver and retain that sum for itself or, as the case may require, pay it to another person to whom it is then due and payable;

- (ii) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
 - (iii) pay all Taxes which may be assessed against it in respect of any of the Security Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).
- (b) For the purposes of paragraph (a)(i) above, if the Security Trustee has become entitled to require a sum to be paid to it on demand, that sum shall be treated as due and payable, even if no demand has yet been served.

27.6 Prospective liabilities

Following acceleration of any Security Interest, the Security Trustee may, in its discretion, or at the request of the Facility Agent, hold any recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) for later payment to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*) in respect of:

- (a) any sum to the Security Trustee, any Receiver or Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Trustee or, in the case of paragraph (b) only, the Facility Agent, reasonably considers, in each case, might become due or owing at any time in the future.

27.7 Investment of proceeds

Prior to the payment of the proceeds of the recoveries to the Facility Agent for application in accordance with Clause 27.4 (*Application of receipts*) the Security Trustee may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) pending the payment from time to time of those moneys in the Security Trustee's discretion in accordance with the provisions of this Clause 27.7 (*Investment of proceeds*).

27.8 Instructions to Security Trustee and exercise of discretion

- (a) Subject to paragraph (d) below, the Security Trustee shall act in accordance with any instructions given to it by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) or, if so instructed by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)), refrain from exercising any right, power, authority or discretion vested in it as Security Trustee and shall be entitled to assume that:
 - (i) any instructions received by it from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) are duly given in accordance with the terms of the Finance Documents; and

- (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.
- (b) The Security Trustee shall be entitled to request instructions, or clarification of any direction, from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Trustee may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Any instructions given to the Security Trustee by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) shall override any conflicting instructions given by any other Party.
- (d) Paragraph (a) above shall not apply:
 - (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement requires the Security Trustee to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Trustee's own position in its personal capacity as opposed to its role of Security Trustee for the Secured Parties including, without limitation, the provisions set out in Clauses 27.10 (*Security Trustee's discretions*) to Clause 27.28 (*Full freedom to enter into transactions*); and
 - (iv) in respect of the exercise of the Security Trustee's discretion to exercise a right, power or authority under any of Clause 27.5 (*Deductions from receipts*) and Clause 27.6 (*Prospective liabilities*).

27.9 Security Trustee's Actions

Without prejudice to the provisions of Clause 27.4 (*Application of receipts*), the Security Trustee may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.

27.10 Security Trustee's discretions

- (a) The Security Trustee may:
 - (i) assume (unless it has received actual notice to the contrary from the Facility Agent) that (i) no Event of Default has occurred and no Obligor is in breach of or default under its obligations under any of the Finance Documents and (ii) any right, power, authority or discretion vested by any Finance Document in any person has not been exercised;
 - (ii) assume that any notice or request made by the Borrower (other than a Drawdown Notice) is made on behalf of and with the consent and knowledge of all the Obligors;
 - (iii) if it receives any instructions or directions to take any action in relation to a Security Interest under the Finance Documents, assume that all applicable conditions under the Finance Documents for taking that action have been satisfied;

- (iv) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Trustee or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;
 - (v) act in relation to the Finance Documents through its personnel and agents;
 - (vi) disclose to any other Party any information it reasonably believes it has received as Security Trustee under this Agreement;
 - (vii) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party or an Obligor, upon a certificate signed by or on behalf of that person; and
 - (viii) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received any indemnification and/or security that it may in its discretion require (which may be greater than that contained in the Finance Documents and which may include payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting.
- (b) Notwithstanding any other provision of any Finance Document to the contrary, the Security Trustee is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
 - (c) Notwithstanding any provision of any Finance Document to the contrary, the Security Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion, if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not assured to it.

27.11 Security Trustee's obligations

The Security Trustee shall promptly:

- (a) copy to the Facility Agent the contents of any notice or document received by it from any Obligor under any Finance Document;
- (b) forward to a Party the original or a copy of any document which is delivered to the Security Trustee for that Party by any other Party provided that the Security Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform the Facility Agent of the occurrence of any Event of Default or any default by an Obligor in the due performance of or compliance with its obligations under any Finance Document of which the Security Trustee has received notice from any other party to this Agreement.

27.12 Excluded obligations

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee shall not:

- (a) be bound to enquire as to (i) whether or not any Event of Default has occurred or (ii) the performance, default or any breach by an Obligor of its obligations under any of the Finance Documents;
- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (d) be or be deemed to be an agent, trustee or fiduciary of any Obligor.

27.13 Responsibility for documentation

None of the Security Trustee, any Receiver or Delegate shall accept responsibility or be liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Trustee or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

27.14 Exclusion of liability

- (a) Without limiting Clause 27.15 (*No proceedings*), (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate), none of the Security Trustee or any Receiver nor any Delegate will be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of any action taken by it or not taken by it under or in connection with any Finance Document or any Security Interest, 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 of the Finance Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Finance Documents or the Security Property;

- (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) Nothing in this Agreement shall oblige the Security Trustee to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Security Trustee that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Trustee.
- (c) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate, any liability of the Security Trustee, any Receiver or Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Trustee, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Trustee, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Trustee, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Trustee, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

27.15 No proceedings

No Party (other than the Security Trustee or that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Trustee, Receiver or Delegate in respect of any claim it might have against the Security Trustee, Receiver or Delegate in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Property and any officer, employee or agent of the Security Trustee, Receiver or Delegate may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.

27.16 Lenders' indemnity to the Security Trustee

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Security Trustee and every Receiver and every Delegate within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct) in acting as Security Trustee, Receiver or Delegate under the Finance Documents (unless the relevant Security Trustee, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).

27.17 Own responsibility

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Creditor Party confirms to the Security Trustee that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Finance Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) whether that Creditor Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Trustee or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Security Interests created by the Finance Documents or the existence of any Security Interest affecting the Charged Property,

and each Creditor Party warrants to the Security Trustee that it has not relied on and will not at any time rely on the Security Trustee in respect of any of these matters.

27.18 No responsibility to perfect Security Interests

The Security Trustee shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;

- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Finance Documents or any Security Interest;
- (c) register, file or record or otherwise protect any Security Interests (or the priority of any of Security Interest) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Finance Documents or of any Security Interest;
- (d) take, or to require any of the Obligors to take, any steps to perfect its title to any of the Charged Property or to render any Security Interest effective or to secure the creation of any ancillary Security Interest under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Finance Documents creating the Security Interests.

27.19 Insurance by Security Trustee

- (a) The Security Trustee shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Finance Documents. The Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.
- (b) Where the Security Trustee is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Facility Agent shall have requested it to do so in writing and the Security Trustee shall have failed to do so within fourteen (14) days after receipt of that request.

27.20 Custodians and nominees

The Security Trustee may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Trustee 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 Trustee 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.

27.21 Acceptance of title

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Obligors 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.

27.22 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Trustee may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

27.23 Business with the Group

The Security Trustee may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

27.24 Winding up of trust

If the Security Trustee, with the approval of the Facility Agent determines that (a) all of the Secured Liabilities and all other obligations secured by the Finance Documents creating the Security Interests have been fully and finally discharged and (b) none of the Secured Parties 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:

- (a) the trusts set out in this Agreement shall be wound up and the Security Trustee shall release, without recourse or warranty, all of the Security Interests and the rights of the Security Trustee under each of the Finance Documents creating the Security Interests; and
- (b) any Retiring Security Trustee shall release, without recourse or warranty, all of its rights under each of the Finance Documents creating the Security Interests.

27.25 Powers supplemental

The rights, powers and discretions conferred upon the Security Trustee by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Trustee by general law or otherwise.

27.26 Trustee division separate

- (a) In acting as trustee for the Secured Parties, the Security Trustee shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Trustee, it may be treated as confidential to that division or department and the Security Trustee shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.

27.27 Disapplication

In addition to its rights under or by virtue of this Agreement and the other Finance Documents, the Security Trustee shall have all the rights conferred on a trustee by the Trustee Act 1925, the Trustee Delegation Act 1999, the Trustee Act 2000 and by general law or otherwise, provided that:

- (a) section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by this Agreement and the other Finance Documents; and
- (b) where there are any inconsistencies between (i) the Trustee Acts 1925 and 2000 and (ii) the provisions of this Agreement and any other Finance Document, the provisions of this Agreement and any other Finance Document shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, such provisions shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000.

27.28 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Security Trustee shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security trustee for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, each Servicing Party shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

27.29 Resignation of the Security Trustee

- (a) The Security Trustee may resign and appoint one of its affiliates as successor by giving notice to the Borrower and each Secured Party.
- (b) Alternatively the Security Trustee may resign by giving notice to the other Parties in which case the Majority Lenders (with the prior consent of SACE) may appoint a successor Security Trustee.
- (c) If the Majority Lenders have not appointed a successor Security Trustee in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Trustee (after consultation with the Facility Agent and SACE) may appoint a successor Security Trustee.
- (d) The retiring Security Trustee (the "**Retiring Security Trustee**") shall, at its own cost, make available to the successor Security Trustee such documents and records and provide such assistance as the successor Security Trustee may reasonably request for the purposes of performing its functions as Security Trustee under the Finance Documents.

- (e) The Security Trustee's resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer, by way of a document expressed as a deed, of all of the Security Property to that successor.
- (f) Upon the appointment of a successor, the Retiring Security Trustee shall be discharged, by way of a document executed as a deed, from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 27.24 (*Winding up of trust*) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Trustee, remain entitled to the benefit of Clause 27 (*The Security Trustee*), Clause 27.5 (*Deductions from receipts*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability in acting as Security Trustee. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Majority Lenders may, by notice to the Security Trustee, require it to resign in accordance with paragraph (b) above. In this event, the Security Trustee shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The consent of the Borrower (or any other Obligor) is not required for an assignment or transfer of rights and/or obligations by the Security Trustee.
- (i) The appointment of a successor Security Trustee pursuant to this Clause 27.29 (*Resignation of the Security Trustee*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

27.30 Delegation

- (a) Each of the Security Trustee, any Receiver or any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Finance Documents.
- (b) That delegation may be made upon any terms and conditions and subject to any restrictions that the Security Trustee, that Receiver or that Delegate (as the case may be) considers in its discretion to be appropriate and it shall not be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct or default on the part of any such delegate or sub delegate.
- (c) The Security Trustee shall exercise reasonable care in the selection of any such delegate or sub delegate.

27.31 Additional Security Trustee

- (a) The Security Trustee 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 appropriate; or
 - (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Trustee deems to be relevant; or
 - (iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Trustee shall give prior notice to the Borrower and the Facility Agent of that appointment.

- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Trustee by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Trustee 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 Trustee.

27.32 Financial Services and Markets Act 2000

- (a) Notwithstanding anything in any Finance Document to the contrary, the Security Trustee shall not do, or be authorised or required to do, anything which might constitute a regulated activity for the purpose of the Financial Services and Markets Act 2000 ("FSMA"), unless it is authorised under FSMA to do so.
- (b) The Security Trustee shall have the discretion at any time:
 - (i) to delegate any of the functions which fall to be performed by an authorised person under FSMA to any other agent or person which also has the necessary authorisations and licences; and
 - (ii) to apply for authorisation under FSMA and perform any or all such functions itself if, in its absolute discretion, it considers it necessary, desirable or appropriate to do so.

28 CONDUCT OF BUSINESS BY THE CREDITOR PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Creditor Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Creditor 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 Creditor Party to disclose any information relating to its affairs (Tax or otherwise) or any computations in respect of Tax.

29 SHARING AMONG THE CREDITOR PARTIES

29.1 Payments to Creditor Parties

If a Creditor Party (a "**Recovering Creditor Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 29 *Sharing among the Creditor Parties*) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Creditor Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Facility Agent;

- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Creditor Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Creditor Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the **Sharing Payment**) equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Creditor Party as its share of any payment to be made, in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Creditor Parties (other than the Recovering Creditor Party) in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.3 Recovering Creditor Party's rights

- (a) On a distribution by the Facility Agent under Clause 29.2 (*Redistribution of payments*), the Recovering Creditor Party will, if possible under the relevant applicable laws, be subrogated to the rights of the Creditor Parties which have shared in the redistribution.
- (b) If and to the extent that the Recovering Creditor Party is not able to rely on its rights under paragraph (a) of Clause 29.3 (*Recovering Creditor Party's rights*), the relevant Obligor shall be liable to the Recovering Creditor Party for a debt equal to the Sharing Payment which is immediately due and payable.

29.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Creditor Party becomes repayable and is repaid by that Recovering Creditor Party, then:

- (a) each Lender which has received a share of the relevant Sharing Payment pursuant to Clause 29.2 (*Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Creditor 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 Creditor Party for its proportion of any interest on the Sharing Payment which that Recovering Creditor Party is required to pay); and
- (b) that Recovering Creditor Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Creditor Party for the amount so reimbursed.

29.5 Exceptions

- (a) This Clause 29 (*Sharing among the Creditor Parties*) shall not apply to the extent that the Recovering Creditor Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.

- (b) A Recovering Creditor Party is not obliged to share with any other Creditor Party any amount which the Recovering Creditor Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Creditor Party of the legal or arbitration proceedings; and
 - (ii) that other Creditor 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.
- (c) Following full indemnification by SACE of the SACE Agent (on behalf of the Lenders) under the SACE Insurance Policy, the provisions relating to the sharing of proceeds among the Creditor Parties in this Clause 29 (*Sharing among the Creditor Parties*) shall not apply to any payment made to SACE by a Lender or the Borrower following a payment by SACE to any Lender under the SACE Insurance Policy.

30 PAYMENT MECHANICS

30.1 Payments to the Facility 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 Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to Euro, in a principal financial centre in a Participating Member State) with such bank as the Facility Agent specifies.
- (c) Payment shall be made before 11.00 a.m. Paris time.
- (d) For each payment by the Borrower, it shall notify the Facility Agent on the third Business Day prior to the due date for payment that it will issue to its bank (which shall be named in such notification) to make the payment.

30.2 Distributions by the Facility Agent or the SACE Agent

Each payment received by the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party shall, subject to Clause 30.3 (*Distributions to an Obligor*), Clause 30.4 (*Clawback*) be made available by the Facility Agent or SACE Agent (as the case may be) as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent (following which the Facility Agent shall promptly notify the SACE Agent, if relevant to it) by not less than five (5) Business Days' notice with a bank 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).

30.3 Distributions to an Obligor

The Facility Agent may in accordance with Clause 22 (*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.

30.4 Clawback

- (a) Where a sum is to be paid to the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

30.5 No set-off by Obligor

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

30.6 Business Days

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (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.

30.7 Currency of account

- (a) Subject to paragraphs (b) and (c) of Clause 30.7 (*Currency of account*) Euros is the currency of account and payment for any sum from an Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than Euros shall be paid in that other currency.

30.8 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Lenders and 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 Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Lenders and the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

30.9 Distributions under the Interest Make-up Agreement

Each payment received by the Facility Agent under the Interest Make-up Agreement for a Lender shall be made available by the Facility Agent as soon as practicable after receipt to the Lender entitled to receive such payment in accordance with this Agreement (for the account of its Facility Office), to such account as that Lender may notify to the Facility Agent by not less than five (5) Business Days' notice with a bank 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).

31 VARIATIONS AND WAIVERS

31.1 Variations, waivers etc. by Majority Lenders

Subject to Clause 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), a document shall be effective to vary, waive, amend, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by fax, by the Borrower, by the Facility Agent on behalf of the Majority Lenders, by the Facility Agent and the Security Trustee in their own rights, and, if the document relates to a Finance Document to which an Obligor is party, by an Obligor (provided that no amendment or variation may be made to this Agreement or any other Finance Document without the consent of the Italian Authorities); provided, further, that no amendment or variation may be made before the date falling ten Business Days after the terms of that amendment or variation have been notified by the Facility Agent to the Lenders. The Facility Agent shall notify the Lenders reasonably promptly of any amendments or variations proposed by the Borrower.

31.2 Variations, waivers etc. requiring agreement of all Lenders

However, as regards the following, Clause 31.1 (*Variations, waivers etc. by Majority Lenders*) applies as if the words "by the Facility Agent on behalf of the Majority Lenders" were replaced by the words "by or on behalf of every Lender":

- (a) a reduction in the Margin;
- (b) a postponement to the date for, or a reduction in the amount of, any payment of principal, interest, fees, commission or other sum payable under this Agreement;
- (c) an increase in or extension of any Lender's Commitment, including, for the avoidance of doubt, any increase arising pursuant to the provisions of Clause 8.1 *ACE Premium*) or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Loan;

- (d) a change to the definition of "**Majority Lenders**";
- (e) a change to Clause 2 (*Facility*), Clause 6 (*Interest*), Clause 24 (*Changes to the Lenders*) or this Clause 31 (*Variations and Waivers*);
- (f) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
- (g) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender's consent is required.

31.3 Exclusion of other or implied variations

Except for a document which satisfies the requirements of Clauses 31.1 (*Variations, waivers etc. by Majority Lenders*) and 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower or an Obligor of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

32 NOTICES

32.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

32.2 Addresses for communications

A notice shall be sent:

- (a) to the Borrower: 7665 Corporate Center Drive
Miami FL 33126 USA
Fax No: (00) 1 305 436 4140
- (b) to a Lender: At the address below its name in Schedule 1 (*Lenders and Commitments*) or (as the case may require) in the relevant Transfer Certificate.
- (c) to the Facility Agent: CIB- COO Office-TMEF
Millénaire 4
35 rue de la gare
75019 Paris
Fax No. (33) 1 43 16 81 84
Attn: Attention: S. CASET-CARRICABURU/B. SOHIER
Email: sylvie.casetcarricaburu@bnpparibas.com
beatrice.sohier@bnpparibas.com
- (d) to the SACE Agent: 12, place des Etats-Unis
CS 70052
92547 Montrouge cedex
Paris
Fax No. (33) 1 41 89 19 34
Attn: Shipping Middle Office – Ms Clémentine Costil and Romy Roussel
E-mail: clementine.costil@ca-cib.com
romy.rousseau@ca-cib.com
- (e) to the Security Trustee: 8 Canada Square
London
E14 5HQ
Fax: +44 20 7991 4350
Email: Ctla.trustee.admin@hsbc.com
Attention: CTLA Trustee Services Administration

or to such other address as the relevant party may notify the Facility Agent or, if the relevant party is the Facility Agent, the Borrower and the Lenders.

32.3 Effective date of notices

Subject to Clauses 32.4 (*Service outside business hours*) and 32.5 (*Electronic communication*):

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered;
- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.

32.4 Service outside business hours

However, if under Clause 32.3 (*Effective date of notices*) a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
- (b) on such a business day, but after 6 p.m. local time;

the notice shall (subject to Clause 32.5 (*Electronic communication*)) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

32.5 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means, to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

32.6 Illegible notices

Clauses 32.3 (*Effective date of notices*) and 32.4 (*Service outside business hours*) do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

32.7 Valid notices

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

32.8 English language

Any notice under or in connection with a Finance Document shall be in English.

32.9 Meaning of "notice"

In this Clause 32 (*Notices*), "**notice**" includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

33 CONFIDENTIALITY

33.1 Confidential Information

Each Creditor Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 *Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

33.2 Disclosure of Confidential Information

Any Creditor Party may disclose:

- (a) to the Italian Authorities, to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Creditor Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates, Representatives and professional advisers;
 - (ii) who is an insurer or reinsurer of any Creditor Party and requests such information;
 - (iii) 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, Representatives and professional advisers;
 - (iv) appointed by any Creditor Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
 - (v) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
 - (vi) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;

- (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (viii) who is a Party, a member of the Group or any related entity of an Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document; or
- (x) with the consent of the Guarantor; or
- (xi) any employee, officer, director or Representative of any Italian Authorities to whom information is required to be disclosed in the course of such person's employment or duties;
- (xii) to whom or for whose benefit that Creditor Party charges, assigns or otherwise creates a Security Interest (or may do so) pursuant to Clause 24.16 ~~Security over Lenders' rights~~.

in each case, such Confidential Information as that Creditor Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii) and (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to paragraph (b)(v) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(vi), (b)(vii) and (b)(xii) 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 Creditor Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Creditor Party or by a person to whom sub-paragraphs (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Creditor Party;

- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the 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.

33.3 Entire agreement

This Clause 33 (*Confidentiality*) constitutes the entire agreement between the Parties in relation to the obligations of the Creditor Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

33.4 Disclosure to information services

- (a) Any Creditor Party may disclose to any national or international information service company such as Dealogic, TF, GTR, TXF, IFR and any other similar information service company appointed by that Creditor Party, the following information:

- (i) names of Parties;
- (ii) country of domicile of Obligors;
- (iii) place of incorporation or formation, as the case may be of Obligors;
- (iv) date of this Agreement and Effective Date;
- (v) Clause 38 (*Governing Law*);
- (vi) the name of the Facility Agent;
- (vii) amount of Total Commitments;
- (viii) currency of the Facility;
- (ix) type of Facility;
- (x) ranking of Facility; and
- (xi) duration of Facility,

to enable such information service company to provide its usual services.

- (b) Each Obligor represents that none of the information set out in sub-paragraphs (i) to (xi) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.

33.5 Inside information

Each of the Creditor Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Creditor Parties undertakes not to use any Confidential Information for any unlawful purpose.

33.6 Notification of disclosure

Each of the Creditor Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(vi) of Clause 33.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 33 (*Confidentiality*).

33.7 Continuing obligations

The obligations in this Clause 33 (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each Creditor Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Creditor Party otherwise ceases to be a Creditor Party.

33.8 Disclosure by SACE

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information:

- (a) as required to be disclosed by applicable law, regulation, rule or order of a competent authority in the context of litigation, arbitration or administrative proceedings to which SACE is subject or as required to be disclosed as a consequence of the participation of SACE and/or the Republic of Italy to an international organisation of which SACE and/or the Republic of Italy is a member (and in such event, upon notification from SACE, the SACE Agent shall inform the Obligors of such requirement as soon as reasonably practicable to the extent permitted by law, regulation, rule or order of a competent authority and the person to whom such Confidential Information is to be given is informed of its confidential nature);
- (b) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (c) to any providers of any reinsurance, counter-guarantee or any form of risk enhancement (including but not limited to SACE's agents, brokers and consultants) subject to such persons entering into confidentiality arrangements with SACE unless such persons are subject to professional obligations of confidentiality;
- (d) if required for the purposes of the state guarantee in favour of SACE pursuant to article 32 of law-decree no. 91/2014 converted into law 116/2014 in the Republic of Italy;

- (e) following any payment due under the SACE Insurance Policy; or
- (f) with the consent of the Borrower, such consent not to be unreasonably withheld.

33.9 Disclosure by SIMEST

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information to SIMEST provided that SIMEST may, in turn, disclose such Confidential Information:

- (a) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (b) to its professional advisers provided that such advisers are under a professional duty to keep such information confidential;
- (c) to providers of hedging arrangements entered into by SIMEST in connection with the Facility (including their agents, brokers and consultants) subject to such persons undertaking confidentiality obligations with SIMEST (unless they are subject to professional duties of confidentiality) and with the written consent of the Borrower (such consent not to be unreasonably withheld); or
- (d) with the consent of the Borrower.

33.10 Press release

Neither SACE nor the Borrower will issue any press release or make any public announcement in relation to the SACE Insurance Policy without the prior consent of the other party (such consent not to be unreasonably withheld).

34 CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

34.1 Confidentiality and disclosure

- (a) The Facility Agent and the Borrower agree to keep each Funding Rate (and, in case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.
- (b) The Facility Agent may disclose any Funding Rate or Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation and the Borrower may disclose any Funding Rate to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives, if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this sub-paragraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;

- (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
- (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
- (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.

34.2 Related obligations

- (a) The Facility Agent and the Borrower acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and the Borrower undertake not to use any Funding Rate (or, in the case of the Facility Agent, any Reference Bank Quotation) for any unlawful purpose.
- (b) The Facility Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (c) of Clause 34.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

35 LEGAL INDEPENDENCE AND UNCONDITIONAL OBLIGATIONS OF THE BORROWER

35.1 Legal independence and Unconditional Obligations of the Borrower

This Agreement is legally independent from the Shipbuilding Contract. The obligations of the Borrower to make payments and to observe and perform its obligations under the Transaction Documents are absolute, unconditional, irrevocable and several and such obligations shall not:

- (a) in any way be affected or discharged by reason of any matter affecting the Shipbuilding Contract including its performance, frustration or validity, the insolvency or dissolution of any party to the Shipbuilding Contract or the destruction, non-completion or non-functioning of the goods and equipment supplied under the Shipbuilding Contract;
- (b) in any way be affected or discharged by reason of any dispute under the Shipbuilding Contract or any claim which it or any other person may have against, or consider that it has against, any person under the Shipbuilding Contract;
- (c) in any way be affected or discharged by reason of unenforceability, illegality or invalidity of any obligation of the Borrower or any other person under the Shipbuilding Contract or any documents or agreements relating to the Shipbuilding Contract;
- (d) in any way be affected by the fact that all or any part of the amount requested referred to in the Drawdown Notice is not or was not due or payable to the Builder;
- (e) be conditional on the performance by the Creditor Parties of any obligations (except as otherwise stated herein) in order to give rise to a relevant obligation of the Borrower hereunder; or
- (f) in any way be affected or discharged by the insolvency or dissolution of the Borrower.

36 SACE SUBROGATION AND REIMBURSEMENT

36.1 Acknowledgement of Subrogation

Each of the Parties acknowledges that, upon any payment being made by or on behalf of SACE of any amount under the SACE Insurance Policy, SACE will be immediately and automatically subrogated to the rights of the Lenders in the amount of such payment under the Finance Documents in accordance with the SACE Insurance Policy. Following such subrogation, the Creditor Parties shall provide all assistance required by SACE to enforce its rights under this Agreement and the other Finance Documents.

36.2 Reimbursement

- (a) Without prejudice to Clause 36.1 (*Acknowledgement of Subrogation*), each Obligor, jointly and severally undertakes to pay to SACE, and keep SACE indemnified from and against, each and every amount paid (whether by direct payment or set-off) by SACE to the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy;
- (b) Each Obligor undertakes to pay SACE an amount in Euros equal to:
 - (i) for each payment made by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such payment; and
 - (ii) for each deduction or withholding imposed, levied, collected, withheld or assessed on any payment by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such deduction or withholding.

in each case together with interest thereon (calculated in accordance with Clause 17.1 *Default rate of interest*) of this Agreement).

- (c) Each Obligor further agrees that its obligations under this Clause 36.2 (*Reimbursement*) are separate from and in no way conditional upon the Obligor's obligations under this Agreement or any of the other Finance Documents and will not be affected or discharged by any matter relating thereto including, but not limited to, whether or not the Obligor is itself liable to make payment, or is disputing its liability to make payment, under this Agreement or any of the other Finance Documents.
- (d) SACE will promptly inform the Obligors of any amounts to be reimbursed and indemnified under this Clause 36.2 (*Reimbursement*).
- (e) Each amount that is payable by the Obligors pursuant to Clause 36.2 (*Reimbursement*) is due and payable to SACE in Euros within five (5) Business Days of demand by SACE to the Obligors.

36.3 Obligations Absolute

The obligations of the Obligors under this Clause 36.2 (*Reimbursement*), to the extent permitted by applicable law:

- (a) are absolute and unconditional;
- (b) are to be discharged and/or performed strictly in accordance with this Agreement under all circumstances;
- (c) are continuing obligations and will extend to the ultimate balance of sums payable by SACE to any Creditor Party or any person on any of their behalf under the SACE Insurance Policy, regardless of any intermediate payment or discharge in whole or in part;
- (d) will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under Clause 36.2 (*Reimbursement*) (without limitation and whether or not known to it or any Creditor Party) including:
 - (i) any time, waiver or consent granted to, or composition with any Obligor;
 - (ii) any lack of validity or enforceability of, or any amendment or other modifications of, or waiver with respect to, any of the Finance Documents;
 - (iii) any reduction or release of any other obligations under this Agreement;
 - (iv) the release of any Obligor or any other person under the terms of any composition or arrangement;
 - (v) the taking, variation, compromise, exchange, renewal, discharge, substitution or release of, or refusal or neglect to perfect, take up, realise or enforce, any rights against, or security over assets of, any Obligor or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - (vi) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor, any Creditor Party or any other person;

- (vii) any amendment (however fundamental) or replacement of a Finance Document, the SACE Insurance Policy or any other document or security;
- (viii) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, the SACE Insurance Policy or any other document or security;
- (ix) any insolvency or similar proceedings;
- (x) the existence of any claim, set-off, defence, reduction, abatement or other right which any Obligor may have at any time against SACE;
- (xi) any document presented in connection with the SACE Insurance Policy proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
- (xii) any payment by SACE against presentation of a demand for payment substantially, on its face, in the form of a claim under the SACE Insurance Policy where any certificate or other document required to be provided with such claim in accordance with the terms of the SACE Insurance Policy either is not provided or does not comply with the terms of the SACE Insurance Policy; and
- (xiii) any other circumstances which might otherwise constitute a defence available to, or discharge of any Obligor.

37 SUPPLEMENTAL

37.1 Rights cumulative, non-exclusive

The rights and remedies which the Finance Documents give to each Secured Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

37.2 Severability of provisions

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

37.3 Counterparts

A Finance Document may be executed in any number of counterparts.

37.4 Third party rights

- (a) Except for SACE, SIMEST and their successors, transferees and assignees or as otherwise provided in a Finance Document, a person who is not a Party has no right under the Third Party Act to enforce or to enjoy the benefit of any term of this Agreement.

- (b) Notwithstanding any provision of any Finance Document, the consent of any person (other than SACE, SIMEST or their successors, transferees and assignees) who is not a party to a Finance Document is not required to rescind, vary or terminate any Finance Document at any time.
- (c) Subject to the provisions of the Third Party Act, and without prejudice to the provisions of paragraphs (a) and (b) above, each of SACE and/or SIMEST (as applicable) has the right to enforce and to enjoy the benefit of Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clause 20.2 (*Breakage costs and SIMEST arrangements*), Clause 20.3 (*Miscellaneous indemnities*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 10.6 (*VAT*), Clause 10.13 (*SACE obligations*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable).
- (d) Any amendment or waiver which relates to the rights of SACE and/or SIMEST (as applicable) under this Agreement, including under Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 20.3 (*Miscellaneous indemnities*), Clause 10.6 (*VAT*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), Clause 33.10 (*Press release*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable) may not be effected without the consent of SACE and/or SIMEST (as applicable).

37.5 No waiver

No failure or delay on the part of a Secured Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise thereof preclude any other or further exercise thereof by the Secured Parties or the exercise by the Secured Parties of any other right, power or privilege. The rights and remedies of the Secured Parties herein provided are cumulative and not exclusive of any rights or remedies provided by law.

37.6 Writing required

This Agreement shall not be capable of being modified otherwise than by an express modification in writing signed by the Borrower, the Facility Agent and the Lenders.

37.7 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under paragraph (e) of Clause 12.2 (*Information*), Clause 12.4 (*Sanctions and Illicit Payments*), Clause 12.5 (*Prohibited Payments*), Clause 12.24 (*Compliance with laws etc.*) or provisions contained in Clause 20.3 (*Miscellaneous indemnities*) or Clause 21.1 (*Illegality and Sanctions*) and the representations and warranties given under paragraphs (u), (v), (y), (z) and (jj) of Clause 11.2 (*Continuing representations and warranties*) and paragraph (j) of Clause 11.3 (*Representations on the Delivery Date*) respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.

- (b) If a Creditor Party elects to be a Restricted Creditor Party, in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

38 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with English law.

39 ENFORCEMENT

39.1 Jurisdiction of English Courts

The courts of England have exclusive jurisdiction to settle any Dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**"). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

39.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.

If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within 15 days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

40 WAIVER OF IMMUNITY

40.1 To the fullest extent permitted by applicable law, the Borrower hereby irrevocably and unconditionally:

- (a) submits to the jurisdiction of the English courts in accordance with Clause 39 (*Enforcement*) and agrees not to claim any sovereign or other immunity from the jurisdiction of any such court;
- (b) submits to the jurisdiction of the English courts in respect of any proceedings arising out of or connected with the enforcement and/or execution of any judgment made against it and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to the recognition of any such judgment or court order and agrees to ensure that no such claim is made on its behalf;
- (c) consents generally in respect of any such proceedings to the giving of any relief in the English courts and the courts of any other jurisdiction whether before or after a final judgment including, without limitation: suit, relief by way of interim or final injunction or order for specific performance or recovery of any property, attachment of its assets prior to judgment, other attachment, the obtaining of judgment and enforcement or execution against any property, revenues or other assets whatsoever (irrespective of their use or intended use) and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to such enforcement and the giving of such relief (including to the extent that such immunity may be attributed to it) against itself or with respect to its assets, and agrees to ensure that no such claim is made on its behalf or with respect to its assets;
- (d) waives any right of immunity which it or its assets now has or may subsequently acquire; and
- (e) agrees not to claim any sovereign or other immunity from service of process against its assets or revenues for the enforcement of a judgment or an action in rem, for the arrest, detention or sale of any of its assets and revenues.

40.2 The Borrower agrees that in any proceedings in the English courts this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 (the "**Act**") and that this waiver is intended to be irrevocable for the purposes of such Act.

41 EFFECTIVE DATE

This Agreement and the other Finance Documents shall not come into force or have any legal effect until the occurrence of the Effective Date.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

LENDERS AND COMMITMENTS

| Lender | Facility Office | Commitment (%) | Amount (EUR) |
|---|---|---------------------------|-------------------------|
| Banco Santander S.A. | Avda. Cantabria s/n. 28660 Boadilla del Monte, Madrid, Spain | [*]% | [*] |
| BNP Paribas Fortis S.A./N.V. | 3, Montagne du Parc, 1 KA1E 1000 Brussels, Belgium | [*]% | [*] |
| Cassa Depositi e Prestiti S.p.A. | Via Goito, 4 – 00185, Rome, Italy | [*]% | [*] |
| Crédit Agricole Corporate and Investment Bank | 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France | [*]% | [*] |
| HSBC Bank plc | Level 2, 8 Canada Square, London E14 5HQ, United Kingdom | [*]% | [*] |
| KfW IPEX-Bank GmbH | Palmengartenstr. 5-9 60325 Frankfurt Germany | [*]% | [*] |
| Société Générale | 29, boulevard Haussmann 75009 Paris France | [*]% | [*] |

SCHEDULE 2

FORM OF DRAWDOWN NOTICE

To: BNP Paribas
Attention: Loans Administration

[●]

DRAWDOWN NOTICE

- 1 We refer to the loan agreement (the "**Loan Agreement**") dated [●] 2018 and made between, *inter alios*, ourselves, as Borrower, the Lenders, and the Joint Mandated Lead Arrangers referred to therein and yourselves as Facility Agent in connection with a facility of up to € [●]. Terms defined in the Loan Agreement have their defined meanings when used in this Drawdown Notice.
- 2 We request to borrow as follows:-
- (a) Amount:
- (i) €[●] in respect of the payment of part of the Eligible Amount of the Final Contract Price to be paid to the Builder to the account specified in paragraph (d) below;
- (ii) €[●] in respect of the First Instalment of the SACE Premium to be reimbursed to the Borrower to the account specified in paragraph (d) below;
- (iii) €[●] in respect of the Second Instalment of the SACE Premium to be paid, in accordance with paragraph (d) below to SACE.
- (b) Drawdown Date: [●];
- (c) Duration of the first Interest Period shall be 6 months;
- (d) Payment instructions:
- (i) [in respect of Clause 2(a)(i) above:
Beneficiary: FINCANTIERI S.p.A.
[account details to be completed]
- (ii) [in respect of Clause 2(a)(ii) above:
Beneficiary: O CLASS PLUS TWO, LLC
[account details to be completed]
- (iii) [in respect of Clause 2(a)(iii) above:
Beneficiary: SACE S.p.A.
[account details to be completed]

- 3 We represent and warrant that:
- (a) the representations and warranties in Clauses 11.2 (*Continuing representations and warranties*) and 11.3 (*Representations on the Delivery Date*) of the Loan Agreement would remain true and not misleading if repeated on the date of this notice with reference to the circumstances now existing;
 - (b) no Event of Default has occurred or will result from the borrowing of the Loan.
- 4 This notice cannot be revoked without the prior consent of the Facility Agent.

[Name of Signatory]

Manager

for and on behalf of
O CLASS PLUS TWO, LLC

SCHEDULE 3

DOCUMENTS TO BE PRODUCED BY THE BUILDER TO THE FACILITY AGENT ON DELIVERY

- 1 Qualifying Certificate, duly signed by the Builder, and the related attachments:
 - 1.1 a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined under the Shipbuilding Contract), as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - 1.2 a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract);
 - 1.3 a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract; and
 - 1.4 a duly executed Exporter Declaration.
- 2 Certified copy of the acknowledgement of the notice of assignment of the Borrower's rights under the post-delivery warranty given by the Builder under the Shipbuilding Contract pursuant to the Post-Delivery Assignment.
- 3 Certified Copy of the power of attorney pursuant to which the authorised signatory of the Builder signed the documents referred to in this Schedule 3 *Documents to be produced by the Builder to the Facility Agent on Delivery*) and a specimen of his signature.
- 4 Evidence that, at the time of delivery of the Ship on the Delivery Date, no encumbrances whatsoever are registered against the Ship in the competent Italian registry of ships under construction.

SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

The Transferor and the Transferee accept exclusive responsibility for ensuring that this Certificate and the transaction to which it relates comply with all legal and regulatory requirements applicable to them respectively.

To: [Name of Facility Agent] for itself and for and on behalf of the Borrower, any other Obligor, the Security Trustee and each Lender, as defined in the Loan Agreement referred to below.

[●]

1 This Certificate relates to Loan Agreement (the "**Loan Agreement**") dated [●] 2018 and made between (1) O CLASS PLUS TWO, LLC (the "**Borrower**"), (2) the banks and financial institutions named therein as lenders (3) BNP Paribas as Facility Agent and (4) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a loan facility of up to €[●].

2 In this Certificate, terms defined in the Loan Agreement shall, unless the contrary intention appears, have the same meanings and:

"**Relevant Parties**" means the Facility Agent, the Borrower, any other Obligor, the Security Trustee and each Lender.

"**Transferee**" means [full name] of [facility office].

"**Transferor**" means [full name] of [facility office].

3 The effective date of this Certificate is [●], **provided that** this Certificate shall not come into effect unless it is signed by the Facility Agent on or before that date.

4 The Transferor assigns to the Transferee absolutely all rights and interests (present, future or contingent) which the Transferor has as Lender under or by virtue of the Loan Agreement and every other Finance Document in relation to [●] per cent. of its Contribution, which percentage represents €[●].

5 By virtue of this Certificate and clause 24 (*Changes to the Lender*) of the Loan Agreement, the Transferor is discharged entirely from its Commitment which amounts to €[●] from [●] per cent. of its Commitment, which percentage represents €[●] and the Transferee acquires a Commitment of € [●].

6 The Transferee undertakes with the Transferor and each of the Relevant Parties that the Transferee will observe and perform all the obligations under the Finance Documents which clause 24 (*Changes to the Lender*) of the Loan Agreement provides will become binding on it upon this Certificate taking effect.

7 The Facility Agent, at the request of the Transferee (which request is hereby made) accepts, for the Facility Agent itself and for and on behalf of every other Relevant Party, this Certificate as a Transfer Certificate taking effect in accordance with clause 24 (*Changes to the Lender*) of the Loan Agreement.

- 8 The Transferor:
- (a) warrants to the Transferee and each Relevant Party that:
 - (i) the Transferor has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which are in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferor;
 - (b) warrants to the Transferee that the Transferor is absolutely entitled, free of encumbrances, to all the rights and interests covered by the assignment in paragraph 4 above; and
 - (c) undertakes with the Transferee that the Transferor will, at its own expense, execute any documents which the Transferee reasonably requests for perfecting in any relevant jurisdiction the Transferee's title under this Certificate or for a similar purpose.
- 9 The Transferee:
- (a) confirms that it has received a copy of the Loan Agreement and each of the other Finance Documents;
 - (b) agrees that it will have no rights of recourse on any ground against either the Transferor, the Facility Agent, the Security Trustee or any Lender in the event that:
 - (i) any of the Finance Documents prove to be invalid or ineffective;
 - (ii) the Borrower or any Obligor fails to observe or perform its obligations, or to discharge its liabilities, under any of the Finance Documents;
 - (iii) it proves impossible to realise any asset covered by a Security Interest created by a Finance Document, or the proceeds of such assets are insufficient to discharge the liabilities of the Borrower or other Obligors under the Finance Documents;
 - (c) agrees that it will have no rights of recourse on any ground against the Facility Agent, the Security Trustee or any Lender in the event that this Certificate proves to be invalid or ineffective;
 - (d) warrants to the Transferor and each Relevant Party that:
 - (i) it has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which it needs to take or obtain in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferee; and
 - (e) confirms the accuracy of the administrative details set out below regarding the Transferee.
- 10 The Transferor and the Transferee each undertake with the Facility Agent and the Security Trustee severally, on demand, fully to indemnify the Facility Agent and/or the Security Trustee in respect of any claim, proceeding, liability or expense (including all legal expenses) which they or either of them may incur in connection with this Certificate or any matter arising out of it, except such as are shown to have been mainly and directly caused by the gross and culpable negligence or dishonesty of the Facility Agent's or the Security Trustee's own officers or employees.

11 The Transferee shall repay to the Transferor on demand so much of any sum paid by the Transferor under paragraph 10 as exceeds one-half of the amount demanded by the Facility Agent or the Security Trustee in respect of a claim, proceeding, liability or expense which was not reasonably foreseeable at the date of this Certificate; but nothing in this paragraph shall affect the liability of each of the Transferor and the Transferee to the Facility Agent or the Security Trustee for the full amount demanded by it.

[Name of Transferor]

[Name of Transferee]

By:

By:

Date:

Date:

Facility Agent

Signed for itself and for and on behalf of itself

as Facility Agent and for every other Relevant Party

[Name of Facility Agent]

By:

Date:

Administrative Details of Transferee

Name of Transferee:

Facility Office:

Contact Person

(Loan Administration Department):

Telephone:

Fax:

Contact Person

(Credit Administration Department):

Telephone:

Fax:

Account for payments:

Note: This Transfer Certificate alone may not be sufficient to transfer a proportionate share of the Transferor's interest in the security constituted by the Finance Documents in the Transferor's or Transferee's jurisdiction. It is the responsibility of each Lender to ascertain whether any other documents are required for this purpose.

SCHEDULE 5

QUALIFYING CERTIFICATE

To: BNP Paribas as Facility Agent (the "**Facility Agent**")

cc: O CLASS PLUS TWO, LLC as Borrower

From: Fincantieri S.p.A (the "**Builder**")

Date: [●]

Dear Sirs,

- 1 We refer to the SACE backed term facility agreement dated [●] 2018 (as supplemented, amended and/or restated from time to time, the "**Facility Agreement**") and entered into between, among others, the Facility Agent, the Borrower and the financial institutions named therein as Lenders. Terms defined in the Facility Agreement shall have the same meaning when used herein.
- 2 This is a Qualifying Certificate.
- 3 This Qualifying Certificate relates to the Drawdown Notice dated [●].
- 4 We attach hereto the following documents in respect of the Ship to be delivered on the Delivery Date under the Shipbuilding Contract:
 - (a) a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined in the Shipbuilding Contract) as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - (b) a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract) duly executed by the Builder;
 - (c) a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract duly executed by the Builder and the Borrower; and
 - (d) a duly executed Exporter Declaration.
- 5 We hereby certify that the cumulative total amount invoiced by us pursuant to the Contract Price (as defined in the Shipbuilding Contract) paid by the Borrower as direct payment is as follows: €[●] corresponding to not less than twenty per cent. (20)% of the Final Contract Price of the Ship.
- 6 We hereby warrant that:
 - (a) the amount claimed does not include any sum in respect of any matter currently the subject of arbitration or other proceeding nor to the best of our knowledge and belief will it be the subject of arbitration or other proceeding;

- (b) the Shipbuilding Contract has not been terminated, suspended or amended and to the best of our knowledge and belief no action is proceeding which might lead to the termination or suspension thereof;
- (c) all relevant authorisations (if any) in respect of the Ship intended to be financed by the proposed Loan have been obtained and are in full force and effect;
- (d) all documents supplied by us in support of this Qualifying Certificate are in all material respect in conformity with the Shipbuilding Contract and SACE's requirements; you may rely on the accuracy and completeness of all information and documents contained in or supplied with this Qualifying Certificate or delivered pursuant thereto:
 - (i) the goods incorporated in and used for the construction of the Ship have the origin set out in the table below and complies with the requirements of the SACE Insurance Policy; and

| Origin of the goods incorporated in the Ship | Value in percentage of the total Contract Price of the Ship | Relevant portion of the Contract Price of the Ship |
|---|--|---|
| Italian goods | [●]% | € [●] |
| Other EU goods | [●]% | € [●] |
| Extra EU goods (if any) | [●]% | € [●] |
| | Total Contract Price of the Ship (in percentage) = | Total Contract Price of the Ship = € [●] |
| | 100% | |

- (ii) the aggregate amounts transferred abroad (*importi trasferiti all'estero*) up to the date hereof and to be transferred abroad following the Drawdown Date for any reason connected to the performance of the Shipbuilding Contract, are equal to € [●].

Yours faithfully,

Fincantieri S.p.A
 For and on behalf of the Builder
 (the Authorised Signatory of the Builder)

EXECUTION PAGES

BORROWER

SIGNED by

for and on behalf of
O CLASS PLUS TWO, LLC

in the presence of:

) /s/ Paul A. Turner

) Paul A. Turner
) Attorney-in-Fact
)

) /s/Nicholas Block

Solicitor
Clyde & Co LLP
The St Botolph Building
138 Houndsditch
London EC3A 7AR
United Kingdom

LENDERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**

in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND
)
) /s/Anne-Laure ORANGE

) Anne-Laure ORANGE
)
) /s/ Anne-Sophie Spach

Anne-Sophie Spach

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

) /s/Véronique DE BLIC

) Véronique DE BLIC
) Head of Export Finance EMEA
)
) /s/Bruno CLOQUET

Bruno CLOQUET
Global Head of Exporters and ECAs Origination

) /s/Scheerlinck Lieve

Scheerlinck Lieve

SIGNED by

for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

) /s/Parit Patani

) Parit Patani
) Attorney-in-Fact
)
) /s/Pierre Welch

Pierre Welch

SIGNED by

for and on behalf of
HSBC BANK PLC
in the presence of:

) /s/ Philip E Lewis

) Philip E Lewis
)
) /s/Kirstie Moore

) Kirstie Moore

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

) /s/Francesco De Bartolo

) Francesco De Bartolo
) Head of Execution Export Banca
)
) /s/Giulio Dal Magro

Giulio Dal Magro
Head of International Financing

/s/Matteo Primicerio

Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

) /s/Jose Luis Vicent

) Jose Luis Vicent
)
) /s/Antonio Sala

) Antonio Sala

/s/Juan Carlos García Rosas

Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

) /s/Konstantina Kyprianidou

) Konstantina Kyprianidou
) Attorney-in-Fact
)
) /s/Natasha Seel

Natasha Seel
Solicitor
Watson Farley & Williams LLP
28 avenue Victor Hugo
75116 Paris

JOINT MANDATED LEAD ARRANGERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND
)
) /s/Anne-Laure Orange

) Anne-Laure Orange

/s/Anne-Sophie Spach

Anne-Sophie Spach

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

) /s/Véronique DE BLIC

) Véronique DE BLIC
) Head of Export Finance EMEA
)
) /s/ Bruno CLOQUET

Bruno CLOQUET
Global Head of Exporters and ECAs Origination

/s/Scheerlinck Lieve

Scheerlinck Lieve

SIGNED by

for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

) /s/Parit Patani

) Parit Patani
) Attorney-in-Fact
)
) /s/Pierre Welch

Pierre Welch

SIGNED by

for and on behalf of
HSBC BANK PLC
in the presence of:

) /s/Philip E Lewis

) Philip E Lewis
)
) /s/Kirstie Moore

) Kirstie Moore

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

) /s/Francesco De Bartolo

) Francesco De Bartolo
) Head of Execution Export Banca
)
) /s/Giulio Dal Magro

Giulio Dal Magro
Head of International Financing

/s/Matteo Primicerio

Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

) /s/Jose Luis Vicent

) Jose Luis Vicent
)
) /s/ Antonio Sala

Antonio Sala
)

/s/Juan Carlos García Rosas

Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

) /s/Konstantina Kyprianidou

) Konstantina Kyprianidou

) Attorney-in-Fact

)

) /s/Natasha Seel

Natasha Seel

Solicitor

Watson Farley & William LLP

28 avenue Victor Hugo

75115 Pariss

FACILITY AGENT

SIGNED by

for and on behalf of
BNP PARIBAS
in the presence of:

) /s/Luca Lunari

) Luca Lunari

) Head of Export Finance Italy BNP-Paribas

)

) /s/Stefano Leo

Stefano Leo

Deputy Head of Export Finance Italy BNP-Paribas

) /s/Pietro Vetulli

Pietro Vetulli

SACE AGENT

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

) /s/Jérôme LEBLOND

) Jérôme LEBLOND

)

) /s/Anne-Laure ORANGE

) Anne-Laure ORANGE

)

) /s/Anne-Sophie Spach

Anne-Sophie Spach

SECURITY TRUSTEE

SIGNED by

for and on behalf of
**HSBC CORPORATE TRUSTEE
COMPANY (UK) LIMITED**
in the presence of:

) /s/Andrea Stevenson

) Andrea Stevenson

) Authorised Signatory

)

)

) /s/Hanish Bhatt

Hanish Bhatt

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution version

Dated 19 December 2018

NCL CORPORATION LTD.
as Guarantor

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

GUARANTEE

relating to a Loan Agreement dated 19 December 2018 in respect of
the passenger cruise ship newbuilding presently designated as Hull No. [*]

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THIS GUARANTEE is made on 19 December 2018

PARTIES

- (1) **NCL CORPORATION LTD.**, an exempted company incorporated under the laws of Bermuda with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda (the "**Guarantor**")
- (2) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, a company incorporated in England and Wales (with registered number 06447555) whose registered office is at 8 Canada Square, London E14 5HQ as security trustee on behalf of the Secured Parties (the "**Security Trustee**", which expression includes its successors, transferees and assigns)

BACKGROUND

- (A) By a shipbuilding contract dated 31 October 2018 (as amended from time to time) (the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A, a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) O Class Plus Two, LLC (the "**Borrower**"), the Builder has agreed to design, construct and deliver, and the Borrower has agreed to purchase, a 1,258 passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
- (B) By a loan agreement dated 19 December 2018 (as amended from time to time), and made between (i) the Borrower, (ii) the Lenders, (iii) the Joint Mandated Lead Arrangers, (iv) the Facility Agent, (v) the SACE Agent and (vi) the Security Trustee, it was agreed that the Lenders would make available to the Borrower, a facility of up to four hundred and sixty two million and nine hundred and sixty thousand Euros (€ 462,960,000) and the amount of the SACE Premium (but not exceeding four hundred and eighty million, two hundred and forty eight thousand, nine hundred and sixty two Euros and sixty six cents (€ 480,248,962.66)) for the purpose of assisting the Borrower, in financing (a) payment or reimbursement under the Shipbuilding Contract of all or part of 80% of the Final Contract Price up to the Eligible Amount and (b) reimbursement to the Borrower of 100% of the First Instalment of the SACE Premium paid by it to SACE and payment to SACE of 100% of the Second Instalment of the SACE Premium (as defined therein).
- (C) The execution and delivery to the Security Trustee of this Guarantee is one of the conditions precedent to the availability of the facility under the Loan Agreement.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Defined expressions

Words and expressions defined in the Loan Agreement shall have the same meanings when used in this Guarantee unless the context otherwise requires.

1.2 Construction of certain terms

In this Guarantee:

"**Bankruptcy**" includes a liquidation, receivership or administration and any form of suspension of payments, arrangement with creditors or reorganisation under any corporate or insolvency law of any country.

"**Capital Stock**" means:

- (a) in the case of a corporation or company, corporate stock or shares;
- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person.

"**First Financial Quarter**" means the financial quarter ending immediately prior to or on the date falling forty five (45) days before the Intended Delivery Date.

"**Loan Agreement**" means the loan agreement dated 19 December 2018 referred to in Recital (B) and includes any existing or future amendments, restatements, or supplements, whether made with the Guarantor's consent or otherwise.

"**Management**" means the employees of the Guarantor and its subsidiaries or their dependants or any trust for which such persons are the intended beneficiary.

"**Party**" means a party to this Guarantee.

1.3 Application of construction and interpretation provisions of Loan Agreement

Clauses 1.2 (*Construction of certain terms*) to 1.5 (*General Interpretation*) of the Loan Agreement apply, with any necessary modifications, to this Guarantee.

1.4 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under any of Clause 10.12 (*Sanctions*) or any undertakings in Clause 11.19 (*Sanctions and Illicit Payments*), Clause 11.20 (*Prohibited Payments*) and Clause 11.21 (*Sanctions*) of this Guarantee respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.
- (b) If a Creditor Party elects to be a Restricted Creditor Party pursuant to the foregoing paragraph (a), in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

2 GUARANTEE

2.1 Guarantee and indemnity

The Guarantor unconditionally and irrevocably:

- (a) guarantees to the Security Trustee (acting on behalf of the Secured Parties) punctual performance by the Borrower of all the Borrower's obligations under or in connection with the Loan Agreement and every other Finance Document;
- (b) undertakes to the Security Trustee that whenever the Borrower does not pay any amount when due under or in connection with the Loan Agreement and the other Finance Documents, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor;
- (c) agrees that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Security Trustee and each other Secured Party immediately on demand by the Security Trustee against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Loan Agreement or any other Finance Document on the date when it would have been due. Any such demand for indemnification shall be made through the Security Trustee, for itself or on behalf of the Secured Parties. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 2.1 (*Guarantee and indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

2.2 No limit on number of demands

The Security Trustee may serve any number of demands under Clause 2.1 (*Guarantee and indemnity*).

3 LIABILITY AS PRINCIPAL AND INDEPENDENT DEBTOR

3.1 Principal and independent debtor

The Guarantor shall be liable under this Guarantee as a principal and independent debtor and accordingly it shall not have, as regards this Guarantee, any of the rights or defences of a surety.

3.2 Waiver of rights and defences

Without limiting the generality of Clause 3.1 (*Principal and independent debtor*), the obligations of the Guarantor under this Guarantee will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Borrower or other person;
- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of any affiliate of the Borrower;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any insolvency or similar proceedings;
- (g) any arrangement or concession (including a rescheduling or acceptance of partial payments) relating to, or affecting, the Finance Documents;
- (h) any release or loss whatsoever of any guarantee, right or Security Interest created by the Finance Documents;
- (i) any failure whatsoever promptly or properly to exercise or enforce any such right or Security Interest, including a failure to realise for its full market value an asset covered by such a Security Interest; or
- (j) any other Finance Document or any Security Interest now being or later becoming void, unenforceable, illegal or invalid or otherwise defective for any reason, including a neglect to register it.

4 EXPENSES

4.1 Costs of preservation of rights, enforcement etc.

The Guarantor shall pay to the Security Trustee on its demand the amount of all expenses incurred by the Security Trustee or any other Secured Party in connection with any matter arising out of this Guarantee or any Security Interest connected with it, including any advice, claim or proceedings relating to this Guarantee or such a Security Interest.

4.2 Fees and expenses payable under Loan Agreement

Clause 4.1 (*Costs of preservation of rights, enforcement etc.*) is without prejudice to the Guarantor's liabilities in respect of the Borrower's obligations under clauses 9 (*Fees*) and 10 (*Taxes, Increased Costs, Costs and Related Charges*) of the Loan Agreement and under similar provisions of other Finance Documents.

5 ADJUSTMENT OF TRANSACTIONS

5.1 Reinstatement of obligation to pay

The Guarantor shall pay to the Security Trustee on its demand any amount which any Secured Party is required, or agrees, to pay pursuant to any claim by, or settlement with, a trustee in bankruptcy of the Borrower or of any other Obligor (or similar person) on the ground that the Loan Agreement or any other Finance Document, or a payment by the Borrower or of such other Obligor, was invalid or on any similar ground.

6 PAYMENTS

6.1 Method of payments

Any amount due under this Guarantee shall be paid:

- (a) in immediately available funds;
- (b) to such account as the Security Trustee may from time to time notify to the Guarantor;
- (c) without any form of set-off, cross-claim or condition; and
- (d) free and clear of any Tax Deduction except a Tax Deduction which the Guarantor is required by law to make.

6.2 Grossing-up for taxes

If the Guarantor is required by law to make a Tax Deduction, the amount due to the Security Trustee shall be increased by the amount necessary to ensure that the Security Trustee and (if the payment is not due to the Security Trustee for its own account) the Secured Party beneficially interested in the payment receives and retains a net amount which, after the Tax Deduction, is equal to the full amount that it would otherwise have received; provided that a payment shall not be increased under this Clause 6.2 if clause 10.2(d) of the Loan Agreement applies *mutatis mutandis*.

6.3 Tax Credits

If an additional payment is made by the Guarantor under this Clause and any Secured Party determines that it has received or been granted a credit against or relief of or calculated with reference to the deduction giving rise to such additional payment, such Secured Party shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment and provided that it has received the cash benefit of such credit, relief or remission, pay to the Guarantor such amount as such Secured Party shall in its reasonable opinion have concluded to be attributable to the relevant deduction. Any such payment shall be conclusive evidence of the amount due to the Guarantor hereunder and shall be accepted by the Guarantor in full and final settlement of its rights of reimbursement hereunder in respect of such deduction. Nothing herein contained shall interfere with the right of each Secured Party to arrange its tax affairs in whatever manner it thinks fit.

6.4 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, the Facility Agent and the other Secured Parties.

6.5 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 the Security Trustee to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

6.6 No obligations on SACE

To the extent that this Clause 6 (*Payments*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

7 INTEREST

7.1 Accrual of interest

Any amount due under this Guarantee shall carry interest after the date on which the Security Trustee demands payment of it until it is actually paid, unless interest on that same amount also accrues under the Loan Agreement.

7.2 Calculation of interest

Interest on sums payable under this Guarantee shall be calculated and accrue in the same way as interest under clause 6 (*Interest*) of the Loan Agreement.

7.3 Guarantee extends to interest payable under Loan Agreement

For the avoidance of doubt, it is confirmed that this Guarantee covers all interest payable under the Loan Agreement, including that payable under clause 17 (*Interest on Late Payments*) of the Loan Agreement.

8 SUBORDINATION

8.1 Subordination of rights of Guarantor

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, all rights which the Guarantor at any time has (whether in respect of this Guarantee or any other transaction) against the Borrower, any other Obligor or their respective assets shall be fully subordinated to the rights of the Secured Parties under the Finance Documents; and in particular, the Guarantor shall not:

- (a) claim, or in a bankruptcy of the Borrower or any other Obligor prove for, any amount payable to the Guarantor by the Borrower or any other Obligor, whether in respect of this Guarantee or any other transaction;
- (b) take or enforce any Security Interest for any such amount;
- (c) exercise any right to be indemnified by an Obligor;
- (d) bring legal or other proceedings for an order requiring the Borrower or any other Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under this Guarantee;
- (e) claim to set-off any such amount against any amount payable by the Guarantor to the Borrower or any other Obligor; or

- (f) claim any subrogation or right of contribution or other right in respect of any Finance Document or any sum received or recovered by any Secured Party under a Finance Document.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with the Loan Agreement and the Finance Documents.

9 ENFORCEMENT

9.1 No requirement to commence proceedings against Borrower

The Guarantor waives any right it may have of first requiring the Security Trustee or any other Secured Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Guarantee. Neither the Security Trustee nor any other Secured Party will need to make any demand under, commence any proceedings under, or enforce any guarantee or any Security Interest contained in or created by, the Loan Agreement or any other Finance Document before claiming or commencing proceedings under this Guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

9.2 Conclusive evidence of certain matters

However, as against the Guarantor:

- (a) any judgment or order of a court in England or the jurisdiction of the Approved Flag or Bermuda or the United States of America in connection with the Loan Agreement; and
 - (b) any statement or admission by the Borrower in connection with the Loan Agreement,
- shall be binding and conclusive as to all matters of fact and law to which it relates.

9.3 Suspense account

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, the Security Trustee and any Secured Party may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by it (or any trustee or agent on its behalf which, in the case of a Secured Party, shall include the Facility Agent and the Security Trustee) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Guarantee.

10 REPRESENTATIONS AND WARRANTIES

10.1 General

The Guarantor represents and warrants to the Security Trustee as follows on the Effective Date, which representations and warranties shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day from the Effective Date to the end of the Security Period.

10.2 Status

The Guarantor is duly incorporated and validly existing and in good standing under the laws of Bermuda as an exempted company.

10.3 Corporate power

The Guarantor has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute this Guarantee; and
- (b) to make all the payments contemplated by, and to comply with, this Guarantee.

10.4 Consents in force

All the consents referred to in Clause 10.3 (*Corporate power*) remain in force and nothing has occurred which makes any of them liable to revocation.

10.5 Legal validity

This Guarantee constitutes the Guarantor's legal, valid and binding obligations enforceable against the Guarantor in accordance with its terms subject to any relevant insolvency laws affecting creditors' rights generally.

10.6 No conflicts

The execution by the Guarantor of this Guarantee and its compliance with this Guarantee will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of the Guarantor; or
- (c) any contractual or other obligation or restriction which is binding on the Guarantor or any of its assets.

10.7 No withholding taxes

All payments which the Guarantor is liable to make under this Guarantee may be made without deduction or withholding for or on account of any tax payable under any law of Bermuda or the United States of America (other than a FATCA Deduction).

10.8 No default

To the knowledge of the Guarantor, no Event of Default has occurred which is continuing.

10.9 Information

All information which has been provided in writing by or on behalf of the Guarantor to the Security Trustee or any other Secured Party in connection with any Finance Document satisfied the requirements of Clause 11.2 (*Information provided to be accurate*); all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 11.4 (*Form of financial statements*); and there has been no material adverse change in the financial position or state of affairs of the Guarantor from that disclosed in the latest of those accounts.

10.10 No litigation

No legal or administrative action involving the Guarantor has been commenced or taken or, to the Guarantor's knowledge, is likely to be commenced or taken which, in either case, would be likely to have a material adverse effect on the Guarantor's ability to perform its obligations under this Guarantee.

10.11 No Security Interests

None of the assets or rights of the Guarantor is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Guarantor or (ii) is permitted by Clause 11.11 (*Negative pledge*).

10.12 Sanctions

- (a) No investments made and no payments made, received or to be made by the Guarantor under the Loan Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business, whether directly or, to the knowledge of the Guarantor, indirectly, are of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (b) No Prohibited Payment has been or will be made, received or provided, directly or indirectly, by (or on behalf of) it or the Borrower (to the best of the Guarantor's knowledge), any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or any public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, the Loan Agreement and/or the Finance Documents.

- (c) The Guarantor:
- (i) nor to its knowledge any director, officer, or Affiliate of any Obligor or member of the Group, is not a Prohibited Person;
 - (ii) is not owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
 - (iii) does not own or control a Prohibited Person.

11 UNDERTAKINGS

11.1 General

The Guarantor undertakes with the Security Trustee to comply with the following provisions of this Clause 11 (*Undertakings*) at all times from the Effective Date to the end of the Security Period, except as the Security Trustee may otherwise permit.

11.2 Information provided to be accurate

All financial and other information (but, in respect of information relating to the business and affairs of the Guarantor, excluding any forward looking statements and projections) which is provided in writing by or on behalf of the Guarantor under or in connection with this Guarantee will be true and not misleading and will not omit any material fact or consideration.

11.3 Provision of financial statements

The Guarantor will send to the Security Trustee:

- (a) as soon as practicable, but in no event later than 120 days after the end of each financial year of the Guarantor beginning with the year ending 31 December 2018, the audited consolidated accounts of the Guarantor and its subsidiaries;
- (b) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter in respect of the first three quarters of each fiscal year and 90 days in respect of the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year to date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor certified as to their correctness by the chief financial officer of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of this paragraph (b));
- (c) a compliance certificate in the form set out in Schedule 1 (*Form of Compliance Certificate*) to this Guarantee or in such other form as the Security Trustee may reasonably require (each a "**Compliance Certificate**"):
 - (i) for the first time, no later than the First Financial Quarter on the basis of the latest available quarterly financial statements, and
 - (ii) at the same time as there is delivered to the Security Trustee, and together with, each set of unaudited consolidated quarterly management accounts under paragraph (b) and, if applicable, audited consolidated accounts under paragraph (a), duly signed by the chief financial officer of the Guarantor and certifying whether or not the requirements of Clause 11.15 (*Financial Covenants*) are then complied with;

- (d) such additional financial or other relevant information regarding the Guarantor and the Group as the Security Trustee may reasonably request;
- (e) as soon as practicable (and in any event within 120 days after the close of each fiscal year), commencing with the fiscal year ending 31 December 2018, annual cash flow projections on a consolidated basis of the Group showing on a monthly basis advance ticket sales (for at least 12 months following the date of such statement) for the Group;
- (f) as soon as practicable (and in any event not later than January 31 of each fiscal year):
 - (i) a budget for the Group for such new fiscal year including a 12 month liquidity budget for such new fiscal year;
 - (ii) updated financial projections of the Group for at least the next five years (including an income statement, balance sheet statement and cash flow statement and quarterly break downs for the first of those five years); and
 - (iii) an outline of the assumptions supporting such budget and financial projections including but without limitation any scheduled drydockings.

11.4 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 11.3 (*Provision of financial statements*) will:

- (a) be prepared in accordance with GAAP;
- (b) when required to be audited, be audited by the auditors which are the Guarantor's auditors at the Effective Date or other auditors approved by the Security Trustee, provided that, such approval by the Security Trustee shall not be unreasonably withheld or delayed;
- (c) give a true and fair view of the state of affairs of the Guarantor and its subsidiaries at the date of those accounts and of their profit for the period to which those accounts relate; and
- (d) fully disclose or provide for all significant liabilities of the Guarantor and its subsidiaries.

11.5 Shareholder and creditor notices

The Guarantor will send the Security Trustee, at the same time as they are despatched, copies of all communications which are despatched to the Guarantor's shareholders or creditors generally or any class of them.

11.6 Consents

The Guarantor will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Security Trustee of, all consents required:

- (a) for the Guarantor to perform its obligations under this Guarantee;
- (b) for the validity or enforceability of this Guarantee,

and the Guarantor will comply with the terms of all such consents.

11.7 Notification of litigation

The Guarantor will provide the Security Trustee with details of any material legal or administrative action involving the Guarantor as soon as such action is instituted or it becomes apparent to the Guarantor that it is likely to be instituted (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency).

11.8 Domicile and principal place of business

The Guarantor:

- (a) will maintain its domicile and registered office at the address stated at the commencement of this Guarantee or at such other address in Bermuda as is notified beforehand to the Security Trustee;
- (b) will maintain its principal place of business and keep its corporate documents and records in the United States of America at 7665 Corporate Center Drive, Miami, 33126, Florida (Fax: (305) 436 4140) or at such other address in the United States of America as is notified beforehand to the Security Trustee; and
- (c) will not move its domicile out of Bermuda nor its principal place of business out of the United States of America without the prior agreement of the Security Trustee, acting with the authorisation of the Secured Parties, such agreement not to be unreasonably withheld.

11.9 Notification of default

The Guarantor will notify the Security Trustee as soon as the Guarantor becomes aware of the occurrence of an Event of Default and will thereafter keep the Security Trustee fully up-to-date with all developments.

11.10 Maintenance of status

The Guarantor will maintain its separate corporate existence and remain in good standing under the laws of Bermuda.

11.11 Negative pledge

The Guarantor shall not, and shall procure that the Borrower will not, create or permit to arise any Security Interest over any asset present or future except Security Interests created or permitted by the Finance Documents and except for the following:

- (a) Security Interests created with the prior consent of the Security Trustee or otherwise permitted by the Finance Documents;
- (b) in the case of the Guarantor, Security Interests which qualify as Permitted Security Interests with respect to the Guarantor;
- (c) in the case of the Borrower, Security Interests permitted under clause 12.8 (*Negative pledge*) of the Loan Agreement;

- (d) Security Interests provided in favour of lenders under and in connection with any refinancing of the Existing Indebtedness or any financing arrangements entered into by any member of the Group for the acquisition of additional or replacement ship(s) (including any refinancing of any such arrangement) but limited to:
 - (i) pledges of the share capital of the relevant ship owning subsidiary(/ies); and/or
 - (ii) ship mortgages and other securities over the financed ship(s).

11.12 No disposal of assets, change of business

The Guarantor will:

- (a) not, and shall procure that its subsidiaries, as a group, shall not, transfer all or substantially all of the cruise vessels owned by them and shall procure that any cruise vessels which are disposed of in compliance with the foregoing shall be disposed on a willing seller willing buyer basis at or about market rate and at arm's length subject always to the provisions of any pertinent loan documentation, and
- (b) continue to be a holding company for a group of companies whose main business is the operation of cruise vessels as well as the marketing of cruises on board such vessels and the Guarantor will not change its main line of business so as to affect any Obligor's ability to perform its obligations under the Finance Documents or to imperil, in the opinion of the Security Trustee, the security created by any of the Finance Documents or the SACE Insurance Policy.

11.13 No merger etc.

The Guarantor shall not enter into any form of merger, sub-division, amalgamation, restructuring, consolidation, winding-up, dissolution or anything analogous thereto or acquire any entity, share capital or obligations of any corporation or other entity (each of the foregoing being a "**Transaction**") unless:

- (a) the Guarantor has notified the Security Trustee in writing of the agreed terms of the relevant Transaction promptly after such terms have been agreed as heads of terms (or similar) and thereafter notified the Security Trustee in writing of any significant amendments to such terms during the course of the negotiation of the relevant Transaction; and
- (b) the relevant Transaction does not require or involve or result in any dissolution of the Guarantor so that at all times the Guarantor remains in existence; and
- (c) each notice delivered to the Security Trustee pursuant to paragraph (a) above is accompanied by a certificate signed by the chief financial officer of the Guarantor whereby the Guarantor represents and warrants to the Security Trustee that the relevant Transaction will not:
 - (i) adversely affect the ability of any Obligor to perform its obligations under the Finance Documents;
 - (ii) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; or
 - (iii) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 *Financial Covenants*); and
- (d) if the merger or analogous transaction involves the Guarantor or the Borrower, all the necessary "Know your customer requirements" have been complied with.

11.14 Maintenance of ownership of Borrower and Guarantor.

- (a) The Guarantor shall remain the direct or indirect beneficial owner of the entire issued and allotted share capital of the Shareholder, free from any Security Interest and the Shareholder shall remain the legal holder and direct beneficial owner of all shares in the Borrower, free from any Security Interest, except that created in favour of the Security Trustee.
- (b) No person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934 (15 USC §78a et seq.) as in effect on the date of this Guarantee) shall acquire beneficial ownership of 35% or more on a fully diluted basis of the voting interest in the Guarantor's equity interests unless the Management shall own directly or indirectly, more than such person or "group" on a fully diluted basis of the voting interest in the Guarantor's equity interests.

11.15 Financial Covenants

- (a) The Guarantor will not permit the Free Liquidity to be less than fifty million Dollars (\$50,000,000) at any time.
- (b) The Guarantor will not permit the ratio of Total Net Funded Debt to Total Capitalization to be greater than 0.70:1.00 at any time.
- (c) The Guarantor will not permit the ratio of Consolidated EBITDA to Consolidated Debt Service for the Group at the end of any fiscal quarter, computed for the period of the four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter, to be less than 1.25:1.00 unless the Free Liquidity of the Group at all times during such period of four consecutive fiscal quarters ending as at the end of such fiscal quarter was equal to or greater than one hundred million Dollars (\$100,000,000).

11.16 Financial definitions

For the purposes of Clause 11.15 (*Financial Covenants*):

- (a) "**Cash Balance**" shall mean, at any date of determination, the unencumbered and otherwise unrestricted cash and Cash Equivalents of the Group;
- (b) "**Cash Equivalents**" shall mean (i) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one year from the date of acquisition, (ii) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company having capital, surplus and undivided profits aggregating in excess of two hundred million Dollars (\$200,000,000), with maturities of not more than one year from the date of acquisition by any person, (iii) repurchase obligations with a term of not more than 90 days for underlying securities of the types described in clause (i) above entered into with any bank meeting the qualifications specified in clause (ii) above, (iv) commercial paper issued by any person incorporated in the United States rated at least A-1 or the equivalent thereof by S&P or at least P-1 or the equivalent thereof by Moody's and in each case maturing not more than one year after the date of acquisition by any other person, and (v) investments in money market funds substantially all of whose assets are comprised of securities of the types described in clauses (i) through (iv) above;

- (c) **"Consolidated Debt Service"** shall mean, for any relevant period, the sum (without double counting), determined in accordance with GAAP, of:
- (i) the aggregate principal payable or paid during such period on any Indebtedness for Borrowed Money of any member of the Group, other than:
 - (A) principal of any such Indebtedness for Borrowed Money prepaid at the option of the relevant member of the Group or by virtue of "cash sweep" or "special liquidity" cash sweep provisions (or analogous provisions) in any debt facility of the Group;
 - (B) principal of any such Indebtedness for Borrowed Money prepaid upon a sale or a Total Loss of any ship (as if references in that definition were to all ships and not just the Ship) owned or leased under a capital lease by any member of the Group; and
 - (C) balloon payments of any such Indebtedness for Borrowed Money payable during such period (and for the purpose of this paragraph (c) a "balloon payment" shall not include any scheduled repayment instalment of such Indebtedness for Borrowed Money which forms part of the balloon);
 - (ii) Consolidated Interest Expense for such period;
 - (iii) the aggregate amount of any dividend or distribution of present or future assets, undertakings, rights or revenues to any shareholder of any member of the Group (other than the Guarantor, or one of its wholly owned Subsidiaries) or any dividends or distributions other than tax distributions in each case paid during such period; and
 - (iv) all rent under any capital lease obligations by which the Guarantor or any consolidated Subsidiary is bound which are payable or paid during such period and the portion of any debt discount that must be amortized in such period;
- as calculated in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 (*Provision of financial statements*);
- (d) **"Consolidated EBITDA"** shall mean, for any relevant period, the aggregate of:
- (i) Consolidated Net Income from the Guarantor's operations for such period; and
 - (ii) the aggregate amounts deducted in determining Consolidated Net Income for such period in respect of gains and losses from the sale of assets or reserves relating thereto, Consolidated Interest Expense, depreciation and amortization, impairment charges and any other non-cash charges and deferred income tax expense for such period.
- (e) **"Consolidated Interest Expense"** shall mean, for any relevant period, the consolidated interest expense (excluding capitalized interest) of the Group for such period;
- (f) **"Consolidated Net Income"** shall mean, for any relevant period, the consolidated net income (or loss) of the Group for such period as determined in accordance with GAAP;

- (g) **"Free Liquidity"** shall mean, at any date of determination, the aggregate of the Cash Balance or any other amounts available for drawing under other revolving or other credit facilities of the Group, which remain undrawn, could be drawn for general working capital purposes or other general corporate purposes and would not, if drawn, be repayable within six months;
- (h) **"Indebtedness"** shall mean any obligation for the payment or repayment of money, whether as principal or as surety and whether present or future, actual or contingent including, without limitation, pursuant to an Interest Rate Protection Agreement or Other Hedging Agreement;
- (i) **"Indebtedness for Borrowed Money"** shall mean Indebtedness (whether present or future, actual or contingent, long-term or short-term, secured or unsecured) in respect of:
- (i) moneys borrowed or raised;
 - (ii) the advance or extension of credit (including interest and other charges on or in respect of any of the foregoing);
 - (iii) the amount of any liability in respect of leases which, in accordance with GAAP, are capital leases;
 - (iv) the amount of any liability in respect of the purchase price for assets or services payment of which is deferred for a period in excess of 180 days;
 - (v) all reimbursement obligations whether contingent or not in respect of amounts paid under a letter of credit or similar instrument; and
 - (vi) (without double counting) any guarantee of Indebtedness falling within paragraphs (i) to (v) above;
- PROVIDED THAT** the following shall not constitute Indebtedness for Borrowed Money:
- (A) loans and advances made by other members of the Group which are subordinated to the rights of the Secured Parties;
 - (B) loans and advances made by any shareholder of the Guarantor which are subordinated to the rights of the Secured Parties on terms reasonably satisfactory to the Facility Agent; and
 - (C) any liabilities of the Guarantor or any other member of the Group under any Interest Rate Protection Agreement or any Other Hedging Agreement or other derivative transactions of a non-speculative nature;
- (j) **"Interest Rate Protection Agreement"** shall mean any interest rate swap agreement, interest rate cap agreement, interest collar agreement, interest rate hedging agreement, interest rate floor agreement or other similar agreement or arrangement entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliate, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement;
- (k) **"Other Hedging Agreement"** shall mean any foreign exchange contracts, currency swap agreements, commodity agreements or other similar agreements or arrangements entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliates, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement and designed to protect against the fluctuations in currency or commodity values;

- (l) "**Total Capitalization**" means, at any date of determination, the Total Net Funded Debt plus the consolidated stockholders' equity of the Group at such date determined in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 (*Provision of financial statements*); provided it is understood that the effect of any impairment of intangible assets shall be added back to stockholders' equity; and
- (m) "**Total Net Funded Debt**" shall mean, as at any relevant date:
- (i) Indebtedness for Borrowed Money of the Group on a consolidated basis; and
 - (ii) the amount of any Indebtedness for Borrowed Money of any person which is not a member of the Group but which is guaranteed by a member of the Group as at such date;

less an amount equal to any Cash Balance as at such date; provided that any Commitments and other amounts available for drawing under other revolving or other credit facilities of the Group which remain undrawn shall not be counted as cash or indebtedness for the purposes of this Guarantee.

11.17 Negative Undertakings

- (a) The Guarantor may:
- (i) at any time prior to the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee;
 - (ii) at any time after the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee, subject to it on each such occasion satisfying the Security Trustee acting on behalf of the Secured Parties that it will continue to meet all the requirements of Clause 11.15 (*Financial Covenants*), if such covenants were to be tested immediately following the payment of any such dividend; and
 - (iii) pay dividends (x) to persons responsible for paying the tax liability in respect of consolidated, combined, unitary or affiliated tax returns for each relevant jurisdiction of the Group, or (y) to holders of the Guarantor's Capital Stock with respect to income taxable as a result of a member of the Group being taxed as a pass-through entity for U.S. Federal, state and local income tax purposes or attributable to any member of the Group,

provided that the actions in paragraphs (ii) and (iii) above shall only be permitted if there is no Event of Default which is continuing under the Loan Agreement and no Event of Default would arise from the payment of such dividend.

(b) The Guarantor shall not, and shall procure that none of its subsidiaries shall:

(i) make loans to any person that is not the Guarantor or a direct or indirect subsidiary of the Guarantor; or

(ii) issue or enter into one or more guarantees covering the obligations of any person which is not the Guarantor or a direct or indirect subsidiary of the Guarantor, except if such loan is granted to a non subsidiary or such guarantee is issued in the ordinary course of business covering the obligations of a non subsidiary and the aggregate amount of all such loans and guarantees made or issued by the Guarantor and its subsidiaries does not exceed [*] Dollars (\$[*]) or is otherwise approved by the Security Trustee which approval shall not be unreasonably withheld if such loan or guarantee in respect of a non subsidiary would neither:

(A) affect the ability of any Obligor to perform its obligations under the Finance Documents; nor

(B) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; nor

(C) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 (*Financial Covenants*) if such covenants were to be tested immediately following the grant of such loan or the issuance of such guarantee, as demonstrated by evidence satisfactory to the Security Trustee.

11.18 Most favoured nations

The Guarantor undertakes that if at any time after the Effective Date it enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of clause 11.2 (*Continuing representations and warranties*) of the Loan Agreement and clause 18.6 (*Cross default*) of the Loan Agreement respectively, the Guarantor shall immediately notify the Borrower and the Facility Agent of such provisions and the relevant provisions contained in the Loan Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to the Loan Agreement.

11.19 Sanctions and Illicit Payments

No payments made or received by the Guarantor under the Loan Agreement or any Finance Document shall be funded directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Guarantor, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.

11.20 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Guarantor or any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, this Agreement, the Loan Agreement and/or the other Finance Documents.

11.21 Sanctions

The Guarantor shall comply, or procure compliance by the entities and persons referred to in Clause 11.20, with all Sanctions and shall provide details of any material litigation, arbitration or administrative proceedings relating to any alleged or actual breach of Sanctions.

11.22 Additional Undertakings

The Guarantor shall not and shall procure that no Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest created under the Finance Documents to lose its priority or ranking; and
- (e) imperil or jeopardise any Security Interest created under the Finance Documents.

12 JUDGMENTS AND CURRENCY INDEMNITY

12.1 Judgments relating to Loan Agreement

This Guarantee shall cover any amount payable by the Borrower under or in connection with any judgment relating to the Loan Agreement.

12.2 Currency indemnity

In addition, clause 20.4 (*Currency indemnity*) of the Loan Agreement shall apply, with any necessary adaptations, in relation to this Guarantee.

13 SET-OFF

13.1 Application of credit balances

Each Secured Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Guarantor at any office in any country of that Secured Party in or towards satisfaction of any sum then due from the Guarantor to that Secured Party under this Guarantee; and

- (b) for that purpose:
- (i) break, or alter the maturity of, all or any part of a deposit of the Guarantor;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; or
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Secured Party concerned considers appropriate.

13.2 Existing rights unaffected

No Secured Party shall be obliged to exercise any of its rights under Clause 13.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Secured Party is entitled (whether under the general law or any document).

13.3 Sums deemed due to a Lender

For the purposes of this Clause 13 (*Set-Off*), a sum payable by the Guarantor to the Security Trustee for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to that Lender.

14 SUPPLEMENTAL

14.1 Continuing guarantee

This Guarantee shall remain in force as a continuing security at all times during the Security Period, regardless of any intermediate payment or discharge in whole or in part.

14.2 Rights cumulative, non-exclusive

The Security Trustee's rights under and in connection with this Guarantee are cumulative, may be exercised as often as appears expedient and shall not be taken to exclude or limit any right or remedy conferred by law.

14.3 No impairment of rights under Guarantee

If the Security Trustee omits to exercise, delays in exercising or invalidly exercises any of its rights under this Guarantee, that shall not impair that or any other right of the Security Trustee under this Guarantee.

14.4 Severability of provisions

If any provision of this Guarantee is or subsequently becomes void, illegal, unenforceable or otherwise invalid, that shall not affect the validity, legality or enforceability of its other provisions.

14.5 Guarantee not affected by other security

This Guarantee is in addition to and shall not impair, nor be impaired by, any other guarantee, any Security Interest or any right of set-off or netting or to combine accounts which the Security Trustee or any Secured Party may now or later hold in connection with the Loan Agreement.

14.6 Guarantor bound by Loan Agreement

The Guarantor agrees with the Security Trustee to be bound by all provisions of the Loan Agreement which are applicable to the Obligors in the same way as if those provisions had been set out (with any necessary modifications) in this Guarantee.

14.7 Applicability of provisions of Guarantee to other Security Interests

Any Security Interest which the Guarantor creates (whether at the time at which it signs this Guarantee or at any later time) to secure any liability under this Guarantee shall be a principal and independent security, and Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall, with any necessary modifications, apply to it, notwithstanding that the document creating the Security Interest neither describes it as a principal or independent security nor includes provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*).

14.8 Applicability of provisions of Guarantee to other rights

Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall also apply to any right of set-off or netting or to combine accounts which the Guarantor creates by an agreement entered into at the time of this Guarantee or at any later time (notwithstanding that the agreement does not include provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*)), being an agreement referring to this Guarantee.

14.9 Third party rights

Other than a Secured Party or the Italian Authorities, no person who is not a party to this Guarantee has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Guarantee.

14.10 Waiver of rights against SACE

Nothing in this Guarantee or any of the Finance Documents is intended to grant to the Guarantor or any other person any right of contribution from or any other right or claim against SACE and the Guarantor hereby waives irrevocably any right of contribution or other right or claim as between itself and SACE.

14.11 Certification or determination

Any certification or determination by the Security Trustee of a rate or amount under any Finance Document or this Guarantee is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

14.12 SACE subrogation

The Guarantor acknowledges that immediately upon any payment by SACE of any amount due under the SACE Insurance Policy, SACE shall be automatically subrogated to the extent of such payment to the rights of the Security Trustee under this Guarantee in accordance with the SACE Insurance Policy.

15 ASSIGNMENT AND TRANSFER

15.1 Assignment and transfer by Security Trustee

- (a) The Security Trustee may assign or transfer its rights under and in connection with this Guarantee to the same extent as it may assign or transfer its rights under the Loan Agreement.
- (b) The Guarantor may not assign or transfer its rights under and in connection with this Guarantee.

16 NOTICES

16.1 Notices to Guarantor

Any notice or demand to the Guarantor under or in connection with this Guarantee shall be given by letter or fax at:

NCL Corporation Ltd.
7665 Corporate Center Drive
Miami
Florida, 33126
Fax: (305) 436 4140

or to such other address which the Guarantor may notify to the Security Trustee.

16.2 Application of certain provisions of Loan Agreement

Clauses 32.3 (*Effective date of notices*) to 32.9 (*Meaning of "notice"*) of the Loan Agreement apply to any notice or demand under or in connection with this Guarantee.

16.3 Validity of demands

A demand under this Guarantee shall be valid notwithstanding that it is served:

- (a) on the date on which the amount to which it relates is payable by the Borrower under the Loan Agreement; or
- (b) at the same time as the service of a notice under clause 18.21 (*Actions following an Event of Default*) of the Loan Agreement;

and a demand under this Guarantee may refer to all amounts payable under or in connection with the Loan Agreement without specifying a particular sum or aggregate sum.

16.4 Notices to Security Trustee

Any notice to the Security Trustee under or in connection with this Guarantee shall be sent to the same address and in the same manner as notices to the Security Trustee under the Loan Agreement.

17 INVALIDITY OF LOAN AGREEMENT

17.1 Invalidity of Loan Agreement

In the event of:

- (a) the Loan Agreement or any provision thereof now being or later becoming, with immediate or retrospective effect, void, illegal, unenforceable or otherwise invalid for any reason whatsoever; or
- (b) without limiting the scope of paragraph (a) above, a bankruptcy of the Borrower, the introduction of any law or any other matter resulting in the Borrower being discharged from liability under the Loan Agreement, or the Loan Agreement ceasing to operate (for example, by interest ceasing to accrue);

this Guarantee shall cover any amount which would have been or become payable under or in connection with the Loan Agreement if the Loan Agreement had been and remained entirely valid, legal and enforceable, or the Borrower had not suffered bankruptcy, or any combination of such events or circumstances, as the case may be, and the Borrower had remained fully liable under it for liabilities whether invalidly incurred or validly incurred but subsequently retrospectively invalidated; and references in this Guarantee to amounts payable by the Borrower under or in connection with the Loan Agreement shall include references to any amount which would have so been or become payable as aforesaid.

17.2 Invalidity of Finance Documents

Clause 17.1 (*Invalidity of Loan Agreement*) also applies to each of the other Finance Documents to which the Borrower is a party.

18 GOVERNING LAW AND JURISDICTION

18.1 English law

This Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

18.2 Exclusive English jurisdiction

The courts of England shall have exclusive jurisdiction to settle any Dispute.

18.3 Process agent

The Guarantor irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

18.4 Secured Parties' rights unaffected

Nothing in this Clause 18 (*Governing Law and Jurisdiction*) shall exclude or limit any right which any Secured Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

18.5 Meaning of "proceedings"

In this Clause 18 (*Governing Law and Jurisdiction*), "**proceedings**" means proceedings of any kind, including an application for a provisional or protective measure and a "**Dispute**" means any dispute arising out of or in connection with this Guarantee (including a dispute relating to the existence, validity or termination of this Guarantee) or any non-contractual obligation arising out of or in connection with this Guarantee.

THIS GUARANTEE has been entered into on the date stated at the beginning of this Guarantee.

SCHEDULE 1

FORM OF COMPLIANCE CERTIFICATE

To: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**
8 Canada Square
London
E14 5HQ

Attn: [●]

[●] 20[●]

Dear Sirs

Loan Agreement dated [●] 2018 (as amended from time to time, the "Loan Agreement") made between (1) O Class Plus Two, LLC (the "Borrower"), (2) the banks and financial institutions named at schedule 1 therein as lenders, (3) Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-BANK GmbH, Cassa di Risparmio di Padova e Rovigo S.p.A., Banco Santander S.A. and Société Générale as Joint Mandated Lead Arrangers, (4) Crédit Agricole Corporate and Investment Bank as SACE Agent (5) BNP Paribas as Facility Agent and (6) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a facility of up to the aggregate of up to four hundred and sixty two million and nine hundred and sixty thousand Euros (€ 462,960,000) the amount of the SACE Premium (but not exceeding four hundred and eighty million, two hundred and forty eight thousand, nine hundred and sixty two Euros and sixty six cents (€ 480,248,962.66)) and Guarantee dated [●] 2018 (the "Guarantee") made between (1) us as guarantor and (2) HSBC Corporate Trustee Company (UK) Limited as Security Trustee.

We refer to the Loan Agreement and the Guarantee. Terms defined in the Loan Agreement and the Guarantee have their defined meanings when used in this Compliance Certificate.

We also refer to the financial covenants set out in Clause 11.15 (*Financial Covenants*) of the Guarantee.

We certify that in relation to such covenants and by reference to the latest accounts provided under Clause 11.3[(11.3(a))/(11.3(b))] of the Guarantee:

- (a) Free Liquidity is \$[●] and [was / was not] less than fifty million Dollars (\$50,000,000) at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided;
- (b) the ratio of Total Net Funded Debt to Total Capitalization is [●] and therefore [was/was not] greater than 0.70:1.00 at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided; and
- (c) [the Free Liquidity of the Group at all times during the period of four consecutive fiscal quarters ending as at the end of the fiscal quarter for which the latest accounts have been provided was equal to or greater than one hundred million Dollars (\$100,000,000)] [as at the end of the fiscal quarter for which the latest accounts have been provided, computed for the period of four consecutive fiscal quarters ending at the end of such fiscal quarter, Consolidated EBITDA to Consolidated Debt Service is [●] and therefore [is/is not] less than 1.25:1.00].

To evidence compliance with the terms of Clause 11.15 (*Financial Covenants*), we attach:

a copy of the latest quarterly consolidated accounts of the Group as Appendix A [and a copy of the latest annual consolidated accounts of the Group as Appendix B].

No Event of Default has occurred in relation to the Borrower or the Guarantor.

Signed: _____

Chief Financial Officer of
NCL Corporation Ltd.

EXECUTION PAGE

GUARANTOR

SIGNED by
for and on behalf of
NCL CORPORATION LTD.
as its duly appointed attorney-in-fact
in the presence of:

) /s/Paul A. Turner

) Paul A. Turner
) Attorney-in-Fact
)
) /s/Nicholas Block

Nicholas Block
Solicitor
Clyde & Co LLP
The St Botolph Building
138 Houndsditch
London EC3A 7AR
United Kingdom

SECURITY TRUSTEE

SIGNED by
for and on behalf of
HSBC CORPORATE TRUSTEE COMPANY
(UK) LIMITED
acting by its attorney/director
in the presence of:

) /s/Andrea Stevenson

) Andrea Stevenson
) Authorised Signatory
)
) /s/Hanish Bhatt

) Hanish Bhatt

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

EXECUTION VERSION

CREDIT AGREEMENT

dated as of January 10, 2019

among

NCL CORPORATION LTD.,
as Borrower,

THE LENDERS PARTY HERETO,

NORDEA BANK ABP, NEW YORK BRANCH,
as Administrative Agent and as Collateral Agent

NORDEA BANK ABP, NEW YORK BRANCH,
MIZUHO BANK, LTD.,
MUFG BANK, LTD.,
and
SKANDINAVISKA ENSKILDA BANKEN AB (PUBL),
as Joint Bookrunners and Arrangers

and

NORDEA BANK ABP, NEW YORK BRANCH,
MIZUHO BANK, LTD.,
MUFG BANK, LTD.,
and
SKANDINAVISKA ENSKILDA BANKEN AB (PUBL),
as Co-Documentation Agents

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CREDIT AGREEMENT dated as of January 10, 2019 (this "Agreement"), among NCL CORPORATION LTD., a Bermuda company ("NCL", the "Company" or the "Borrower"), the LENDERS party hereto from time to time, and NORDEA BANK ABP, NEW YORK BRANCH, as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent") and as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent").

WHEREAS, the Borrower has requested that the Lenders extend credit in the form of Delayed Draw Term Loans within the Availability Period in an aggregate principal amount not to exceed \$230,000,000;

NOW, THEREFORE, the Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein.

Accordingly, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Defined Terms. As used in this Agreement, the following terms shall have the meanings specified below:

"ABR" shall mean, for any day, a rate *per annum* equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that, the Adjusted LIBO Rate for any day shall be based on the LIBO Rate (after giving effect to any minimum rate set forth therein) at approximately 11:00 a.m. London time on such day. Any change in the ABR due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the ABR is being used as an alternate rate of interest pursuant to Section 2.14 hereof, then the ABR shall be the greater of clause (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the ABR shall be less than 1.00%, such rate shall be deemed to be 1.00% for purposes of this Agreement.

"ABR Borrowing" shall mean a Borrowing comprised of ABR Loans.

"ABR Loan" shall mean any Term Loan bearing interest at a rate determined by reference to the ABR in accordance with the provisions of Article II.

"Adjusted LIBO Rate" shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum equal to (a) the LIBO Rate for the applicable Class of Loans in effect for such Interest Period divided by (b) one minus the Statutory Reserves applicable to such Eurocurrency Borrowing, if any.

“Administrative Agent” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Administrative Agent Fees” shall have the meaning assigned to such term in Section 2.12(b).

“Administrative Questionnaire” shall mean an Administrative Questionnaire in the form of Exhibit B or such other form supplied by the Administrative Agent.

“Affiliate” shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

“Affiliate Lender” shall have the meaning assigned to such term in Section 10.21(a).

“Agents” shall mean the Administrative Agent, the Collateral Agent and the Mortgage Trustee.

“Agreement” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Agreement Currency” shall have the meaning assigned to such term in Section 10.19.

“Amended Tax Agreements” shall have the meaning assigned to such term in Section 6.06(b).

“AML Laws” means all laws, rules, and regulations of any jurisdiction applicable to any Lender, the Company or the Company’s Subsidiaries from time to time concerning or relating to anti-money laundering.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to bribery or corruption.

“Applicable Margin” shall mean (i) in the case of ABR Loans, (a) from and including the Closing Date to and excluding the Initial Delayed Draw Term Loan Maturity Date, 0.00% per annum and (b) from and after the Initial Delayed Draw Term Loan Maturity Date, 0.10% and (ii) in the case of Eurocurrency Loans, (a) from the Closing Date to and excluding the Initial Delayed Draw Term Loan Maturity Date, 1.00% per annum and (b) from and after the Initial Delayed Draw Term Loan Maturity Date, 1.10%.

“Approved Broker” shall mean Brax Shipping AS; Barry Rogliano Salles S.A., Paris; Clarksons, London; Rocca & Partners S.R.L., Genova; Fearnale, a division of Astrup Fearnley AS, Oslo; any affiliate of the foregoing; or any other independent sale and purchase ship brokerage firm nominated by the Company and approved by the Administrative Agent (such approval not to be withheld unreasonably).

“Approved Fund” shall have the meaning assigned to such term in Section 10.04(b)(ii).

“Approved Insurance Evaluator” shall mean (a) BankAssure, a division of Aon Corporation, or (b) any other firm of established and reputable independent marine insurance brokers or other professional advisors on insurance matters appointed by the Company and approved by the Administrative Agent (such approval not to be withheld unreasonably), which other firm has not placed or otherwise acted on behalf of any of the Loan Parties in connection with any of the insurances to be covered within any insurance report required under Section 5.12.

“Approved Manager” shall mean NCL (Bahamas) Ltd. d/b/a NCL, a company incorporated in and existing under the laws of Bermuda, or one or more affiliates of the Company, or any other company approved by the Administrative Agent (such approval not to be withheld unreasonably) from time to time as the technical manager of the Mortgaged Vessel.

“Arranger” shall mean, collectively, each entity listed as such on the cover of this Agreement, in each case in its capacity as such.

“ASC” shall mean the Accounting Standards Codification of the Financial Accounting Standards Board.

“Asset Sale” shall mean any loss, damage, destruction or condemnation of, or any sale, transfer or other disposition (including any sale and lease-back of assets and any mortgage or lease of Real Property) to any person of any asset or assets of the Borrower or the Subsidiary Guarantor.

“Assignee” shall have the meaning assigned to such term in Section 10.04(b)(i).

“Assignment and Acceptance” shall mean an assignment and acceptance entered into by a Lender and an Assignee, and accepted by the Administrative Agent and the Company (if required by Section 10.04), in the form of Exhibit A or such other form as shall be approved by the Administrative Agent.

“Assignment Taxes” shall have the meaning given such term in the definition of the term “Other Taxes.”

“Assignor” shall have the meaning assigned to such term in Section 10.04(b)(i).

“Availability Period” shall mean, with respect to the Delayed Draw Term Loan Commitments, the period from and including the Closing Date to and including April 1, 2019.

“Bahamas” shall mean the Commonwealth of The Bahamas.

“Bail-In Action” shall mean the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“Bail-In Legislation” shall mean, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Below Threshold Asset Sale Proceeds” shall have the meaning assigned to such term in the definition of the term “Cumulative Credit.”

“Beneficial Ownership Certification” shall mean a certification regarding beneficial ownership of the Borrower as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” shall mean 31 C.F.R. § 1010.230.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States of America.

“Borrower” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Borrower Materials” shall have the meaning assigned to such term in Section 10.17.

“Borrowing” shall mean a group of Loans of a single Type under a single Facility, and made on a single date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

“Borrowing Minimum” shall mean \$3,000,000.

“Borrowing Multiple” shall mean \$1,000,000.

“Borrowing Request” shall mean a request by the Company, in accordance with the terms of Section 2.03 and substantially in the form of Exhibit D-1.

“Budget” shall have the meaning assigned to such term in Section 5.04(e).

“Business Day” shall mean any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, Oslo and Stockholm are authorized or required by law to remain closed; provided, that when used in connection with a Eurocurrency Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in Dollars in the London interbank market.

“Capital Lease Obligations” of any person shall mean the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such person under GAAP and, for purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP; provided that obligations of the Company or its Subsidiaries, or of a special purpose or other entity not consolidated with the Company and its Subsidiaries, either existing on December 31, 2018 or created thereafter that (a) initially were not included on the consolidated balance sheet of the Company as capital or finance lease obligations and were subsequently recharacterized as capital or finance lease obligations or, in the case of such a special purpose or other entity becoming consolidated with the Company and its Subsidiaries were required to be characterized as capital or finance lease obligations upon such consolidation, in either case, due to a change in accounting treatment or otherwise, or (b) did not exist on December 31, 2018 and were required to be characterized as finance lease obligations but would not have been required to be treated as finance lease obligations on December 31, 2018 had they existed at that time, shall for all purposes not be treated as Capital Lease Obligations or Indebtedness; provided further, for clarification purposes, operating leases recorded as liabilities on the balance sheet due to a change in accounting treatment, or otherwise, shall for all purposes not be treated as Indebtedness or Capital Lease Obligations.

“Cash Interest Expense” shall mean, with respect to the Company and the Subsidiaries on a consolidated basis for any period, Interest Expense for such period, less the sum of, without duplication, (a) pay in kind Interest Expense or other non-cash Interest Expense (including as a result of the effects of purchase accounting), (b) to the extent included in Interest Expense, the amortization of any financing fees paid by, or on behalf of, the Company or any Subsidiary, including such fees paid in connection with the Transactions, (c) the amortization of debt discounts, if any, or fees in respect of Swap Agreements and (d) cash interest income of the Company and the Subsidiaries for such period; provided, that Cash Interest Expense shall exclude any one time financing fees, including those paid in connection with the Transactions, or any amendment of this Agreement.

A “Change in Control” shall be deemed to occur if:

(a) (i) a majority of the seats (other than vacant seats) on the board of directors of the Company shall at any time be occupied by persons who were neither (A) nominated by the board of directors of the Company or a Permitted Holder, (B) appointed or approved by directors so nominated nor (C) appointed by a Permitted Holder or (ii) a “change of control” (or similar event) shall occur under any Permitted Ratio Debt, a Senior Unsecured Notes Indenture or any Permitted Refinancing Indebtedness in respect of any of the foregoing or any Disqualified Stock;

(b) any person or “group” (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act as in effect on the Closing Date), other than any combination of the Permitted Holders or any “group” including any Permitted Holders, shall have acquired beneficial ownership of 35% or more on a fully diluted basis of the voting interest in the Company’s Equity Interests and the Permitted Holders shall own, directly or indirectly, less than such person or “group” on a fully diluted basis of the voting interest in the Company’s Equity Interests; or

(c) a “Change of Control” occurs, as such term is defined under the Senior Unsecured Notes Indentures.

“Change in Law” shall mean (a) the adoption of any law, rule or regulation after the Closing Date, (b) any change in law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender’s holding company, if any) with any written request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“Charges” shall have the meaning assigned to such term in Section 10.08.

“Class” shall mean (a) when used in respect of any Loan or Borrowing, whether such Loan or the Loans comprising such Borrowing are Delayed Draw Term Loans, Refinancing Term Loans or Extended Term Loans and (b) when used in respect of any Commitment, whether such Commitment is a Delayed Draw Term Loan Commitment, a Refinancing Term Loan Commitment or an Extended Term Loan Commitment.

“Classification Society” shall mean, in respect of the Mortgaged Vessel, Bureau Veritas, the American Bureau of Shipping, Lloyd’s Register of Shipping, Det norske Veritas, or such other classification society that is a member of the International Association of Classification Societies (IACS) as selected by the Company that is reasonably acceptable to the Administrative Agent.

“Closing Date” shall mean January 10, 2019.

“Co-Documentation Agents” shall mean, collectively, each entity listed as such on the cover of this Agreement, in each case in its capacity as such.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Collateral” shall mean all the “Collateral” as defined in any Security Document and shall also include the Mortgaged Vessel and all other property that is subject or purported to be subject to any Lien in favor of the Administrative Agent, the Collateral Agent, the Mortgage Trustee or any Subagent for the benefit of the Secured Parties pursuant to any Security Documents.

“Collateral Agent” shall mean the Administrative Agent acting as collateral agent for the Secured Parties.

“Collateral Agent Fees” shall have the meaning assigned to such term in Section 2.12(b).

“Collateral Agreement” shall mean the Guarantee and Collateral Agreement, dated as of the Closing Date, as amended, restated, supplemented or otherwise modified from time to time, among the Subsidiary Guarantor and the Collateral Agent.

“Collateral and Guarantee Requirement” shall mean the requirement that:

- (a) on the Closing Date, the Collateral Agent shall have received a counterpart of the Collateral Agreement duly executed and delivered on behalf of the Subsidiary Guarantor and the Perfection Certificate duly executed and delivered on behalf of each Loan Party;
- (b) on the Closing Date, the Collateral Agent shall have received (x) the Subsidiary Guarantor Pledge Agreement duly executed and delivered by the holder of Equity Interests of the Subsidiary Guarantor (and, if required under the applicable governing law, the Subsidiary Guarantor), effecting pledges of all the issued and outstanding Equity Interests of the Subsidiary Guarantor, together with (y) all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer (if applicable under the applicable governing law) with respect thereto endorsed in blank;
- (c) on the Closing Date, the Collateral Agent shall have received all Instruments (as defined in the Collateral Agreement) that are held by a Loan Party and required to be pledged pursuant to the applicable Security Document, together with instruments of transfer with respect thereto endorsed in blank;
- (d) on the Closing Date, except as otherwise contemplated by any Security Document, all documents and instruments, including Uniform Commercial Code financing statements, filings with the United States Patent and Trademark Office and United States Copyright Office and similar filings, instruments and registrations in any applicable jurisdiction, and all other actions required by law or reasonably requested by the Collateral Agent to be taken, filed, registered or recorded to create the Liens intended to be created by the Security Documents (in each case, including any supplements thereto) and perfect such Liens to the extent required by, and with the priority required by, the Security Documents, shall have been taken, filed, registered or recorded or delivered to the Collateral Agent for filing, registration or the recording concurrently with, or promptly following, the execution and delivery of each such Security Document;
- (e) except as otherwise contemplated by any Security Document, each Loan Party shall have obtained all consents and approvals required to be obtained by it in connection with (i) the execution and delivery of all Security Documents (or supplements thereto) to which it is a party and the granting by it of the Liens thereunder and (ii) the performance of its obligations thereunder;
- (f) on the Closing Date, the Collateral Agent shall have received (x) counterparts of the Vessel Mortgage to be entered into with respect to the Mortgaged Vessel duly executed and delivered by the registered owner of the Mortgaged Vessel and suitable for registration and recording with the National Vessel Documentation Center of the United States Coast Guard and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under the Vessel Mortgage or otherwise as the Collateral Agent or Mortgage Trustee may reasonably request with respect to the Vessel Mortgage or Mortgaged Vessel;
- (g) on the Closing Date, the Collateral Agent shall have received (x) counterparts of the Earnings Assignment to be entered into with respect to the Mortgaged Vessel duly executed and delivered by the Subsidiary Guarantor and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under the Earnings Assignment or otherwise as the Collateral Agent may reasonably request with respect to the Earnings Assignment;

(h) on the Closing Date, the Collateral Agent shall have received (x) counterparts of (A) the Insurance Assignment to be entered into with respect to the Mortgaged Vessel duly executed and delivered by the Subsidiary Guarantor and (B) the Insurance Assignment to be entered into with respect to the Mortgaged Vessel duly executed and delivered by the Company and (y) such other documents, including any consents, agreements and confirmations of third parties, as may be required under the Insurance Assignment or otherwise as the Collateral Agent or the Mortgage Trustee may reasonably request with respect to the Insurance Assignment;

(i) in the case of any Subsidiary that becomes an owner of the Mortgaged Vessel after the Closing Date, (i) the Administrative Agent and the Collateral Agent shall have received the documents required by Section 5.10(g), and (ii) all the issued and outstanding Equity Interests of such Subsidiary shall have been pledged pursuant to a Security Document, and the Collateral Agent shall have received all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer (if applicable under the applicable governing law) with respect thereto endorsed in blank;

(j) after the Closing Date, (i) all the Equity Interests of the Subsidiary Guarantor issued after the Closing Date shall have been pledged pursuant to the Subsidiary Guarantor Pledge Agreement, and (ii) all other Equity Interests of any other Subsidiary that are acquired by the Subsidiary Guarantor after the Closing Date shall have been pledged pursuant to the Collateral Agreement, and the Collateral Agent shall have received all certificates or other instruments (if any) representing such Equity Interests, together with stock powers or other instruments of transfer (if applicable under the applicable governing law) with respect thereto endorsed in blank; and

(k) after the Closing Date, the Administrative Agent or the Collateral Agent (as applicable) shall have received (i) such other Security Documents as may be required to be delivered pursuant to Section 5.10, and (ii) upon reasonable request by the Administrative Agent or the Collateral Agent (as applicable), evidence of compliance with any other requirements of Section 5.10.

“Commitment Fee” shall have the meaning assigned to such term in Section 2.12(a).

“Commitments” shall mean with respect to any Lender, such Lender’s Delayed Draw Term Loan Commitment, Refinancing Term Loan Commitment or Extended Term Loan Commitment.

“Company” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Conduit Lender” shall mean any special purpose corporation organized and administered by any Lender for the purpose of making Loans otherwise required to be made by such Lender and designated by such Lender in a written instrument; provided, that the designation by any Lender of a Conduit Lender shall not relieve the designating Lender of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Lender (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender; provided, further, that no Conduit Lender shall (a) be entitled to receive any greater amount pursuant to Sections 2.15, 2.16, 2.17 or 10.05 than the designating Lender would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender, unless the grant of the Loan to such Conduit Lender is made with the Company’s prior written consent (not to be unreasonably withheld or delayed) or (b) be deemed to have any Commitment.

“Consolidated Debt” at any date shall mean the sum of (without duplication) all Indebtedness (other than letters of credit, to the extent undrawn) consisting of Capital Lease Obligations, Indebtedness for borrowed money and Disqualified Stock of the Company and the Subsidiaries determined on a consolidated basis on such date in accordance with GAAP.

“Consolidated Debt Service” shall mean, with respect to the Company and the Subsidiaries on a consolidated basis for any period, Cash Interest Expense for such period plus scheduled principal amortization of Consolidated Debt for such period (it being understood that scheduled principal amortization does not include balloon payments (for purposes of this definition, “balloon payments” shall not include any scheduled repayment installment of such Indebtedness for borrowed money which forms part of the balloon) or any prepayments).

“Consolidated Net Income” shall mean, with respect to any person for any period, the aggregate of the Net Income of such person and its subsidiaries for such period, on a consolidated basis; provided, however, that, without duplication:

- (a) any net after tax extraordinary, nonrecurring or unusual gains or losses or income or expense or charge (less all fees and expenses relating thereto) including, without limitation, any severance, relocation or other restructuring expenses, and fees, expenses or charges related to any offering of Equity Interests, any Investment, acquisition or Indebtedness permitted to be incurred hereunder (in each case, whether or not successful), including any such fees, expenses or charges related to the Transactions, in each case, shall be excluded,
- (b) any net after-tax income or loss from discontinued operations and any net after-tax gain or loss on disposal of discontinued operations shall be excluded,
- (c) any net after-tax gain or loss (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by the board of directors of the Company) shall be excluded,
- (d) any net after-tax income or loss (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness shall be excluded,
- (e) (i) the Net Income for such period of any person that is not a subsidiary of such person, or is an Unrestricted Subsidiary or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the referent person or a subsidiary thereof in respect of such period and (ii) the Net Income for such period shall include any ordinary course dividend, distribution or other payment in cash received from any person in excess of the amounts included in clause (i),

- (f) Consolidated Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period,
- (g) any increase in amortization or depreciation or any non-cash charges or increases or reductions in Net Income resulting from purchase accounting in connection with the Transactions or any acquisition that is consummated on or after the Closing Date shall be excluded,
- (h) any non-cash impairment charges resulting from the application of ASC 350 and ASC 360, and the amortization of intangibles and other fair value adjustments arising pursuant to ASC 805, shall be excluded,
- (i) any non-cash expenses realized or resulting from employee benefit plans or post-employment benefit plans, grants of stock appreciation or similar rights, stock options, restricted stock grants or other rights to officers, directors and employees of such person or any of its subsidiaries shall be excluded,
- (j) accruals and reserves that are established within twelve months after the Closing Date and that are so required to be established in accordance with GAAP shall be excluded; provided that to the extent (i) any such accrual or reserve is later reduced or eliminated or (ii) any cash expenditure is later incurred with respect to such accrual or reserve, then in each case a corresponding amount shall be included in Consolidated Net Income in the same period,
- (k) non-cash gains, losses, income and expenses resulting from fair value accounting required by ASC 815 shall be excluded,
- (l) any gain, loss, income, expense or charge resulting from the application of last in first out accounting shall be excluded,
- (m) currency translation gains and losses related to currency re-measurements of Indebtedness, and any net loss or gain resulting from Swap Agreements for currency exchange risk, shall be excluded,
- (n) to the extent covered by insurance and actually reimbursed, or, so long as such person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable carrier in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded; provided that any proceeds of such reimbursement when received shall be excluded from the calculation of Consolidated Net Income to the extent the expense reimbursed was previously excluded pursuant to this clause (n), and

(o) non-cash charges for deferred tax asset valuation allowances shall be excluded.

“Consolidated Total Assets” shall mean, as of any date, the total assets of the Company and the Subsidiaries, determined on a consolidated basis in accordance with GAAP, as set forth on the consolidated balance sheet of the Company as of such date.

“Control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and “Controlling” and “Controlled” shall have meanings correlative thereto.

“Control Agreement” shall have the meaning assigned to such term in the Collateral Agreement.

“Credit Event” shall have the meaning assigned to such term in Article IV.

“Cumulative Credit” shall mean, at any date, an amount, not less than zero in the aggregate, determined on a cumulative basis equal to, without duplication:

(a) \$[*], plus:

(b) an amount (which amount shall not be less than zero) equal to [*]% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from June 30, 2009 to the end of the Company’s most recently ended fiscal quarter for which internal financial statements are available at such date, plus

(c) the aggregate amount of proceeds received after the Closing Date and prior to such time that would have constituted Net Proceeds pursuant to clause (a) of the definition thereof except for the operation of clause (x) or (y) of the second proviso thereof (the “Below Threshold Asset Sale Proceeds”), plus

(d) the cumulative amount of proceeds (including cash and the fair market value of property other than cash) from the sale of Equity Interests of a Parent Entity after the Closing Date and on or prior to such time (including upon exercise of warrants or options) which proceeds have been contributed as common equity to the capital of the Company and common Equity Interests of the Company issued upon conversion of Indebtedness (other than Indebtedness that is contractually subordinated to the Obligations) of the Company or any Subsidiary owed to a person other than the Company or a Subsidiary not previously applied for a purpose other than use in the Cumulative Credit; provided, that this clause (d) shall exclude Permitted Cure Securities and the proceeds thereof, sales of Equity Interests financed as contemplated by Section 6.04(d) and any amounts used to finance the payments or distributions in respect of any Junior Financing pursuant to Section 6.09(b), plus

(e) [*]% of the aggregate amount of contributions to the common capital of the Company received in cash (and the fair market value of property other than cash) after the Closing Date (subject to the same exclusions as are applicable to clause (d) above); plus

(f) the principal amount of any Indebtedness (including the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock) of the Company or any Subsidiary thereof issued after the Closing Date (other than Indebtedness issued to a Subsidiary), which has been converted into or exchanged for Equity Interests (other than Disqualified Stock) in any Parent Entity, plus

(g) [*]% of the aggregate amount received by the Company or any Subsidiary in cash (and the fair market value of property other than cash received by the Company or any Subsidiary) after the Closing Date from:

(A) the sale (other than to the Company or any Subsidiary) of the Equity Interests of an Unrestricted Subsidiary, or

(B) any dividend or other distribution by an Unrestricted Subsidiary, plus

(h) in the event any Unrestricted Subsidiary has been redesignated as a Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into, the Company or any Subsidiary, the fair market value of the Investments of the Company or any Subsidiary in such Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable), plus

(i) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received by the Company or any Subsidiary in respect of any Investments made pursuant to Section 6.04(i), minus

(j) any amounts thereof used to make Investments pursuant to Section 6.04(a)(y) after the Closing Date prior to such time, minus

(k) any amounts thereof used to make Investments pursuant to Section 6.04(i)(2) after the Closing Date prior to such time, minus

(l) the cumulative amount of dividends paid and distributions made pursuant to Section 6.06(e) after the Closing Date prior to such time, minus

(m) payments or distributions in respect of Junior Financings pursuant to Section 6.09(b)(i) (other than payments made with proceeds from the issuance of Equity Interests that were excluded from the calculation of the Cumulative Credit pursuant to clause (d) above);

provided, however, for purposes of Section 6.06(e), the calculation of the Cumulative Credit shall not include any Below Threshold Asset Sale Proceeds except to the extent they are used as contemplated in clauses (j) and (k) above.

“Cure Amount” shall have the meaning assigned to such term in Section 8.02(c).

“Cure Collateral Fair Market Value” shall mean, when determining the value to be ascribed to any property added as Collateral pursuant to Section 8.02(a), (a) for any cash or Permitted Investments added as Collateral pursuant to Section 8.02(a), the Dollar Equivalent thereof as of any date of determination or (b) for any other property added as Collateral pursuant to Section 8.02(a), the Administrative Agent’s determination (in its reasonable judgment) of the price at which a willing buyer would purchase, were it to purchase, such other property in an arm’s-length transaction for all cash consideration on the date such property is added as Collateral pursuant to Section 8.02(a).

“Cure Right” shall have the meaning assigned to such term in Section 8.02(c).

“Debtor Relief Laws” shall mean the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

“Declined Proceeds” shall have the meaning assigned to such term in Section 2.10(c)(ii).

“Declining Lender” shall have the meaning assigned to such term in Section 2.10(c)(ii).

“Default” shall mean any event or condition that upon notice, lapse of time or both would constitute an Event of Default.

“Defaulting Lender” shall mean, subject to Section 2.22, any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Company in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (b) has notified the Company or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Company, to confirm in writing to the Administrative Agent and the Company that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Company) or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) becomes the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.22) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Company and each Lender promptly following such determination.

“Delaware Divided LLC” shall mean any limited liability company which has been formed upon the consummation of a Delaware LLC Division.

“Delaware LLC Division” shall mean the statutory division of any limited liability company into two or more limited liability companies pursuant to Section 18-217 of the Delaware Limited Liability Company Act or a comparable provision of any other Requirement of Law.

“Delayed Draw Term Facility” shall mean the Delayed Draw Term Loan Commitments and any Delayed Draw Term Loans made hereunder.

“Delayed Draw Term Loan Commitment” shall mean with respect to each Lender, the commitment of such Lender to make Delayed Draw Term Loans in Dollars as set forth in Section 2.01(a). The initial amount of each Lender’s Delayed Draw Term Loan Commitment is set forth on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender shall have assumed its Delayed Draw Term Loan Commitment, as applicable. The aggregate amount of the Delayed Draw Term Loan Commitments on the Closing Date is \$230,000,000.

“Delayed Draw Term Loan Maturity Date” shall mean the second anniversary of the Closing Date (the “Initial Delayed Draw Term Loan Maturity Date”); provided that, on the Initial Delayed Draw Term Loan Maturity Date, the Delayed Draw Term Loan Maturity Date shall automatically extend to the third anniversary of the Closing Date if (w) the Borrower shall have delivered, within the period from and including the date (the “Extension Election Commencement Date”) that is 180 days prior to the Initial Delayed Draw Term Loan Maturity Date to and including the Initial Delayed Draw Term Loan Maturity Date, written notice to the Administrative Agent of the Borrower’s election (at its sole discretion) the “Extension Election”) to so extend the Delayed Draw Term Loan Maturity Date, (x) the Borrower shall have paid to the Administrative Agent for the account of each Lender, on or prior to the Initial Delayed Draw Term Loan Maturity Date, the Extension Fee with respect to such Lender’s Delayed Draw Term Loans, (y) as of the Extension Election Commencement Date, the public corporate rating for the Company, Holdings or any other Parent Entity from S&P is at least BB- and (z) no Event of Default shall have occurred and be continuing or would result therefrom.

“Delayed Draw Term Loans” shall mean any term loans made by the Lenders to the Borrower from time to time pursuant to Section 2.01(a).

“Designated Non-Cash Consideration” shall mean the fair market value (as determined in good faith by the Company) of non-cash consideration received by the Company or one of its Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Company, setting forth such valuation, less the amount of cash or cash equivalents received in connection with a subsequent disposition of such Designated Non-Cash Consideration.

“Disqualified Stock” shall mean, with respect to any person, any Equity Interest of such person that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends in cash or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Stock, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date; provided, however, that only the portion of the Equity Interests that so mature or are mandatorily redeemable, are so convertible or exchangeable or are so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; provided, further, however, that if such Equity Interest is issued to any employee or to any plan for the benefit of employees of the Company or the Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Stock solely because they may be required to be repurchased by the Company or any Subsidiary in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability; provided further, however, that, with respect to clause (d) above, Equity Interests constituting Qualified Equity Interests when issued shall not cease to constitute Qualified Equity Interests as a result of the subsequent extension of the Latest Maturity Date.

“Dollar Equivalent” shall mean, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent at such time on the basis of the Spot Rate (determined in respect of the applicable date of determination) for the purchase of Dollars with such currency.

“Dollars” or “\$” shall mean the lawful currency of the United States of America.

“Earnings Assignment” shall mean the first priority collateral assignment of earnings entered into by the Subsidiary Guarantor in favor of the Collateral Agent in respect of the Mortgaged Vessel, in substantially the form of Exhibit H or otherwise reasonably satisfactory to the Administrative Agent.

“EBITDA” shall mean, with respect to Company and the Subsidiaries on a consolidated basis for any period, the Consolidated Net Income of the Company and the Subsidiaries for such period plus (a) the sum of (in each case without duplication and to the extent the respective amounts described in subclauses (i) through (vi) of this clause (a) reduced such Consolidated Net Income (and were not excluded therefrom) for the respective period for which EBITDA is being determined):

- (i) provision for Taxes (including without duplication, Tax distributions) based on income, profits or capital of the Company and the Subsidiaries for such period, including, without limitation, state, franchise and similar taxes,

- (ii) Interest Expense (and to the extent not included in Interest Expense, (x) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock or Disqualified Stock and (y) costs of surety bonds in connection with financing activities) of the Company and the Subsidiaries for such period (net of interest income of the Company and the Subsidiaries for such period),
- (iii) depreciation and amortization expenses of the Company and the Subsidiaries for such period,
- (iv) business optimization expenses and other restructuring charges (which, for the avoidance of doubt, shall include, without limitation, the effect of optimization programs, facility closures, retention, severance, systems establishment costs and excess pension charges); provided that with respect to each business optimization expense or other restructuring charge, the Company shall have delivered to the Administrative Agent an officers' certificate specifying and quantifying such expense or charge,
- (v) any other non-cash charges; provided that, for purposes of this subclause (v) of this clause (a), any non-cash charges or losses shall be treated as cash charges or losses in any subsequent period during which cash disbursements attributable thereto are made,
- (vi) the amount of management, consulting, monitoring, transaction and advisory fees and related expenses paid to any Affiliate (or any accruals related to such fees and related expenses) during such period not in contravention of this Agreement, and

minus (b) the sum of (without duplication and to the extent the amounts described in this clause (b) increased such Consolidated Net Income for the respective period for which EBITDA is being determined) non-cash items increasing Consolidated Net Income of the Company and the Subsidiaries for such period (but excluding any such items (i) in respect of which cash was received in a prior period or will be received in a future period or (ii) which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period).

“EEA Financial Institution” shall mean (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

“EEA Member Country” shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“environment” shall mean ambient and indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, natural resources such as flora and fauna, the workplace or as otherwise defined in any Environmental Law.

“Environmental Claim” shall mean any and all actions, suits, orders, demands, directives, claims, liens, request for information, investigations, proceedings or notices of noncompliance or violation by or from any person alleging liability of whatever kind or nature arising out of, based on or resulting from (i) the presence or Release of, or exposure to, any Hazardous Materials at any location; or (ii) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law (including any matters related to compliance with OPA 90).

“Environmental Law” shall mean any applicable law, regulation, rule or ordinance, order, decree, judgment, injunction, or other legally binding requirement or agreement issued, promulgated or entered into by any Governmental Authority, relating to pollution or protection of the environment, or health and safety, including laws relating to Releases or threatened Releases of Hazardous Materials into the environment or otherwise relating to Hazardous Materials.

“Environmental Liability” shall mean any loss or liability (including any liability for damages, costs of remediation, fines, penalties or indemnities), of any Loan Party directly or indirectly resulting from or based on: (a) any actual or alleged violation of any Environmental Law; (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Material; (c) exposure to any Hazardous Material; (d) any actual or alleged Release or threatened Release of any Hazardous Material; or (e) any Environmental Claim that relates to or is based upon the operation of the Mortgaged Vessel, including Environmental Claims based on indemnities or other contractual undertakings.

“Environmental Permits” shall have the meaning assigned to such term in Section 3.16.

“Equity Interests” of any person shall mean any and all shares, interests, rights to purchase or otherwise acquire, warrants, options, participations or other equivalents of or interests in (however designated) equity or ownership of such person, including any preferred stock, any limited or general partnership interest and any limited liability company membership interest, and any securities or other rights or interests convertible into or exchangeable for any of the foregoing.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended from time to time, and any final regulations promulgated and the rulings issued thereunder.

“ERISA Affiliate” shall mean any trade or business (whether or not incorporated) that, together with any Loan Party or a Subsidiary, is treated as a single employer under Section 414(b) or (c) of the Code, or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” shall mean (a) any Reportable Event or the requirements of Section 4043(b) of ERISA apply with respect to a Plan; (b) with respect to any Plan, the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or the failure to make any required contribution to a Multiemployer Plan; (d) the incurrence by the Company, any Subsidiary or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan or Multiemployer Plan; (e) the receipt by the Company, a Subsidiary or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or to appoint a trustee to administer any Plan under Section 4042 of ERISA; (f) the incurrence by the Company, a Subsidiary or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; (g) the receipt by the Company, a Subsidiary or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Company, a Subsidiary or any ERISA Affiliate of any notice, concerning the impending imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA, or in “endangered” or “critical” status, within the meaning of Section 432 of the Code or Section 305 of ERISA; (h) the conditions for imposition of a lien under ERISA shall have been met with respect to any Plan; (i) with respect to a Plan, the provision of security pursuant to Section 206(g) of ERISA; (j) a determination that any Plan is, or is expected to be, in “at-risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); or (k) the withdrawal of the Company, any Subsidiary or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA.

“EU Bail-In Legislation Schedule” shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Eurocurrency Borrowing” shall mean a Borrowing comprised of Eurocurrency Loans.

“Eurocurrency Loan” shall mean any Term Loan bearing interest at a rate determined by reference to the Adjusted LIBO Rate in accordance with the provisions of Article II.

“European Union” shall mean the political and economic community of twenty-seven member states as of January 1, 2007 (and all additional member states that accede thereto thereafter in accordance with applicable laws of the European Union) with supranational and intergovernmental features, located in Europe.

“Event of Default” shall have the meaning assigned to such term in Section 8.01.

“Event of Loss” shall mean any of the following events: (a) the actual or constructive total loss or the arranged or compromised total loss of the Mortgaged Vessel or (b) the capture, condemnation, confiscation, requisition, purchase, sale, seizure or forfeiture of, or any taking of title to, the Mortgaged Vessel. An Event of Loss shall be deemed to have occurred (i) in the event of an actual loss of the Mortgaged Vessel, at noon Greenwich Mean Time on the date of such loss, or if that is not known, on the date which the Mortgaged Vessel was last heard from, (ii) in the event of damage which results in a constructive or compromised or arranged total loss of the Mortgaged Vessel, at noon Greenwich Mean Time on the date of the event giving rise to such damage, or (iii) in the case of an event referred to in clause (b) above, at noon Greenwich Mean Time on the date on which such event is expressed to take effect by the person making the same.

“Exchange Act” shall mean the Securities Exchange Act of 1934.

“Excluded Taxes” shall mean, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or under any other Loan Document, (a) Taxes imposed on or measured by its overall net income or branch profits (however denominated, and including (for the avoidance of doubt) any backup withholding in respect thereof under Section 3406 of the Code or any similar provision of state, local or foreign law), and franchise (and similar) Taxes imposed on it (in lieu of net income Taxes), in each case by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, or in the case of any Lender, having its applicable lending office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from this Agreement or any other Loan Documents or any transactions contemplated thereunder), (b) U.S. federal withholding Tax imposed on any payment by or on account of any obligation of any Loan Party hereunder or under any other Loan Document that is required to be imposed on amounts payable to a Lender (other than to the extent such Lender is an assignee pursuant to a request by the Company under Section 2.19) pursuant to laws in force at the time such Lender becomes a party hereto (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts or indemnification payments from any Loan Party with respect to such withholding Tax pursuant to Section 2.17, (c) any withholding Tax imposed on any payment by or on account of any obligation of any Loan Party hereunder or under any other Loan Document that is attributable to the Administrative Agent’s, any Lender’s or any other recipient’s failure to comply with Section 2.17(e), or (d) any U.S. federal withholding Tax imposed under FATCA.

“Extended Term Loan” shall have the meaning assigned to such term in Section 2.21(e).

“Extended Term Loan Commitment” shall have the meaning assigned to such term in Section 2.21(e).

“Extending Lender” shall have the meaning assigned to such term in Section 2.21(e).

“Extension” shall have the meaning assigned to such term in Section 2.21(e).

“Extension Election” shall have the meaning assigned to such term in the definition of “Delayed Draw Term Loan Maturity Date”.

“Extension Election Commencement Date” shall have the meaning assigned to such term in the definition of “Delayed Draw Term Loan Maturity Date”.

“Extension Fee” shall have the meaning assigned to such term in Section 2.12(c).

“Facility” shall mean the respective facility and commitments utilized in making any Class of Loans and Extensions thereunder.

“EATCA” shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any Treasury regulations promulgated thereunder or official administrative interpretations thereof and any agreements entered into pursuant to current Section 1471(b)(1) of the Code (or any amended or successor version described above) or any intergovernmental agreement (and any related laws or legislation) implementing the foregoing.

“Federal Funds Effective Rate” shall mean, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions, as determined in such manner as the NYFRB shall set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate.

“Fees” shall mean the Commitment Fees, the Administrative Agent Fees and the Collateral Agent Fees.

“Financial Officer” of any person shall mean the Chief Financial Officer, principal accounting officer, Treasurer, Assistant Treasurer or Controller of such person.

“First Valuation” shall have the meaning assigned to such term in Section 5.16.

“Fiscal Year” shall mean the fiscal year of the Company and the Subsidiaries ending on December 31st of each calendar year or such other calendar date as notified by the Company to the Administrative Agent.

“Fixed Charge Coverage Ratio” shall mean, with respect to any person for any period, the ratio of EBITDA of such person for such period to the Fixed Charges (other than Fixed Charges in respect of Indebtedness that is non-recourse to the Loan Parties) of such person for such period.

“Fixed Charges” shall mean, with respect to any person for any period, the sum, without duplication, of:

- (a) Interest Expense of such person for such period, and
- (b) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Stock of such person and its Subsidiaries.

“Foreign Lender” shall mean any Lender (a) that is not disregarded as separate from its owner for U.S. federal income tax purposes and that is not a “United States person” as defined by Section 7701(a)(30) of the Code or (b) that is disregarded as separate from its owner for U.S. federal income tax purposes and whose regarded owner is not a “United States person” as defined in Section 7701(a)(30) of the Code.

“Foreign Subsidiary” shall mean any Subsidiary that is incorporated or organized under the laws of any jurisdiction other than the United States of America, any state thereof or the District of Columbia.

“Free Liquidity” shall mean, at any date of determination, the aggregate amount of Unrestricted Cash and any unused Commitments or other amounts available for drawing under revolving or other credit facilities of the Company, which remain undrawn, could be drawn for general working capital purposes or other general corporate purposes and would not, if drawn, be mandatorily repayable within six months.

“GAAP” shall mean generally accepted accounting principles in effect from time to time in the United States, applied on a consistent basis, subject to the provisions of Section 1.02; provided that any reference to the application of GAAP in Sections 3.13(b), 3.19, 5.03, 5.04, 5.07 and 6.02(e) to any Subsidiary that is incorporated or organized under the laws of any jurisdiction other than the United States, any state thereof or the District of Columbia (but not as a consolidated Subsidiary of the Company) shall mean generally accepted accounting principles in effect from time to time in the jurisdiction of organization of such non-U.S. Subsidiary.

“Governmental Authority” shall mean the government of the United States of America, or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

“Guarantee” of or by any person (the “guarantor”) shall mean (a) any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep well, to purchase assets, goods, securities or services, to take-or-pay or otherwise) or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, (iv) entered into for the purpose of assuring in any other manner the holders of such Indebtedness or other obligation of the payment thereof or to protect such holders against loss in respect thereof (in whole or in part) or (v) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation, or (b) any Lien on any assets of the guarantor securing any Indebtedness or other obligation (or any existing right, contingent or otherwise, of the holder of Indebtedness or other obligation to be secured by such a Lien) of any other person, whether or not such Indebtedness or other obligation is assumed by the guarantor; provided, however, the term “Guarantee” shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted by this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such person is required to perform thereunder) as determined by such person in good faith.

“guarantor” shall have the meaning assigned to such term in the definition of the term “Guarantee.”

“Hazardous Materials” shall mean all pollutants, contaminants, wastes, chemicals, materials, substances and constituents, including explosive or radioactive substances or petroleum by-products or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls or radon gas, biological waste, toxic mold, infectious materials, potentially infectious materials or disinfecting agents, of any nature subject to regulation or which can give rise to liability under any Environmental Law.

“Holdings” shall mean Norwegian Cruise Line Holdings Ltd., an exempted company incorporated in Bermuda.

“Immaterial Subsidiary” shall mean any Subsidiary that (a) did not, as of the last day of the fiscal quarter of the Company most recently ended, have assets with a value in excess of 5% of the Consolidated Total Assets or revenues representing in excess of 5% of total revenues of the Company and the Subsidiaries on a consolidated basis as of such date, and (b) taken together with all Immaterial Subsidiaries as of the last day of the fiscal quarter of the Company most recently ended, did not have assets with a value in excess of 10% of Consolidated Total Assets or revenues representing in excess of 10% of total revenues of the Company and the Subsidiaries on a consolidated basis as of such date. Each Immaterial Subsidiary shall be set forth in Schedule 1.01(a), and the Company shall update such Schedule from time to time after the Closing Date as necessary to reflect all Immaterial Subsidiaries at such time (the selection of Subsidiaries to be added to or removed from such Schedule to be made as the Company may determine). Notwithstanding the foregoing, no New Vessel Subsidiary or the Subsidiary Guarantor shall be an Immaterial Subsidiary.

“Impacted Interest Period” shall have the meaning assigned to it in the definition of “LIBO Rate.”

“Increased Amount” of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms, the accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies.

“Incremental Assumption Agreement” shall mean an Incremental Assumption Agreement in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the Administrative Agent and one or more Lenders providing Refinancing Term Loans, Refinancing Term Loan Commitments, Extended Term Loans and/or Extended Term Loan Commitments.

“Indebtedness” of any person shall mean, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such person under conditional sale or other title retention agreements relating to property or assets purchased by such person, (d) all obligations of such person issued or assumed as the deferred purchase price of property or services, to the extent that the same would be required to be shown as a long term liability on a balance sheet prepared in accordance with GAAP, (e) all Capital Lease Obligations of such person, (f) all payments that such person would have to make in the event of an early termination, on the date Indebtedness of such person is being determined, in respect of outstanding Swap Agreements, (g) the principal component of all obligations, contingent or otherwise, of such person as an account party in respect of letters of credit, (h) the principal component of all obligations of such person in respect of bankers’ acceptances, (i) all Guarantees by such person of Indebtedness described in clauses (a) to (h) above) and (j) the amount of all obligations of such person with respect to the redemption, repayment or other repurchase of any Disqualified Stock (excluding accrued dividends that have not increased the liquidation preference of such Disqualified Stock); provided that Indebtedness shall not include (A) trade payables, accrued expenses and intercompany liabilities arising in the ordinary course of business, (B) prepaid or deferred revenue arising in the ordinary course of business, (C) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase prices of an asset to satisfy unperformed obligations of the seller of such asset or (D) earn-out obligations until such obligations become a liability on the balance sheet of such person in accordance with GAAP. The Indebtedness of any person shall include the Indebtedness of any partnership in which such person is a general partner, other than to the extent that the instrument or agreement evidencing such Indebtedness expressly limits the liability of such person in respect thereof.

“Indemnified Taxes” shall mean all Taxes imposed on or with respect to or measured by any payment by or on account of any obligation of any Loan Party hereunder or under any other Loan Document other than (a) Excluded Taxes and (b) Other Taxes.

“Indemnitee” shall have the meaning assigned to such term in Section 10.05(b).

“Information” shall have the meaning assigned to such term in Section 3.14(a).

“Initial Delayed Draw Term Loan Maturity Date” shall have the meaning assigned to such term in the definition of “Delayed Draw Term Loan Maturity Date”.

“Insurance Assignment” shall mean the first priority assignment of insurance made or to be made by (a) the Subsidiary Guarantor in favor of the Mortgage Trustee in respect of the Mortgaged Vessel and (b) the Company in favor of the Mortgage Trustee in respect of the Mortgaged Vessel, in each case substantially in the form of Exhibit I or otherwise reasonably satisfactory to the Administrative Agent.

“Interest Election Request” shall mean a request by the Company to convert or continue a Borrowing in accordance with Section 2.07.

“Interest Expense” shall mean, with respect to any person for any period, the sum of (a) gross interest expense (including any commitment or utilization fees in respect of available or undrawn amounts under loan, letter of credit or similar facilities) of such person for such period on a consolidated basis, including (i) the amortization of debt discounts, (ii) the amortization of all fees (including fees with respect to Swap Agreements) payable in connection with the incurrence of Indebtedness to the extent included in interest expense and (iii) the portion of any payments or accruals with respect to Capital Lease Obligations allocable to interest expense and (b) capitalized interest of such person. For purposes of the foregoing, gross interest expense shall be determined after giving effect to any net payments made or received and costs incurred by the Company and the Subsidiaries with respect to Swap Agreements.

“Interest Payment Date” shall mean, (a) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months’ duration, each day that would have been an Interest Payment Date had successive Interest Periods of three months’ duration been applicable to such Borrowing and, in addition, the date of any refinancing or conversion of such Borrowing with or to a Borrowing of a different Type and (b) with respect to any ABR Loan, the last day of each calendar quarter, or if any such day is not a Business Day, on the next succeeding Business Day.

“Interest Period” shall mean, as to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing or on the last day of the immediately preceding Interest Period applicable to such Borrowing, as applicable, and ending on the numerically corresponding day (or, if there is no numerically corresponding day, on the last day) in the calendar month that is 1, 2, 3 or 6 months thereafter (or 12 months or a period shorter than one month, if at the time of the relevant Borrowing, all Lenders make interest periods of such length available), as the Company may elect, or the date any Eurocurrency Borrowing is converted to an ABR Borrowing in accordance with Section 2.07 or repaid or prepaid in accordance with Sections 2.09, 2.10 or 2.11; provided, however, that if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period.

“Interpolated Rate” shall mean, at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate for the longest period for which the LIBO Screen Rate is available that is shorter than the Impacted Interest Period; and (b) the LIBO Screen Rate for the shortest period for which that LIBO Screen Rate is available that exceeds the Impacted Interest Period, in each case, at such time.

“Investment” shall have the meaning assigned to such term in Section 6.04.

“ISM Code” shall mean the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted pursuant to Resolution A.741(18) of the International Maritime Organization and incorporated into the International Convention for the Safety of Life at Sea 1974 (SOLAS), and shall include any amendments or extensions thereto and any regulation issued pursuant thereto.

“ISM Code Documentation” in relation to the Mortgaged Vessel includes: (a) the document of compliance (“DOC”) and safety management certificate (“SMC”) issued pursuant to the ISM Code in relation to the Mortgaged Vessel within the periods specified by the ISM Code, (b) all other documents and data which are relevant to the ISM Safety Management Systems and its implementation and verification which the Administrative Agent may reasonably require and (c) any other documents which are prepared or which are otherwise relevant to establish and maintain the Mortgaged Vessel’s or the Subsidiary Guarantor’s compliance with the ISM Code which the Administrative Agent may reasonably require.

“ISM Safety Management Systems” shall mean the Safety Management System referred to in Clause 1.4 (or any other relevant provision) of the ISM Code.

“ISPS Code” shall mean the International Ship and Port Facility Security Code incorporated into the International Convention for the Safety of Life at Sea 1974 (SOLAS), and shall include any amendments or extensions thereto and any regulation issued pursuant thereto.

“Joint Bookrunners” shall mean, collectively, each entity listed as such on the cover of this Agreement, in each case in its capacity as such.

“Judgment Currency” shall have the meaning assigned to such term in Section 10.19.

“Junior Financing” shall have the meaning assigned to such term in Section 6.09(b).

“Junior Indebtedness” shall mean Indebtedness of the Company or any of the Subsidiaries that (a) is expressly subordinated to the prior payment in full in cash of the Obligations (and any related Guarantees) on terms reasonably satisfactory to the Administrative Agent, (b) provides that interest in respect of such Indebtedness shall not be payable in cash, (c) has a final maturity date that is not earlier than the Latest Maturity Date and has no scheduled payments of principal thereon (including pursuant to a sinking fund obligation or mandatory redemption obligations (other than pursuant to customary provisions relating to redemption or repurchase upon change of control or sale of assets)) prior to such final maturity date and (d) is not subject to covenants, events of default and remedies that, in the aggregate, are more onerous to the Borrower, than the terms of this Agreement; provided that such Indebtedness shall not be subject to any financial maintenance covenants; provided, further that Indebtedness constituting Junior Indebtedness when incurred shall not cease to constitute Junior Indebtedness as a result of the subsequent extension of the Latest Maturity Date.

“Latest Maturity Date” shall mean, at any date of determination, the latest Term Facility Maturity Date in each case as extended in accordance with the Agreement from time to time.

“Lender” shall mean each financial institution listed on Schedule 2.01, as well as any person that becomes a “Lender” hereunder pursuant to Section 10.04 or Section 2.21 (in each case, other than any such person that has ceased to be a party hereto pursuant to an Assignment and Acceptance in accordance with Section 10.04).

“Lending Office” shall mean, as to any Lender, the applicable branch(es), office(s) or Affiliate(s) of such Lender designated by such Lender in its Administrative Questionnaire or otherwise to make Loans.

“LIBO Rate” shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other person that takes over the administration of such rate) for Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the “LIBO Screen Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement provided further that if the LIBO Screen Rate shall not be available at such time for such Interest Period (an “Impacted Interest Period”) then the LIBO Rate shall be the Interpolated Rate; provided that if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“LIBO Screen Rate” shall have the meaning assigned to it in the definition of “LIBO Rate.”

“Lien” shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, charge, assignment, security interest or encumbrance of any kind in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset.

“Loan Component” shall have the meaning assigned to such term in the definition of Loan-to-Value Ratio in this Section 1.01.

“Loan Documents” shall mean this Agreement, the Security Documents, each Incremental Assumption Agreement, any Note issued under Section 2.09(e) and, solely for the purposes of Section 8.01 of this Agreement, any fee letters entered into between the Agents, the Arrangers, the Joint Bookrunners and the Borrower.

“Loan Parties” shall mean the Borrower and the Subsidiary Guarantor.

“Loans” shall mean the Delayed Draw Term Loans, the Refinancing Term Loans (if any) and the Extended Term Loans (if any).

“Loan-to-Value Ratio” shall mean, as of any date, the ratio of (a) the aggregate principal amount (the “Loan Component”) of all Term Loans outstanding on such day to (b) the sum (the “Value Component”) of (i) the amount of the most recent Valuation (determined in accordance with Section 5.16) for the Mortgaged Vessel *plus* (ii) the Cure Collateral Fair Market Value of all property added as Collateral pursuant to Section 8.02(a) through such date. Each determination of the Loan-to-Value Ratio on any day shall be made (A) first, without giving effect to any cure transaction permitted by Section 8.02(a) or (b) made (or to be made) on such day and (B) then, to determine compliance, with giving effect to any such cure transaction made on such day.

“Local Time” shall mean New York City time.

“Market Capitalization” shall mean an amount equal to (i) the total number of issued and outstanding shares of common (or common equivalent) Equity Interests of Holdings on the date of the declaration of the relevant Restricted Payment multiplied by (ii) the arithmetic mean of the closing prices per share of the common (or common equivalent) Equity Interests for the 30 consecutive trading days immediately preceding the date of declaration of such Restricted Payment.

“Majority Lenders” of any Facility shall mean, at any time, Lenders under such Facility having Loans and unused Commitments representing more than 50% of the sum of all Loans outstanding under such Facility and unused Commitments under such Facility at such time.

“Management Group” shall mean the group consisting of the directors, executive officers and other management personnel of the Company and any subsidiary of the Company, as the case may be, on the Closing Date together with (a) any new directors whose election by such boards of directors or whose nomination for election by the shareholders of Company and its subsidiary, as the case may be, was approved by a vote of a majority of the directors of the Company and the relevant subsidiary, as the case may be, then still in office who were either directors on the Closing Date or whose election or nomination was previously so approved and (b) executive officers and other management personnel of the Company and any subsidiary of the Company, as the case may be, hired at a time when the directors on the Closing Date together with the directors so approved constituted a majority of the directors of the Company and any subsidiary of the Company, as the case may be.

“Margin Stock” shall have the meaning assigned to such term in Regulation U.

“Material Adverse Effect” shall mean a material adverse effect on (i) the business, property, operations or condition of the Company and the Subsidiaries (taken as a whole), (ii) the validity or enforceability of any of the Loan Documents or the rights and remedies of the Administrative Agent and the Lenders thereunder or (iii) the value of the Collateral.

“Material Indebtedness” shall mean Indebtedness (other than Loans) of any one or more of the Company or any Subsidiary in an aggregate principal amount exceeding \$75,000,000.

“Material Subsidiary” shall mean any Subsidiary other than an Immaterial Subsidiary or an Unrestricted Subsidiary.

“Maximum Rate” shall have the meaning assigned to such term in Section 10.08.

“Moody’s” shall mean Moody’s Investors Service, Inc.

“Mortgage Trustee” shall mean the Collateral Agent acting as mortgage trustee for the Secured Parties.

“Mortgaged Vessel” shall mean the PRIDE OF AMERICA, and all appurtenances thereto.

“Multiemployer Plan” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Company, any Subsidiary or any ERISA Affiliate (other than one considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Code Section 414) is making or accruing an obligation to make contributions, or has within any of the preceding six plan years made or accrued an obligation to make contributions.

“Net Income” shall mean, with respect to any person, the net income (loss) of such person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

“Net Proceeds” shall mean [*]% of the cash proceeds actually received by the Borrower or the Subsidiary Guarantor (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise and including casualty insurance settlements and condemnation awards, but only as and when received) from any Asset Sale or Event of Loss of, or related to, the Mortgaged Vessel, net of, without duplication, (i) attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, required debt payments and required payments of other obligations relating to the applicable asset to the extent such debt or obligations are secured by a Lien permitted hereunder (other than pursuant to the Loan Documents and other than debt or obligations secured by Liens ranking pari passu or junior to the Liens securing the Obligations) on such asset, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith, (ii) Taxes paid or payable as a result thereof and (iii) the amount of any reasonable reserve established in accordance with applicable law or GAAP against any adjustment to the sale price or any liabilities (other than any Taxes deducted pursuant to clause (i) or (ii) above) (x) related to any of the applicable assets and (y) retained by the Company or any Subsidiary including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (however, the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Proceeds of such Asset Sale occurring on the date of such reduction)); provided that, if no Default or Event of Default exists and the Company shall deliver a certificate of a Responsible Officer of the Company to the Administrative Agent promptly following receipt of any such proceeds setting forth the Company’s intention to use any portion of such proceeds, to acquire, maintain, develop, construct, improve, upgrade or repair assets useful in the business of the Company and the Subsidiaries or to make investments in Permitted Business Acquisitions, in each case within 18 months of such receipt, such portion of such proceeds shall not constitute Net Proceeds except to the extent not, within 18 months of such receipt, so used or contractually committed to be so used (it being understood that if any portion of such proceeds are not so used within such 18-month period but within such 18-month period are contractually committed to be used, then upon the termination or expiration of such contract, such remaining portion shall constitute Net Proceeds as of the date of such termination or expiration without giving effect to this proviso); provided, further, that (x) no proceeds realized in a single transaction or series of related transactions shall constitute Net Proceeds unless such proceeds shall exceed \$30,000,000 and (y) no proceeds shall constitute Net Proceeds in any fiscal year until the aggregate amount of all such proceeds in such fiscal year shall exceed \$60,000,000.

For purposes of calculating the amount of Net Proceeds, fees, commissions and other costs and expenses payable to the Company or any Affiliate of the Company shall be disregarded, except for financial advisory fees customary in type and amount paid to any Affiliate not prohibited from being paid hereunder.

“New Vessel Financing” shall mean any financing arrangement entered into by any New Vessel Subsidiary in connection with any acquisition of one or more Vessels.

“New Vessel Subsidiary” shall mean any Wholly Owned Subsidiary of the Company that is formed for the purpose of acquiring one or more Vessels.

“New York Courts” shall have the meaning assigned to such term in Section 10.15(a).

“Non-Bank Tax Certificate” shall have the meaning assigned to such term in Section 2.17(e).

“Non-Consenting Lender” shall have the meaning assigned to such term in Section 2.19(c).

“Non-Defaulting Lender” shall mean, at any time, each Lender that is not a Defaulting Lender at such time.

“Note” shall have the meaning assigned to such term in Section 2.09(e).

“NYFRB” shall mean the Federal Reserve Bank of New York.

“NYFRB Rate” shall mean, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Obligations” shall have the meaning assigned to such term in the Collateral Agreement and shall include, for the avoidance of doubt, the “Obligations” and “Loan Document Obligations” (each as defined therein) of the Borrower under the Collateral Agreement.

“Offering Memorandum” shall mean the confidential Offering Memorandum, dated December 5, 2016, as amended or modified from time to time, in respect of the 4.75% Notes.

“OPA 90” shall mean the Oil Pollution Act of 1990, 33 U.S.C. §2701 *et seq.*

“Other Taxes” shall mean any and all present or future stamp, registration, documentary, intangible, recording, filing or any other excise, property or similar Taxes (including related reasonable out-of-pocket expenses with regard thereto) arising from any payment made hereunder or made under any other Loan Document or from the execution or delivery of, registration or enforcement of, consummation or administration of, or otherwise with respect to, this Agreement or any other Loan Document; provided that such term shall not include any of the foregoing Taxes (i) that result from an assignment, grant of a participation pursuant to Section 10.04(d) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Loan Document (“Assignment Taxes”) to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Loan Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Company, or (ii) Excluded Taxes.

“Overdraft Line” shall have the meaning assigned to such term in Section 6.01(x).

“Overnight Bank Funding Rate” shall mean, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“parent” shall have the meaning given such term in the definition of the term “subsidiary.”

“Parent Entity” shall mean any direct or indirect parent of the Company.

“Participant” shall have the meaning assigned to such term in Section 10.04(d)(i).

“Participant Register” shall have the meaning assigned to such term in Section 10.04(d)(i).

“PBGC” shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

“Perfection Certificate” shall mean a certificate in the form of Exhibit M or any other form approved by the Collateral Agent, as the same shall be supplemented from time to time.

“Permitted Additional Debt” shall mean any Indebtedness for borrowed money (a) for which the average life to maturity of such Permitted Additional Debt is greater than or equal to the remaining weighted average life to maturity of the Class of Term Loans then outstanding with the greatest remaining weighted average life to maturity and (b) that does not have a stated maturity prior to the date that is 91 days after the Latest Maturity Date; provided that Indebtedness constituting Permitted Additional Debt when incurred shall not cease to constitute Permitted Additional Debt as a result of the subsequent extension of the Latest Maturity Date.

“Permitted Business Acquisition” shall mean any acquisition of all or substantially all of the assets of, or all or a majority of the common Equity Interests in, a person or division or line of business of a person (or any subsequent investment made in a person, division or line of business previously acquired in a Permitted Business Acquisition), if immediately after giving effect thereto: (i) no Event of Default shall have occurred and be continuing or would result therefrom; (ii) all transactions related thereto shall be consummated in accordance with applicable laws; (iii) with respect to any such acquisition or investment with cash consideration in excess of \$[*], the Company and the Subsidiaries shall be in Pro Forma Compliance after giving effect to such acquisition or investment and any related transactions; (iv) any acquired or newly formed Subsidiary shall not be liable for any Indebtedness except for Indebtedness permitted by Section 6.01; (v) to the extent required by Section 5.10, any person acquired in such acquisition, if acquired by the Borrower or the Subsidiary Guarantor, shall be merged into the Borrower or the Subsidiary Guarantor; and (vi) unless immediately after giving effect to such acquisition the Company is in Ratio Compliance, the aggregate cash consideration in respect of such acquisitions and investments in assets that are not owned by the Borrower or a Restricted Subsidiary or in Equity Interests in persons that do not become Restricted Subsidiaries upon consummation of such acquisition shall not exceed the greater of (x) [*]% of Consolidated Total Assets and (y) \$[*].

“Permitted Cure Securities” shall mean any Equity Interests of the Company other than Disqualified Stock, and upon which all dividends or distributions (if any) shall, prior to 91 days after the Latest Maturity Date, be payable solely in additional shares of such Equity Interests; provided that Equity Interests constituting Permitted Cure Securities when issued shall not cease to constitute Permitted Cure Securities as a result of the subsequent extension of the Latest Maturity Date.

“Permitted Flag Jurisdiction” shall mean the Republic of the Marshall Islands, the Bahamas, Panama, Bermuda, the Republic of Cyprus, Isle of Man, Liberia, the United Kingdom, the United States of America, or any other jurisdiction approved by the Administrative Agent (such approval not to be withheld unreasonably).

“Permitted Holder” shall mean, at any time, each of (i) the Sponsors, (ii) the Management Group, (iii) any person that has no material assets other than the Equity Interests of the Company and, directly or indirectly, holds or acquires 100% of the total voting power of the Equity Interests of the Company, and of which no other person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), other than any of the other Permitted Holders specified in clauses (i) and (ii) above and (iv) below, holds more than 50% of the total voting power of the Equity Interests thereof and (iv) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision) the members of which include any of the Permitted Holders specified in clauses (i) and (ii) above and that, directly or indirectly, hold or acquire beneficial ownership of the Equity Interests of the Company (a “Permitted Holder Group”), so long as (1) each member of the Permitted Holder Group has voting rights proportional to the percentage of ownership interests held or acquired by such member and (2) no person or other “group” (other than the Permitted Holders specified in clauses (i) and (ii) above) beneficially owns more than 50% on a fully diluted basis of the Equity Interests held by the Permitted Holder Group.

“Permitted Investments” shall mean:

- (a) direct obligations of the United States of America or any member of the European Union or any agency thereof or obligations guaranteed by the United States of America or any member of the European Union or any agency thereof, in each case with maturities not exceeding two years;
- (b) time deposit accounts, certificates of deposit and money market deposits maturing within 180 days of the date of acquisition thereof issued by a bank or trust company that is organized under the laws of the United States of America, any state thereof or any foreign country recognized by the United States of America having capital, surplus and undivided profits in excess of \$500,000,000 and whose long-term debt, or whose parent holding company’s long-term debt, is rated A (or such similar equivalent rating or higher by at least one nationally recognized statistical rating organization (registered under Section 15E of the Exchange Act);
- (c) repurchase obligations with a term of not more than 180 days for underlying securities of the types described in clause (a) above entered into with a bank meeting the qualifications described in clause (b) above;
- (d) commercial paper, maturing not more than one year after the date of acquisition, issued by a corporation (other than the Company or an Affiliate of the Company) organized and in existence under the laws of the United States of America or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of P-1 (or higher) according to Moody’s, or A-1 (or higher) according to S&P;
- (e) securities with maturities of two years or less from the date of acquisition issued or fully guaranteed by any State, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least A by S&P or A by Moody’s;
- (f) shares of mutual funds whose investment guidelines restrict 95% of such funds’ investments to those satisfying the provisions of clauses (a) through (e) above;
- (g) money market funds that (i) comply with the criteria set forth in Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody’s and (iii) have portfolio assets of at least \$500,000,000;
- (h) time deposit accounts, certificates of deposit and money market deposits in an aggregate face amount not in excess of 0.5% of the total assets of the Company and the Subsidiaries, on a consolidated basis, as of the end of the Company’s most recently completed fiscal year; and
- (i) instruments equivalent to those referred to in clauses (a) through (h) above denominated in any foreign currency comparable in credit quality and tenor to those referred to above and commonly used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by the Company or any Subsidiary organized in such jurisdiction.

“Permitted Liens” shall have the meaning assigned to such term in Section 6.02.

“Permitted Loan Purchase Assignment and Acceptance” shall mean an assignment and acceptance entered into by a Lender as an Assignor and the Company as an Assignee, and accepted by the Administrative Agent, in the form of Exhibit N or such other form as shall be approved by the Administrative Agent and the Company (such approval not to be unreasonably withheld or delayed).

“Permitted Loan Purchases” shall have the meaning assigned to such term in Section 10.04(i).

“Permitted Loan Purchases Amount” shall mean [*]% of the sum of the aggregate principal amount of the Term Loans drawn on or after the Closing Date.

“Permitted Ratio Debt” shall mean secured or unsecured debt issued by the Company or its Subsidiaries, (i) if secured by the Collateral, the Liens with respect to which are subordinated to the Liens securing the Obligations pursuant to an intercreditor agreement in form and substance reasonably satisfactory to the Administrative Agent, (ii) the terms of which do not provide for a stated maturity date prior to the date that is 91 days after the Latest Maturity Date and (iii) the covenants, events of default, Subsidiary guarantees and other terms of which (other than interest rate and redemption premiums), taken as a whole, either (x) are not more restrictive to the Company and its Subsidiaries than the terms of the Senior Unsecured Notes Documents, or (y) if more restrictive, the Loan Documents are amended to contain such more restrictive terms (which amendments shall automatically occur); provided that Indebtedness constituting Permitted Ratio Debt when incurred shall not cease to constitute Permitted Ratio Debt as a result of the subsequent extension of the Latest Maturity Date.

“Permitted Refinancing Indebtedness” shall mean any Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund (collectively, to “Refinance”), the Indebtedness being Refinanced (or previous refinancings thereof constituting Permitted Refinancing Indebtedness); provided, that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Refinanced (plus unpaid accrued interest and premium thereon and underwriting discounts, fees, commissions and expenses), (b)(i) the final maturity date of such Permitted Refinancing Indebtedness is on or after the earlier of (x) the final maturity date of the Indebtedness being Refinanced and (y) 91 days after the Latest Maturity Date and (ii) the average life to maturity of such Permitted Refinancing Indebtedness is greater than or equal to the lesser of (i) the weighted average life to maturity of the Indebtedness being Refinanced and (ii) the weighted average life to maturity of the Class of Term Loans then outstanding with the greatest remaining weighted average life to maturity, (c) if the Indebtedness being Refinanced is subordinated in right of payment to the Obligations under this Agreement, such Permitted Refinancing Indebtedness shall be subordinated in right of payment to such Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being Refinanced, (d) no Permitted Refinancing Indebtedness shall have obligors that are not obligated with respect to the Indebtedness so Refinanced, or greater guarantees or security, than the Indebtedness being Refinanced and (e) if the Indebtedness being Refinanced is secured by any collateral (whether equally and ratably with, or junior to, the Secured Parties or otherwise), such Permitted Refinancing Indebtedness may be secured by such collateral (including in respect of working capital facilities of Subsidiaries that are not the Subsidiary Guarantor otherwise permitted under this Agreement only, any collateral pursuant to after-acquired property clauses to the extent any such collateral secured the Indebtedness being Refinanced) on terms no less favorable to the Secured Parties than those contained in the documentation governing the Indebtedness being Refinanced; provided further, that with respect to a Refinancing of (x) Permitted Additional Debt that is subordinated, such Permitted Refinancing Indebtedness shall (i) be subordinated to the guarantee by the Subsidiary Guarantor of the Facilities, and (ii) be otherwise on terms (other than interest rate and redemption premiums), taken as a whole, not materially less favorable to the Lenders than those contained in the documentation governing the Indebtedness being refinanced, and (y) Permitted Additional Debt, such Permitted Refinancing Indebtedness shall meet the requirements of the definition of “Permitted Additional Debt”; provided further, that Indebtedness constituting Permitted Refinancing Indebtedness shall not cease to constitute Permitted Refinancing Indebtedness as a result of the subsequent extension of the Latest Maturity Date.

“Permitted Vessel Transfer” shall have the meaning assigned to such term in Section 5.10(g).

“person” shall mean any natural person, corporation, business trust, joint venture, association, company, partnership, limited liability company or government, individual or family trusts, or any agency or political subdivision thereof.

“Plan” shall mean any employee pension benefit plan (other than a Multiemployer Plan) that is (i) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, (ii) sponsored or maintained or contributed to (at the time of determination or at any time within the five years prior thereto) by any Loan Party or ERISA Affiliate, and (iii) in respect of which the Loan Party or ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform” shall have the meaning assigned to such term in Section 10.17.

“Pledged Collateral” shall have the meaning assigned to such term or any equivalent term in the Subsidiary Guarantor Pledge Agreement or in the Collateral Agreement.

“PRIDE OF AMERICA” shall mean the Pride of America, IMO number 9209221, currently registered in the name of Pride of America Ship Holding LLC under the laws of the United States of America with the official number 1146542.

“primary obligor” shall have the meaning given such term in the definition of the term “Guarantee.”

“Prime Rate” shall mean the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“Pro Forma Basis” shall mean, as to any person, for any events as described below that occur subsequent to the commencement of a period for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation as will give pro forma effect to such events as if such events occurred on the first day of the four consecutive fiscal quarter period ended on or before the occurrence of such event (the “Reference Period”): (i) in making any determination of EBITDA, (x) effect shall be given to any Asset Sale, any acquisition, Investment, improvement (or any similar transaction or transactions not otherwise permitted under Section 6.04 or 6.05 that require a waiver or consent of the Required Lenders and such waiver or consent has been obtained), any dividend, distribution or other similar payment, any designation of any Subsidiary as an Unrestricted Subsidiary and any Subsidiary Redesignation and any restructurings of the business of the Company or any Subsidiary that are expected to have a continuing impact and are factually supportable, which would include cost savings resulting from head count reduction, closure of facilities and similar operational and other cost savings, which adjustments the Company determines are reasonable as set forth in a certificate of a Financial Officer of the Company (the foregoing, together with any transactions related thereto or in connection therewith, the “relevant transactions”), in each case that occurred during the Reference Period or, in the case of determinations made pursuant to the definition of the term “Permitted Business Acquisition” or pursuant to Article VI, occurring during the Reference Period or thereafter and through and including the date upon which the respective Permitted Business Acquisition or relevant transaction is consummated, and (y) on or following the delivery date of any new Vessel and for so long as such Reference Period includes such delivery date, in the event that the Company or any Subsidiary took delivery of any new Vessel during such Reference Period, EBITDA shall include the projected EBITDA (based on reasonable assumptions) for such Vessel as if such Vessel had been in operation on the first day of such Reference Period (as set forth in reasonable detail on an officer’s certificate prepared in good faith by a Responsible Officer of the Company), and (ii) in making any determination on a Pro Forma Basis, all Indebtedness (including Indebtedness issued, incurred or assumed as a result of, or to finance, any relevant transactions and for which the financial effect is being calculated, whether incurred under this Agreement or otherwise, but excluding normal fluctuations in revolving Indebtedness incurred for working capital purposes, in each case not to finance any acquisition) issued, incurred, assumed or permanently repaid during the Reference Period (or, in the case of determinations made pursuant to the definition of the term, “Permitted Business Acquisition” or pursuant to Article VI, occurring during the Reference Period or thereafter and through and including the date upon which the respective Permitted Business Acquisition or relevant transaction is consummated) shall be deemed to have been issued, incurred, assumed or permanently repaid at the beginning of such period except that any Indebtedness incurred in connection with the financing of a new Vessel shall be deemed to have not been incurred until the relevant delivery date for such Vessel, and (iii) (A) any Subsidiary Redesignation then being designated, effect shall be given to such Subsidiary Redesignation and all other Subsidiary Redesignations after the first day of the relevant Reference Period and on or prior to the date of the respective Subsidiary Redesignation then being designated, collectively, and (B) any designation of a Subsidiary as an Unrestricted Subsidiary, effect shall be given to such designation and all other designations of Subsidiaries as Unrestricted Subsidiaries after the first day of the relevant Reference Period and on or prior to the date of the then applicable designation of a Subsidiary as an Unrestricted Subsidiary, collectively. *Pro forma* calculations made pursuant to the definition of the term “Pro Forma Basis” shall be determined in good faith by a Responsible Officer of the Company and may include adjustments to reflect (1) operating expense reductions and other operating improvements or synergies reasonably expected to result from any relevant pro forma event and (2) all adjustments of the nature used in connection with the calculation of Adjusted EBITDA as set forth in footnote 4 to the “Summary Consolidated Financial Data” in the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such Reference Period. The Company shall deliver to the Administrative Agent a certificate of a Financial Officer of the Company setting forth such demonstrable or additional operating expense reductions, other operating improvements or synergies and adjustments pursuant to clause (2), and information and calculations supporting them in reasonable detail.

“Pro Forma Compliance” shall mean, at any date of determination, that, on a Pro Forma Basis after giving effect to the relevant transactions (including the assumption, the issuance, incurrence and permanent repayment of Indebtedness), the Company would not violate the financial covenants set forth in Sections 6.12, 6.13, 6.14 and 6.15, after recomputing the ratios and amounts measured thereunder as of the last day of the most recently ended fiscal quarter of the Company for which the financial statements and certificates required pursuant to Section 5.04 have been delivered, and the Company shall have delivered to the Administrative Agent a certificate of a Responsible Officer of the Company to such effect, together with all relevant financial information.

“Pro Rata Extension Offer” shall have the meaning assigned to such term in Section 2.21(e).

“Process Agent” shall have the meaning assigned to such term in Section 10.15(c).

“Projections” shall mean the projections of the Company and the Subsidiaries included in the Information and any other projections and any forward-looking statements (including statements with respect to booked business) of such entities furnished to the Lenders or the Administrative Agent by or on behalf of the Company or any Subsidiary prior to the Closing Date.

“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Public Lender” shall have the meaning assigned to such term in Section 10.17.

“Qualified Equity Interests” shall mean any Equity Interest other than Disqualified Stock.

“Rate” shall have the meaning assigned to such term in the definition of the term “Type.”

“Ratio Compliance” shall mean, at any date of determination, that (A) the Loan-to-Value Ratio on a Pro Forma Basis is equal to or less than [*] to 1.0, or (B) the Fixed Charge Coverage Ratio on a Pro Forma Basis is at least [*] to 1.0.

“Real Property” shall mean, collectively, all right, title and interest (including any leasehold estate) in and to any and all parcels of or interests in real property owned in fee or leased by any Loan Party, whether by lease, license, or other means, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, incidental to the ownership, lease or operation thereof.

“Reference Period” shall have the meaning assigned to such term in the definition of the term “Pro Forma Basis.”

“Refinance” shall have the meaning assigned to such term in the definition of the term “Permitted Refinancing Indebtedness,” “Refinancing” and “Refinanced” shall have a meaning correlative thereto.

“Refinancing Effective Date” shall have the meaning assigned to such term in Section 2.21(j).

“Refinancing Term Loan Commitments” shall have the meaning assigned to such term in Section 2.21(l).

“Refinancing Term Loans” shall have the meaning assigned to such term in Section 2.21(j).

“Register” shall have the meaning assigned to such term in Section 10.04(b)(iv).

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Related Parties” shall mean, with respect to any specified person, such person’s Affiliates and the respective directors, trustees, officers, employees, agents and advisors of such person and such person’s Affiliates.

“Release” shall mean any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, emanating or migrating in, into, onto or through the environment or into or out of any property of Hazardous Materials.

“Remaining Present Value” shall mean, as of any date with respect to any lease, the present value as of such date of the scheduled future lease payments with respect to such lease, determined with a discount rate equal to a market rate of interest for such lease reasonably determined at the time such lease was entered into.

“Reportable Event” shall mean any reportable event as defined in Section 4043(c) of ERISA or the regulations issued thereunder, other than those events as to which the 30 day notice period referred to in Section 4043(c) of ERISA has been waived, with respect to a Plan (other than a Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code).

“Required Lenders” shall mean, at any time, Lenders having (a) Loans outstanding and (b) unused Commitments, that taken together, represent more than 50% of the sum of (i) all Loans outstanding and (ii) the total unused Commitments at such time. The Loans and unused Commitments of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Responsible Officer” of any person shall mean any executive officer or Financial Officer of such person and any other officer or similar official thereof responsible for the administration of the obligations of such person in respect of this Agreement.

“Restricted Subsidiary” means any Subsidiary that is not an Unrestricted Subsidiary.

“S&P” shall mean Standard & Poor’s Ratings Group, Inc.

“Sale and Lease-Back Transaction” shall have the meaning assigned to such term in Section 6.03.

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of comprehensive Sanctions (at the time of this Agreement, Cuba, Iran, North Korea, Sudan, Syria and Crimea).

“Sanctioned Person” means, at any time, any person with whom dealings are prohibited under Sanctions, including (a) any person listed in any Sanctions-related list of designated persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or by the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom, (b) any person organized or resident in a Sanctioned Country or (c) any person owned or controlled by any such person or persons described in the foregoing clauses (a) or (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom or Norway.

“SEC” shall mean the United States Securities and Exchange Commission or any successor thereto.

“Second Valuation” shall have the meaning assigned to such term in Section 5.16.

“Secured Parties” shall mean the “Secured Parties” as defined in the Collateral Agreement.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Documents” shall mean the Vessel Mortgage, the Collateral Agreement, the Subsidiary Guarantor Pledge Agreement, the Earnings Assignment, the Insurance Assignment and each of the security agreements and other instruments and documents executed and delivered pursuant to any of the foregoing or pursuant to Section 5.10.

“Senior Unsecured Notes” shall mean NCL’s 4.750% senior notes due 2021 (the “4.75% Notes”), pursuant to an indenture, dated as of December 14, 2016, between NCL and U.S. Bank National Association, as trustee (the “4.75% Notes Indenture”), and/or any notes issued by NCL in exchange for, and as contemplated by, the 4.75% Notes and the related registration rights agreement with substantially identical terms as the 4.75% Notes, in each case as in effect on the Closing Date and as amended, restated, supplemented or otherwise modified from time to time in accordance with the requirements thereof and of this Agreement.

“Senior Unsecured Notes Documents” shall mean the Senior Unsecured Notes and the Senior Unsecured Notes Indentures.

“Senior Unsecured Notes Indentures” shall mean the 4.75% Notes Indenture, as in effect on the Closing Date and as amended, restated, supplemented or otherwise modified from time to time in accordance with the requirements thereof and of this Agreement.

“Similar Business” shall mean a business, the majority of whose revenues are derived from the activities of the Company and its Subsidiaries as of the Closing Date or any business or activity that is reasonably similar or complementary thereto or a reasonable extension, development or expansion thereof or ancillary thereto.

“Sponsors” shall mean (i) Apollo Management, L.P. and any of its respective Affiliates other than any portfolio companies not primarily engaged in the cruise business (collectively, the “Apollo Sponsors”), (ii) TPG Global, LLC, TPG Capital and any of their respective Affiliates other than any portfolio companies (collectively, the “TPG Sponsors”), (iii) Genting Hong Kong Limited, and any of its respective Affiliates (collectively, the “Genting Sponsors”), and (iv) any person that forms a group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision) with any Apollo Sponsors, TPG Sponsors and/or Genting Sponsors; provided that the Apollo Sponsors, TPG Sponsors and/or Genting Sponsors (x) owns a majority of the voting power and (y) controls a majority of the board of directors of such group.

“Spot Rate” for a currency means the rate determined by the Administrative Agent to be the rate quoted by the person acting in such capacity as the spot rate for the purchase by such person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent may obtain such spot rate from another financial institution designated by the Administrative Agent if the person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

“Statutory Reserves” shall mean, with respect to any currency, any reserve, liquid asset or similar requirements established by any Governmental Authority of the United States, the United Kingdom or the European Union or of the jurisdiction of such currency or any jurisdiction in which Loans in such currency are made to which banks in such jurisdiction are subject for any category of deposits or liabilities customarily used to fund loans in such currency or by reference to which interest rates applicable to Loans in such currency are determined.

“Subagent” shall have the meaning assigned to such term in Section 9.02.

“subsidiary” shall mean, with respect to any person (herein referred to as the “parent”), any corporation, partnership, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, directly or indirectly, owned, Controlled or held, or (b) that is, at the time any determination is made, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” shall mean, unless the context otherwise requires, a subsidiary of the Company. Notwithstanding the foregoing (and except for purposes of Sections 3.08, 3.09, 3.13, 3.15, 3.16, 5.03, 5.09 and 8.01(k), and the definition of “Unrestricted Subsidiary” contained herein), an Unrestricted Subsidiary shall be deemed not to be a Subsidiary of the Company or any of its Subsidiaries for purposes of this Agreement.

“Subsidiary Guarantor” shall mean the direct or indirect Subsidiary of the Company which directly owns the Mortgaged Vessel.

“Subsidiary Guarantor Pledge Agreement” shall mean (a) the New York law Pledge Agreement dated as of the Closing Date between NCL America Holdings, LLC and the Collateral Agent in respect of the equity of the Subsidiary Guarantor and (b) any additional pledge agreement relating to the Equity Interests of the Subsidiary Guarantor.

“Subsidiary Redesignation” shall have the meaning provided in the definition of “Unrestricted Subsidiary.”

“Swap Agreement” shall mean any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Company or any of the Subsidiaries shall be a Swap Agreement.

“Tax Agreements” shall have the meaning assigned to such term in Section 6.06(b).

“Taxes” shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings or other similar charges imposed by any Governmental Authority whether computed on a separate, consolidated, unitary, combined or other basis and any interest, fines, penalties or additions to tax with respect to the foregoing.

“Term Facility Maturity Date” shall mean, as the context may require, (a) with respect to the Delayed Draw Term Facility in effect on the Closing Date, the Delayed Draw Term Loan Maturity Date and (b) with respect to any other Class of Term Loans, the maturity dates specified therefor in the applicable Incremental Assumption Agreement.

“Term Loan Installment Date” shall have the meaning assigned to such term in Section 2.10(a)(ii).

“Term Loans” shall mean the Delayed Draw Term Loans and/or the Refinancing Term Loans and/or the Extended Term Loans.

“Test Period” shall mean, on any date of determination, the period of four consecutive fiscal quarters of the Company then most recently ended (taken as one accounting period).

“Third Valuation” shall have the meaning assigned to such term in Section 5.16.

“Total Capitalization” shall mean, at any date of determination, the Total Net Funded Debt plus the consolidated stockholders’ equity of the Company and its Subsidiaries at such date determined in accordance with GAAP and derived from the then latest unaudited and consolidated financial statements of the Company and its Subsidiaries delivered to the Administrative Agent in the case of the first three quarters of each fiscal year and the then latest audited and consolidated financial statements delivered to the Administrative Agent in the case of each fiscal year; provided it is understood that the effect of any impairment of intangible assets shall be added back to stockholders’ equity and provided further, that Total Capitalization shall be determined on a Pro Forma Basis.

“Total Leverage Ratio” shall mean, on any date, the ratio of (a) (i) the aggregate principal amount of Consolidated Debt of the Company and its Subsidiaries outstanding as of the last day of the Test Period most recently ended as of such date less (ii) without duplication, the Unrestricted Cash and Permitted Investments of the Company and its Subsidiaries as of the last day of such Test Period, to (b) EBITDA for such Test Period, all determined on a consolidated basis in accordance with GAAP; provided, that the Total Leverage Ratio shall be determined for the relevant Test Period on a Pro Forma Basis.

“Total Net Funded Debt” shall mean, as at any relevant date:

(i) Indebtedness for borrowed money of the Company and its Subsidiaries; and

(ii) the amount of any Indebtedness for borrowed money of any person other than the Company or its Subsidiaries but which is guaranteed by the Company or any of its Subsidiaries as at such date:

less an amount equal to any Unrestricted Cash as at such date; provided that any unused Commitments and other amounts available for drawing under revolving or other credit facilities of the Company and its Subsidiaries which remain undrawn shall not be counted as cash or indebtedness for the purposes of Total Net Funded Debt and provided further, that Total Net Funded Debt shall be determined on a Pro Forma Basis.

“Transactions” shall mean, collectively, (a) the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party and, in the case of the Borrower, the making of the Borrowings hereunder, and (b) the payment of related fees and expenses.

“Trust Property” shall mean (a) the security, powers, rights, titles, benefits and interests (both present and future) constituted by and conferred on the Mortgage Trustee under or pursuant to the Vessel Mortgage (including the benefits of all covenants, undertakings, representations, warranties and obligations given, made or undertaken to the Mortgage Trustee in the Vessel Mortgage), (b) all moneys, property and other assets paid or transferred to or vested in the Mortgage Trustee, or any agent of the Mortgage Trustee whether from any Loan Party or any other person, and (c) all money, investments, property and other assets at any time representing or deriving from any of the foregoing, including all interest, income and other sums at any time received or receivable by the Mortgage Trustee or any agent of the Mortgage Trustee in respect of the same (or any part thereof).

“Type” shall mean, when used in respect of any Loan or Borrowing, the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined. For purposes hereof, the term “Rate” shall include the Adjusted LIBO Rate and the ABR.

“Unfunded Pension Liability” shall mean the excess of a Plan’s “accumulated benefit obligations” as defined under Statement of Financial Accounting Standards No. 87, over the current fair market value of that Plan’s assets.

“Uniform Commercial Code” shall mean the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“United Kingdom” and “U.K.” shall mean the United Kingdom of Great Britain and Northern Ireland.

“United States” and “U.S.” shall mean the United States of America.

“Unrestricted Cash” shall mean cash or cash equivalents of the Company or any of its Subsidiaries that would not appear as “restricted” on a consolidated balance sheet of the Company or any of its Subsidiaries.

“Unrestricted Subsidiary” shall mean any Subsidiary of the Company that is acquired or created after the Closing Date and designated by the Company as an Unrestricted Subsidiary hereunder by written notice to the Administrative Agent; provided, that the Company shall only be permitted to so designate a new Unrestricted Subsidiary after the Closing Date so long as (a) no Default or Event of Default has occurred and is continuing or would result therefrom, (b) immediately after giving effect to such designation (as well as all other such designations theretofore consummated after the first day of such Reference Period), the Company shall be in Pro Forma Compliance, (c) such Unrestricted Subsidiary shall be capitalized (to the extent capitalized by the Company or any of its Subsidiaries) through Investments as permitted by, and in compliance with, Section 6.04, (d) [reserved]; (e) such Subsidiary shall have been designated an “unrestricted subsidiary” (or otherwise not be subject to the covenants and defaults) under the Senior Unsecured Notes Indentures, all Permitted Additional Debt and all Permitted Refinancing Indebtedness in respect of any of the foregoing and all Disqualified Stock; provided, further, that at the time of the initial Investment by the Company or any of its Subsidiaries in such Subsidiary, the Company shall designate such entity as an Unrestricted Subsidiary in a written notice to the Administrative Agent. The Company may designate any Unrestricted Subsidiary to be a Subsidiary for purposes of this Agreement (each, a “Subsidiary Redesignation”); provided, that (i) such Unrestricted Subsidiary, both before and after giving effect to such designation, shall be a Wholly Owned Subsidiary of the Company, (ii) no Default or Event of Default has occurred and is continuing or would result therefrom, (iii) immediately after giving effect to such Subsidiary Redesignation (as well as all other Subsidiary Redesignations theretofore consummated after the first day of such Reference Period), the Company shall be in Pro Forma Compliance, (iv) all representations and warranties contained herein and in the other Loan Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the date of such Subsidiary Redesignation (both before and after giving effect thereto), unless stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date, and (v) the Company shall have delivered to the Administrative Agent an officer’s certificate executed by a Responsible Officer of the Company, certifying to the best of such officer’s knowledge, compliance with the requirements of preceding clauses (i) through (iv), inclusive, and containing the calculations and information required by the preceding clause (ii).

“USA PATRIOT Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107 56 (signed into law October 26, 2001)).

“Valuation” shall mean, in relation to the Mortgaged Vessel, a valuation of the Mortgaged Vessel made at any relevant time by an Approved Broker with or without physical inspection of the Mortgaged Vessel, on the basis of a sale for prompt delivery for cash at arms’ length on customary commercial terms as between a willing seller and a willing buyer, free of any existing charter or other contracts of employment. If any Approved Broker shall deliver a Valuation indicating a range of values for the Mortgaged Vessel, the Valuation for the Mortgaged Vessel shall be the arithmetic mean of the two endpoints of such range. Further, if any Approved Broker shall deliver a Valuation indicating a value for the Mortgaged Vessel in any currency other than Dollars, the Valuation for the Mortgaged Vessel shall be the Dollar Equivalent thereof. It is agreed that as of the Closing Date and until a Valuation shall have been obtained pursuant to Section 5.16 for the Mortgaged Vessel, the Valuation for the Mortgaged Vessel shall be \$[*].

“Value Component” shall have the meaning assigned to such term in the definition of Loan-to-Value Ratio in this Section 1.01.

“Vessel” shall mean a passenger cruise vessel.

“Vessel Mortgage” shall mean the first preferred ship mortgage (or equivalent) granting a Lien on the Mortgaged Vessel in favor of the Mortgage Trustee.

“Wholly Owned Subsidiary” of any person shall mean a subsidiary of such person, all of the Equity Interests of which (other than directors’ qualifying shares or nominee or other similar shares required pursuant to applicable law) are owned by such person or another Wholly Owned Subsidiary of such person.

“Withdrawal Liability” shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” shall mean the Loan Parties, the Administrative Agent or any other applicable withholding agent.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.02. Terms Generally. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions set forth or referred to in Section 1.01 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, any reference in this Agreement to any Loan Document shall mean such document as amended, restated, supplemented, replaced or otherwise modified from time to time. All references to a person shall include that person’s permitted successors and assigns (subject to any restrictions on assignment set forth herein). With respect to any Default or Event of Default, the words “exist,” “existence,” “occurred” or “continuing” shall be deemed to refer to a Default or Event of Default that has not been waived in accordance with Section 10.08 or, to the extent applicable, cured in accordance with Section 8.02 or otherwise. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided, that, if the Company notifies the Administrative Agent that the Company requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Company that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including,” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.”

Section 1.03. Exchange Rates: Currency Equivalents Except for purposes of financial statements delivered by Loan Parties hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent. No Default or Event of Default shall arise as a result of any limitation or threshold set forth in Dollars in Article VI or paragraph (f) or (j) of Section 8.01 being exceeded solely as a result of changes in currency exchange rates from those rates applicable on the first day of the fiscal quarter in which such determination occurs or in respect of which such determination is being made.

Section 1.04. [Reserved].

Section 1.05. Interest Rates: LIBOR Notification. The interest rate on Eurocurrency Loans is determined by reference to the LIBO Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the “IBA”) for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that commencing in 2022, the London interbank offered rate may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on Eurocurrency Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 2.14(b) of this Agreement, such Section 2.14(b) provides a mechanism for determining an alternative rate of interest. The Administrative Agent will notify the Company, pursuant to Section 2.14, in advance of any change to the reference rate upon which the interest rate on Eurocurrency Loans is based. However, the Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of “LIBO Rate” or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 2.14(b), will be similar to, or produce the same value or economic equivalence of, the LIBO Rate or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

ARTICLE II
THE CREDITS

Section 2.01. Commitments. Subject to the terms and conditions set forth herein:

(a) each Lender with a Delayed Draw Term Loan Commitment on the Closing Date agrees to make Delayed Draw Term Loans denominated in Dollars to the Borrower from time to time during the Availability Period in up to three (3) drawings, in an aggregate principal amount not to exceed its Delayed Draw Term Loan Commitment; and

(b) each Lender having a Refinancing Term Loan Commitment or an Extended Term Loan Commitment agrees, subject to the terms and conditions set forth in the applicable Incremental Assumption Agreement, to make Refinancing Term Loans or Extended Term Loans, as applicable, in an aggregate principal amount not to exceed its Refinancing Term Loan Commitment or Extended Term Loan Commitment, as applicable.

Section 2.02. Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans under the same Facility and of the same Type made by the Lenders ratably in accordance with their respective Commitments under the applicable Facility. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that unless otherwise agreed by all the Lenders, (i) the obligations of a Lender under the Loan Documents are several, (ii) failure by a Lender to perform its obligations does not affect the obligations of any other party under the Loan Documents, (iii) no Lender is responsible for the obligations of any other Lender under the Loan Documents, (iv) the rights of a Lender under the Loan Documents are separate and independent rights, (v) a Lender may, except as otherwise stated in the Loan Documents, separately enforce those rights and (vi) a debt arising under the Loan Documents to a Lender is a separate and independent debt.

(b) Subject to Section 2.02(c) and Section 2.14, each Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any ABR Loan or Eurocurrency Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided, that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement and such Lender shall not be entitled to any amounts payable under Section 2.15 or 2.17 solely in respect of increased costs resulting from such exercise and existing at the time of such exercise.

(c) At the commencement of each Interest Period for any Eurocurrency Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided, that an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Delayed Draw Term Loan Commitments. Borrowings of more than one Type and under more than one Facility may be outstanding at the same time; provided, that there shall not at any time be more than a total of 10 Eurocurrency Borrowings outstanding under the Facilities.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing of any Class if the Interest Period requested with respect thereto would end after the Term Facility Maturity Date for such Class, as applicable.

Section 2.03. Requests for Borrowings. To request a Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurocurrency Borrowing, not later than 2:00 p.m., Local Time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing not later than 12:00 noon, Local Time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) whether such Borrowing is to be a Borrowing of Delayed Draw Term Loans, Refinancing Term Loans or Extended Term Loans;
- (ii) the aggregate amount of the requested Borrowing;
- (iii) the date of such Borrowing, which shall be a Business Day;
- (iv) subject to Section 2.02(c), whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;
- (v) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (vi) the location and number of the Borrower's account to which funds are to be disbursed.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section 2.03, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04. [Reserved].

Section 2.05. [Reserved].

Section 2.06. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, Local Time (or, if later, two hours after the Borrowing Request has been delivered pursuant to Section 2.03) on the Business Day specified in the applicable Borrowing Request, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower designated by the Company in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of the Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of (A) the NYFRB Rate and (B) a rate as reasonably determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans at such time. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in the Borrowing.

Section 2.07. Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in the Borrowing Request. Thereafter, the Company may elect to convert the Borrowing to a different Type or to continue the Borrowing and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Company may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising the Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Company shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Company were requesting a Borrowing of the Type and in the applicable currency resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Interest Election Request in the form of Exhibit E and signed by the Company.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

- (i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);
- (ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;
- (iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and
- (iv) if the resulting Borrowing is a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the Company shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender to which such Interest Election Request relates of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Company fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless the Borrowing is repaid as provided herein, at the end of such Interest Period the Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the written request (including a request through electronic means) of the Required Lenders, so notifies the Company, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.08. Termination and Reduction of Commitments.

(a) Unless previously terminated, the Delayed Draw Term Loan Commitments shall terminate on the earlier of (i) the funding of Delayed Draw Term Loans pursuant to the last Dollar of the Delayed Draw Term Loan Commitments, (ii) the date on which there have been three fundings under separate Borrowing Requests under the Delayed Draw Term Loan Commitments and (iii) 11:59 p.m., Local Time, on the last day of the Availability Period.

(b) The Company may at any time terminate, or from time to time reduce, the Commitments of any Class; provided, that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 (or, if less, the remaining amount of the Commitments of such Class).

(c) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments of any Class under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided, that a notice of termination of the Commitments of any Class delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

Section 2.09. Repayment of Loans; Evidence of Debt

(a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Term Loan of such Lender as provided in Section 2.10.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Facility and Type thereof and the Interest Period (if any) applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) any amount received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided, that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note (a "Note") in the applicable form set out in Exhibit L. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent and reasonably acceptable to the Borrower. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 10.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.10. Repayment of Term Loans.

(a) Subject to the other paragraphs of this Section:

(i) to the extent not previously paid, outstanding Delayed Draw Term Loans shall be due and payable on the Delayed Draw Term Loan Maturity Date; and

(ii) in the event that any Refinancing Term Loans or Extended Term Loans are made pursuant to Section 2.21, the Borrower (or the relevant obligor) shall repay such Refinancing Term Loans or Extended Term Loans on the dates and in the amounts set forth in the related Incremental Assumption Agreement (each such date being referred to as a "Term Loan Installment Date").

(b) [reserved].

(c) Prepayment of the Loans from:

(i) any optional prepayments of the Term Loans pursuant to Section 2.11(a) shall be applied to the remaining installments of the Term Loans under the applicable Class or Classes as the Company may direct; and

(ii) all Net Proceeds pursuant to Section 2.11(b) shall be allocated among the Facilities, with the application thereof, if applicable, (A) to reduce in direct order amounts due on the next twelve succeeding Term Loan Installment Dates under the applicable Facilities as provided in paragraph (d) below, and (B) thereafter, to reduce on a pro rata basis (based on the amount of such amortization payments) the remaining scheduled amortization payments under the applicable Facilities; provided, that any Lender, at its option, may elect to decline any such prepayment (such declined amounts, the "Declined Proceeds") of any Term Loan held by it if it shall give written notice to the Administrative Agent thereof by 11:00 A.M. Local Time at least three Business Days prior to the date of such prepayment (any such Lender, a "Declining Lender"). Any Declined Proceeds shall be offered to the Lenders not so declining such repayment on a pro rata basis; provided, that any such non-Declining Lender, at its option, may elect to decline any such prepayment with Declined Proceeds at the time and in the manner specified by the Administrative Agent. To the extent such non-declining Lenders elect to decline their pro rata share of such Declined Proceeds, any Declined Proceeds remaining thereafter on the date of any such prepayment shall instead be retained by the Borrower for application for any purpose not prohibited by this Agreement.

(d) Any mandatory prepayment of Term Loans pursuant to Section 2.11(b) shall be applied so that the aggregate amount of such prepayment is allocated among the Delayed Draw Term Loans, the Refinancing Term Loans and the Extended Term Loans, if any, pro rata based on the aggregate principal amount of outstanding Delayed Draw Term Loans, Refinancing Term Loans and Extended Term Loans, if any (unless, with respect to Refinancing Term Loans or Extended Term Loans, the Incremental Assumption Agreement relating thereto does not so require). Prior to any repayment of any Loan under any Facility hereunder, the Company shall select the Borrowing or Borrowings under the applicable Facility to be repaid and shall notify the Administrative Agent by telephone (confirmed by electronic means) of such selection not later than 2:00 p.m., Local Time, (i) in the case of an ABR Borrowing, one Business Day before the scheduled date of such repayment and (ii) in the case of a Eurocurrency Borrowing, three Business Days before the scheduled date of such repayment, which notice shall be irrevocable except to the extent conditioned on a refinancing or other event. Each repayment of a Borrowing shall be applied ratably to the Loans included in the repaid Borrowing. Repayments of Loans shall be accompanied by accrued interest on the amount repaid.

Section 2.11. Prepayment of Loans.

(a) Except as otherwise provided in any Incremental Assumption Agreement with respect to Refinancing Term Loans or Extended Term Loans, the Borrower shall have the right at any time and from time to time to prepay any Loan in whole or in part, without premium or penalty (but subject to Section 2.16), in an aggregate principal amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum or, if less, the amount outstanding, subject to prior notice in accordance with Section 2.10(d).

(b) The Borrower shall apply all Net Proceeds promptly upon receipt thereof to prepay Term Loans in accordance with paragraphs (c) and (d) of Section 2.10.

Section 2.12. Fees.

(a) The Borrower agrees to pay to each Lender (other than any Defaulting Lender), through the Administrative Agent, on April 1, 2019 (or, if earlier, the date on which the Delayed Draw Term Loan Commitments of all the Lenders shall be terminated in full as provided herein), a commitment fee (a "Commitment Fee") on the average daily undrawn portion of the Delayed Draw Term Loan Commitments during the fiscal quarter ended immediately prior to such date at a rate equal to 0.20% per annum. All Commitment Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days. The Commitment Fee due to each Lender shall commence to accrue on the Closing Date and shall cease to accrue on the date on which the last of the Delayed Draw Term Loan Commitments of such Lender shall be terminated as provided herein.

(b) The Borrower agrees to pay to the Administrative Agent, for the accounts of the Administrative Agent and the Collateral Agent, the agency fees set forth in any fee letters entered into between the Agents and the Borrower relating to such fees as such letters may be amended, restated, supplemented or otherwise modified from time to time, at the times specified therein (the fees payable to the Administrative Agent being the "Administrative Agent Fees," and the fees payable to the Collateral Agent being the "Collateral Agent Fees").

(c) If the Borrower has made the Extension Election and the Delayed Draw Term Loan Maturity Date is extended accordance with the definition thereof, the Borrower agrees to pay to each Lender (other than any Defaulting Lender), through the Administrative Agent, on the Initial Delayed Draw Term Loan Maturity Date, an extension fee (the "Extension Fee") in an amount equal to 0.05% of the aggregate principal amount of the (x) the Delayed Draw Term Loans outstanding and (y) the Delayed Draw Term Loan Commitments that remain undrawn, in each case, as of the Initial Delayed Draw Term Loan Maturity Date.

(d) All Fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the Lenders. Once paid, none of the Fees shall be refundable under any circumstances.

Section 2.13. Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the ABR plus the Applicable Margin.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any Fees or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section; provided, that this paragraph (c) shall not apply to any Event of Default that has been waived by the Lenders pursuant to Section 10.08.

(d) Accrued interest on each Loan shall be payable in arrears (i) on each Interest Payment Date for such Loan, (ii) upon termination of the applicable Commitments and (iii) on the applicable Term Facility Maturity Date; provided, that (A) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (B) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (C) in the event of any conversion of any Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the ABR at times when the ABR is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable ABR or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Section 2.14. Alternate Rate of Interest.

(a) If prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable (including, without limitation, because the LIBO Screen Rate is not available or published on a current basis), for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period,

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or electronic means as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (A) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing shall be ineffective and such Borrowing shall be converted to or continued as on the last day of the Interest Period applicable thereto an ABR Borrowing and (B) if any Borrowing Request requests a Eurocurrency Borrowing, such Borrowing shall be made as an ABR Borrowing.

(b) If at any time the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in clause (a)(i) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) have not arisen but either (w) the supervisor for the administrator of the LIBO Screen Rate has made a public statement that the administrator of the LIBO Screen Rate is insolvent (and there is no successor administrator that will continue publication of the LIBO Screen Rate), (x) the administrator of the LIBO Screen Rate has made a public statement identifying a specific date after which the LIBO Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the LIBO Screen Rate), (y) the supervisor for the administrator of the LIBO Screen Rate has made a public statement identifying a specific date after which the LIBO Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the LIBO Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the LIBO Screen Rate shall no longer be published or used for determining interest rates for loans, then (A) if the Administrative Agent and the Borrower reasonably determine that there exists a then prevailing market convention for determining a reference rate of interest for syndicated loans in the United States as the successor to interest rates based on the LIBO Screen Rate, the Administrative Agent and the Borrower shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Margin), or (B) if the Administrative Agent and the Borrower are unable to reasonably determine that a then prevailing market convention for determining a rate of interest for syndicated loans in the United States as the successor to interest rates based on the LIBO Rate does exist, the Administrative Agent and the Borrower shall enter into an amendment to this Agreement to reflect an alternate rate of interest and such other related changes to this Agreement as may be applicable, in each case that are acceptable to the Borrower and the Administrative Agent (but for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Margin); provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 10.08, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five Business Days of the date such amendment is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders (acting reasonably) object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause (b) (but, in the case of the circumstances described in clause (ii)(w), clause (ii)(x) or clause (ii)(y) of the first sentence of this Section 2.14(b), only to the extent the LIBO Screen Rate for such Interest Period is not available or published at such time on a current basis), (x) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing shall be ineffective and (y) if any Borrowing Request requests a Eurocurrency Borrowing, such Borrowing shall be made as an ABR Borrowing.

Section 2.15. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate); or

(ii) impose on any Lender or the London interbank market any other condition affecting this Agreement or Eurocurrency Loans made by such Lender or participation therein; or

(iii) subject any Lender to any Tax with respect to any Loan Document or any Eurocurrency Loan thereunder (other than (i) Taxes indemnifiable under Section 2.17, or (ii) Excluded Taxes),

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) If any Lender determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy or liquidity), then from time to time the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as applicable, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Promptly after any Lender has determined that it will make a request for increased compensation pursuant to this Section 2.15, such Lender shall notify the Borrower thereof. Failure or delay on the part of any Lender to demand compensation pursuant to this Section 2.15 shall not constitute a waiver of such Lender's right to demand such compensation; provided, that the Borrower shall not be required to compensate a Lender pursuant to this Section 2.15 for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180 day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto or (d) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurocurrency Loan, such loss, cost or expense to any Lender shall be deemed to be the amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue a Eurocurrency Loan, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in Dollars of a comparable amount and period from other banks in the Eurocurrency market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.16 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.17. Taxes.

(a) Any and all payments made by or on behalf of any Loan Party hereunder or under any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes; provided that if an applicable Withholding Agent shall be required by law to deduct or withhold any Taxes from such payments, then (i) the applicable Withholding Agent shall make such deductions or withholdings as are reasonably determined by the applicable Withholding Agent to be required by any applicable law, (ii) the applicable Withholding Agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority within the time allowed and in accordance with applicable law, and (iii) to the extent withholding or deduction is required to be made on account of Indemnified Taxes or Other Taxes, the sum payable by the Loan Party shall be increased as necessary so that after all required deductions and withholdings have been made (including deductions or withholdings applicable to additional sums payable under this Section 2.17) the applicable Lender (or, in the case of a payment made to the Administrative Agent for its own account, the Administrative Agent) receives an amount equal to the sum it would have received had no such deductions or withholdings been made.

(b) In addition, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Each Loan Party shall indemnify and hold harmless the Administrative Agent and each Lender, within 15 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes imposed on the Administrative Agent or such Lender, as the case may be (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.17), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to the Borrower by a Lender or the Administrative Agent (as applicable) on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Taxes by a Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Each Lender shall deliver to the Borrower and the Administrative Agent, at such time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, to determine (i) whether or not any payments made hereunder or under any other Loan Document are subject to Taxes, (ii) if applicable, the required rate of withholding or deduction, and (iii) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender by any Loan Party pursuant to any Loan Document or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of Section 2.17(e), each Foreign Lender with respect to any Loan made to the Borrower shall, to the extent it is legally eligible to do so:

(1) deliver to the Borrower and the Administrative Agent, prior to the date on which the first payment to the Foreign Lender is due hereunder, two copies of (A) in the case of a Foreign Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest," United States Internal Revenue Service Form W-8BEN or W-8BEN-E (or any applicable successor form) (together with a certificate substantially in the form of Exhibit O-1 - Exhibit O-4 as appropriate (a "Non-Bank Tax Certificate")), (B) Internal Revenue Service Form W-8BEN, W-8BEN-E, or Form W-8ECI (or any applicable successor form), in each case properly completed and duly executed by such Foreign Lender claiming complete exemption from, or reduced rate of, U.S. federal withholding tax on payments by the Borrower under this Agreement, (C) Internal Revenue Service Form W-8IMY (or any applicable successor form) and all necessary attachments (including the forms described in clauses (A) and (B) above; provided that if the Foreign Lender is a partnership and not a participating Lender, and one or more of the partners is claiming portfolio interest treatment, the Non-Bank Tax Certificate may be provided by such Foreign Lender on behalf of such partners) or (D) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or Withholding Agent to determine the withholding or deduction required to be made; and

(2) deliver to the Borrower and the Administrative Agent two further copies of any such form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete or invalid, after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

Any Foreign Lender that becomes legally ineligible to update any form or certification previously delivered shall promptly notify the Borrower and the Administrative Agent in writing of such Foreign Lender's inability to do so.

If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their FATCA obligations, to determine whether such Lender has or has not complied with such Lender's FATCA obligations and, if necessary, to determine the amount to deduct and withhold from such payment.

Each person that shall become a Participant pursuant to Section 10.04 or a Lender pursuant to Section 10.04 shall, upon the effectiveness of the related transfer, be required to provide all the forms and statements required pursuant to this Section 2.17(e); provided that in the case of a Participant such Participant shall furnish all such required forms and statements to the person from which the related participation shall have been purchased.

In addition, to the extent it is legally eligible to do so, each Administrative Agent shall deliver to the Borrower (x)(I) prior to the date on which the first payment by the Borrower is due hereunder or (II) prior to the first date on or after the date on which such Agent becomes a successor Agent pursuant to Section 9.09 on which payment by the Borrower is due hereunder, as applicable, two copies of a properly completed and executed an IRS Form W-9 certifying its exemption from U.S. Federal backup withholding or a properly completed and executed applicable IRS Form W-8 certifying its non-U.S. status and its entitlement to any applicable treaty benefits, and (y) on or before the date on which any such previously delivered documentation expires or becomes obsolete or invalid, after the occurrence of any event requiring a change in the most recent documentation previously delivered by it to the Borrower, and from time to time if reasonably requested by the Borrower, two further copies of such documentation.

(f) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which such Loan Party has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.17 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender (including any Taxes imposed with respect to such refund) as is determined by the Administrative Agent or Lender in good faith and in its sole discretion, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that such Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay as soon as reasonably practicable the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. In such event, such Lender or Administrative Agent, as the case may be, shall, at the Loan Party's request, provide the Loan Party with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant Governmental Authority (provided that such Lender or Administrative Agent may delete any information therein that it deems confidential). A Lender or Administrative Agent shall claim any refund that it determines is available to it, unless it concludes in its sole discretion that it would be adversely affected by making such a claim. This Section 2.17(f) shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes which it deems, in good faith and in its sole discretion, to be confidential) to the Loan Parties or any other person.

(g) If the Borrower determines that a reasonable basis exists for contesting an Indemnified Tax or Other Tax for which a Loan Party has paid additional amounts as indemnification payments, each affected Lender or Administrative Agent, as the case may be, shall use reasonable efforts to cooperate with the Borrower as the Borrower may reasonably request in challenging such Tax. The Borrower shall indemnify and hold each Lender and Administrative Agent harmless against any out-of-pocket expenses incurred by such person in connection with any request made by the Borrower pursuant to this Section 2.17(g). Nothing in this Section 2.17(g) shall obligate any Lender or Administrative Agent to take any action that such person, in its sole judgment, determines may result in a material detriment to such person.

(h) [Reserved].

(i) Solely for purposes of determining withholding Tax imposed under FATCA, from and after the Closing Date, the Borrower and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative Agent to treat) the Loans (including any Loans already outstanding) as not qualifying as “grandfathered obligations” within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

Section 2.18. Payments Generally; Pro Rata Treatment; Sharing of Set offs.

(a) Unless otherwise specified, the Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or, fees, or of amounts payable under Sections 2.15, 2.16 or 2.17, or otherwise) prior to 2:00 p.m., Local Time, on the date when due, in immediately available funds, without condition or deduction for any defense, recoupment, set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated to the Borrower by the Administrative Agent, except that payments pursuant to Sections 2.15, 2.16 or 2.17 and 10.05 shall be made directly to the persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments made under the Loan Documents shall be made in Dollars. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment.

(b) If at any time insufficient funds are received by and available to the Administrative Agent from the Borrower to pay fully all amounts of principal, interest and fees then due from the Borrower hereunder, such funds shall be applied (i) *first*, towards payment of interest and fees then due from the Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) *second*, towards payment of principal then due from the Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Term Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Term Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Term Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Term Loans; provided, that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph (c) shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Company or any Subsidiary thereof (as to which the provisions of this paragraph (c) shall apply unless the assignment is pursuant to a Permitted Loan Purchase). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to 2.06(b) or 2.18(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.19. Mitigation Obligations: Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as applicable, in the future and (ii) would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.15, or if the Borrower are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, or if any Lender is a Defaulting Lender, then the Borrower may, at their sole expense and effort, upon notice from the Borrower to such Lender and the Administrative Agent, require any such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 10.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent, which consent, in each case, shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. Nothing in this Section 2.19 shall be deemed to prejudice any rights that the Borrower may have against any Lender that is a Defaulting Lender.

(c) If any Lender (such Lender, a “Non-Consenting Lender”) has failed to consent to a proposed amendment, waiver, discharge or termination which pursuant to the terms of Section 10.08 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) at its sole expense (including with respect to the processing and recordation fee referred to in Section 10.04(b)(ii)(B)), to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to (and any such Non-Consenting Lender agrees that it shall, upon the Borrower’s request) assign its Loans and its Commitments (or, at the Borrower’s option, the Loans and Commitments under the Facility that is the subject of the proposed amendments, waiver, discharge or termination) hereunder to one or more assignees (except as expressly set forth in the proviso below, in accordance with and subject to the restrictions contained in Section 10.04) reasonably acceptable to the Administrative Agent (unless, in the case of an assignment of Term Loans, such assignee is a Lender, an Affiliate of a Lender or an Approved Fund); provided that: (a) all Obligations of the Borrower owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, (b) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon and (c) the replacement Lender shall grant its consent with respect to the applicable proposed amendment, waiver, discharge or termination. In connection with any such assignment the Borrower, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 10.04; provided, that if such Non-Consenting Lender does not comply with Section 10.04 within three Business Days after the Borrower’s request, compliance with Section 10.04 shall not be required to effect such assignment.

Section 2.20. Illegality. If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for any Lender or its applicable lending office to make or maintain any Eurocurrency Loans, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligations of such Lender to make or continue Eurocurrency Loans or to convert ABR Borrowings to Eurocurrency Borrowings shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall upon demand from such Lender (with a copy to the Administrative Agent), either prepay or convert all Eurocurrency Borrowings of such Lender to ABR Borrowings, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Borrowings to such day, or immediately, if such Lender may not lawfully continue to maintain such Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

Section 2.21. Refinancing Term Loans, Extended Term Loans.

- (a) [Reserved].
- (b) [Reserved].
- (c) [Reserved].
- (d) [Reserved].

(e) Notwithstanding anything to the contrary in Section 2.18(c) (which provisions shall not be applicable to clauses (c) through (i) of this Section 2.21), pursuant to one or more offers made from time to time by the Borrower to all Lenders of any Class of Term Loans, on a pro rata basis (based on the aggregate outstanding Term Loans of such Class and the aggregate outstanding undrawn Commitments, if any, under such Class) and on the same terms (“Pro Rata Extension Offers”), the Borrower is hereby permitted to consummate transactions with individual Lenders from time to time to extend the maturity date of such Lender’s Loans and/or Commitments of such Class and to otherwise modify the terms of such Lender’s Loans and/or Commitments of such Class pursuant to the terms of the relevant Pro Rata Extension Offer (including without limitation increasing the interest rate or fees payable in respect of such Lender’s Loans and/or Commitments and/or modifying the amortization schedule in respect of such Lender’s Loans). Any such extension (an “Extension”) agreed to between the Borrower and any such Lender (an “Extending Lender”) will be established under this Agreement by such Lender extending an existing Term Loan (such extended Term Loan, an “Extended Term Loan”) or an existing Commitment (such extended Commitment, an “Extended Term Loan Commitment”).

(f) The Borrower and each Extending Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Extended Term Loans and/or Extended Term Loan Commitments of such Extending Lender. Each Incremental Assumption Agreement shall specify the terms of the applicable Extended Term Loans and/or Extended Term Loan Commitments; provided that (i) except as to interest rates, fees, amortization, call premiums, call protection, final maturity date and participation in prepayments (which shall, subject to clauses (ii) through (v) of this proviso, be determined by the Borrower and set forth in the Pro Rata Extension Offer), the Extended Term Loans shall have (x) the same terms as the Class of Term Loans to which such offer relates, or (y) such other terms as shall be reasonably satisfactory to the Administrative Agent, (ii) the final maturity date of any Extended Term Loans shall be no earlier than the latest Term Facility Maturity Date in effect on the date of incurrence, (iii) the weighted average life to maturity of any Extended Term Loans shall be no shorter than the remaining weighted average life to maturity of the Class of Term Loans to which such offer relates, (iv) except as to interest rates, fees and final maturity (which shall be determined by the Borrower and set forth in the Pro Rata Extension Offer), any Extended Term Loan Commitment shall have (x) the same terms as the Class of Commitments to which such offer relates or (y) have such other terms as shall be reasonably satisfactory to the Administrative Agent, and (v) any Extended Term Loans and/or Extended Term Loan Commitments may participate on a pro rata basis or a less than pro rata basis (but not greater than a pro rata basis) in any voluntary or mandatory repayments or prepayments hereunder. Upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Extended Term Loans and/or Extended Term Loan Commitments evidenced thereby as provided for in Section 10.08(e). Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrower's consent (not to be unreasonably withheld) and furnished to the other parties hereto.

(g) Upon the effectiveness of any such Extension, the applicable Extending Lender's Term Loan will be automatically designated an Extended Term Loan and/or such Extending Lender's Commitment will be automatically designated an Extended Term Loan Commitment. For purposes of this Agreement and the other Loan Documents.

(h) Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.21), (i) no Extended Term Loan or Extended Term Loan Commitment is required to be in any minimum amount or any minimum increment, (ii) any Extending Lender may extend all or any portion of its Term Loans and/or Commitments pursuant to one or more Pro Rata Extension Offers (subject to applicable proration in the case of over participation) (including the extension of any Extended Term Loan and/or Extended Term Loan Commitment), (iii) there shall be no condition to any Extension of any Loan or Commitment at any time or from time to time other than compliance with Section 2.21(e) through (i) and notice to the Administrative Agent of such Extension and the terms of the Extended Term Loan or Extended Term Loan Commitment implemented thereby and (iv) all Extended Term Loans, Extended Term Loan Commitments and all obligations in respect thereof shall be Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents that are secured by the Collateral on a pari passu basis with all other Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents.

(i) Each Extension shall be consummated pursuant to procedures set forth in the associated Pro Rata Extension Offer; provided that the Borrower shall cooperate with the Administrative Agent prior to making any Pro Rata Extension Offer to establish reasonable procedures with respect to mechanical provisions relating to such Extension, including, without limitation, timing, rounding and other adjustments.

(j) Notwithstanding anything to the contrary in Section 2.18(c) (which provisions shall not be applicable to clause (j) through (o) of this Section 2.21), the Borrower may by written notice to the Administrative Agent establish one or more additional tranches of term loans under this Agreement (“Refinancing Term Loans”), the Net Proceeds of which are used to repay Term Loans of the same Class. Each such notice shall specify the date (each, a “Refinancing Effective Date”) on which the Borrower proposes that the Refinancing Term Loans shall be made, which shall be a date not less than five Business Days after the date on which such notice is delivered to the Administrative Agent; provided that: (i) before and after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date each of the conditions set forth in Section 4.01 shall be satisfied; (ii) the weighted average life to maturity of such Refinancing Term Loans shall be no shorter than the then-remaining weighted average life to maturity of the refinanced Term Loans; (iii) the aggregate principal amount of the Refinancing Term Loans shall not exceed the outstanding principal amount of the refinanced Term Loans plus amounts used to pay fees and expenses; and (iv) all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, interest rates and final maturity which shall be as agreed between the Borrower and the Lenders providing such Refinancing Term Loans) shall be substantially similar to, or less favorable to the Lenders providing such Refinancing Term Loans than, those applicable to the refinanced Term Loans except to the extent such covenants and other terms apply solely to any period after the date specified in clause (a) of the definition of the Term Facility Maturity Date.

(k) The Borrower may approach any Lender or any other person that would be a permitted Assignee pursuant to Section 10.04 to provide all or a portion of the Refinancing Term Loans; provided that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans may elect or decline, in its sole discretion, to provide a Refinancing Term Loan. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated an additional Class of Term Loans for all purposes of this Agreement; provided that any Refinancing Term Loans may, to the extent provided in the applicable Incremental Assumption Agreement, be designated as an increase in any previously established Class of Term Loans made to the Borrower.

(l) Notwithstanding anything to the contrary in Section 2.18(c) (which provisions shall not be applicable to clause (l) through (o) of this Section 2.21), the Borrower may by written notice to the Administrative Agent establish one or more additional Commitments providing for delayed draw term loans (“Refinancing Term Loan Commitments” and the loans thereunder are deemed to be Refinancing Term Loans), which replace in whole or in part any Commitments under this Agreement. Each such notice shall specify the Refinancing Effective Date on which the Borrower proposes that the Refinancing Term Loan Commitments shall become effective, which shall be a date not less than five Business Days after the date on which such notice is delivered to the Administrative Agent; provided that: (i) before and after giving effect to the establishment of such Refinancing Term Loan Commitments on the Refinancing Effective Date each of the conditions set forth in Section 4.01 shall be satisfied; (ii) after giving effect to the establishment of any Refinancing Term Loan Commitments and any concurrent reduction in the aggregate amount of any other Commitments, the aggregate amount of Commitments shall not exceed the aggregate amount of the Commitments outstanding immediately prior to the applicable Refinancing Effective Date; (iii) no Refinancing Term Loan Commitments shall have a final maturity date prior to the Latest Maturity Date in effect at the time of incurrence; (iv) all other terms applicable to such Refinancing Term Loan Commitments (other than provisions relating to fees and interest rates which shall be as agreed between the Borrower and the Lenders providing such Refinancing Term Loan Commitments) shall be substantially similar to, or less favorable to the Lenders providing such Refinancing Term Loan Commitments than, those applicable to the then-outstanding Commitments, except to the extent such covenants and other terms apply solely to any period after the date specified in clause (a) of the definition of the Term Facility Maturity Date.

(m) The Borrower may approach any Lender or any other person that would be a permitted Assignee of a Commitment pursuant to Section 10.04 to provide all or a portion of the Refinancing Term Loan Commitments; provided that any Lender offered or approached to provide all or a portion of the Refinancing Term Loan Commitments may elect or decline, in its sole discretion, to provide a Refinancing Term Loan Commitment. Any Refinancing Term Loan Commitment established on any Refinancing Effective Date shall be designated an additional Class of Commitments for all purposes of this Agreement; provided that any Refinancing Term Loan Commitments may, to the extent provided in the applicable Incremental Assumption Agreement, be designated as an increase in any previously established Class of Commitments.

(n) On any Refinancing Effective Date, subject to the satisfaction of the foregoing terms and conditions, each of the Lenders with Refinancing Term Loan Commitments of such Class shall purchase from each of the other Lenders with Refinancing Term Loan Commitments of such Class, at the principal amount thereof and in the applicable currencies, such interests in the Loans under such Refinancing Term Loan Commitments of such Class then outstanding on such Refinancing Effective Date as shall be necessary in order that, after giving effect to all such assignments and purchases, the Loans under such Refinancing Term Loan Commitments of such Class will be held by the Lenders thereunder ratably in accordance with their Refinancing Term Loan Commitments.

(o) Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.21), (i) no Refinancing Term Loan or Refinancing Term Loan Commitment is required to be in any minimum amount or any minimum increment, (ii) there shall be no condition to any incurrence of any Refinancing Term Loan or Refinancing Term Loan Commitment at any time or from time to time other than those set forth in clauses (j) or (l) above, as applicable, and (iii) all Refinancing Term Loans, Refinancing Term Loan Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that are secured by the Collateral on a pari passu basis with all other Obligations under this Agreement and the other Loan Documents.

Section 2.22. Defaulting Lender.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent hereunder for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, following an Event of Default or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.06 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder, second, as the Company may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent, third, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement, fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, and sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.22 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any Commitment Fee or Extension Fee for any period during which that Lender is a Defaulting Lender.

(b) Defaulting Lender Cure. If the Company and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held pro rata by the Lenders in accordance with their Commitments, whereupon such Lender will cease to be a Defaulting Lender; provided that, no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

On the date of each Credit Event as provided in Section 4.01, the Borrower represents and warrants to each of the Lenders that:

Section 3.01. Organization; Powers. Except as set forth on Schedule 3.01, the Company and each Material Subsidiary (a) is a partnership, limited liability company or corporation duly organized (or incorporated), validly existing and in good standing (or, if applicable in a foreign jurisdiction, enjoys the equivalent status under the laws of any jurisdiction of organization outside the United States) under the laws of the jurisdiction of its organization or incorporation, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted, (c) is qualified to do business in each jurisdiction where such qualification is required, except where the failure so to qualify would not reasonably be expected to have a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each of the Loan Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrower, to borrow and otherwise obtain credit hereunder.

Section 3.02. Authorization. The execution, delivery and performance by the Borrower and the Subsidiary Guarantor of each of the Loan Documents to which they are a party, and the borrowings hereunder and the transactions forming a part of the Transactions (a) have been duly authorized by all corporate, stockholder, partnership or limited liability company action required to be obtained by such Loan Party and (b) will not (i) violate (A) any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents (including any partnership, limited liability company or operating agreements) or by-laws of such Loan Party, (B) any applicable order of any court or any rule, regulation or order of any Governmental Authority or (C) any provision of any indenture, certificate of designation for preferred stock, agreement or other instrument to which such Loan Party is a party or by which any of them or any of their property is or may be bound, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) or to a loss of a material benefit under any such indenture, certificate of designation for preferred stock, agreement or other instrument, where any such conflict, violation, breach or default referred to in clauses (i)(A), (i)(B), (i)(C) or (ii) of this Section 3.02(b), would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Borrower or the Subsidiary Guarantor, other than the Liens created by the Loan Documents and Permitted Liens.

Section 3.03. Enforceability. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document when executed and delivered by each Loan Party that is party thereto will constitute, a legal, valid and binding obligation of such Loan Party enforceable against each such Loan Party in accordance with its terms, subject to (i) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) implied covenants of good faith and fair dealing.

Section 3.04. Governmental Approvals. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required in connection with the Transactions, the creation, perfection or maintenance of the Liens created under the Security Documents or the exercise by any Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral, except for (a) the filing of Uniform Commercial Code financing statements or other similar filing or instruments under the laws of any applicable jurisdiction, (b) registration of the Vessel Mortgage, (c) such as have been made or obtained and are in full force and effect, (d) such actions, consents and approvals the failure of which to be obtained or made would not reasonably be expected to have a Material Adverse Effect and (e) filings or other actions listed on Schedule 3.04.

Section 3.05. Financial Statements. The audited consolidated balance sheets of the Company and its consolidated subsidiaries as of December 31, 2015, 2016 and 2017, and the audited consolidated statements of income, stockholders' or other equity holders' equity and cash flows for such fiscal years, reported on by and accompanied by a report from PricewaterhouseCoopers LLP, copies of which have heretofore been made available to each Lender, present fairly in all material respects the consolidated financial position of the Company as of such date and the consolidated results of operations, shareholders' or other equity holders' equity and cash flows of the Company for the years then ended.

Section 3.06. No Material Adverse Effect. Since December 31, 2017, there has been no event or circumstance that, individually or in the aggregate with other events or circumstances, has or would reasonably be expected to have a Material Adverse Effect.

Section 3.07. Title to Properties; Possession Under Leases

(a) Each of the Borrower, the Subsidiary Guarantor and each other Material Subsidiary has good record and insurable title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all its Real Properties and has good and marketable title to its personal property and assets (including the Mortgaged Vessel owned by such person), in each case, except for Permitted Liens and except for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes and except where the failure to have such title would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such properties and assets are free and clear of Liens, other than Permitted Liens.

(b) Each Loan Party and each other Material Subsidiary has complied with all material obligations under all leases to which it is a party, except where the failure to comply would not reasonably be expected to have Material Adverse Effect, and all such leases are in full force and effect, except leases in respect of which the failure to be in full force and effect would not reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.07(b), each Loan Party and Material Subsidiary enjoys peaceful and undisturbed possession under all such leases, other than leases in respect of which the failure to enjoy peaceful and undisturbed possession would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) Each Loan Party and each other Material Subsidiary owns or possesses, or is licensed to use, all patents, trademarks, service marks, trade names and copyrights, all applications for any of the foregoing and all licenses and rights with respect to the foregoing necessary for the present conduct of its business, without any conflict (of which the Company has been notified in writing) with the rights of others, and free from any burdensome restrictions on the present conduct of the Company and each Material Subsidiary, as the case may be, except where such conflicts and restrictions would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or except as set forth on Schedule 3.07(c).

Section 3.08. Subsidiaries.

(a) Schedule 3.08(a) sets forth as of the Closing Date, the name and jurisdiction of incorporation, formation or organization of the Company and each direct and indirect Subsidiary and, in each case, the percentage of each class of Equity Interests owned by the Company or by any such Subsidiary.

(b) As of the Closing Date, after giving effect to the Transactions, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees or directors (or entities controlled by directors) and shares held by directors (or entities controlled by directors)) relating to any Equity Interests of any Loan Party or Material Subsidiary, except as set forth on Schedule 3.08(b).

Section 3.09. Litigation; Compliance with Laws.

(a) There are no actions, suits or proceedings at law or in equity or in admiralty by or on behalf of any Governmental Authority or third party now pending or in arbitration now pending, or, to the knowledge of any Loan Party, threatened in writing against or affecting such Loan Party or any Material Subsidiary or any business, property or rights of any such person (i) that involve any Loan Document or the Transactions or (ii) that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) No Loan Party, Material Subsidiary or their respective properties or assets is in violation of (nor will the continued operation of their material properties and assets as currently conducted violate) any law, rule or regulation (including the USA PATRIOT Act and any zoning, building, ordinance, code or approval or any building permit, including, as to the Mortgaged Vessel, the ISM Code, the ISPS Code and ICPPS Annex VI and any rule or order of the United States Coast Guard or any port state control authority, but excluding any Environmental Laws, which are the subject of Section 3.16) or any restriction of record or agreement affecting the Mortgaged Vessel, or is in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

Section 3.10. Federal Reserve Regulations.

(a) Neither the Company nor any Material Subsidiary is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock.

(b) No part of the proceeds of any Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (i) to purchase or carry Margin Stock or to extend credit to others for the purpose of purchasing or carrying Margin Stock or to refund indebtedness originally incurred for such purpose, or (ii) for any purpose that entails a violation of, or that is inconsistent with, the provisions of the Regulations of the Board, including Regulation U or Regulation X.

Section 3.11. Investment Company Act. None of the Company or any Material Subsidiary is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 3.12. Use of Proceeds. The Borrower will use the proceeds of the Delayed Draw Term Loans for general corporate purposes, including, without limitation, to finance the pre-delivery installments due to builder(s) under its or its Subsidiaries’ shipbuilding contracts.

Section 3.13. Tax Returns. Except where the failure of which would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect, (a) each Loan Party and each Material Subsidiary has filed all federal income Tax returns and all other Tax returns, domestic and foreign, required to be filed by it (including in its capacity as a withholding agent) and has paid all Taxes payable by it that have become due, other than those (i) not yet delinquent or (ii) being contested in good faith by appropriate proceedings and as to which adequate reserves have been provided to the extent required by and in accordance with GAAP (or in the case of a Foreign Subsidiary, the comparable accounting principles in the relevant jurisdiction) and (b) each Loan Party and each Material Subsidiary have provided adequate reserves in accordance with GAAP (or in the case of a Foreign Subsidiary, the comparable accounting principles in the relevant jurisdiction) for all Taxes of each Loan Party and each Material Subsidiary not yet due and payable.

Section 3.14. No Material Misstatements.

(a) All written information (other than the Projections, estimates and information of a general economic nature) (the “Information”) concerning the Loan Parties, the Material Subsidiaries and the Transactions and any other transactions contemplated hereby prepared by or on behalf of the foregoing or their representatives and made available to any Lenders or the Administrative Agent in connection with the Transactions or the other transactions contemplated hereby, when taken as a whole, was true and correct in all material respects, as of the date such Information was furnished to the Lenders and/or the Administrative Agent and as of the Closing Date and did not, taken as a whole, contain any untrue statement of a material fact as of any such date or omit to state a material fact necessary in order to make the statements contained therein, taken as a whole, not materially misleading in light of the circumstances under which such statements were made.

(b) The Projections, estimates and information of a general economic nature prepared by or on behalf of the Company or any of its representatives and that have been made available to any Lenders or the Administrative Agent in connection with the Transactions or the other transactions contemplated hereby have been prepared in good faith based upon assumptions believed by the Company to be reasonable as of the date thereof (it being understood that actual results may vary materially from the Projections), as of the date such Projections and estimates were furnished to the Lenders and/or the Administrative Agent and as of the Closing Date.

(c) As of the Closing Date, to the best knowledge of the Borrower, the information included in the Beneficial Ownership Certification provided on or prior to the Closing Date to any Lender in connection with this Agreement is true and correct in all respects.

Section 3.15. Employee Benefit Plans.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) each Plan is in compliance with the applicable provisions of ERISA and the Code; (ii) no Reportable Event has occurred during the past five years as to which any Loan Party, Material Subsidiary or any ERISA Affiliate was required to file a report with the PBGC, other than reports that have been filed; (iii) no Plan has any Unfunded Pension Liability in excess of \$[*]; (iv) no ERISA Event has occurred or is reasonably expected to occur; and (v) no Loan Party, Material Subsidiary or ERISA Affiliate (A) has received any written notification that any Multiemployer Plan is in reorganization or has been terminated within the meaning of Title IV of ERISA, or has knowledge that any Multiemployer Plan is reasonably expected to be in reorganization or to be terminated or (B) has incurred or is reasonably expected to incur any withdrawal liability to any Multiemployer Plan.

(b) Each Loan Party and Subsidiary is in compliance (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other employee benefit plan governed by the laws of a jurisdiction other than the United States and (ii) with the terms of any such plan, except, in each case, for such noncompliance that would not reasonably be expected to have a Material Adverse Effect.

Section 3.16. Environmental Matters. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) no Environmental Claim has been received by any Loan Party or Material Subsidiary, and there are no Environmental Claims pending or, to any Loan Party's knowledge, threatened, in each case relating to any Loan Party or Material Subsidiary or their respective properties or the Mortgaged Vessel, (b) each Loan Party and Material Subsidiary is in compliance with Environmental Laws, (c) each Loan Party and Material Subsidiary has all permits, licenses and other approvals required under Environmental Laws for its operations as currently conducted ("Environmental Permits") and is in compliance with the terms of such Environmental Permits, (d) no Hazardous Material is located at, on or under any property currently or, to any Loan Party's knowledge, formerly owned, operated or leased by any Loan Party or Material Subsidiary or their predecessors that would reasonably be expected to give rise to any Environmental Liability, and no Hazardous Material has been generated, used, treated, stored, handled, controlled, transported to or Released at, on, from, to or under any location or the Mortgaged Vessel in a manner that would reasonably be expected to give rise to any Environmental Liability, (e) there are no agreements in which any Loan Party or Material Subsidiary has expressly assumed or undertaken responsibility for any known or reasonably likely Environmental Liability of any other person, and (f) there has been no written environmental assessment or audit conducted since January 1, 2013 (other than customary assessments not revealing anything that would reasonably be expected to result in a Material Adverse Effect), by or on behalf of any Loan Party or Material Subsidiary of the Mortgaged Vessel or properties currently or, to any Loan Party's knowledge, formerly owned or leased by any Loan Party or Material Subsidiary that has not been made available to the Administrative Agent prior to the Closing Date.

Section 3.17. Security Documents.

(a) The Vessel Mortgage in favor of the Mortgage Trustee executed and delivered on the Closing Date, for the benefit of the Secured Parties, is effective to create a legal, valid and enforceable Lien on all the applicable Loan Party's right, title and interest in and to the whole of the Mortgaged Vessel covered thereby and the proceeds thereof, and upon filing and recording of the Vessel Mortgage in the National Vessel Documentation Center of the United States Coast Guard in accordance with the laws of the United States, the Vessel Mortgage shall constitute a first preferred mortgage" on the Mortgaged Vessel covered thereby in favor of the Mortgage Trustee for the benefit of the Secured Parties in accordance with Title 46 United States Code, Section 31322(a) and a "preferred mortgage" within the meaning of Title 46 United States Code, Section 31301(6)(A).

(b) The Collateral Agreement, the Subsidiary Guarantor Pledge Agreement and each other Security Document specifically listed in the definition of such term is effective to create in favor of the Collateral Agent (for the benefit of the Secured Parties) a legal, valid and enforceable security interest in the Collateral described therein. In the case of any Pledged Collateral, when certificates or instruments, as applicable, representing such Pledged Collateral are delivered to the Collateral Agent (together with stock powers or other instruments of transfer duly executed in blank), and, in the case of the other Collateral described in such Security Documents (other than registered copyright and copyright applications), when Uniform Commercial Code financing statements, other filings or instruments, notices and consents required under the laws of any applicable jurisdiction and described in Schedule 3.17 (as amended from time to time) are filed, delivered or otherwise registered or recorded in the proper offices specified in Schedule 3.17, registries or government agencies (and, specifically (i) in the case of Collateral consisting of rights under insurances, when the applicable underwriters shall have provided consent to the security interests therein created under the Security Documents, and (ii) in the case of Collateral consisting of rights under any management agreement or charter, when the applicable parties thereto (other than any Loan Parties) have provided consent to the Liens thereon created under the applicable Security Documents), the Collateral Agent (for the benefit of the Secured Parties) shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations to the extent security interests in such Collateral can be perfected by delivery of such certificates or notes, as applicable, representing the Pledged Collateral, or the filing of the Uniform Commercial Code financing statements and other filings and instruments required under the laws of the applicable jurisdiction, in each case prior and superior in right to any other person (except, in the case of Collateral other than Pledged Collateral, Permitted Liens and Liens having priority by operation of law).

(c) When the Collateral Agreement or a short form thereof is filed in the United States Patent and Trademark Office and the United States Copyright Office, the Liens created by the Collateral Agreement shall constitute fully perfected Liens on, and security interests in, all right, title and interest of the grantors thereunder in Patents (as defined in the Collateral Agreement) registered or applied for with the United States Patent and Trademark Office or Copyrights (as defined in such Collateral Agreement) registered or applied for with the United States Copyright Office, as the case may be, in each case subject to no Liens other than Permitted Liens.

Section 3.18. Solvency.

(a) Immediately after giving effect to the transactions to occur on the Closing Date, (i) the fair value of the assets of the Company and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, direct, subordinated, contingent or otherwise, of the Company and its Subsidiaries on a consolidated basis, respectively; (ii) the present fair saleable value of the property of the Company and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Company and its Subsidiaries on a consolidated basis, respectively, on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Company and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Company and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date.

(b) the Company does not intend to, and does not believe that it or any of its Material Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such subsidiary.

Section 3.19. Labor Matters. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes pending or threatened against the Company or any Material Subsidiary and (b) all payments due from the Company or any Material Subsidiary or for which any claim may be made against the Company or any Material Subsidiary, on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of the Company or such Material Subsidiary to the extent required by GAAP. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, the consummation of the Transactions will not give rise to a right of termination or right of renegotiation on the part of any union under any material collective bargaining agreement to which the Company or any Material Subsidiary (or any predecessor) is a party or by which the Company or any Material Subsidiary (or any predecessor) is bound.

Section 3.20. Insurance. Schedule 3.20 sets forth a true, complete and correct description of all material insurance maintained by or on behalf of each Loan Party and the Material Subsidiaries or otherwise in respect of the Mortgaged Vessel as of the Closing Date. As of such date, such insurance is in full force and effect in all material respects.

Section 3.21. No Default. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

Section 3.22. No Event of Loss. No Loan Party has received any notice of, nor has any knowledge of, the occurrence or pendency or contemplation of any Event of Loss except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Section 3.23. The Mortgaged Vessel.

(a) Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, the Mortgaged Vessel, on the Closing Date, is in such condition as is required by the Vessel Mortgage and complies with all of the requirements of such Security Document.

(b) Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, the Subsidiary Guarantor will comply with and satisfy all of the provisions and requirements of Chapter 313 of Title 46 of the United States Code and the regulations in effect thereunder from time to time, as at any time amended, as applicable, in order to establish and maintain the Vessel Mortgage as a first preferred mortgage thereunder on the Mortgaged Vessel and on all renewals, improvements and replacements made in or to the same.

(c) The Subsidiary Guarantor is and will remain a U.S. citizen, eligible to own and operate the Mortgaged Vessel in compliance with applicable law.

Section 3.24. Anti-Corruption Laws and Sanctions.

The Company has implemented and maintains in effect policies and procedures designed to ensure compliance by the Company, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, applicable AML Laws and applicable Sanctions, and the Company, its Subsidiaries and their respective directors and officers and, to the knowledge of the Company or such Subsidiary, any or their respective employees, agents and Affiliates, are in compliance with Anti-Corruption Laws, AML Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Borrower being designated as a Sanctioned Person. No Borrowing, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Laws, AML Laws or will result in a violation of any applicable Sanctions by any party hereto.

Section 3.25. EEA Financial Institutions No Loan Party is an EEA Financial Institution.

ARTICLE IV
CONDITIONS OF LENDING

Section 4.01. All Credit Events. The obligations of the Lenders to make Loans (each, a “Credit Event”) are subject to the satisfaction of the following conditions:

- (a) The Administrative Agent shall have received, in the case of a Borrowing, a Borrowing Request as required by Section 2.03 (or a Borrowing Request shall have been deemed given in accordance with the last paragraph of Section 2.03).
- (b) The representations and warranties set forth in the Loan Documents shall be true and correct in all material respects as of such date, as applicable, with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date.
- (c) At the time of and immediately after the Borrowing, no Event of Default or Default shall have occurred and be continuing.
- (d) Each Borrowing shall be deemed to constitute a representation and warranty by the Borrower on the date of the Borrowing, as to the matters specified in paragraphs (b) and (c) of this Section 4.01.

Section 4.02. First Credit Event. On the Closing Date:

- (a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include by electronic means transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.
- (b) The Administrative Agent shall have received, on behalf of itself and the Lenders, a favorable written opinion of (i) Paul, Weiss, Rifkind, Wharton & Garrison LLP, special counsel for the Loan Parties and (ii) each local and specialist counsel reasonably satisfactory to the Administrative Agent as specified on Schedule 4.02(b), in each case (A) dated the Closing Date, (B) addressed to the Administrative Agent, the Collateral Agent and the Lenders and (C) in form and substance reasonably satisfactory to the Administrative Agent and covering such other matters relating to the Loan Documents as the Administrative Agent shall reasonably request.
- (c) The Administrative Agent shall have received a certificate of the Secretary or Assistant Secretary or similar officer of each Loan Party dated the Closing Date and certifying:

(i) a copy of the certificate or articles of incorporation, certificate of limited partnership, certificate of formation or other equivalent constituent and governing documents, including all amendments thereto, of such Loan Party, (1) if available from an official in such jurisdiction, certified as of a recent date by the Secretary of State (or other similar official) of the jurisdiction of its organization, or (2) otherwise certified by the Secretary or Assistant Secretary of such Loan Party or other person duly authorized by the constituent documents of such Loan Party,

(ii) a certificate as to the good standing (to the extent such concept or a similar concept exists under the laws of such jurisdiction) of such Loan Party as of a recent date from such Secretary of State (or other similar official),

(iii) that attached thereto is a true and complete copy of the by-laws (or partnership agreement, limited liability company agreement or other equivalent constituent and governing documents) of such Loan Party as in effect on the Closing Date and at all times since a date prior to the date of the resolutions described in clause (iv) below,

(iv) that attached thereto is a true and complete copy of resolutions duly adopted by the board of directors (or equivalent governing body) of such Loan Party (or its managing general partner or managing member) authorizing the execution, delivery and performance of the Loan Documents dated as of the Closing Date to which such person is a party and, in the case of the Borrower, the borrowings hereunder, and that such resolutions have not been modified, rescinded or amended and are in full force and effect on the Closing Date,

(v) as to the incumbency and specimen signature of each officer executing any Loan Document or any other document delivered in connection herewith on behalf of such Loan Party,

(vi) as to the absence of any pending proceeding for the dissolution or liquidation of such Loan Party or, to the knowledge of such person, threatening the existence of such Loan Party, and

(vii) such other documents as the Administrative Agent and the Lenders on the Closing Date may reasonably request (including tax identification numbers and addresses).

(d) The elements of the Collateral and Guarantee Requirement required to be satisfied on the Closing Date shall have been satisfied and the Administrative Agent shall have received the results of a search of Uniform Commercial Code (or equivalent) filings made with respect to each Loan Party in Washington, D.C., the State of Florida and/or the jurisdiction in which such Loan Party is formed and existing and lien searches of any other office or jurisdiction in which the Collateral Agent determines it would be advisable to conduct such a search, including tax and judgment lien searches and United States Patent and Trademark Office and United States Copyright Office searches, each as of a recent date and listing all effective financing statements, lien notices or other comparable documents that name any Loan Party as debtor, together with copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are Permitted Liens or have been released; provided that, to the extent any security interest in the intended Collateral or any deliverable related to the perfection of security interests in the intended Collateral (other than execution and delivery of the Collateral Agreement, the Subsidiary Guarantor Pledge Agreement and any Collateral the security interest in which may be perfected by the filing of a Uniform Commercial Code financing statement, the registration or recording of the Vessel Mortgage in the appropriate ship registry or the delivery of stock certificates or other instruments representing Equity Interests and the Security Document giving rise to the security interest therein) is not able to be provided on the Closing Date after the Borrower's use of commercially reasonable efforts to do so, such requirements may be satisfied after the Closing Date in accordance with Section 5.10.

(e) The Lenders shall have received the financial statements and interim financial reports referred to in Section 3.05.

(f) The Lenders shall have received a solvency certificate substantially in the form of Exhibit C and signed by a Financial Officer of the Borrower confirming the solvency of the Borrower and its Subsidiaries on a consolidated basis, in each case, after giving effect to the Transactions on the Closing Date.

(g) The Agents shall have received all fees payable thereto or to any Arranger or Lender on or prior to the Closing Date and, to the extent invoiced, all other amounts due and payable pursuant to the Loan Documents on or prior to the Closing Date, including, to the extent invoiced, reimbursement or payment of all reasonable and documented out-of-pocket expenses (including reasonable and documented fees, charges and disbursements of Cahill Gordon & Reindel LLP, Appleby (Bermuda) Limited and Watson Farley & Williams LLP) required to be reimbursed or paid by the Loan Parties hereunder or under any Loan Document.

(h) The Administrative Agent and/or Collateral Agent (as appropriate) shall have received insurance certificates, endorsements, copies of cover notes and certificates of entry, together with brokers' letters of undertaking in respect thereof, in each case satisfying the requirements of Section 5.02 (including any such items also covered in clause (iv) of paragraph (k) of this Section 4.02).

(i) (i) The Lenders shall have received, at least three Business Days prior to the Closing Date, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and (ii) to the extent the Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, at least five days prior to the Closing Date, any Lender that has requested, in a written notice to the Company at least 10 Business Days prior to the Closing Date, a Beneficial Ownership Certification in relation to the Borrower shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this clause (ii) shall be deemed to be satisfied).

(j) [reserved].

(k) The Collateral Agent shall have received:

(i) evidence that the Vessel Mortgage has been duly executed and delivered by the Subsidiary Guarantor and duly registered with the National Vessel Documentation Center of the Coast Guard in accordance with the laws of United States and such other evidence that the Mortgage Trustee may deem necessary in order to create a valid first preferred ship mortgage and subsisting Lien securing the Obligations on the Mortgaged Vessel described therein in favor of the Mortgage Trustee for the benefit of the Secured Parties and that all registration fees in connection therewith have been duly paid;

(ii) an Abstract of Title and Certificate of Documentation issued by the United States Coast Guard stating that the Mortgaged Vessel is owned by the Subsidiary Guarantor and showing that there are of record no liens or other encumbrances on the Mortgaged Vessel except the Vessel Mortgage in favor of the Mortgage Trustee and other Permitted Liens;

(iii) a copy of a certificate duly issued by the Classification Society, not more than five days prior to the date of the Vessel Mortgage, to the effect that the Mortgaged Vessel has received the highest classification and rating for vessels of the same age and type, and is free of all overdue recommendations and notations of the Classification Society;

(iv) evidence of insurance in respect of the Mortgaged Vessel naming the Mortgage Trustee, for the benefit of the Secured Parties, as loss payee under property and casualty coverages, and, with respect to liability coverages, evidence that the relevant protection and indemnity club has made a loss payable endorsement to such coverages as required in the relevant Security Documents, in each case with such responsible and reputable insurance companies or associations, and in such amounts and covering such risks, as is specified in Section 5.02 or otherwise required pursuant to the relevant Security Documents, together with the letters of undertaking required by the relevant Security Documents;

(v) (x) copies of the DOC and SMC referred to in clause (a) of the definition of "ISM Code Documentation," certified as true and in effect by the Subsidiary Guarantor; and (y) copies of such ISM Code Documentation as the Administrative Agent may by written notice to the Borrower has requested no later than two Business Days before the Closing Date, certified as true and complete in all material respects by the Subsidiary Guarantor; and

(vi) a copy of the International Ship Security Certificate for the Mortgaged Vessel issued under the ISPS Code, in each case certified as true and in effect by the Subsidiary Guarantor.

(l) The Administrative Agent shall have received the Valuation for the Mortgaged Vessel dated April 3, 2018.

For purposes of determining compliance with the conditions specified in this Section 4.02, each Lender shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Lenders unless an officer of the Administrative Agent responsible for the transactions contemplated by the Loan Documents shall have received notice from such Lender prior to the Closing Date specifying its objection thereto and such Lender shall not have made available to the Administrative Agent such Lender's ratable portion of the initial Borrowing.

ARTICLE V

AFFIRMATIVE COVENANTS

The Company covenants and agrees with each Lender that, so long as this Agreement shall remain in effect (other than in respect of contingent indemnification and expense reimbursement obligations for which no claim has been made) and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts payable under any Loan Document shall have been paid in full, unless the Required Lenders shall otherwise consent in writing, the Company will, and will cause each of the Material Subsidiaries to:

Section 5.01. Existence: Business and Properties.

(a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except, in the case of a Subsidiary, where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and except as otherwise expressly permitted under Section 6.05, and except for the liquidation or dissolution of Subsidiaries if the assets of such Subsidiaries to the extent they exceed estimated liabilities are acquired by the Company or a Wholly Owned Subsidiary of the Company in such liquidation or dissolution; provided, that Loan Parties may not be liquidated into Subsidiaries that are not Loan Parties.

(b) Except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, do or cause to be done all things necessary to (i) lawfully obtain, preserve, renew, extend and keep in full force and effect the permits, franchises, authorizations, patents, trademarks, service marks, trade names, copyrights, licenses and rights with respect thereto necessary to the normal conduct of its business, and (ii) at all times maintain, protect and preserve all property necessary to the normal conduct of its business and keep such property in good repair, working order and condition (ordinary wear and tear excepted), from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith, if any, may be properly conducted at all times (in each case except as expressly permitted by this Agreement), and use the standard of care typical in the industry in the operation and maintenance of its properties.

Section 5.02. Insurance.

(a) With respect to the Mortgaged Vessel, and without limiting the requirements for insurance required thereon by the Vessel Mortgage (which Vessel Mortgage provisions shall be controlling in the event of a conflict), maintain, with financially sound and reputable insurance companies, as of any day, customary marine insurances (including hull, machinery, hull interest/increased value, freight interest/anticipated earnings, war risk, protection and indemnity, war risk protection and indemnity and mortgagee's interest (and such mortgagee's interest insurance shall be procured by the Mortgage Trustee, and any expenses in connection therewith shall be reimbursed by the Company)) for the higher of the Valuation of the Mortgaged Vessel and [*]% of the aggregate amount of all Term Loans outstanding on such day, and maintenance of required surety bonds (if any).

(b) Except as the Administrative Agent on behalf of the Lenders may agree in writing, cause all such property and casualty insurance policies with respect to each Loan Party's assets located in the United States to be endorsed or otherwise amended to (i) name the Collateral Agent or the Mortgage Trustee, as the case may be, on behalf of the Secured Parties, as an additional insured thereunder as its interests may appear and (ii) in the case of each casualty insurance policy, include a "standard" or "New York" lender's loss payable endorsement, in form and substance reasonably satisfactory to the Administrative Agent, which endorsement shall provide that, from and after the Closing Date, if the insurance carrier shall have received written notice from the Administrative Agent of the occurrence of an Event of Default, the insurance carrier shall pay all proceeds otherwise payable to the Loan Parties under such policies directly to Administrative Agent, Collateral Agent and/or the Mortgage Trustee; cause all such policies to provide that neither the Loan Parties, the Administrative Agent, the Collateral Agent, the Mortgage Trustee nor any other party shall be a coinsurer thereunder and to contain a "Replacement Cost Endorsement," without any deduction for depreciation, and such other provisions as the Administrative Agent may reasonably require from time to time to protect their interests; deliver copies of all such policies or certificates of an insurance broker with respect to such policies, in each case together with the endorsements provided for herein; cause each such policy to provide that it shall not be cancelled or not renewed upon less than the prior written notice thereof as set forth in the documentation delivered on the Closing Date pursuant to Section 4.02(k)(iv) by the insurer to the Collateral Agent or the Mortgage Trustee; deliver to the Administrative Agent and the Collateral Agent or the Mortgage Trustee, as the case may be, prior to or concurrently with the cancellation or nonrenewal of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Administrative Agent), or insurance certificate with respect thereto, together with evidence satisfactory to the Administrative Agent of payment of the premium therefor, in each case of the foregoing, to the extent customarily maintained, purchased or provided to, or at the request of, lenders by similarly situated companies in connection with credit facilities of this nature.

(c) In connection with the covenants set forth in this Section 5.02, it is understood and agreed that:

(i) none of the Administrative Agent, the Collateral Agent, the Mortgage Trustee, the Lenders, the other Secured Parties and their respective agents or employees shall be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 5.02, it being understood that (A) the Loan Parties shall look solely to their insurance companies or any other parties other than the aforesaid parties for the recovery of such loss or damage and (B) such insurance companies shall have no rights of subrogation against the Administrative Agent, the Collateral Agent, the Mortgage Trustee, the Lenders, any other Secured Party or their agents or employees. If, however, the insurance policies, as a matter of the internal policy of such insurer, do not provide waiver of subrogation rights against such parties, as required above, then each Loan Party, on behalf of itself and behalf of each of its Subsidiaries, hereby agrees, to the extent permitted by law, to waive, and further agrees to cause each of their Subsidiaries to waive, its right of recovery, if any, against the Administrative Agent, the Collateral Agent, the Mortgage Trustee, the Lenders, the other Secured Parties and their agents and employees;

(ii) the designation of any form, type or amount of insurance coverage by the Administrative Agent or Mortgage Trustee under this Section 5.02 shall in no event be deemed a representation, warranty or advice by the Administrative Agent, Collateral Agent, the Mortgage Trustee or the Lenders that such insurance is adequate for the purposes of the business of the Loan Parties and the Subsidiaries or the protection of their properties

(iii) the insurance policies and coverages thereunder maintained as of the Closing Date by the Loan Parties and the Material Subsidiaries and listed on Schedule 3.20 satisfy the requirements of paragraph (a) of this Section 5.02 as of the Closing Date.

Section 5.03. Taxes. Pay its obligations in respect of all Tax liabilities, assessments and governmental charges, before the same shall become delinquent or in default, except where (i) the amount or validity thereof is being contested in good faith by appropriate proceedings and the Company or a Subsidiary thereof has set aside on its books adequate reserves therefor in accordance with GAAP (or in the case of a Foreign Subsidiary, the comparable accounting principles in the relevant jurisdiction) or (ii) the failure to make payment could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.04. Financial Statements, Reports, etc. Furnish to the Administrative Agent (which will promptly furnish such information to the Lenders):

(a) within 90 days (or, if applicable, such shorter period as the SEC shall specify for the filing of annual reports on Form 10-K or on any applicable equivalent form) after the end of each fiscal year a consolidated balance sheet and related statements of operations, cash flows and owners' equity showing the financial position of the Company and its Subsidiaries as of the close of such fiscal year and the consolidated results of their operations during such fiscal year and setting forth in comparative form the corresponding figures for the prior fiscal year, which consolidated balance sheets and related statements of operations, cash flows and owners' equity shall be audited by PricewaterhouseCoopers, LLP or other independent public accountants of recognized national standing and accompanied by an opinion of such accountants (which opinion shall not be qualified as to scope of audit or as to the status of the Company or any Material Subsidiary as a going concern) to the effect that such consolidated financial statements fairly present, in all material respects, the financial position and results of operations of the Company and its Subsidiaries on a consolidated basis in accordance with GAAP (it being understood that the delivery by the Company of annual reports on Form 10-K or the equivalent of the Company and its consolidated Subsidiaries shall satisfy the requirements of this (a) to the extent such annual reports include the information specified herein);

(b) within 45 days (or, if applicable, such shorter period as the SEC shall specify for the filing of quarterly reports on Form 10-Q or on any applicable equivalent form) after the end of each of the first three fiscal quarters of each fiscal year, a consolidated balance sheet and related statements of operations and cash flows showing the financial position of the Company and its Subsidiaries as of the close of such fiscal quarter and the consolidated results of their operations during such fiscal quarter and the then-elapsed portion of the fiscal year and setting forth in comparative form the corresponding figures for the corresponding periods of the prior fiscal year, all of which shall be in reasonable detail and which consolidated balance sheet and related statements of operations and cash flows shall be certified by a Financial Officer of the Company on behalf of the Company, as fairly presenting, in all material respects, the financial position and results of operations of the Company and its Subsidiaries, on a consolidated basis in accordance with GAAP (subject to normal year-end audit adjustments and the absence of footnotes) (it being understood that the delivery by the Company of quarterly reports on Form 10-Q of the Company and its consolidated Subsidiaries shall satisfy the requirements of this (b) to the extent such quarterly reports include the information specified herein);

(c) (x) concurrently with any delivery of financial statements under paragraphs (a) or (b) above, a certificate of a Financial Officer of the Company (i) certifying that no Event of Default or Default has occurred or, if such an Event of Default or Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (ii) setting forth computations in reasonable detail demonstrating compliance with the covenants set forth in Sections 6.12, 6.13, 6.14, and 6.15, (iii) setting forth the calculation and uses of the Cumulative Credit for the fiscal period then ended if the Company shall have used the Cumulative Credit for any purpose during such fiscal period, and (iv) certifying a list of names of all Immaterial Subsidiaries, that each Subsidiary set forth on such list individually qualifies as an Immaterial Subsidiary and that all such Subsidiaries in the aggregate do not exceed the limitation set forth in clause (b) of the definition of the term "Immaterial Subsidiary," and (y) concurrently with any delivery of financial statements under paragraph (a) above, if the accounting firm is not restricted from providing such a certificate by the policies of its applicable office, a certificate of the accounting firm opining on or certifying such statements stating whether they obtained knowledge during the course of their examination of such statements of any Default or Event of Default (which certificate may be limited to accounting matters and disclaim responsibility for legal interpretations);

(d) promptly after the same become publicly available, copies of all periodic and other publicly available reports, proxy statements and, to the extent requested by the Administrative Agent, other materials filed by the Company or any Subsidiary with the SEC, or after an initial public offering, distributed to its stockholders generally, as applicable; provided, however, that such reports, proxy statements, filings and other materials required to be delivered pursuant to this clause (d) or any other clause of this Section 5.04 shall be deemed delivered for purposes of this Agreement when posted to the website of the Company or the SEC;

(e) within 90 days after the beginning of each fiscal year, a reasonably detailed consolidated quarterly budget for such fiscal year (including a projected consolidated balance sheet of the Company and its Subsidiaries as of the end of the following fiscal year, and the related consolidated statements of projected cash flow and projected income), including a description of underlying assumptions with respect thereto (collectively, the "Budget"), which Budget shall in each case be accompanied by the statement of a Financial Officer of the Company to the effect that the Budget is based on assumptions believed by such Financial Officer to be reasonable as of the date of delivery thereof;

(f) promptly, from time to time, such other information (i) regarding the operations, business affairs and financial condition of the Company or any of the Subsidiaries, (ii) regarding compliance with the terms of any Loan Document, (iii) regarding such consolidating financial statements or (iv) required under the USA PATRIOT Act or the Beneficial Ownership Regulation, as in each case the Administrative Agent may reasonably request (for itself or on behalf of any Lender);

(g) in the event that (x) any Parent Entity reports on a consolidated basis then, such consolidated reporting at such Parent Entity's level in a manner consistent with that described in paragraphs (a) and (b) of this Section 5.04 for the Company (together with a reconciliation showing the adjustments necessary to determine compliance by the Company and its Subsidiaries with the covenants set forth in Sections 6.12, 6.13, 6.14, and 6.15 and consolidating information that explains in reasonable detail the differences between the information relating to such direct or indirect parent and its Subsidiaries, on the one hand, and the information relating to the Company and its Subsidiaries, on the other hand) will satisfy the requirements of such paragraphs.

Section 5.05. Litigation and Other Notices. Furnish to the Administrative Agent (which will promptly thereafter furnish to the Lenders) written notice of the following promptly after any Responsible Officer of the Company obtains actual knowledge thereof:

(a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto;

(b) the filing or commencement of, or any written threat or notice of intention of any person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority or in arbitration, against any Loan Party or any Subsidiary as to which an adverse determination is reasonably probable and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect;

(c) any other development specific to any Loan Party or any Subsidiary that is not a matter of general public knowledge and that has had, or would reasonably be expected to have, a Material Adverse Effect;

(d) the development of any ERISA Event that, together with all other ERISA Events that have developed or occurred, would reasonably be expected to have a Material Adverse Effect; and

(e) any change in the information provided in the Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification.

Section 5.06. Compliance with Laws.

(a) Comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect;

(b) this Section 5.06 shall not apply to Environmental Laws, which are the subject of Section 5.09, or to laws related to Taxes, which are the subject of Section 5.03.

Section 5.07. Maintaining Records: Access to Properties and Inspections. Maintain all financial records in accordance with GAAP and permit any persons designated by the Administrative Agent or, upon the occurrence and during the continuance of an Event of Default, any Lender to visit and inspect the financial records and the properties of the Company or any Material Subsidiary at reasonable times, upon reasonable prior notice to the Company, and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any persons designated by the Administrative Agent or, upon the occurrence and during the continuance of an Event of Default, any Lender upon reasonable prior notice to the Company to discuss the affairs, finances and condition of the Company or any Material Subsidiary with the officers thereof and independent accountants therefor (subject to reasonable requirements of confidentiality, including requirements imposed by law or by contract).

Section 5.08. Use of Proceeds. Use the proceeds of the Loans only as contemplated by Section 3.12. The Borrower will not request any Borrowing, and the Borrower shall not use, and shall procure that their Subsidiaries and their or their Subsidiaries' respective directors, officers, employees, Affiliates and agents shall not use, directly or indirectly, the proceeds of any Borrowing, or lend, contribute or otherwise make available such proceeds to any Subsidiary, other Affiliate, joint venture partner or other person, (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any Anti-Corruption Laws or AML Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or involving any goods originating in or with a Sanctioned Person or Sanctioned Country, in each case except to the extent permissible for a Person required to comply with Sanctions, or (C) in any manner that would result in the violation of any Sanctions by any person (including any person participating in the transactions contemplated hereunder, whether as underwriter, advisor lender, investor or otherwise).

Section 5.09. Environmental Matters.

(a) Comply, and make reasonable efforts to cause any Approved Manager and all persons employed on board the Mortgaged Vessel or other property owned or leased by it (and all other persons under contract with any Loan Party or any Approved Manager) to comply, with all Environmental Laws applicable to its operations and properties; and obtain and renew all material Environmental Permits required for its operations and properties, in each case in accordance with Environmental Laws, except, in each case with respect to this Section 5.09, to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(b) Implement any and all investigation, remediation, removal and response actions that are appropriate or necessary to maintain the value and marketability of the Mortgaged Vessel or any other property owned or leased by it or to otherwise comply with Environmental Laws and Environmental Permits pertaining to the presence, generation, treatment, storage, use, disposal, transportation, scrapping or Release of any Hazardous Material on, at, in, under, above, to, from or about the Mortgaged Vessel or other property owned, leased or occupied by it, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect;

(c) Notify the Administrative Agent promptly after it becomes aware that any violation of Environmental Laws or Environmental Permits or any Release on, at, in, under, above, to or from the Mortgaged Vessel or any other property owned, leased or occupied by it, or any other Environmental Claim could reasonably be expected to result in Environmental Liabilities in excess of \$[*] per instance or \$[*] in the aggregate (for all such instances) in any one fiscal year (for any and all such violations, Releases and Environmental Claims and for any and all of the Loan Parties and Material Subsidiaries), in each case whether or not any Governmental Authority has taken or threatened any action in connection with any such violation, Release, Environmental Claim or other matter; and

(d) Promptly forward to the Administrative Agent a copy of any order, notice, request for information or any written communication or report received by it in connection with any such violation or Release or any other matter relating to any Environmental Laws or Environmental Permits described in paragraph (c) of this Section 5.09.

Section 5.10. Further Assurances: Additional Security and Guarantees

(a) Promptly execute, and use commercially reasonable efforts to cause the execution of, any and all further documents, financing statements, agreements and instruments, and take, or use commercially reasonable efforts to cause the taking of, all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, vessel mortgages, deeds of covenants and other documents and recordings of Liens in stock, or any other, registries), that may be required under any applicable law, or that the Collateral Agent may reasonably request, to satisfy the Collateral and Guarantee Requirement and to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Borrower, and provide to the Collateral Agent from time to time upon reasonable request of the Collateral Agent, evidence reasonably satisfactory to the Collateral Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) As a condition precedent to the occurrence of any transaction permitted under this Agreement effecting a change in the holder of any Equity Interests in the Subsidiary Guarantor, ensure that each resulting new holder of any Equity Interests in the Subsidiary Guarantor shall have executed and delivered to the Administrative Agent and the Collateral Agent a replacement Subsidiary Guarantor Pledge Agreement (or other documentation satisfactory to the Administrative Agent evidencing such new holder's pledge of all Equity Interests in the Subsidiary Guarantor on substantially the same terms as the existing Subsidiary Guarantor Pledge Agreement with respect to the Subsidiary Guarantor) prior to or not later than simultaneously with the occurrence of the relevant transaction, together with (i) to the extent requested by the Administrative Agent, favorable written opinions of counsel covering such matters relating to such replacement Subsidiary Guarantor Pledge Agreement as the Administrative Agent shall reasonably request or other documentation and such other matters as the Administrative Agent may reasonably request and (ii) delivery to the Collateral Agent of the certificates or other instruments, if any, representing all of the Equity Interests of the Subsidiary, together with stock powers or instruments of transfer executed and delivered in blank.

(f) Provide not less than 10 days prior written notice of the Subsidiary Guarantor's intent to re-register the Mortgaged Vessel under the laws of a Permitted Flag Jurisdiction other than the jurisdiction in which the Mortgaged Vessel was registered on the Closing Date (or any subsequent re-registration permitted by this Agreement); and, as conditions precedent to any such re-registration, the Subsidiary Guarantor shall promptly grant to the Collateral Agent a security interest in and deliver an acceptable vessel mortgage governed by the laws of the new Permitted Flag Jurisdiction together with any deed of covenants, mortgage supplement or other customary related supplementary documentation, which vessel mortgage together with any such supplementary documentation shall constitute a valid and enforceable perfected first priority Lien subject only to Permitted Liens. Such vessel mortgage and supplementary documentation shall be duly registered, filed or recorded, as appropriate, in such manner and in such places as are required by law to establish, perfect, preserve and protect the Liens in favor of the Collateral Agent required to be granted pursuant to such vessel mortgage and supplementary documentation and all taxes, fees and other charges payable in connection therewith shall be paid by the Subsidiary Guarantor in full. The Subsidiary Guarantor shall otherwise take such other actions and execute and/or deliver to the Collateral Agent such other documents as the Collateral Agent shall require in its reasonable discretion to confirm the validity, perfection and priority of the Lien of any new vessel mortgage and any related supplementary documentation (including an opinion from local counsel acceptable to the Collateral Agent, which opinion is in form and substance reasonably satisfactory to the Collateral Agent in respect of such vessel mortgage and any related supplementary documentation).

(g) Provide not less than 10 days prior written notice of the Subsidiary Guarantor's intent to transfer the Mortgaged Vessel to any other Material Subsidiary organized in the United States, Bermuda or any other jurisdiction approved by the Administrative Agent (such approval not to be withheld unreasonably) (the "Transferee Subsidiary") (a "Permitted Vessel Transfer"); and, as conditions precedent to any Permitted Vessel Transfer, the Transferee Subsidiary shall (w) execute and deliver a signed counterpart to the Collateral Agreement to the Administrative Agent and the Collateral Agent together with the documents that the Transferee Subsidiary would have been required to deliver pursuant to Section 4.02(e), (g) (without giving effect to the proviso therein) and (i), mutatis mutandis, had it been a Loan Party on the Closing Date, in each case certified or otherwise in the form required thereunder, (x) cause the Collateral and Guarantee Requirement to be satisfied with respect to the Transferee Subsidiary and with respect to the Equity Interests in the Transferee Subsidiary, (y) the promptly grant to the Collateral Agent a security interest in and deliver an acceptable vessel mortgage together with any deed of covenants, vessel mortgage, earnings assignments, insurance assignments, and other customary related supplementary documentation, which vessel mortgage together with any such supplementary documentation shall constitute a valid and enforceable perfected first priority Lien subject only to Permitted Liens and (z) provide all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act. Such vessel mortgage and supplementary documentation shall be duly registered, filed or recorded, as appropriate, in such manner and in such places as are required by law to establish, perfect, preserve and protect the Liens in favor of the Collateral Agent required to be granted pursuant to such vessel mortgage and supplementary documentation and all taxes, fees and other charges payable in connection therewith shall be paid by the Subsidiary Guarantor in full. Such Subsidiary Guarantor shall otherwise take such other actions and execute and/or deliver to the Collateral Agent such other documents as the Collateral Agent shall require in its reasonable discretion to confirm the validity, perfection and priority of the Lien of any new vessel mortgage and any related supplementary documentation (including an opinion from local counsel reasonably acceptable to the Collateral Agent, which opinion is in form and substance reasonably satisfactory to the Collateral Agent in respect of such vessel mortgage and any related supplementary documentation).

(h) (i) Furnish to the Collateral Agent prompt written notice of any change (A) in any Loan Party's or Material Subsidiary's legal name, (B) in any Loan Party's or Material Subsidiary's identity or organizational structure, (C) in any Loan Party's or Material Subsidiary's organizational identification number or (D) in any Loan Party's "location" within the meaning of Section 9-307 of the Uniform Commercial Code; provided that no Loan Party shall effect or permit any such change unless all filings have been made, or will have been made within any statutory period, under the Uniform Commercial Code or other applicable law that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral for the benefit of the Secured Parties with the priority intended under the Collateral and Guarantee Requirement and (ii) promptly notify the Collateral Agent if any material portion of the Collateral is damaged or destroyed.

(i) Subject to this Section 5.10, with respect to any property acquired after the Closing Date by any Loan Party that is intended to be subject to the Lien created by any of the Security Documents but is not so subject, promptly (and in any event within 30 days after the acquisition thereof or such longer period as the Administrative Agent shall agree in its reasonable discretion) (i) execute and deliver to the Administrative Agent and the Collateral Agent such amendments or supplements to the relevant Security Documents or such other documents as the Administrative Agent or the Collateral Agent shall reasonably deem necessary or advisable to grant to the Collateral Agent, for its benefit and for the benefit of the other Secured Parties, a Lien on such property subject to no Liens other than Permitted Liens, and (ii) use commercially reasonable efforts to cause such Lien to be duly perfected to the extent required by such Security Document in accordance with requirements of applicable law, including the filing of financing statements in such jurisdictions as may be reasonably requested by the Administrative Agent. The Borrower shall otherwise take such actions and execute and/or deliver to the Collateral Agent such documents as the Administrative Agent or the Collateral Agent shall reasonably require to confirm the validity, perfection and priority of the Lien of the Security Documents on such after-acquired properties.

(j) The Collateral and Guarantee Requirement and the other provisions of this Section 5.10 need not be satisfied with respect to (i) any Equity Interests owned or acquired after the Closing Date (other than, in the case of any person which is a Subsidiary of the Subsidiary Guarantor, Equity Interests in such person issued or acquired after such person became a Subsidiary) in accordance with this Agreement if, and to the extent that, and for so long as (A) doing so would violate applicable law or a contractual obligation binding on such Equity Interests and (B) with respect to contractual obligations, such obligation existed at the time of the acquisition thereof and was not created or made binding on such Equity Interests in contemplation of or in connection with the acquisition of such Subsidiary, (ii) any assets acquired after the Closing Date, to the extent that, and for so long as, taking such actions would violate an enforceable contractual obligation binding on such assets that existed at the time of the acquisition thereof and was not created or made binding on such assets in contemplation of or in connection with the acquisition of such assets (except in the case of assets acquired with Indebtedness permitted pursuant to Section 6.01(i) or 6.01(r) (if of the type permitted by Section 6.01(i)) that is secured by a Permitted Lien); provided, that, upon the reasonable request of the Collateral Agent, the Company shall, and shall cause any applicable Subsidiary to, use commercially reasonable efforts to have waived or eliminated any contractual obligation of the types described in clauses (i) and (ii) above, or (iii) any Subsidiary or asset with respect to which the Administrative Agent determines in writing in its reasonable discretion that the cost of the satisfaction of the Collateral and Guarantee Requirement or the provisions of this Section 5.10 or of any Security Document with respect thereto is excessive in relation to the value of the security afforded thereby.

(k) Notwithstanding anything to the contrary in this Agreement or any other Loan Document, neither the Borrower nor any of its Subsidiaries shall be required to enter into any Control Agreement.

Section 5.11. Rating. Exercise commercially reasonable efforts to maintain public corporate ratings for the Company or Holdings from each of Moody's and S&P.

Section 5.12. Annual Insurance Report. On or as of the Closing Date and thereafter on such other dates as the Collateral Agent may require (but not more than once per fiscal year of the Company), a written report addressed to the Collateral Agent and the Secured Parties with respect to the insurances carried and maintained on the Mortgaged Vessel signed by an Approved Insurance Evaluator; provided that only the reasonable expenses of such Approved Insurance Evaluator are required to be reimbursed by the Borrower hereunder.

Section 5.13. Approval and Authorization. The Lenders hereby approve the forms of the Subsidiary Guarantor Pledge Agreement and the Collateral Agreement and authorize the Administrative Agent and the Collateral Agent (i) to enter into the same on their behalf and (ii) to perform their duties and obligations and to exercise their rights and remedies thereunder. The Lenders acknowledge that the Collateral Agent will be acting as collateral agent for the holders of the Obligations under the Security Documents, on the terms provided for therein.

Section 5.14. Concerning the Mortgaged Vessel.

(a) At all times operate the Mortgaged Vessel in compliance in all respects with all applicable governmental rules, regulations and requirements pertaining to the Mortgaged Vessel and in compliance in all respects with all rules, regulations and requirements of the applicable Classification Society and in compliance with all requirements of the Vessel Mortgage, except, in each case with respect to this Section 5.14(a), to the extent the failure to do so would not reasonably be expected to have a Material Adverse Effect. The Company shall cause the Subsidiary Guarantor to keep the Mortgaged Vessel registered under the laws of a Permitted Flag Jurisdiction and furnish to the Administrative Agent and/or the Mortgage Trustee copies of all renewals and extensions of such registration.

(b) Maintain the Mortgaged Vessel classed in the highest available class with a Classification Society, free of any overdue recommendations or exceptions of any kind that affect the Mortgaged Vessel's classification and rating by such Classification Society, except, in each case with respect to this Section 5.14(b), to the extent the failure to do so would not reasonably be expected to have a Material Adverse Effect. Upon request (it being understood that the Administrative Agent shall not make more than one such request during any fiscal year of the Company), the Company shall furnish to the Administrative Agent and/or the Mortgage Trustee and the Lenders a confirmation of class certificate issued by the respective Classification Society for the Mortgaged Vessel.

(c) Maintain a true copy of the Vessel Mortgage, together with a notice thereof, aboard the Mortgaged Vessel.

Section 5.15. Compliance with Maritime Conventions. Obtain and maintain all necessary ISM Code Documentation in connection with the Mortgaged Vessel, and be in compliance in all material respects with the ISM Code, except, in each case with respect to this Section 5.15, to the extent the failure to do so would not reasonably be expected to have a Material Adverse Effect.

Section 5.16. Valuations. Ensure that, for each fiscal year beginning with the fiscal year commencing January 1, 2020, the Company shall obtain one or (at the request of the Administrative Agent) more Valuations of the Mortgaged Vessel, in each case at the Company's sole cost and expense (except that, with respect to the Mortgaged Vessel, any Valuation in a calendar year requested by the Administrative Agent, shall be at the Lenders' expense, unless an Event of Default has occurred and is continuing) and from one of the Approved Brokers, as selected by the Company; provided that unless an Event of Default has occurred and is continuing, no more than two Valuations of the Mortgaged Vessel shall be so required to be obtained during any fiscal year of the Company. The Company shall deliver (or cause to be delivered) a copy of any such Valuation (a "First Valuation") to the Administrative Agent (for distribution to the Lenders). Notwithstanding anything to the contrary, the Company, at its own option and without any instruction from the Administrative Agent may obtain a First Valuation from time to time and deliver same to the Administrative Agent (for distribution to the Lenders). In the event the Company is not satisfied with the results of any First Valuation, then the Company will have 30 days after the Company's receipt of such First Valuation during which to obtain, at its option and at its sole cost and expense, an additional Valuation (a "Second Valuation") from one of the Approved Brokers, as selected by the Company. The Company shall deliver (or cause to be delivered) a copy of any such Second Valuation to the Administrative Agent (for distribution to the Lenders) promptly after the Company's receipt thereof. If any such Second Valuation is obtained and the results thereof indicate a value for the subject Mortgaged Vessel of at least 110% of the value indicated in the First Valuation, then the Company will have 30 days after the receipt of such Second Valuation from the relevant Approved Broker during which to obtain, at its option and at its sole cost and expense, a further additional Valuation (a "Third Valuation") from one of the Approved Brokers, as selected by the Company. The average value of any First Valuation, Second Valuation (to the extent obtained as provided above) and Third Valuation (to the extent obtained as provided above) of the Mortgaged Vessel shall constitute the Valuation of the Mortgaged Vessel for all purposes under the Loan Documents until any subsequent Valuation of the Mortgaged Vessel is obtained in accordance with this Section 5.16.

ARTICLE VI
NEGATIVE COVENANTS

The Company covenants and agrees with each Lender that, so long as this Agreement shall remain in effect (other than in respect of contingent indemnification and expense reimbursement obligations for which no claim has been made) and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts payable under any Loan Document have been paid in full, unless the Required Lenders shall otherwise consent in writing, the Company will not, and will not permit any of the Material Subsidiaries to:

Section 6.01. Indebtedness. Incur, create, assume or permit to exist any Indebtedness, except:

(a) Indebtedness of the Company or any Subsidiary existing on the Closing Date (provided that any such Indebtedness in excess of \$10,000,000 shall be set forth on Schedule 6.01) and any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness (other than intercompany indebtedness Refinanced with Indebtedness owed to a person not affiliated with the Company or any Subsidiary);

(b) Indebtedness created hereunder and under the other Loan Documents and any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness;

(c) Indebtedness of the Company or any Subsidiary pursuant to Swap Agreements permitted by Section 6.10;

(d) Indebtedness owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Company or any Subsidiary, pursuant to reimbursement or indemnification obligations to such person, in each case in the ordinary course of business; provided that upon the incurrence of Indebtedness with respect to reimbursement obligations regarding workers' compensation claims, such obligations are reimbursed not later than 30 days following such incurrence;

(e) Indebtedness of the Company to any Subsidiary and of any Subsidiary to the Company or any other Subsidiary; provided that (i) Indebtedness of any Subsidiary that is not the Subsidiary Guarantor owing to the Loan Parties shall be subject to Section 6.04(a) and (ii) Indebtedness of the Company to any Subsidiary and Indebtedness of the Subsidiary Guarantor to any Subsidiary that is not the Subsidiary Guarantor shall be made expressly subject to a note containing subordination provisions reasonably satisfactory to the Company and the Administrative Agent;

(f) (i) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case provided in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business and (ii) ordinary course Guarantees and any related credit support or suretyship arrangements so long as the same do not constitute Indebtedness for borrowed money or a Guarantee thereof;

(g) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services in the ordinary course of business; provided that (i) such Indebtedness (other than credit or purchase cards) is extinguished within ten Business Days of notification to the obligor by such bank or other financial institution of its incurrence and (ii) such Indebtedness in respect of credit or purchase cards is extinguished within 60 days from its incurrence;

(h) (i) Indebtedness of a Subsidiary acquired after the Closing Date or a person merged into or consolidated with the Company or any Subsidiary after the Closing Date and Indebtedness assumed or incurred in connection with such acquisition, merger or consolidation and where such acquisition, merger or consolidation is permitted by this Agreement provided that the aggregate amount of such Indebtedness (together with the aggregate amount of Indebtedness outstanding pursuant to this paragraph (h) and paragraph (i) of this Section 6.01 and the Remaining Present Value of outstanding leases permitted under Section 6.03 would not exceed (x) the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such acquisition, merger or consolidation, such assumption or such incurrence, as applicable for which financial statements have been delivered pursuant to Section 5.04 plus (y) an amount of Indebtedness for which, after giving effect to such issuance, incurrence or assumption, the Company would be in Ratio Compliance; provided, further (A) no Default or Event of Default shall have occurred and be continuing or would result therefrom, (B) immediately after giving effect to such acquisition, merger or consolidation, the assumption and incurrence of any Indebtedness and any related transactions, the Company shall be in Pro Forma Compliance and (C) to the extent such Indebtedness is incurred in contemplation of such acquisition, merger or consolidation, it shall constitute Permitted Additional Debt; and (ii) any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness.

(i) Capital Lease Obligations, mortgage financings and purchase money Indebtedness incurred by the Company or any Subsidiary prior to or within [*] days after the acquisition, lease or improvement of the respective asset permitted under this Agreement in order to finance such acquisition or improvement, and any Permitted Refinancing Indebtedness in respect thereof, in an aggregate principal amount that at the time of, and after giving effect to, the incurrence thereof, of such Indebtedness (together with the aggregate principal amount of Indebtedness outstanding pursuant to this paragraph (i) and paragraph (h) of this Section 6.01 and the Remaining Present Value of outstanding leases permitted under Section 6.03 would not exceed (x) the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04 plus (y) any additional amounts, so long as after giving effect to the issuance or incurrence of such Indebtedness the Company is in Ratio Compliance;

(j) Capital Lease Obligations incurred by the Company or any Subsidiary in respect of any Sale and Lease-Back Transaction that is permitted under Section 6.03;

(k) other Indebtedness of the Company or any Subsidiary, in an aggregate principal amount that at the time of, and after giving effect to, the incurrence thereof, would not exceed the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04;

(l) Indebtedness of the Company pursuant to (i) the Senior Unsecured Notes Documents in an aggregate principal amount not in excess of \$[*], and (ii) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness;

(m) Guarantees (i) by the Subsidiary Guarantor of the Indebtedness of the Company described in paragraph (l) of this Section 6.01, (ii) by the Borrower or the Subsidiary Guarantor of any Indebtedness of the Subsidiary Guarantor permitted to be incurred under this Agreement, (iii) by the Borrower or the Subsidiary Guarantor of Indebtedness otherwise permitted hereunder of any Subsidiary that is not the Subsidiary Guarantor to the extent such Guarantees are permitted by Section 6.04 (other than Section 6.04(v)), (iv) by any Subsidiary that is not the Subsidiary Guarantor of any Indebtedness of any other Subsidiary or any Loan Party permitted to be incurred under this Agreement; provided that Guarantees by any Loan Party or Subsidiary under this Section 6.01(m) of any other Indebtedness of a person that is subordinated to other Indebtedness of such person shall be expressly subordinated to the Obligations to the same extent as such underlying Indebtedness is subordinated;

(n) Indebtedness arising from agreements of the Company or any Subsidiary providing for indemnification, adjustment of purchase or acquisition price or similar obligations, in each case, incurred or assumed in connection with any Permitted Business Acquisition or the disposition of any business, assets or a Subsidiary not prohibited by this Agreement, other than Guarantees of Indebtedness incurred by any person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition;

(o) Indebtedness in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support performance obligations (other than obligations in respect of other Indebtedness) in the ordinary course of business;

(p) [reserved];

(q) Indebtedness consisting of (i) the financing of insurance premiums, or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(r) Indebtedness consisting of Permitted Ratio Debt and Permitted Refinancing Indebtedness in respect thereof so long as (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom, and (ii) (A) immediately after giving effect to the issuance, incurrence or assumption of such Indebtedness, the Loan-to-Value Ratio on a Pro Forma Basis is equal to or less than [*] to 1.0, or (B) immediately after giving effect to the issuance, incurrence or assumption of such Indebtedness, the Fixed Charge Coverage Ratio on a Pro Forma Basis at least [*] to 1.0;

(s) Indebtedness of Subsidiaries that are not the Subsidiary Guarantor in an aggregate amount not to exceed the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04;

(t) unsecured Indebtedness in respect of obligations of the Company or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms (which require that all such payments be made within 60 days after the incurrence of the related obligations) in the ordinary course of business and not in connection with the borrowing of money or any Swap Agreements;

(u) Indebtedness representing deferred compensation to employees of the Company or any Subsidiary incurred in the ordinary course of business;

(v) [reserved];

(w) Indebtedness of any New Vessel Subsidiary under a New Vessel Financing (in an initial aggregate principal amount not to exceed [%] of the purchase price (as adjusted from time to time to give effect to any change orders or other modifications) of the purchased Vessel and [%] of any related export credit insurance premium) and Guarantees thereof by the Company;

(x) Indebtedness of the Company and the Subsidiaries incurred under lines of credit or overdraft facilities (including, but not limited to, intraday, ACH and purchasing card/T&E services) extended by one or more financial institutions reasonably acceptable to the Administrative Agent or one or more of the Lenders and (in each case) established for the Company's and the Subsidiaries' ordinary course of operations (such Indebtedness, the "Overdraft Line"), which Indebtedness may be secured as, but only to the extent, provided in Section 6.02(a) and in the Security Documents (it being understood, however, that for a period of 30 consecutive days during each fiscal year of the Company the outstanding principal amount of Indebtedness under the Overdraft Line shall not exceed the greater of \$[*] and [%] of Consolidated Total Assets);

(y) intercompany Indebtedness in connection with any Permitted Vessel Transfer;

(z) [reserved];

(aa) [reserved];

(bb) Indebtedness incurred on behalf of, or representing Guarantees of Indebtedness of, joint ventures not in excess of the greater of \$[*] and [%] of Consolidated Total Assets as of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04;

(cc) all premium (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in paragraphs (a) through (bb) above.

For purposes of determining compliance with this Section 6.01, (x) the amount of any Indebtedness denominated in any currency other than Dollars shall be calculated based on customary currency exchange rates in effect, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) on or prior to the Closing Date, on the Closing Date and, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) after the Closing Date, on the date that such Indebtedness was incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness); provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a currency other than Dollars (or in a different currency from the Indebtedness being refinanced), and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (i) the outstanding or committed principal amount, as applicable, of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums (including tender premiums), defeasance costs and other costs and expenses incurred in connection with such refinancing and (y) (A) Indebtedness need not be permitted solely by reference to one category of permitted Indebtedness (or any portion thereof) described in Sections 6.01(a) through (cc) but may be permitted in part under any combination thereof, (B) in the event that an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Indebtedness (or any portion thereof) described in Sections 6.01(a) through (cc), the Company may, in its sole discretion, divide, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such item of Indebtedness (or any portion thereof) in any manner that complies with this Section 6.01 and at the time of incurrence, division, classification or reclassification will be entitled to only include the amount and type of such item of Indebtedness (or any portion thereof) in one of the above clauses (or any portion thereof) and such item of Indebtedness (or any portion thereof) shall be treated as having been incurred or existing pursuant to only such clause or clauses (or any portion thereof); provided, that all Indebtedness under this Agreement that is outstanding on the Closing Date shall at all times be deemed to have been incurred pursuant to clause (b) of this Section 6.01 and (C) in connection with (1) the incurrence of revolving Indebtedness under this Section 6.01 or (2) any commitment relating to the incurrence of Indebtedness under this Section 6.01 and the granting of any Lien to secure such Indebtedness, the Company or applicable Subsidiary may designate the incurrence of such Indebtedness and the granting of such Lien therefor as having occurred on the date of first incurrence of such revolving loan Indebtedness or commitment (such date, the "Deemed Date"), and from and after the Deemed Date such Indebtedness shall be deemed to be outstanding for purposes of this Section 6.01 and 6.02 so long as the commitments with respect to such Indebtedness remain in effect and any related subsequent actual incurrence and the granting of such Lien therefor will be deemed for purposes of this Section 6.01 and Section 6.02 of this Agreement to have been incurred or granted on such Deemed Date.

With respect to any Indebtedness that was permitted to be incurred hereunder on the date of such incurrence, any Increased Amount of such Indebtedness shall also be permitted hereunder after the date of such incurrence.

Section 6.02. Liens. Create, incur, assume or permit to exist any Lien upon any Collateral (other than Liens in favor of the Borrower or the Subsidiary Guarantor), whether now owned or hereafter acquired, except the following (collectively, "Permitted Liens"):

- (a) any Lien created under the Loan Documents or permitted in respect of the Mortgaged Vessel by the terms of the Vessel Mortgage;
- (b) Liens on Collateral existing on the Closing Date and set forth on Schedule 6.02(a) and any modifications, replacements, renewals or extensions thereof;
- (c) Liens ranking junior to the Liens on the Collateral securing the Obligations; provided that (i) the Loan-to-Value Ratio on a Pro Forma Basis will be equal to or less than [*] to 1.0 and (ii) at the time of the incurrence of such Lien and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(d) (1) Liens imposed by law, such as landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, construction or other like Liens and Liens in favor of customs and revenue authorities to secure payment of customs duties in connection with the importation of goods; in each case arising in the ordinary course of business and securing obligations which do not in the aggregate materially detract from the value of the Collateral and do not materially impact the use thereof in the operation of the business of the Company or the applicable Material Subsidiary or that are being contested in good faith by appropriate proceedings; and with respect to the Mortgaged Vessel: (i) Liens fully covered (in excess of deductibles required or permitted by Section 5.02) by valid policies of insurance meeting the requirements of the Vessel Mortgage, (ii) Liens for master's and crew's wages on, if not yet due and payable, and (iii) other maritime liens arising in the ordinary course of business in an amount not to exceed the greater of (x) \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04 and (2) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights;

(e) (1) Liens for Taxes, assessments or other governmental charges or levies not yet delinquent or that are being contested in compliance with Section 5.03; (2) Liens in respect of Indebtedness permitted by (a) Section 6.01(f) (to the extent such obligations are in respect of trade-related letters of credit and bankers' acceptances and cover the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof) and (b) Section 6.01(i) (provided, that in the case of any Lien in respect of Section 6.01(i), (x) that such Liens do not apply to any property or assets other than the property or assets being acquired or improved or (y) that immediately after giving effect to any such Lien and the incurrence of any Indebtedness incurred at the time such Lien is created, incurred or permitted to exist, the Company is in Ratio Compliance and at the time of the incurrence of such Lien and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom); (3) Liens on not more than the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04 of deposits securing Swap Agreements permitted to be incurred under Section 6.10; and (4) Liens securing judgments that do not constitute an Event of Default under Section 8.01(j); and

(f) (1) deposits and other Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capital Lease Obligations), statutory obligations (other than obligations under ERISA), credit card processing arrangements, surety and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, agreements with utilities, and other obligations of a like nature (including letters of credit in lieu of any such bonds or to support the issuance thereof) incurred in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business; and (2) leases or subleases, licenses or sublicenses, granted to others in the ordinary course of business not interfering in any material respect with the business of the Company and its Subsidiaries, taken as a whole.

Section 6.03. Sale and Lease-Back Transactions. Enter into any arrangement, directly or indirectly, with any person whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred (a "Sale and Lease-Back Transaction"); provided, that a Sale and Lease-Back Transaction shall be permitted if at the time the lease in connection therewith is entered into, and after giving effect to the entering into of such lease, the Remaining Present Value of such lease, together with Indebtedness outstanding pursuant to Section 6.01(h) and (i) and the Remaining Present Value of outstanding leases previously entered into under this Section 6.03, would not exceed the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date the lease was entered into for which financial statements have been delivered pursuant to Section 5.04.

Section 6.04. Investments, Loans and Advances. Purchase, hold or acquire (including pursuant to any merger with a person that is not a Wholly Owned Subsidiary immediately prior to such merger) any Equity Interests, evidences of Indebtedness or other securities of, make or permit to exist any loans or advances to or Guarantees of the obligations of, or make or permit to exist any investment or any other interest in (each, an "Investment"), any other person, except:

(a) (i) Investments by the Company or any Subsidiary in the Equity Interests of the Company or any Subsidiary; (ii) intercompany loans from the Company or any Subsidiary to the Company or any Subsidiary; and (iii) Guarantees by the Borrower or the Subsidiary Guarantor of Indebtedness otherwise expressly permitted hereunder of the Company or any Subsidiary; provided, that the sum of (A) Investments (valued at the time of the making thereof and without giving effect to any write-downs or write-offs thereof) made after the Closing Date by the Loan Parties pursuant to clause (i) in Subsidiaries that are not Loan Parties, plus (B) net intercompany loans made after the Closing Date to Subsidiaries that are not Loan Parties pursuant to clause (ii), plus (C) Guarantees of Indebtedness after the Closing Date of Subsidiaries that are not Loan Parties pursuant to clause (iii), shall not exceed an aggregate net amount equal to (x) the greater of (1) \$[*] and (2) [*]% of Consolidated Total Assets (plus any return of capital actually received by the respective investors in respect of Investments theretofore made by them pursuant to this paragraph (a)); plus (y) the portion, if any, of the Cumulative Credit on the date of such election that the Company elects to apply to this Section 6.04(a)(y), such election to be specified in a written notice of a Responsible Officer of the Company calculating in reasonable detail the amount of Cumulative Credit immediately prior to such election and the amount thereof elected to be so applied; provided further, that the limitations in this paragraph shall not apply to any Investment entered into at a time when the Company is in Ratio Compliance; provided, still further, that intercompany current liabilities incurred in the ordinary course of business in connection with the cash management operations of the Company and the Subsidiaries shall not be included in calculating the limitation in this paragraph at any time;

(b) Permitted Investments and Investments that were Permitted Investments when made;

- (c) Investments arising out of the receipt by the Company or any Subsidiary of non-cash consideration for the sale of assets permitted under Section 6.05;
- (d) loans and advances to current and former officers, directors, employees or consultants of the Company or any Subsidiary (i) in the ordinary course of business not to exceed the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 in the aggregate at any time outstanding (calculated without regard to write-downs or write-offs thereof), (ii) in respect of payroll payments and expenses in the ordinary course of business and (iii) in connection with such person's purchase of Equity Interests of a Parent Entity solely to the extent that the amount of such loans and advances shall be contributed to the Company in cash as common equity;
- (e) accounts receivable, security deposits and prepayments arising and trade credit granted in the ordinary course of business and any assets or securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and any prepayments and other credits to suppliers made in the ordinary course of business;
- (f) Swap Agreements permitted pursuant to Section 6.10;
- (g) Investments existing on, or contractually committed as of, the Closing Date and set forth on Schedule 6.04 and any extensions, renewals or reinvestments thereof, so long as the aggregate amount of all Investments pursuant to this clause (g) is not increased at any time above the amount of such Investment existing on the Closing Date;
- (h) Investments resulting from pledges and deposits under Section 6.02(f);
- (i) other Investments by the Company or any Subsidiary in an aggregate amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed (1) the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 plus (2) the portion, if any, of the Cumulative Credit on the date of such election that the Company elects to apply to this Section 6.04(i)(2), such election to be specified in a written notice of a Responsible Officer of the Company calculating in reasonable detail the amount of Cumulative Credit immediately prior to such election and the amount thereof elected to be so applied; provided further, that the limitations in this paragraph shall not apply to any Investment entered into if, immediately after giving effect thereto, on a Pro Forma Basis, (i) either (A) the Loan-to-Value Ratio is equal to or less than [*] to 1.0 or (B) the Fixed Charge Coverage Ratio is at least [*] to 1.0 and (ii) the Company is in Pro Forma Compliance;
- (j) Investments constituting Permitted Business Acquisitions;
- (k) intercompany loans permitted by Section 6.01(e);

(l) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with or judgments against, customers and suppliers, in each case in the ordinary course of business or Investments acquired by the Company as a result of a foreclosure by the Company or any of the Subsidiaries with respect to any secured Investments or other transfer of title with respect to any secured Investment in default;

(m) Investments of a Subsidiary acquired after the Closing Date or of a person merged into any Loan Party or merged into or consolidated with a Subsidiary after the Closing Date, in each case, (i) to the extent permitted under this Section 6.04, (ii) in the case of any acquisition, merger or consolidation, in accordance with Section 6.05, and (iii) to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(n) acquisitions by the Company or any Subsidiary of obligations of one or more officers or other employees of any Loan Party or any Subsidiary in connection with such officer's or employee's acquisition of Equity Interests of the Company or any Parent Entity, so long as no cash is actually advanced by any Loan Party or any Subsidiary to such officers or employees in connection with the acquisition of any such obligations;

(o) Guarantees by the Company or any Subsidiary of operating leases (other than Capital Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into by the Company or any Subsidiary in the ordinary course of business;

(p) Investments to the extent that payment for such Investments is made with Equity Interests of any Parent Entity;

(q) Investments in the Equity Interests of one or more newly formed persons that are received in consideration of the contribution by the Company or the applicable Subsidiary of assets (including Equity Interests and cash) to such person or persons; provided, that (i) the fair market value of such assets, determined on an arm's-length basis, so contributed pursuant to this paragraph (q) shall not in the aggregate exceed the greater of (x) \$[*] and (y) and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 and (ii) in respect of each such contribution, a Responsible Officer of the Company shall certify, in a form to be agreed upon by the Company and the Administrative Agent (x) after giving effect to such contribution, no Default or Event of Default shall have occurred and be continuing or would result therefrom, (y) the fair market value of the assets so contributed and (z) that the requirements of clause (i) of this proviso remain satisfied;

(r) Investments consisting of the redemption, purchase, repurchase or retirement of any Equity Interests permitted under Section 6.06;

(s) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers consistent with past practices;

(t) Investments in Subsidiaries that are not Loan Parties not to exceed the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 in the aggregate, as valued at the fair market value of such Investment at the time such Investment is made;

(u) Guarantees permitted under Section 6.01 (except to the extent such Guarantee is expressly subject to this Section 6.04);

(v) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Company or such Subsidiary;

(w) Investments by Company and its Subsidiaries, including loans to any direct or indirect parent of the Company, if the Company or any other Subsidiary would otherwise be permitted to make a dividend or distribution in such amount (provided that the amount of any such Investment shall also be deemed to be a distribution under the appropriate clause of Section 6.06 for all purposes of this Agreement);

(x) Investments if after giving effect to such Investments, the Total Leverage Ratio is equal to or less than 3.30 to 1.00;

(y) Investments consisting of the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other persons;

(z) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property in each case in the ordinary course of business;

(aa) Investments received substantially contemporaneously in exchange for Equity Interests of the Company; provided that such Investments are not included in any determination of the Cumulative Credit;

(bb) Investments in joint ventures in an aggregate amount not to exceed the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04;

(cc) Permitted Vessel Transfers;

(dd) Investments in New Vessel Subsidiaries; and

(ee) Investments in a Similar Business in an aggregate amount (valued at the time of making thereof, and without giving effect to any write downs or any write offs thereof) not to exceed (x) the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 5.04 (plus any returns of capital actually received by the respective investor in respect of investments theretofore made by it pursuant to this paragraph (ee) plus (y) the Cumulative Credit; provided that if any Investment pursuant to this paragraph (ee) is made in any person that is not a Subsidiary of the Company at the date of the making of such Investment and such person becomes a Subsidiary of the Company after such date, such Investment shall thereafter be deemed to have been made pursuant to paragraph (a) above and shall cease to have been made pursuant to this paragraph (ee) for so long as such person continues to be a Subsidiary of the Company;

The amount of Investments that may be made at any time pursuant to Section 6.04(a) or (j) (such Sections, the Related Sections”) may, at the election of the Company, be increased by the amount of Investments that could be made at such time under the other Related Section; provided that the amount of each such increase in respect of one Related Section shall be treated as having been used under the other Related Section.

Section 6.05. Mergers, Consolidations, Sales of Assets and Acquisitions. Merge into or consolidate with any other person, or permit any other person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions, including effected pursuant to a Delaware LLC Division) all or any part of its assets (whether now owned or hereafter acquired), or issue, sell, transfer or otherwise dispose of any Equity Interests of the Company or any Subsidiary, or purchase, lease or otherwise acquire (in one transaction or a series of transactions) all or any substantial part of the assets of any other person, except that this Section shall not prohibit:

(a) (i) any disposal by the Company or any Subsidiary of an asset or other property in the ordinary course of the Company’s or Subsidiary’s business, (ii) any acquisition (in one or a series of transactions) by any Loan Party or Subsidiary of all or any substantial part of the assets or other property of any other person, so long as such acquisition is in the ordinary course of such Loan Party’s or Subsidiary’s business, or (iii) the sale of Permitted Investments by any Loan Party or Subsidiary, so long as such sale is in the ordinary course of such Loan Party’s or Subsidiary’s business;

(b) if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing or would result therefrom, (i) the merger of any Subsidiary into the Borrower in a transaction in which the Borrower is the survivor, (ii) the merger or consolidation of any Subsidiary into or with the Subsidiary Guarantor in a transaction in which the surviving or resulting entity is the Subsidiary Guarantor, and, in the case of each of clauses (i) and (ii), no person other than the Borrower or the Subsidiary Guarantor receives any consideration, (iii) the merger or consolidation of any Subsidiary that is not the Subsidiary Guarantor into or with any other Subsidiary that is not the Subsidiary Guarantor, (iv) the liquidation or dissolution or change in form of entity of any Subsidiary if the Company determines in good faith that such liquidation, dissolution or change in form is in the best interests of the Company and is not materially disadvantageous to Lenders, (v) any disposition to effect the formation of any Subsidiary that is a Delaware Divided LLC and would otherwise not be prohibited hereunder; provided that any disposition or other allocation of any assets (including any equity interests of such Delaware Divided LLC) in connection therewith is otherwise permitted hereunder or (vi) any Subsidiary may merge with any other person in order to effect an Investment permitted pursuant to Section 6.04 so long as the continuing or surviving person shall be a Subsidiary, which shall be a Loan Party if the merging Subsidiary was a Loan Party and which together with each of their Subsidiaries shall have complied with the requirements of Section 5.10;

- (c) sales, transfers, leases or other dispositions to any Loan Party or by any Subsidiary that is not the Subsidiary Guarantor to any other Subsidiary, including without limitation, a Permitted Vessel Transfer;
- (d) Sale and Lease-Back Transactions permitted by Section 6.03;
- (e) Investments permitted by Section 6.04, Permitted Liens, and dividends, distributions and other payments permitted by Section 6.06;
- (f) the sale of defaulted receivables in the ordinary course of business and not as part of an accounts receivables financing transaction;
- (g) sales, transfers, leases or other dispositions of assets not otherwise permitted by this Section 6.05 (or required to be included in this clause (g) pursuant to Section 6.05(c)); provided, that the Net Proceeds thereof are applied in accordance with Section 2.11(b);
- (h) Permitted Business Acquisitions (including any merger or consolidation in order to effect a Permitted Business Acquisition);provided, that following any such merger or consolidation involving the Borrower, the Borrower is the surviving corporation;
- (i) leases, charters or licenses (on a non-exclusive basis with respect to intellectual property), or subleases or sublicenses (on a non-exclusive basis with respect to intellectual property), of any property in the ordinary course of business;
- (j) sales, leases or other dispositions of inventory of the Company or any Subsidiary determined by the management of the Company to be no longer useful or necessary in the operation of the business of any Loan Party or Subsidiary; provided that the Net Proceeds thereof are applied in accordance with Section 2.11(b);
- (k) acquisitions and purchases made with the proceeds of any Asset Sale pursuant to the first proviso of paragraph (a) of the definition of “Net Proceeds”;
- (l) [reserved];

(m) any exchange of assets for services and/or other assets of comparable or greater value; provided that (i) at least [*]% of the consideration received by the transferor consists of assets that will be used in a business or business activity permitted hereunder, (ii) in the event of an exchange with a fair market value in excess of the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such exchange for which financial statements have been delivered pursuant to Section 5.04, the Administrative Agent shall have received a certificate from a Responsible Officer of the Company with respect to such fair market value and (iii) in the event of an exchange with a fair market value in excess of the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such exchange for which financial statements have been delivered pursuant to Section 5.04, such exchange shall have been approved by at least a majority of the board of directors of the Company; provided, further, that (A) the aggregate gross consideration (including exchange assets, other non-cash consideration and cash proceeds) of any or all assets exchanged in reliance upon this paragraph (m) shall not exceed, in any fiscal year of the Company, the greater of \$[*] and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 5.04, (B) no Default or Event of Default exists or would result therefrom, (C) with respect to any such exchange with aggregate gross consideration in excess of the greater of (x) \$[*] and (y) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such exchange for which financial statements have been delivered pursuant to Section 5.04, immediately after giving effect thereto, the Company shall be in Pro Forma Compliance, and (D) the Net Proceeds, if any, thereof are applied in accordance with Section 2.11(b);

(n) any disposition of any assets owned by any New Vessel Subsidiary or of any Vessel that is not the Mortgaged Vessel; and

(o) disposals of cash raised or borrowed for the purposes for which such cash was raised or borrowed.

Notwithstanding anything to the contrary contained in Section 6.05 above, (i) no sale, transfer or other disposition of assets shall be permitted by this Section 6.05 (other than sales, transfers, leases or other dispositions to Loan Parties pursuant to paragraph (c) hereof) unless such disposition is for fair market value, (ii) no sale, transfer or other disposition of assets shall be permitted by paragraph (a) or (d) of this Section 6.05 unless such disposition is for at least 75% cash consideration and (iii) no sale, transfer or other disposition of assets shall be permitted by paragraph (g) of this Section 6.05 unless such disposition is for at least 75% cash consideration; provided that the provisions of clause (ii) or (iii) shall not apply to any individual transaction or series of related transactions involving assets with a fair market value of less than \$[*] or to other transactions involving assets with a fair market value of not more than the greater of \$[*] and [*]% of Consolidated Total Assets in the aggregate for all such transactions during the term of this Agreement; provided, further, that for purposes of clause (iii), (a) the amount of any secured Indebtedness of the Company or any Subsidiary or other Indebtedness of a Subsidiary that is not a Loan Party (as shown on the Company's or such Subsidiary's most recent balance sheet or in the notes thereto) that is assumed by the transferee of any such assets shall be deemed to be cash, (b) any notes or other obligations or other securities or assets received by the Company or such Subsidiary from the transferee that are converted by the Company or such Subsidiary into cash within 180 days after receipt thereof (to the extent of the cash received) shall be deemed to be cash and (c) any Designated Non-Cash Consideration received by the Company or any of its Subsidiaries having an aggregate fair market value (as determined in good faith by the Company), taken together with all other Designated Non-Cash Consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed the greater of \$[*] million and [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of receipt of such Designated Non-Cash Consideration for which financial statements have been delivered pursuant to Section 5.04 (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value) shall be deemed to be cash.

Section 6.06. Dividends and Distributions. Declare or pay any dividend or make any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any of its Equity Interests (other than dividends and distributions on Equity Interests payable solely by the issuance of additional Equity Interests (other than Disqualified Stock) of the person paying such dividends or distributions) or directly or indirectly redeem, purchase, retire or otherwise acquire for value (or permit any Subsidiary to purchase or acquire) any of its Equity Interests or set aside any amount for any such purpose (other than through the issuance of additional Equity Interests (other than Disqualified Stock) of the person redeeming, purchasing, retiring or acquiring such equity); provided, however, that:

(a) any Subsidiary of the Company may declare and pay dividends to, repurchase its Equity Interests from or make other distributions to the Company or to any Wholly Owned Subsidiary of the Company (or, in the case of non-Wholly Owned Subsidiaries, to the Company or any Subsidiary that is a direct or indirect parent of such Subsidiary and to each other owner of Equity Interests of such Subsidiary on a pro rata basis (or more favorable basis from the perspective of the Company or such Subsidiary) based on their relative ownership interests so long as any repurchase of its Equity Interests from a person that is not the Company or a Subsidiary is permitted under Section 6.04);

(b) the Company may declare and pay dividends or make other distributions (directly or indirectly) (i) to any Parent Entity in respect of (A) overhead, legal, accounting, consulting and other professional fees and expenses of any Parent Entity, (B) fees and expenses related to any public offering or private placement of Equity Interests of any Parent Entity whether or not consummated, (C) franchise or similar Taxes and other fees and expenses in connection with the maintenance of its existence and its direct or indirect (or any Parent Entity's direct or indirect) ownership of the Company, (D) payments permitted by Section 6.07(b) (except to the extent expressly subject to this Section 6.06), and (E) customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any Parent Entity, in each case in order to permit any Parent Entity to make such payments; provided that in the case of clauses (A) and (B), the amount of such dividends and distributions shall not exceed the portion of any amounts referred to in such clauses (A) and (B) that are allocable to the Company and its Subsidiaries (which shall be 100% for so long as such Parent Entity, as the case may be, beneficially owns no assets other than the Equity Interests in the Company); (ii) with respect to any taxable period for which the Company is or has been a partnership or disregarded entity for U.S. federal income tax purposes, to any person that (directly or indirectly) held Equity Interests of the Company during such taxable period (a) to the extent such tax distributions are permitted under (I) the Amended and Restated United States Tax Agreement for NCL Corporation Ltd., dated January 24, 2013 or the Amended and Restated Profits Sharing Agreement for NCL Corporation Ltd., dated January 22, 2013, each as in effect on the Closing Date, (collectively, the "Tax Agreements") or (II) any amended version of the Tax Agreements to the extent such amendments are not materially adverse to the Lenders (collectively, the "Amended Tax Agreements") and (b) to the extent not otherwise permitted under clause (a), tax distributions in respect of audit adjustments resulting from audits of the Company and/or its Subsidiaries commencing after the Closing Date, determined in a manner consistent with and subject to the limitations set forth in the Tax Agreements and the Amended Tax Agreements; and (iii) with respect to any taxable period for which the Company and any Parent Entity files an affiliated, consolidated, combined or unitary tax return in any relevant jurisdiction, distributions to such Parent Entity in amount not to exceed the amount of any Taxes in such jurisdiction that the Company and/or its Subsidiaries, as applicable, would have paid for such taxable period had the Company and/or its Subsidiaries, as applicable, been stand-alone taxpayers in such jurisdiction (less any portion of such amounts directly payable by the Company and/or its Subsidiaries); provided, that distributions in respect of an Unrestricted Subsidiary shall be permitted only to the extent that cash distributions were made by such Unrestricted Subsidiary to Company or any of its Restricted Subsidiaries for such purpose.

(c) the Company may declare and pay dividends or make other distributions (directly or indirectly) the proceeds of which are used to purchase or redeem the Equity Interests of any Parent Entity (including related stock appreciation rights or similar securities) held by then present or former directors, consultants, officers or employees of the Company or any of the Subsidiaries or by any Plan upon such person's death, disability, retirement or termination of employment or under the terms of any such Plan or any other agreement under which such shares of stock or related rights were issued; provided, that the aggregate amount of such purchases or redemptions under this paragraph (c) shall not exceed in any fiscal year the greater of \$[*] and [*]% of Consolidated Total Assets (plus the amount of net proceeds contributed to the Company that were (x) received by any Parent Entity during such calendar year from sales of Equity Interests of any Parent Entity to directors, consultants, officers or employees of any Parent Entity, the Company or any Subsidiary in connection with permitted employee compensation and incentive arrangements and (y) of any key man life insurance policies received during such calendar year), which, if not used in any year, may be carried forward to any subsequent calendar year;

(d) any person may make non-cash repurchases of Equity Interests deemed to occur upon exercise of stock options if such Equity Interests represent a portion of the exercise price of such options; and

(e) the Company may pay dividends (directly or indirectly) to its equity holders in an aggregate amount equal to the portion, if any, of the Cumulative Credit on such date that the Company elects to apply to this (e), such election to be specified in a written notice of a Responsible Officer of the Company calculating in reasonable detail the amount of Cumulative Credit immediately prior to such election and the amount thereof elected to be so applied; provided, that no Default or Event of Default has occurred and is continuing or would result therefrom and, after giving effect thereto, that the Company shall be in Pro Forma Compliance;

(f) the Company may pay dividends or distributions to allow any Parent Entity to make payments in cash, in lieu of the issuance of fractional shares, upon the exercise of warrants or upon the conversion or exchange of Equity Interests of any such person;

(g) the Company may pay dividends and make distributions to, or repurchase or redeem shares from, its equity holders in an amount no greater than [%] per annum of Market Capitalization;

(h) the Company may declare and pay dividends or make other distributions (directly or indirectly) to its equity holders if after giving effect to such dividend or distribution, the Total Leverage Ratio is equal to or less than 3.30 to 1.00; and

(i) the Company may declare and pay dividends or make other distributions (directly or indirectly) to its equity holders in an aggregate amount not to exceed the greater of \$[*] and [%] of Consolidated Total Assets.

Section 6.07. Transactions with Affiliates

(a) Sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transaction with, any of its Affiliates, unless such transaction is (i) otherwise permitted (or required) under this Agreement or (ii) upon terms no less favorable to the Company or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate.

(b) The foregoing paragraph (a) shall not prohibit, to the extent otherwise permitted under this Agreement:

(i) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans approved by the board of directors of the Company,

(ii) loans or advances to employees or consultants of the Company, any Parent Entity or any of the Subsidiaries in accordance with Section 6.04(d),

(iii) transactions among the Company or any Subsidiary or any entity that becomes a Subsidiary as a result of such transaction,

(iv) the payment of fees, reasonable out-of-pocket costs and indemnities to directors, officers, consultants and employees of the Company, any Parent Entity and the Subsidiaries in the ordinary course of business (limited, in the case of any Parent Entity, to the portion of such fees and expenses that are allocable to the Company and its Subsidiaries (which shall be 100% for so long as such Parent Entity beneficially owns no assets other than the Equity Interests in the Company and assets incidental to the ownership of the Company and its Subsidiaries)),

(v) subject to the limitations set forth in (xiv), if applicable, transactions pursuant to the Loan Documents and permitted agreements in existence on the Closing Date and set forth on Schedule 6.07 or any amendment or replacement thereto to the extent such amendment or replacement is not adverse to the Lenders in any material respect,

(vi) (A) any employment agreements entered into by the Company or any of the Subsidiaries in the ordinary course of business, (B) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with employees, officers or directors, and (C) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transactions pursuant thereto,

(vii) dividends, redemptions and repurchases permitted under Section 6.06,

(viii) [reserved],

(ix) [reserved],

(x) payments by the Company or any of the Subsidiaries to any Affiliate made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments are approved by the majority of the board of directors of the Company, or a majority of disinterested members of the board of directors of the Company, in good faith,

(xi) transactions with Wholly Owned Subsidiaries for the purchase or sale of goods, products, parts and services entered into in the ordinary course of business in a manner consistent with past practice,

(xii) any transaction in respect of which the Company delivers to the Administrative Agent (for delivery to the Lenders) a letter addressed to the board of directors of the Company from an accounting, appraisal or investment banking firm, in each case of nationally recognized standing that is (A) in the good faith determination of the Company qualified to render such letter and (B) reasonably satisfactory to the Administrative Agent, which letter states that such transaction is on terms that are no less favorable to the Company or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate,

(xiii) transactions with joint ventures for the purchase or sale of goods, equipment and services entered into in the ordinary course of business,

(xiv) any agreement to pay, and the payment of, monitoring, management, transaction, advisory or similar fees: (A) in an aggregate amount in any fiscal year of the Company not to exceed the sum of (1) the greater of \$[*] and [*]% of EBITDA, plus reasonable out of pocket costs and expenses in connection therewith and unpaid amounts accrued for prior periods; plus (2) any deferred fees (to the extent such fees were within such amount in clause (A)(1) above originally); and (B) [*]% of the value of transactions with respect to which any Affiliate provides any transaction, advisory or other services,

(xv) the issuance, sale, transfer of Equity Interests of the Company and capital contributions to the Company,

(xvi) [reserved];

(xvii) [reserved];

(xviii) [reserved];

(xix) payments or loans (or cancellation of loans) to employees or consultants that are (i) approved by a majority of the board of directors of the Company in good faith, (ii) made in compliance with applicable law and (iii) otherwise permitted under this Agreement;

(xx) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement that are fair to the Company or the Subsidiaries;

(xxi) transactions between the Company or any of the Subsidiaries and any person, a director of which is also a director of the Company, provided, however, that (A) such director abstains from voting as a director of the Company, on any matter involving such other person and (B) such person is not an Affiliate of the Company for any reason other than such director's acting in such capacity;

(xxii) transactions permitted by, and complying with, the provisions of Section 6.05;

(xxiii) intercompany transactions undertaken in good faith (as certified by a Responsible Officer of the Company) for the purpose of improving the consolidated tax efficiency of the Loan Parties and not for the purpose of circumventing any covenant set forth herein.

Section 6.08. Business of the Loan Parties and the Subsidiaries. Notwithstanding any other provisions of this Agreement, engage at any time in any business or business activity other than any business or business activity conducted by any of them on the Closing Date and any business or business activities incidental or related thereto, or any business or activity that is reasonably similar thereto or a reasonable extension, development or expansion thereof or ancillary thereto.

Section 6.09. Limitation on Modifications of Indebtedness; Modifications of Certificate of Incorporation, By-Laws and Certain Other Agreements; etc

(a) Amend or modify in any manner materially adverse to the Lenders, or grant any waiver or release under or terminate in any manner (if such granting or termination shall be materially adverse to the Lenders), the articles or certificate of formation or incorporation, by-laws, limited liability company operating agreement, partnership agreement or other organizational documents of the Company or any Subsidiary.

(b) (i) Make, or agree or offer to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness subordinated to the Loans permitted hereunder to be incurred or any Permitted Refinancing Indebtedness in respect of any of the foregoing or any preferred Equity Interests or any Disqualified Stock (collectively, "Junior Financing"), or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination in respect of any Junior Financing except for (A) Refinancings permitted by Section 6.01(l) or (r), (B) payments of regularly scheduled interest, and, to the extent this Agreement is then in effect, principal on the scheduled maturity date for any Junior Financing, (C) payments or distributions in respect of all or any portion of the Junior Financing with the proceeds contributed to the Company (directly or indirectly) by any Parent Entity from the issuance, sale or exchange by any Parent Entity of Equity Interests made within eighteen months prior thereto, (D) the conversion of any Junior Financing to Equity Interests of any Parent Entity or (E) so long as no Default or Event of Default has occurred and is continuing or would result therefrom and after giving effect to such payment or distribution, the Company would be in Pro Forma Compliance, payments or distributions in respect of Junior Financings prior to their scheduled maturity made, in an aggregate amount, not to exceed the sum of (x) the greater of (1) \$[*] and (2) [*]% of Consolidated Total Assets as of the end of the fiscal quarter immediately prior to the date of such payment or distribution for which financial statements have been delivered pursuant to Section 5.04 and (y) the portion, if any, of the Cumulative Credit on the date of such payment or distribution that the Company elects to apply to this Section 6.09(b)(i), such election to be specified in a written notice of a Responsible Officer of the Company calculating in reasonable detail the amount of Cumulative Credit immediately prior to such election and the amount thereof elected to be so applied; or

(ii) Amend or modify, or permit the amendment or modification of, any provision of Junior Financing, or any agreement, document or instrument evidencing or relating thereto, other than amendments or modifications that (A) are not in any manner materially adverse to the Lenders and that do not affect the subordination or payment provisions thereof (if any) in a manner adverse to the Lenders or (B) otherwise comply with the definition of "Permitted Refinancing Indebtedness."

(c) Permit any Restricted Subsidiary to enter into any agreement or instrument that by its terms restricts (i) the payment of dividends or distributions or the making of cash advances to the Company or any Subsidiary that is a direct or indirect parent of such Subsidiary or (ii) the granting of Liens by the Company or such Material Subsidiary pursuant to the Security Documents, in each case other than those arising under any Loan Document, except, in each case, restrictions existing by reason of:

- (A) restrictions imposed by applicable law;
- (B) contractual encumbrances or restrictions in effect on the Closing Date under Indebtedness existing on the Closing Date and set forth on Schedule 6.09, Senior Unsecured Notes Documents, any New Vessel Financings or any agreements related to any Permitted Refinancing Indebtedness in respect of any such Indebtedness that does not expand the scope of any such encumbrance or restriction;
- (C) any restriction on a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Equity Interests or assets of such Subsidiary pending the closing of such sale or disposition;
- (D) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business;
- (E) any restrictions imposed by any agreement relating to secured Indebtedness permitted by this Agreement to the extent that such restrictions apply only to the property or assets securing such Indebtedness;
- (F) [reserved];
- (G) customary provisions contained in leases or licenses of intellectual property and other similar agreements entered into in the ordinary course of business;
- (H) customary provisions restricting subletting or assignment of any lease governing a leasehold interest;
- (I) customary provisions restricting assignment of any agreement entered into in the ordinary course of business;
- (J) customary restrictions and conditions contained in any agreement relating to the sale, transfer, lease or other disposition of any asset permitted under Section 6.05 pending the consummation of such sale, transfer, lease or other disposition;
- (K) customary net worth provisions contained in Real Property leases entered into by Subsidiaries, so long as the Company has determined in good faith that such net worth provisions would not reasonably be expected to impair the ability of the Company and its Subsidiaries to meet their ongoing obligations;
- (L) customary restrictions and conditions contained in the document relating to any Lien, so long as (1) such Lien is a Permitted Lien and such restrictions or conditions relate only to the specific asset subject to such Lien, and (2) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this Section 6.09;

- (M) any agreement in effect at the time an entity becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such person becoming a Subsidiary;
- (N) restrictions in agreements representing Indebtedness permitted under Section 6.01 of a Subsidiary of the Company that is not a Loan Party;
- (O) customary restrictions contained in leases, subleases, licenses or Equity Interests or asset sale agreements otherwise permitted hereby as long as such restrictions relate to the Equity Interests and assets subject thereto;
- (P) restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business; or
- (Q) any encumbrances or restrictions of the type referred to in Sections 6.09(c)(i) and 6.09(c)(ii) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (A) through (O) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.10. Swap Agreements. Enter into any Swap Agreement, other than (a) Swap Agreements entered into in the ordinary course of business to hedge or mitigate risks to which the Company or any Subsidiary is exposed in the conduct of its business or the management of its liabilities (including raw material, supply costs and currency risks), (b) any Swap Agreement entered into in order to effectively cap, collar or exchange interest rates (from floating to fixed rates, from one floating rate to another floating rate or otherwise) with respect to any interest bearing liability or investment of the Company or any Subsidiary and (c) any Swap Agreement entered into in order to swap currency in connection with funding the business of the Company or any Subsidiary in the ordinary course of business.

Section 6.11. Fiscal Year: Accounting. In the case of the Company, permit its fiscal year to end on any date other than December 31 without prior notice to the Administrative Agent given concurrently with any required notice to the SEC.

Section 6.12. Loan-to-Value Ratio. Permit the Loan-to-Value Ratio to be greater than or equal to 0.70 to 1.0 at any time.

Section 6.13. Free Liquidity. Permit Free Liquidity to be less than \$50,000,000 at any time.

Section 6.14. Total Net Funded Debt to Total Capitalization. Permit the ratio of Total Net Funded Debt to Total Capitalization to be greater than or equal to 0.70 to 1.00 on the last day of any fiscal quarter.

Section 6.15. EBITDA to Consolidated Debt Service. Permit the ratio of EBITDA to Consolidated Debt Service for the Company and its Subsidiaries on a consolidated basis at the end of any fiscal quarter, computed for the period of the four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter, to be less than 1.25 to 1.0, unless Free Liquidity of the Company and its Subsidiaries on a consolidated basis at all times during the period of four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter was equal to or greater than \$100,000,000.

ARTICLE VII

[RESERVED]

ARTICLE VIII

EVENTS OF DEFAULT

Section 8.01. Events of Default. In case of the happening of any of the following events (each, an 'Event of Default'):

- (a) any representation or warranty made or deemed made by the Borrower or any other Loan Party herein or in any other Loan Document or any certificate or document delivered pursuant hereto or thereto shall prove to have been false or misleading in any material respect when so made or deemed made;
- (b) default shall be made in the payment of any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;
- (c) default shall be made in the payment of any interest on any Loan or in the payment of any Fee or any other amount (other than an amount referred to in paragraph (b) above) due under any Loan Document, when and as the same shall become due and payable; provided, however, that no Event of Default shall occur for purposes of this Section 8.01 until the expiry of three Business Days following the date on which such payment is due;
- (d) default shall be made in the due observance or performance by the Borrower of any covenant, condition or agreement contained in Sections 5.01(a), 5.05(a) or 5.08 or in Article VI;
- (e) default shall be made in the due observance or performance by the Borrower or any other Loan Party of any covenant, condition or agreement contained in any Loan Document (other than those specified in paragraphs (b), (c) and (d) above) and such default shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent to the Company;

(f) (i) any event or condition occurs that (A) results in any Material Indebtedness becoming due prior to its scheduled maturity or (B) enables or permits (with all applicable grace periods having expired) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; or (ii) the Company or any of the Subsidiaries shall fail to pay the principal of any Material Indebtedness at the stated final maturity thereof; provided, that this clause (f) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness;

(g) there shall have occurred a Change in Control;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of the Company or any of the Material Subsidiaries, or of a substantial part of the property or assets of the Company or any Material Subsidiary, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any of the Material Subsidiaries or for a substantial part of the property or assets of the Company or any of the Material Subsidiaries or (iii) the winding-up or liquidation of the Company or any Material Subsidiary (except, in the case of any Material Subsidiary, in a transaction permitted by Section 6.05); and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Company or any Material Subsidiary shall (1) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, (2) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in paragraph (h) above, (3) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any of the Material Subsidiaries or for a substantial part of the property or assets of the Company or any Material Subsidiary, (4) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (5) make a general assignment for the benefit of creditors or (6) become unable or admit in writing its inability or fail generally to pay its debts as they become due;

(j) the failure by the Company or any Material Subsidiary to pay one or more final judgments aggregating in excess of \$[*] (to the extent not covered by insurance), which judgments are not discharged or effectively waived or stayed for a period of 45 consecutive days, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of the Company or any Material Subsidiary to enforce any such judgment;

(k) (i) a Reportable Event or Reportable Events shall have occurred with respect to any Plan or a trustee shall be appointed by a United States district court to administer any Plan, (ii) an ERISA Event or ERISA Events shall have occurred with respect to any Plan or Multiemployer Plan, (iii) the PBGC shall institute proceedings (including giving notice of intent thereof) to terminate any Plan or Plans, (iv) the Company or any Subsidiary or any ERISA Affiliate shall have been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is in reorganization or is being terminated, within the meaning of Title IV of ERISA, (v) the Company or any Subsidiary shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan or (vi) any other similar event or condition shall occur or exist with respect to a Plan; and in each case in clauses (i) through (vi) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to have a Material Adverse Effect;

(l) (i) any Loan Document shall for any reason be asserted in writing by the Borrower or the Subsidiary Guarantor not to be a legal, valid and binding obligation of any party thereto, (ii) any security interest purported to be created by any Security Document and which extends to assets that are not immaterial to the Company and the Subsidiaries on a consolidated basis shall cease to be, or shall be asserted in writing by the Borrower or the other Loan Party not to be, a valid and perfected security interest (perfected as or having the priority required by this Agreement or the relevant Security Document and subject to such limitations and restrictions as are set forth herein and therein) in the securities, assets or properties covered thereby, except to the extent that any such loss of perfection or priority results from the limitations of foreign laws, rules and regulations as they apply to pledges of Equity Interests in Foreign Subsidiaries or the application thereof, or from the failure of the Collateral Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Agreement or to file Uniform Commercial Code continuation statements or take the actions required to be taken by the Collateral Agent as described on Schedule 3.04 and except to the extent that such loss is covered by a lender's title insurance policy and the Collateral Agent shall be reasonably satisfied with the credit of such insurer, or (iii) the Guarantees pursuant to the Security Documents by the Borrower or the other Loan Party of any of the Obligations shall cease to be in full force and effect (other than in accordance with the terms thereof), or shall be asserted in writing by the Borrower or the other Loan Party not to be in effect or not to be legal, valid and binding obligations;

then, and in every such event (other than an event with respect to the Borrower described in paragraph (h) or (i) above), and at any time thereafter during the continuance of such event, the Administrative Agent, at the request of the Required Lenders, shall, by notice to the Company, take any or all of the following actions, at the same or different times: (i) terminate forthwith the Commitments and (ii) declare the Loans then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrower accrued hereunder and under any other Loan Document, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding; and in any event with respect to the Borrower described in paragraph (h) or (i) above, the Commitments shall automatically terminate, the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrower accrued hereunder and under any other Loan Document, shall automatically become due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding.

Section 8.02. Right to Cure. Notwithstanding anything to the contrary contained in Section 8.01, in the event that the Company fails (or, but for the operation of this Section 8.02, would fail) to comply with the requirements of Section 6.12, 6.13, 6.14 or 6.15 then, until the expiration of the tenth Business Day subsequent to the date of the certificate calculating such covenant is required to be delivered pursuant to Section 5.04(c), the Company may, at its option, cure such non-compliance by:

(a) In the case of a failure to comply with Section 6.12, delivering additional property over which the Collateral Agent has a perfected, first priority Lien for the benefit of the Lenders and the other Secured Parties, which additional property shall be acceptable to the Required Lenders (it being understood that, in all events, cash shall be acceptable, and separate approval thereof from any Agent or Lender shall not be required) and following such delivery the Cure Collateral Fair Market Value of such additional property shall be added to the Value Component as of the date of measurement; and/or

(b) In the case of a failure to comply with Section 6.12, ratably prepaying outstanding Term Loans (but only to the extent permitted as a voluntary prepayment under Section 2.10(a)), and following such prepayments, the total amount of such prepayments shall be subtracted from the Loan Component, as of the date of measurement; and/or

(c) In the case of a failure to comply with Section 6.13, 6.14 or 6.15, issuing Permitted Cure Securities for cash or otherwise receiving cash contributions to the capital of the Company (the "Cure Right"), and upon the receipt by the Company of such cash (the "Cure Amount") pursuant to the exercise of such Cure Right, (A) in the case of Section 6.13, Free Liquidity shall be increased by the Cure Amount, as of the date of measurement, (B) in the case of Section 6.14, the Total Net Funded Debt shall be decreased by the Cure Amount, as of the date of measurement and (C) in the case of Section 6.15, the ratio of EBITDA to Consolidated Debt, as applicable, shall be recalculated giving effect to a pro forma adjustment by which EBITDA shall be increased with respect to such applicable quarter and any four quarter period that includes such quarter by the Cure Amount; provided, that, for purposes of complying with Section 6.15, (i) in each four-fiscal-quarter period there shall be at least one fiscal quarter in which the Cure Right is not exercised and (ii) the Cure Amount shall be no greater than the amount required for purposes of complying with Section 6.15.

If,

(i) in case of a failure to comply with Section 6.12, after giving effect to the transactions in paragraphs (a) and/or (b) of this Section 8.02, the Company shall then be in compliance with the requirements of Section 6.12; and/or

(ii) in case of a failure to comply with Section 6.13, after giving effect to the transactions in paragraph (c) of this Section 8.02, the Company shall then be in compliance with the requirements of Section 6.13; and/or

(iii) in case of a failure to comply with Section 6.14, after giving effect to the transactions in paragraph (c) of this Section 8.02, the Company shall then be in compliance with the requirements of Section 6.14; and/or

(iv) in case of a failure to comply with Section 6.15, after giving effect to the transactions in paragraph (c) of this Section 8.02, the Company shall then be in compliance with the requirements of Section 6.15,

then in each case, the Company shall be deemed to have satisfied the requirements of the relevant Section(s) as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of such Section(s) that had occurred shall be deemed cured for all purposes of this Agreement.

Section 8.03. Application of Proceeds. The proceeds received by the Administrative Agent or the Collateral Agent in respect of any sale of, collection from or other realization upon all or any part of the Collateral pursuant to the exercise by the Administrative Agent and/or the Collateral Agent of the remedies provided for herein or in any other Loan Document shall be applied, in full or in part, together with any other sums then held by the Administrative Agent or the Collateral Agent pursuant to this Agreement or any other Loan Document, as provided in Section 4.02 of the Collateral Agreement.

ARTICLE IX

THE AGENTS

Section 9.01. Appointment.

(a) Each Lender (in its capacities as a Lender and on behalf of itself and its Affiliates as potential counterparties to Swap Agreements) hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, including as the Collateral Agent and as the Mortgage Trustee for such Lender and the other Secured Parties under the Security Documents, including the Vessel Mortgage, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents to which it is a party, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent.

(b) In furtherance of the foregoing, each Lender (in its capacities as a Lender and on behalf of itself and its Affiliates as potential counterparties to Swap Agreements) hereby appoints and authorizes the Collateral Agent and the Mortgage Trustee to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Collateral Agent and the Mortgage Trustee (and any Subagents appointed by the Collateral Agent or the Mortgage Trustee pursuant to Section 9.02 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights or remedies thereunder at the direction of the Collateral Agent or the Mortgage Trustee) shall be entitled to the benefits of this Article IX (including Section 9.07) as though the Collateral Agent and the Mortgage Trustee (and any of their respective Subagents) were an "Agent" under the Loan Documents, as if set forth in full herein with respect thereto.

(c) Each Lender (in its capacities as a Lender) irrevocably authorizes the Administrative Agent, the Collateral Agent or the Mortgage Trustee, as applicable, at its option and in its discretion, (i) to release any Lien on any property granted to or held by the Administrative Agent, the Collateral Agent or the Mortgage Trustee under any Loan Document (A) upon termination of the Commitments and payment in full of all Obligations (other than contingent indemnification obligations and expense reimbursement claims to the extent no claim therefor has been made), (B) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document to a person that is not (and is not required to become) a Loan Party, (C) if approved, authorized or ratified in writing in accordance with Section 10.08 of this Agreement or (D) to the extent excluded from the security interest granted under the Collateral Agreement pursuant to Section 3.01 thereof, (ii) to release the Subsidiary Guarantor from its obligations under the Loan Documents if such person ceases to be a Subsidiary as a result of a transaction permitted hereunder and (iii) to subordinate any Lien on any property granted to or held by the Collateral Agent or Mortgage Trustee under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(e)(2)(b). Upon request by an Agent, at any time, the Required Lenders will confirm in writing the Administrative Agent's, the Collateral Agent's or the Mortgage Trustee's, as applicable, authority to release its interest in particular types or items of property, or to release the Subsidiary Guarantor from its obligations under the Loan Documents.

(d) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, (i) the Administrative Agent (irrespective of whether the principal of any Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Loan Party) shall be entitled and empowered, by intervention in such proceeding or otherwise (A) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of any or all of the Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent and any Subagents allowed in such judicial proceeding, and (B) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same, and (ii) any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under the Loan Documents. Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 9.02. Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Loan Documents (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) by or through agents, employees or attorneys in fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent may also from time to time, when the Administrative Agent deems it to be necessary or desirable, appoint one or more trustees, co trustees, collateral co agents, collateral subagents or attorneys in fact (each, a "Subagent") with respect to all or any part of the Collateral; provided that no such Subagent shall be authorized to take any action with respect to any Collateral unless and except to the extent expressly authorized in writing by the Administrative Agent. Should any instrument in writing from any Loan Party be required by any Subagent so appointed by the Administrative Agent to more fully or certainly vest in and confirm to such Subagent such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. If any Subagent, or successor thereto, shall die, become incapable of acting, resign or be removed, all rights, powers, privileges and duties of such Subagent, to the extent permitted by law, shall automatically vest in and be exercised by the Administrative Agent until the appointment of a new Subagent. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent, attorney in fact or Subagent that it selects in accordance with the foregoing provisions of this Section 9.02 in the absence of the Administrative Agent's gross negligence or willful misconduct.

Section 9.03. Exculpatory Provisions. Neither any Agent or its Affiliates nor any of their respective officers, directors, employees, agents, attorneys in fact or affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such person's own gross negligence or willful misconduct) or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Agents shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing, and (b) the Administrative Agent shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of their Affiliates that is communicated to or obtained by the person serving as the Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to such Agent by the Borrower or a Lender. Neither Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 9.04. Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) or conversation believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to any Credit Event, that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to such Credit Event. The Administrative Agent may consult with legal counsel (including counsel to the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document (including with respect to any matter hereunder or under any other Loan Document that is subject to such Agent's consent or approval) unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all or other Lenders) as it (or, in the case of the Collateral Agent, the Administrative Agent) deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all of the Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

Section 9.05. Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received notice from a Lender, or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all or any other portion of the Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

Section 9.06. Non-Reliance on Agents and Other Lenders. Each Lender expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

Section 9.07. Indemnification. The Lenders severally agree to indemnify each Agent in its capacity as such (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), in the amount of its pro rata share (based on its aggregate outstanding Term Loans and unused Commitments hereunder), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent under or in connection with any of the foregoing; provided, that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent's gross negligence or willful misconduct. The failure of any Lender to reimburse any Agent promptly upon demand for its ratable share of any amount required to be paid by the Lenders to such Agent as provided herein shall not relieve any other Lender of its obligation hereunder to reimburse such Agent, as the case may be, for its ratable share of such amount, but no Lender shall be responsible for the failure of any other Lender to reimburse such Agent for such other Lender's ratable share of such amount. The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder, and the resignation or removal of any Agent.

Section 9.08. Agent in Its Individual Capacity. Each Agent and its affiliates may make loans to, accept deposits from, and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

Section 9.09. Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent upon 10 days' notice to the Lenders and the Borrower. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8.01(b), (c), (h) or (i) shall have occurred and be continuing) be subject to approval by the Company (which approval shall not be withheld or delayed unreasonably), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" means such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 10 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Article and Section 10.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement and the other Loan Documents. The provisions of this Section 9.09 shall apply mutatis mutandis to the Collateral Agent, provided that the Administrative Agent and the Collateral Agent shall at all times be the same person.

Section 9.10. Withholding Tax. To the extent required by any applicable laws, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding tax ineffective), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any applicable Loan Party and without limiting the obligation of any applicable Loan Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties, additions to Tax and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this Section 9.10.

Section 9.11. Agent and Arrangers. Neither the Joint Bookrunners, the Co-Documentation Agents nor any of the Arrangers shall have any duties or responsibilities hereunder in its capacity as such. Without limiting any other provision of this Article, neither the Joint Bookrunners, the Co-Documentation Agents nor any of the Arrangers in their respective capacities as such shall have or be deemed to have any fiduciary relationship with any Lender or any other person by reason of this Agreement or any other Loan Document.

Section 9.12. Ship Mortgage Trust. The Mortgage Trustee agrees and declares, and each of the other Secured Parties acknowledges, that, subject to the terms and conditions of this Section 9.12, the Mortgage Trustee holds the Trust Property in trust for the Secured Parties absolutely. Each of the other Secured Parties agrees that the obligations, rights and benefits vested in the Mortgage Trustee shall be performed and exercised in accordance with this Section 9.12. For the avoidance of doubt, the Mortgage Trustee shall have the benefit of all of the provisions of this Agreement (including exculpatory and indemnification provisions) benefiting it in its capacity as Collateral Agent for the Secured Parties. In addition, the Mortgage Trustee and any attorney, agent or delegate of the Mortgage Trustee may indemnify itself or himself out of the Trust Property against all liabilities, costs, fees, damages, charges, losses and expenses sustained or incurred by it or him in relation to the taking or holding of any of the Trust Property or in connection with the exercise or purported exercise of the rights, trusts, powers and discretions vested in the Mortgage Trustee or any other such person by or pursuant to the Vessel Mortgage or in respect of anything else done or omitted to be done in any way relating to the Vessel Mortgage (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the Mortgage Trustee's gross negligence or willful misconduct).

ARTICLE X
MISCELLANEOUS

Section 10.01. Notices; Communications.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 10.01(b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier or other electronic means as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to any Loan Party, the Administrative Agent or the Collateral Agent to the address, telecopier number, electronic mail address or telephone number specified for such person on Schedule 10.01; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in their discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by them, provided that approval of such procedures may be limited to particular notices or communications.

(c) Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. Notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in Section 10.01(b) above shall be effective as provided in such Section 10.01(b).

(d) Any party hereto may change its address or telecopier number for notices and other communications hereunder by notice to the other parties hereto.

(c) Documents required to be delivered pursuant to Section 5.04 (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically (including as set forth in Section 10.17) and if so delivered, shall be deemed to have been delivered on the date (i) on which the Loan Parties post such documents, or provides a link thereto on the Loan Parties' website on the Internet at the website address listed on Schedule 10.01, or (ii) on which such documents are posted on the Loan Parties' behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that (A) the Loan Parties shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender, and (B) the Loan Parties shall notify the Administrative Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (*i.e.*, soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrower shall be required to provide paper copies of the certificates required by Section 5.04(c) to the Administrative Agent. Except for such certificates required by Section 5.04(c), the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Section 10.02. Survival of Agreement. All covenants, agreements, representations and warranties made by the Loan Parties herein, in the other Loan Documents and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and shall survive the making by the Lenders of the Loans and the execution and delivery of the Loan Documents, regardless of any investigation made by such persons or on their behalf, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any Fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid and so long as the Commitments have not been terminated. Without prejudice to the survival of any other agreements contained herein, indemnification and reimbursement obligations contained herein (including pursuant to Sections 2.15, 2.17 and 10.05) shall survive the payment in full of the principal and interest hereunder and the termination of the Commitments or this Agreement.

Section 10.03. Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the Administrative Agent and when the Administrative Agent shall have received copies of this Agreement which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the Borrower, the Administrative Agent and each Lender and their respective permitted successors and assigns.

Section 10.04. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 10.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section 10.04), and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender (such Lender, an "Assignor") may assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Company; provided that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below), or, if an Event of Default under Sections 8.01(b), (c), (h) or (i) has occurred and is continuing, any other person; and

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender, an Approved Fund or an Affiliate of the Borrower made in accordance with this Section 10.04(b)(i) or Section 10.21.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans under any Facility, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$1,000,000 and, unless each of the Company and the Administrative Agent otherwise consent; provided that (1) no such consent of the Company shall be required if an Event of Default under Sections 8.01(b), (c), (h) or (i) has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds (with simultaneous assignments to or by two or more Approved Funds shall be treated as one assignment), if any;

(B) the parties to each assignment shall (1) execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent or (2) if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance, in each case, together with a processing and recordation fee of \$5,000 (which fee may be waived or reduced in the discretion of the Administrative Agent);

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any tax forms; and

(D) the Assignee shall not be a natural person or the Borrower or the Borrower's Affiliates or Subsidiaries; except in accordance with Section 10.04(b)(i) or Section 10.21.

For the purposes of this Section 10.04, "Approved Fund" means any person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) below, from and after the effective date specified in each Assignment and Acceptance the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 10.05). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section 10.04.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal and interest amounts of the Loans owing to, each Lender pursuant to the terms of this Agreement from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms of this Agreement as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an Assignee, the Assignee's completed Administrative Questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section, if applicable, and any written consent to such assignment required by paragraph (b) of this Section and any applicable tax forms, the Administrative Agent shall accept such Assignment and Acceptance and promptly record the information contained therein in the Register. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph (b)(v).

(vi) If the consent of the Company to an assignment or to an Approved Fund is required hereunder (including a consent to an assignment which does not meet the minimum assignment thresholds specified in Section 10.04(b)(ii)(A)), the Company shall be deemed to have given its consent ten Business Days after the date written notice thereof has been delivered by the Assignor (through the Administrative Agent or the electronic settlement system used in connection with any such assignment) unless such consent is expressly refused by the Company prior to such tenth Business Day.

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the Assignee thereunder shall be deemed to confirm to and agree with each other and the other parties hereto as follows: (i) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that its applicable Commitment, and the outstanding balances of its Term Loans, in each case without giving effect to assignments thereof which have not become effective, are as set forth in such Assignment and Acceptance, (ii) except as set forth in clause (i) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of the Company or any Subsidiary or the performance or observance by the Company or any Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (iii) the Assignee represents and warrants that it is legally authorized to enter into such Assignment and Acceptance; (iv) the Assignee confirms that it has received a copy of this Agreement, together with copies of the most recent financial statements referred to in Section 3.05 (or delivered pursuant to Section 5.04), and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (v) the Assignee will independently and without reliance upon the Administrative Agent, the Collateral Agent, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (vi) the Assignee appoints and authorizes each the Administrative Agent and the Collateral Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent and the Collateral Agent, as applicable, by the terms of this Agreement, together with such powers as are reasonably incidental thereto; and (vii) the Assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement and the other Loan Documents; provided that (x) such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to Section 10.04(a)(i) or clauses (i), (ii), (iii), (iv), (v) or (vi) of the first proviso to Section 10.08(b) and (2) directly affects such Participant and (y) no other agreement with respect to amendment, modification or waiver may exist between such Lender and such Participant. Subject to paragraph (c)(ii) of this Section 10.04, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 2.17 (subject to the limitations and requirements of those Sections and Section 2.19 and it being understood that the documentation required under Section 2.17(e) shall be delivered solely to the participating Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 10.04. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.06 as though it were a Lender, provided that such Participant shall be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any person (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans or its other obligations under any Loan Document) except to the extent that such disclosure is necessary in connection with a Tax audit or other Tax proceeding to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and each party hereto shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(ii) A Participant shall not be entitled to receive any greater payment under 2.14, 2.15, 2.16 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company’s prior written consent (which consent shall not be unreasonably withheld or delayed), which consent shall state that it is being given pursuant to this Section 10.04(d)(i); provided that each potential Participant shall provide such information as is reasonably requested by the Company in order for the Company to determine whether to provide its consent.

(c) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central banking authority and in the case of any Lender that is an Approved Fund, any pledge or assignment to any holders of obligations owed, or securities issued, by such Lender, including to any trustee for, or any other representative of, such holders, and this Section 10.04 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(f) The Borrower, upon receipt of written notice from any relevant Lender, agree to issue Notes to such Lender requiring Notes to facilitate transactions of the type described in paragraph (e) above.

(g) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrower or the Administrative Agent. The Borrower, each Lender and the Administrative Agent hereby confirms that it will not institute against a Conduit Lender or join any other person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto and each Loan Party for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

(h) If the Borrower wishes to replace the Loans or Commitments under any Facility with ones having different terms, they shall have the option, with the consent of the Administrative Agent and subject to at least three Business Days' advance notice to the Lenders under such Facility, instead of prepaying the Loans or reducing or terminating the Commitments to be replaced, to (1) require the Lenders under such Facility to assign such Loans or Commitments to the Administrative Agent or its designees and (2) amend the terms thereof in accordance with Section 10.08 (with such replacement, if applicable, being deemed to have been made pursuant to Section 10.08(d)). Pursuant to any such assignment, all Loans and Commitments to be replaced shall be purchased at par (allocated among the Lenders under such Facility in the same manner as would be required if such Loans were being optionally prepaid or such Commitments were being optionally reduced or terminated by the Borrower), accompanied by payment of any accrued interest and fees thereon and any amounts owing pursuant to Section 10.05(b). By receiving such purchase price, the Lenders under such Facility shall automatically be deemed to have assigned the Loans or Commitments under such Facility pursuant to the terms of the form of Assignment and Acceptance attached hereto as Exhibit A, and accordingly no other action by such Lenders shall be required in connection therewith. The provisions of this paragraph (h) are intended to facilitate the maintenance of the perfection and priority of existing security interests in the Collateral during any such replacement.

(i) Notwithstanding anything to the contrary in Section 2.18(c) (which provisions shall not be applicable to clauses (i) or (j) of this Section 10.04), the Borrower may purchase by way of assignment and become Assignees with respect to Term Loans at any time and from time to time from Lenders in accordance with Section 10.04(b) hereof ("Permitted Loan Purchases"); provided that (A) any such purchase occurs pursuant to Dutch auction procedures open to all applicable Lenders on a pro rata basis in accordance with customary procedures to be agreed between the Borrower and the Administrative Agent; provided that the Borrower shall be entitled to make open market purchases of the Term Loans without complying with such Dutch auction procedures so long as the aggregate principal amount (calculated on the par amount thereof) of all Term Loans purchased in open market purchases from the Closing Date does not exceed the Permitted Loan Purchases Amount, (B) no Default or Event of Default has occurred and is continuing or would result from the Permitted Loan Purchase, (C) upon consummation of any such Permitted Loan Purchase, the Loans purchased pursuant thereto shall be deemed to be automatically and immediately cancelled and extinguished in accordance with Section 10.04(j) and (D) in connection with any such Permitted Loan Purchase, the Borrower and such Lender that is the Assignor shall execute and deliver to the Administrative Agent a Permitted Loan Purchase Assignment and Acceptance (and for the avoidance of doubt, shall not be required to execute and deliver an Assignment and Acceptance pursuant to Section 10.04(b)(ii)(B)) and shall otherwise comply with the conditions to assignments under this Section 10.04.

(j) Each Permitted Loan Purchase shall, for purposes of this Agreement (including without limitation, Section 2.08(b)) be deemed to be an automatic and immediate cancellation and extinguishment of such Term Loans and the Borrower shall, upon consummation of any Permitted Loan Purchase, notify the Administrative Agent that the Register be updated to record such event as if it were a prepayment of such Loans.

Section 10.05. Expenses; Indemnity.

(a) Costs and Expenses. The Borrower agrees to pay (i) all reasonable and documented out-of-pocket expenses (including Other Taxes) incurred by the Administrative Agent in connection with the preparation of this Agreement and the other Loan Documents, or by the Administrative Agent in connection with the syndication of the Commitments or in the administration of this Agreement (including expenses incurred in connection with due diligence and initial and ongoing Collateral examination to the extent incurred with the reasonable prior approval of the Company and the reasonable fees, disbursements and charges for no more than one counsel in each jurisdiction where Collateral is located) or in connection with the administration of this Agreement and any amendments, modifications or waivers of the provisions of this Agreement or thereof (whether or not the Transactions hereby contemplated shall be consummated), including the reasonable fees, charges and disbursements of Cahill Gordon & Reindel llp, counsel for the Administrative Agent and the Arrangers, and, if necessary, the reasonable fees, charges and documented out-of-pocket expenses and disbursements of one local counsel per jurisdiction, and (ii) all out-of-pocket expenses (including Other Taxes) incurred by the Agents and any Lender in connection with the enforcement or protection of their rights in connection with this Agreement and the other Loan Documents, in connection with the Loans made hereunder, including the fees, charges and disbursements of counsel for the Agents or, after any Event of Default under Section 8.01(b), (c), (h) (with respect to the Borrower) or (i) (with respect to the Borrower), counsel for the Lenders (in each case including any special and local counsel).

(b) **Indemnification by the Borrower.** The Borrower agrees to indemnify the Administrative Agent, the Agents, the Arrangers, the Joint Bookrunners, each Lender, each of their respective Affiliates and each of their respective directors, trustees, officers, employees, agents, trustees and advisors (each such person being called an “Indemnitee”) against, and to hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable counsel fees, charges and disbursements (except the allocated costs of in house counsel), incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto and thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated hereby, (ii) any Loan or the use of the proceeds therefrom or (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto and regardless of whether such matter is initiated by a third party or by the Company or any of its subsidiaries or Affiliates; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee (for purposes of this proviso only, each of the Administrative Agent, any Arranger, any Joint Bookrunner or any Lender shall be treated as several and separate Indemnitees, but each of them together with its respective Related Parties, shall be treated as a single Indemnitee). Subject to and without limiting the generality of the foregoing sentence, the Borrower jointly and severally agrees to indemnify each Indemnitee against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable counsel or consultant fees, charges and disbursements (limited to not more than one counsel, plus, if necessary, one local counsel per jurisdiction) (except the allocated costs of in house counsel), incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of any Environmental Claim or Environmental Liability related in any way to the Company or any of the Subsidiaries or its predecessors; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or any of its Related Parties. None of the Indemnitees (or any of their respective affiliates) shall be responsible or liable to the Company or any of the subsidiaries, Affiliates or stockholders or any other person or entity for any special, indirect, consequential or punitive damages, which may be alleged as a result of the Facilities or the Transactions. The provisions of this Section 10.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent or any Lender. All amounts due under this Section 10.05 shall be payable on written demand therefor accompanied by reasonable documentation with respect to any reimbursement, indemnification or other amount requested.

(c) **Taxes.** Except as expressly provided in Section 10.05(a) with respect to Other Taxes, which shall not be duplicative with any amounts paid pursuant to Section 2.17, this Section 10.05 shall not apply to any Taxes (other than Taxes that represent losses, claims, damages, liabilities and related expenses resulting from a non-Tax claim), which shall be governed exclusively by Section 2.17 and, to the extent set forth therein, Section 2.15.

(d) **Waiver of Consequential Damages, Etc.** To the fullest extent permitted by applicable law, the Borrower shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) **Survival.** The agreements in this Section 10.05 shall survive the resignation or removal of either Agent, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations and the termination of this Agreement.

Section 10.06. Right of Set-off. If an Event of Default shall have occurred and be continuing, each Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender to or for the credit or the account of the Borrower or any Subsidiary against any of and all the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or such other Loan Document and although the obligations may be unmatured. The rights of each Lender under this Section 10.06 are in addition to other rights and remedies (including other rights of set-off) that such Lender may have. Each Lender agrees to notify the Administrative Agent promptly after any such set off and application; provided that the failure to give such notice shall not affect the validity of such set off and application.

Section 10.07. Applicable Law. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

Section 10.08. Waivers: Amendment.

(a) No failure or delay of either Agent or any Lender in exercising any right or power hereunder or under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of each Agent and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrower or the other Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on the Borrower or the other Loan Party in any case shall entitle such person to any other or further notice or demand in similar or other circumstances.

(b) Subject to Section 2.14, neither this Agreement nor any other Loan Document nor any provision of this Agreement or thereof may be waived, amended or modified except (x) as provided in Section 2.21, (y) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders and (z) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by each party thereto and the Agent party thereto and consented to by the Required Lenders; provided, however, that no such agreement shall

(i) decrease or forgive the principal amount of, or extend the final maturity of, or decrease the rate of interest on, any Loan, without the prior written consent of each Lender directly affected thereby; provided that any amendment to the financial covenant definitions in this Agreement shall not constitute a reduction in the rate of interest for purposes of this clause (i),

(ii) increase or extend the Commitment of any Lender or decrease the Commitment Fees or other fees of any Lender without the prior written consent of such Lender (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in the aggregate Commitments shall not constitute an increase of the Commitments of any Lender),

(iii) extend or waive any Term Loan Installment Date or reduce the amount due on any Term Loan Installment Date or extend any date on which payment of interest on any Loan or any Fees is due, without the prior written consent of each Lender adversely affected thereby,

(iv) amend the provisions of Section 4.02 of the Collateral Agreement, or any analogous provision of any other Security Document, in a manner that would by its terms alter the *pro rata* sharing of payments required thereby, without the prior written consent of each Lender adversely affected thereby,

(v) amend or modify the provisions of this Section 10.08 or the definition of the terms "Required Lenders," "Majority Lenders," or any other provision of this Agreement specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the prior written consent of each Lender adversely affected thereby (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Loans and Commitments are included on the Closing Date),

(vi) release all or substantially all the Collateral or the Subsidiary Guarantor from its Guarantee under the Collateral Agreement, unless, in the case of the Subsidiary Guarantor, all or substantially all the Equity Interests of the Subsidiary Guarantor is sold or otherwise disposed of in a transaction permitted by this Agreement, without the prior written consent of each Lender, or

(vii) effect any waiver, amendment or modification that by its terms adversely affects the rights in respect of payments or collateral of Lenders participating in any Facility differently from those of Lenders participating in another Facility, without the consent of the Majority Lenders participating in the adversely affected Facility (it being agreed that the Required Lenders may waive, in whole or in part, any prepayment or Commitment reduction required by Section 2.11 so long as the application of any prepayment or Commitment reduction still required to be made is not changed);

provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of either Agent hereunder without the prior written consent of such Agent acting as such at the effective date of such agreement, as applicable. Each Lender shall be bound by any waiver, amendment or modification authorized by this Section 10.08 and any consent by any Lender pursuant to this Section 10.08 shall bind any Assignee of such Lender.

(c) Without the consent of any Arranger or Lender, the Loan Parties and the Administrative Agent and/or Collateral Agent, as applicable, may (in their respective sole discretion, or shall, to the extent required by any Loan Document) enter into any amendment, modification or waiver of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, or as required by local law to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable law.

(d) Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(e) Notwithstanding the foregoing, technical and conforming modifications to the Loan Documents may be made with the consent of the Borrower and the Administrative Agent to the extent necessary to integrate any Refinancing Term Loan Commitments or Extended Term Loan Commitments in a manner consistent with Section 2.21, including, with respect to Refinancing Term Loans or Extended Term Loans, as may be necessary to establish such Refinancing Term Loan Commitments or Extended Term Loan Commitments as a separate Class or tranche from the existing Commitments.

Notwithstanding anything herein to the contrary, if at any time the applicable interest rate, together with all fees and charges that are treated as interest under applicable law (collectively, the "Charges"), as provided for herein or in any other document executed in connection herewith, or otherwise contracted for, charged, received, taken or reserved by any Lender, shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by such Lender in accordance with applicable law, the rate of interest payable hereunder, together with all Charges payable to such Lender, shall be limited to the Maximum Rate; provided that such excess amount shall be paid to such Lender on subsequent payment dates to the extent not exceeding the legal limitation.

Section 10.09. Entire Agreement. This Agreement, the other Loan Documents and the agreements regarding certain Fees referred to herein constitute the entire contract between the parties relative to the subject matter of this Agreement. Any previous agreement among or representations from the parties or their Affiliates with respect to the subject matter of this Agreement is superseded by this Agreement and the other Loan Documents. Notwithstanding the foregoing, any fee letters previously entered into between the Agents, the Arrangers and the Joint Bookrunners shall survive the execution and delivery of this Agreement and remain in full force and effect. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any party other than the parties hereto and thereto any rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

Section 10.10. [Reserved].

Section 10.11. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Section 10.11.

Section 10.12. Severability. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 10.13. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute but one contract, and shall become effective as provided in Section 10.03. Delivery of an executed counterpart to this Agreement by facsimile transmission (or other electronic transmission pursuant to procedures approved by the Administrative Agent) shall be as effective as delivery of a manually signed original.

Section 10.14. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 10.15. Jurisdiction; Consent to Service of Process.

(a) Submission to Jurisdiction. Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any New York State court or federal court of the United States of America sitting in New York City in the borough of Manhattan, and any appellate court from any thereof (collectively, "New York Courts"), in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined in such New York State or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement or any of the other Loan Documents in the courts of any jurisdiction, except that each of the Loan Parties agrees that (a) it will not bring any such action or proceeding in any court other than New York Courts (it being acknowledged and agreed by the parties hereto that any other forum would be inconvenient and inappropriate in view of the fact that more of the Lenders who would be affected by any such action or proceeding have contacts with the State of New York than any other jurisdiction), and (b) in any such action or proceeding brought against any Loan Party in any other court, it will not assert any cross-claim, counterclaim or setoff, or seek any other affirmative relief, except to the extent that the failure to assert the same will preclude such Loan Party from asserting or seeking the same in the New York Courts.

(b) Waiver of Venue. Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in any New York Court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Service of Process. Each Loan Party irrevocably appoints Pride of America Ship Holding, LLC at 7665 Corporate Center Drive, Miami, FL 33126 as its authorized agent (the "Process Agent") on which any and all legal process may be served in any action, suit or proceeding brought in any New York Court. Each Loan Party agrees that service of process in respect of it upon the Process Agent, together with written notice of such service given to it in the manner provided for notices in Section 10.01, shall be deemed to be effective service of process upon it in any such action, suit or proceeding. Each Loan Party agrees that the failure of the Process Agent to give notice to it of any such service shall not impair or affect the validity of such service or any judgment rendered in any such action, suit or proceeding based thereon. If for any reason the Process Agent named above shall cease to be available to act as such, each Loan Party agrees to irrevocably appoint a replacement process agent in New York City, as its authorized agent for service of process, on the terms and for the purposes specified in this paragraph (c). Nothing in this Agreement or any other Loan Document will affect the right of any party hereto to serve process in any other manner permitted by applicable law or to obtain jurisdiction over any party or bring actions, suits or proceedings against any party in such other jurisdictions, and in such matter, as may be permitted by applicable law.

Section 10.16. Confidentiality. Each of the Lenders and each of the Agents agrees that it shall maintain in confidence any information relating to any Loan Party and any Subsidiary furnished to it by or on behalf of such Loan Party or any Subsidiary (other than information that (a) has become generally available to the public other than as a result of a disclosure by such party, (b) has been independently developed by such Lender or such Agent without violating this Section 10.16 or (c) was available to such Lender or such Agent from a third party having, to such person's knowledge, no obligations of confidentiality to such Loan Party or any other Subsidiary) and shall not reveal the same other than to its Related Parties with a need to know and any numbering, administration or settlement service providers or to any person that approves or administers the Loans on behalf of such Lender (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 10.16), except: (A) to the extent necessary to comply with law or any legal process or the requirements of any Governmental Authority, the National Association of Insurance Commissioners or of any securities exchange on which securities of the disclosing party or any Affiliate of the disclosing party are listed or traded, (B) as part of normal reporting or review procedures to, or examinations by, Governmental Authorities or self-regulatory authorities, including the National Association of Insurance Commissioners or the Financial Industry Regulatory Authority, (C) to its parent companies, Affiliates or auditors (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 10.16), (D) in order to enforce its rights under any Loan Document in a legal proceeding, (E) to any pledgee under Section 10.04(e) or any other prospective assignee of, or prospective Participant in, any of its rights under this Agreement (or any of its Related Parties) (so long as such person shall have been instructed to keep the same confidential in accordance with this Section 10.16), (F) to any direct or indirect contractual counterparty in Swap Agreements or such contractual counterparty's professional advisor (so long as such contractual counterparty or professional advisor to such contractual counterparty agrees to be bound by the provisions of this Section 10.16) and (G) to any credit insurance provider relating to the Borrower and their obligations (so long as such person shall have been instructed to keep the same confidential in accordance with this Section 10.16). In addition, each Agent and each Lender may disclose the existence of this Agreement and customary information about this Agreement to market data collectors, similar services providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

Section 10.17. Platform: Borrower Materials. The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform"), and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrower or their securities) (each, a "Public Lender"). The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (i) all the Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof, (ii) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arranger and the Lenders to treat the Borrower Materials as either publicly available information or not material information (although it may be sensitive and proprietary) with respect to the Borrower or their securities for purposes of United States Federal and state securities laws, (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor"; and (iv) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

Section 10.18. Release of Liens and Guarantees. In the event that any equity holder conveys, sells, assigns, transfers or otherwise disposes of all or any portion of any of the Equity Interests or assets of the Subsidiary Guarantor to a person that is not thereby required to enter into a Subsidiary Guarantor Pledge Agreement in a transaction not prohibited by Section 6.05 the Collateral Agent, without any recourse to or representation by it, shall promptly (and the Lenders hereby authorize the Collateral Agent to) take such action and execute any such documents as may be reasonably requested by the Borrower and at the Borrower's expense to release any Liens created by any Loan Document in respect of such Equity Interests or assets, and, in the case of a disposition of the Equity Interests of the Subsidiary Guarantor in a transaction permitted by Section 6.05 and as a result of which the Subsidiary Guarantor would cease to be a Subsidiary, terminate the Subsidiary Guarantor's obligations under its Guarantee (and, in each case, the Administrative Agent and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry). Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Loan Documents. In addition, the Collateral Agent agrees, without any recourse to or representation by it, to take such actions as are reasonably requested by the Borrower and at the Borrower's expense to terminate the Liens and security interests created by the Loan Documents when all the Obligations (other than contingent indemnification obligations and expense reimbursement claims to the extent no claim therefore has been made) are paid in full and all Commitments are terminated. Any such release of Obligations shall be deemed subject to the provision that such Obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or the Subsidiary Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or the Subsidiary Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made. Any representation, warranty or covenant contained in any Loan Document relating to any such Equity Interests, asset or subsidiary of the Borrower shall no longer be deemed to be made once such Equity Interests or asset is so conveyed, sold, leased, assigned, transferred or disposed of.

Section 10.19. Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of any Loan Party in respect of any such sum due from it to any Agent or Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other person who may be entitled thereto under applicable law).

Section 10.20. USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act.

Section 10.21. Affiliate Lenders.

(a) Each Lender who is an Affiliate of the Borrower (each, an "Affiliate Lender"; it being understood that neither the Borrower, nor any of the Subsidiaries may be Affiliate Lenders), in connection with any (i) consent (or decision not to consent) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document, (ii) other action on any matter related to any Loan Document or (iii) direction to the Administrative Agent, Collateral Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, agrees that, except with respect to any amendment, modification, waiver, consent or other action described in clauses (i), (ii) or (iii) of the first proviso of Section 10.08(b), such Affiliate Lender shall be deemed to have voted its interest as a Lender without discretion in such proportion as the allocation of voting with respect to such matter by Lenders who are not Affiliate Lenders. Subject to clause (c) below, the Borrower and each Affiliate Lender hereby agree that if a case under Title 11 of the United States Code is commenced against the Borrower, the Borrower shall seek (and each Affiliate Lender shall consent) to designate the vote of any Affiliate Lender and the vote of any Affiliate Lender with respect to any plan of reorganization of the Borrower or any Affiliate of the Borrower shall not be counted. Each Affiliate Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliate Lender's attorney-in-fact, with full authority in the place and stead of such Affiliate Lender and in the name of such Affiliate Lender, from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (a).

(b) Notwithstanding anything to the contrary in this Agreement, no Affiliate Lender shall have any right to (a) attend (including by telephone) any meeting or discussions (or portion thereof) among the Administrative Agent or any Lender to which representatives of the Borrower are not then present, (b) receive any information or material prepared by Administrative Agent or any Lender or any communication by or among Administrative Agent and/or one or more Lenders, except to the extent such information or materials have been made available to the Borrower or their representatives, or (c) make or bring (or participate in, other than as a passive participant in or recipient of its pro rata benefits of) any claim, in its capacity as a Lender, against Administrative Agent, the Collateral Agent or any other Lender with respect to any duties or obligations or alleged duties or obligations of such Agent or any other such Lender under the Loan Documents or (d) own more than 25% of the aggregate principal amount of outstanding Term Loans. It shall be a condition precedent to each assignment to an Affiliate Lender that such Lender shall have represented in the applicable Assignment and Acceptance, and notified the Administrative Agent (i) that it is (or will be, following the consummation of such assignment) an Affiliate Lender, (ii) that the aggregate amount of Term Loans held by it giving effect to such assignments shall not exceed the amount permitted by clause (d) of the preceding sentence, and (iii) that, as of the date of such purchase and assignment, it is not in possession of material non-public information with respect to the Borrower, its subsidiaries or their respective securities that (A) has not been disclosed to the assigning Lender prior to such date and (B) could reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to assign Terms Loans to such Affiliate Lender.

Section 10.22. No Advisory or Fiduciary Responsibility. In connection with all aspects of the Transactions contemplated hereby, the Borrower acknowledges and agrees that: (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrower, the other Loan Party and their respective Affiliates, on the one hand, and the Agents, the Arrangers and the Lenders, on the other hand, and the Borrower and the other Loan Party are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each Agent, each Arranger and each Lender is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrower, the Subsidiary Guarantor or any of their respective Affiliates, stockholders, creditors or employees or any other person; (iii) none of the Agents, any Arranger or any Lender has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower or the other Loan Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any Agent, any Arranger or any Lender has advised or is currently advising the Borrower or the other Loan Party or their respective Affiliates on other matters) and none of the Agents, any Arranger or any Lender has any obligation to any of the Borrower, the other Loan Parties or their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Agents, the Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and the other Loan Party and their respective Affiliates, and none of the Agents, any Arranger or any Lender has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Agents, the Arrangers and the Lenders have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Borrower and the other Loan Party have consulted their own legal, accounting, regulatory and tax advisors to the extent they deemed appropriate. The Borrower hereby agrees that it will not claim that any of the Agents, the Arrangers, the Lenders or their respective affiliates has rendered advisory services of any nature or respect or owes any fiduciary duty to it in connection with any aspect of any transaction contemplated hereby.

Section 10.23. Acknowledgement and Consent to Bail-In of EEA Financial Institutions Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

Section 10.24. [Reserved].

Section 10.25. [Reserved].

Section 10.26. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arrangers, the Joint Bookrunners and each Co-Documentation Agent and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arrangers, the Joint Bookrunners and the Co-Documentation Agents and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent, any Arranger, any Joint Bookrunner or any Co-Documentation Agent or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

(c) The Administrative Agent, each Arranger, each Joint Bookrunner and each Co-Documentation Agent hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans or the Commitments for an amount less than the amount being paid for an interest in the Loans or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker’s acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

[Remainder of page left blank intentionally; signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first written above.

NCL CORPORATION LTD.,
as the Company

By: /s/ Mark Kempa
Name: Mark Kempa
Title: Chief Financial Officer

NORDEA BANK ABP, NEW YORK BRANCH,
as Administrative Agent, Collateral Agent and a Lender

By: /s/ Martin Lunder
Name: Martin Lunder
Title: Managing Director

By: /s/ Lynn Sauro
Name: Lynn Sauro
Title: Director

MIZUHO BANK, LTD.,
as a Lender

By: /s/ Donna DeMagistris
Name: Donna DeMagistris
Title: Authorized Signatory

If a second signature block is necessary:

By: _____
Name:
Title:

MUFG BANK, LTD.,
as a Lender

By: /s/ George Stoecklein
Name: George Stoecklein
Title: Managing Director

If a second signature block is necessary:

By: _____
Name:
Title:

SKANDINAVISKA ENSKILDA BANKEN AB (PUBL),
as a Lender

By: /s/ Peder Garmefelt
Name: Peder Garmefelt
Title: Head of Shipping Finance, London

If a second signature block is necessary:

By: /s/ Malcolm Stonehouse
Name: Malcolm Stonehouse
Title: Client Executive

[FORM OF]
ASSIGNMENT AND ACCEPTANCE

Reference is made to the Credit Agreement dated as of January 10, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the **Credit Agreement**), among NCL Corporation, Ltd., a Bermuda company ("**NCL**" or the "**Borrower**"), the Lenders party thereto from time to time, Nordea Bank Abp, New York Branch, as administrative agent (together with its successors and assigns in such capacity, the "**Administrative Agent**") and as collateral agent and certain other parties thereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

1. The Assignor hereby sells and assigns, without recourse, to the Assignee, and the Assignee hereby purchases and assumes, without recourse, from the Assignor, effective as of the Effective Date set forth below (the "**Effective Date**") (but not prior to the registration of the information contained herein in the Register pursuant to Section 10.04(b)(iv) of the Credit Agreement), the interests set forth below (the "**Assigned Interest**") in the Assignor's rights and obligations under the Credit Agreement and the other Loan Documents, including, without limitation, the amounts and percentages set forth below of (i) the Commitments of the Assignor on the Effective Date set forth below and (ii) the Loans owing to the Assignor which are outstanding on the Effective Date. Each of the Assignor and the Assignee hereby makes and agrees to be bound by all the representations, warranties and agreements set forth in Section 10.04(c) of the Credit Agreement, a copy of which has been received by each such party. From and after the Effective Date (i) the Assignee shall be a party to and be bound by the provisions of the Credit Agreement and, to the extent of the interests assigned by this Assignment and Acceptance, have the rights and obligations of a Lender thereunder and under the other Loan Documents and (ii) the Assignor shall, to the extent of the interests assigned by this Assignment and Acceptance, relinquish its rights and be released from its obligations under the Credit Agreement.

2. Pursuant to Section 10.04(b)(ii)(B) of the Credit Agreement, this Assignment and Acceptance is being delivered to the Administrative Agent together with (i) if required by Section 10.04(b)(ii)(B) of the Credit Agreement, a processing and recordation fee of \$5,000, (ii) if the Assignee is organized under the laws of a jurisdiction outside the United States, any forms referred to in Section 2.17 of the Credit Agreement, duly completed and executed by such Assignee and (iii) if the Assignee is not already a Lender under the Credit Agreement, a completed Administrative Questionnaire.

3. This Assignment and Acceptance shall be governed by and construed in accordance with the laws of the State of New York.

Date of Assignment: _____

Legal Name of Assignor ("Assignor"): _____

Legal Name of Assignee ("Assignee"): _____

Assignee's Address for Notices: _____

Effective Date of Assignment: _____

| Facility/Commitment | Principal Amount Assigned ¹ | Percentage Assigned of Commitment (set forth, to at least 8 decimals, as a percentage of the Facility and the aggregate Commitments of all Lenders thereunder) |
|-------------------------------------|---|---|
| Delayed Draw Term Loans/Commitments | \$ | % |

[Signature page follows]

¹ Amount of Commitments and/or Loans assigned is governed by Section 10.04 of the Credit Agreement.

The terms set forth above are hereby agreed to:

[Consented to and]² Accepted

_____, as Assignor

NORDEA BANK ABP, NEW YORK BRANCH,
as Administrative Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

_____, as Assignee

NCL CORPORATION LTD., as Borrower³

By: _____
Name:
Title:

By: _____
Name:
Title:

² Consent of the Administrative Agent shall not be required for an assignment to a Lender, an Affiliate of a Lender or an Approved Fund.

³ Consent of the Borrower shall not be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default under Sections 8.01(b), (c), (h) or (i) has occurred and is continuing.

[FORM OF]
ADMINISTRATIVE QUESTIONNAIRE



Article I.

Article II.

ADMINISTRATIVE QUESTIONNAIRE

Agent Address: 1211 Avenue of the Americas
23rd Floor
New York, NY 10036

DEAL NAME: NCL Corporation Ltd

Legal name of institution to appear in documentation:

GENERAL INFORMATION- DOMESTIC LENDING OFFICE:

Institution Name
Street Address
City, State, Zip Code, Country

BUSINESS/CREDIT CONTACTS:

Article III.

PRIMARY CONTACT:

Title
Street Address
City, State, Zip Code, Country
Phone Number
Fax Number
e-mail Address

SECONDARY CONTACT:

Title
Street Address
City, State, Zip Code, Country
Phone Number
Fax Number
e-mail Address

ADMIN/OPERATIONS CONTACT:

PRIMARY CONTACT:

Title
Street Address
City, State, Zip Code, Country
Phone Number
Fax Number
e-mail Address:

SECONDARY CONTACT:

Title
Street Address
City, State, Zip Code, Country
Phone Number
Fax Number
e-mail Address

LENDER'S DOMESTIC WIRE INSTRUCTIONS:

Bank Name
ABA/Routing No
Account Name
Account No
Attention
Reference

LENDER'S FOREIGN WIRE INSTRUCTIONS

Currency
Bank Name
Swift/Routing No
Account Name
Account No
Attention
Reference

AGENT'S WIRE INSTRUCTIONS:

Name of Bank [*]
ABA/Routing Number [*]
Swift Address [*]
Account Name [*]
Account Number [*]
Reference [*]

TAX WITHHOLDING:

Non-Resident Alien

Yes, Form 4224 attached

Tax ID Number

Form W9 attached.

**All forms should be returned to us as soon as possible.
(For more information please see below)**

Form W-9 ("Request for Taxpayer Identification Number and Certification"): If your institution is incorporated under the laws of the United States or one of its states, please supply all information in Part I of this form. Part II should be filled out with the word "Exempt" by the black arrow.

Form W-8BEN ("Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding"): If your institution is not incorporated under the laws of the United States or one of its states and the loan will not be originated from a U.S. office of your institution, please fill out this form. Use your head office address in the address information. In Part II, you should certify to items 9(a), (b), and (c). Please fill in the name of your head office country in response to 9(a).

Note that all loan participants must have a U.S. taxpayer identification number in order to be exempt from U.S. withholding. If you do not have a taxpayer identification number, you may leave line 6 blank for now, but should apply for such a number as soon as possible. Please contact the undersigned if this will be an issue for your institution.

Form W-8ECI ("Certificate of Foreign Person's Claim for Exemption from Withholding on Income Effectively Connected with the Conduct of a Trade or Business in the United States"): If your institution is not incorporated in the United States but the loan will be originated from a U.S. office, please fill out this form. The exemption should be claimed for this year.

In Part 1, field 9, please write "Interest and fee income".

All forms should be sent to the undersigned as soon as possible. **Please mail in the signed original.** If you have any questions, or need to obtain relevant tax forms, please call [*]

[FORM OF]
NCL CORPORATION LTD.
SOLVENCY CERTIFICATE

Date: [], 2019

This Solvency Certificate is delivered pursuant to Section 4.02(f) of the Credit Agreement dated as January 10, 2019 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company ("NCL" or the "Borrower"), the Lenders party thereto from time to time, Nordea Bank Abp, New York Branch, as Administrative Agent and as Collateral Agent and certain other parties thereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The undersigned hereby certifies, solely in his capacity as an officer, as follows:

1. I am the Chief Financial Officer of the Borrower.

2. As of the date hereof, immediately after giving effect to the transactions to occur on the date hereof, on and as of such date, (i) the fair value of the assets of the Borrower and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, direct, subordinated, contingent or otherwise, of the Borrower and its Subsidiaries on a consolidated basis; (ii) the present fair saleable value of the property of the Borrower and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Borrower and its Subsidiaries on a consolidated basis of their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Borrower and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Borrower and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date.

3. As of the date hereof, the Borrower does not intend to, and the Borrower does not believe that it or any of its Material Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such subsidiary.

[Remainder of this page left intentionally blank]

IN WITNESS WHEREOF, the undersigned has executed this Solvency Certificate on the date first written above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

Exhibit D-1

[FORM OF]
BORROWING REQUEST

Date:⁴ _____, _____

To: Nordea Bank Abp, New York Branch, as administrative agent (together with its successors and assigns in such capacity, the “**Administrative Agent**”) under that certain Credit Agreement dated as of January 10, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among NCL Corporation Ltd., a Bermuda company (“**NCL**” or the “**Borrower**”), the Lenders party thereto from time to time, the Administrative Agent, Nordea Bank Abp, New York Branch, as collateral agent, and certain other parties thereto.

Ladies and Gentlemen:

Reference is made to the above-described Credit Agreement. Terms defined in the Credit Agreement, wherever used herein, unless otherwise defined herein, shall have the same meanings herein as are prescribed by the Credit Agreement. The undersigned hereby irrevocably notifies you of the Borrowing specified below:

1. The Borrowing will be a Borrowing of _____ Loans.⁵
2. The Business Day of the requested Borrowing is: _____.
3. The aggregate amount of the requested Borrowing is: _____.
4. The Borrowing is comprised of _____ of ABR Loans and _____ of the Eurocurrency Loans.
5. The duration of the Interest Period for the Eurocurrency Loans, if any, included in the Borrowing shall be _____ month(s).
6. The location and number of the account to which the proceeds of such Borrowing are to be deposited is _____.

⁴ Notification must be received by the Administrative Agent by telephone (confirmed promptly by hand delivery or electronic means) (a) in the case of a Eurocurrency Borrowing, not later than 12:00 noon, Local Time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 12:00 noon, Local Time, three Business Days before the date of the proposed Borrowing.

⁵ Delayed Draw Term Loans, Refinancing Term Loans, or Extended Term Loans.

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the requested Borrowing, before and after giving effect thereto and to the application of the proceeds thereof:

(A) The representations and warranties set forth in the Loan Documents are true and correct in all material respects as of each such date with the same effect as though made on and as of each such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties were true and correct in all material respects as of such earlier date); and

(B) No event has occurred and is continuing or would result from such extension of credit which constitutes a Default or an Event of Default.

This Borrowing Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date set forth above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

[FORM OF]
INTEREST ELECTION REQUEST

Date:⁶ _____, _____

To: Nordea Bank Abp, New York Branch, as administrative agent (together with its successors and assigns in such capacity, the “**Administrative Agent**”) under that certain Credit Agreement dated as of January 10, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among NCL Corporation Ltd., a Bermuda company (“**NCL**” or the “**Borrower**”), the Lenders party thereto from time to time, the Administrative Agent, Nordea Bank Abp, New York Branch, as collateral agent, and certain other parties thereto.

Ladies and Gentlemen:

Reference is made to the above-described Credit Agreement. Terms defined in the Credit Agreement, wherever used herein, unless otherwise defined herein, shall have the same meanings herein as are prescribed by the Credit Agreement. This notice constitutes an Interest Election Request and the Borrower hereby makes an election with respect to Loans under the Credit Agreement, and in that connection the Borrower specifies the following information with respect to such election:

1. Borrowing to which this request applies: _____.⁷
2. Date of election (which shall be a Business Day): _____.
3. Principal amount and Type of Loans subject to election: \$ _____.
4. The Loans are to be [converted into] [continued as] [ABR] [Eurocurrency] Loans.
5. The duration of the Interest Period for the Eurocurrency Loans, if any, included in the election shall be _____ months.

[Signature page follows]

⁶ The Borrower must notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type and in the applicable currency resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic means of this form to the Administrative Agent.

⁷ If different options are being elected with respect to different portions of the Borrowing, the portions thereof must be allocated to each resulting Borrowing (in which case the information to be specified pursuant to Paragraphs 4 and 5 shall be specified for each resulting Borrowing).

This Interest Election Request is issued pursuant to and is subject to the Credit Agreement, executed as of the date set forth above.

NCL CORPORATION LTD.

By:

Name:

Title:

[Reserved]

[FORM OF]
SHIP MORTGAGE

Date: January 10, 2019

FIRST PREFERRED U.S. SHIP MORTGAGE

executed by

PRIDE OF AMERICA SHIP HOLDING, LLC,

as Owner

in favor of

NORDEA BANK ABP, NEW YORK BRANCH,

not in its individual capacity, but solely as Mortgage Trustee,

as Mortgagee

“PRIDE OF AMERICA”

(Official Number 1146542)

SYNOPSIS OF MORTGAGE

| | |
|--|---|
| Name and Official | PRIDE OF AMERICA |
| Number of Vessel: | Official Number 1146542 |
| Type of Instrument: | First Preferred U.S. Ship Mortgage |
| Date of Instrument: | January 10, 2019 |
| Name of Shipowner (Percentage of Vessels owned): | PRIDE OF AMERICA SHIP HOLDING, LLC |
| Address of Shipowner: | Corporate Creations Network, Inc., 3411 Silverside Road, Tatnall Building Suite 104, Wilmington, DE 19810 |
| Name of Mortgagee: | NORDEA BANK ABP, NEW YORK BRANCH, not in its individual capacity but solely as mortgage trustee |
| Address of Mortgagee: | 1211 Avenue of the Americas, New York, NY 10036 |
| Total Amount of Mortgage: | U.S.\$[*] (of which (a) U.S.\$230,000,000 is attributable to the Facilities and (b) U.S.\$[*] is attributable to the Swap Exposure) together with interest, fees, commissions and performance of mortgage covenants |

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THIS FIRST PREFERRED MORTGAGE is dated and effective as of January 10, 2019, (this "Mortgage"), and is made by PRIDE OF AMERICA SHIP HOLDING, LLC, a limited liability company organized under the laws of the State of Delaware, U.S.A., having an address at Corporate Creations Network, Inc., 3411 Silverside Road, Tatnall Building Suite 104, Wilmington, DE 19810 (the "Owner"), in favor of NORDEA BANK ABP, NEW YORK BRANCH, not in its individual capacity but solely as mortgage trustee under the Credit Agreement as defined below (together with its successors and assigns in such capacity, the "Mortgagee") for the Guaranteed Parties.

WHEREAS, the parties hereto have entered into a Credit Agreement dated as of January 10, 2019 (the form of said Credit Agreement (without exhibits) is attached hereto as Exhibit A and constitutes an integral part of this Mortgage; said Credit Agreement, as the same may be amended, restated, supplemented, waived or otherwise modified from time to time, the "Credit Agreement"), among (i) NCL CORPORATION LTD., a Bermuda company as Borrower ("NCL" or the "Borrower"), (ii) the Lenders party thereto from time to time, (iii) NORDEA BANK ABP, NEW YORK BRANCH as Administrative Agent (the "Administrative Agent"), and (iv) the Mortgagee.

WHEREAS, the Borrower may from time to time enter into one or more Swap Agreements that (i) were in effect on the date of this Mortgage with a counterparty that was a Lender, an Agent, an Arranger or an Affiliate of a Lender, Agent or Arranger as of the date of this Mortgage or (ii) are entered into after the date of this Mortgage with any counterparty that was or is a Lender, an Agent, an Arranger or an Affiliate of a Lender, an Arranger or an Agent at the time such Swap Agreement is entered into; provided that such Lender is not a Defaulting Lender at the time such Swap Agreement is entered into (any and all of said Swap Agreements collectively, the "Relevant Swap Agreements"), pursuant to which the Borrower and any such swap counterparty may enter into Transactions (as such term is defined in each of said Relevant Swap Agreements), each as evidenced by a Confirmation (as such term is defined in each of said Relevant Swap Agreements), providing for, among other things, the payment of certain amounts by the Borrower to such swap counterparty. The Borrower and such swap counterparties estimate that the aggregate amount which may become due and payable by the Borrower to such swap counterparties under the Relevant Swap Agreements shall not exceed \$[*] (the "Swap Exposure").

WHEREAS, the Mortgagee and the Owner have also entered into a Guarantee and Collateral Agreement, dated as of January 10, 2019 (the form of said Guarantee and Collateral Agreement (without exhibits), entered into as of the date hereof, is attached hereto as Exhibit B and constitutes an integral part of this Mortgage; said Guarantee and Collateral Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement").

WHEREAS, the Owner is the sole, absolute and unencumbered, legal and beneficial owner of the whole of the Vessel (as defined herein) (save and except the Permitted Liens).

WHEREAS, in order to secure the repayment of the Guaranteed Obligations, the Owner has authorized the execution in favor of the Mortgagee, and delivery of this Mortgage under and pursuant to the provisions of 46 U.S.C. Chapter 313 and the regulations contained in 46 CFR Part 67.

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

ARTICLE I.

DEFINITIONS

Section 1.1 In this Mortgage (including the introductory paragraph and the recitals) unless the context otherwise requires or unless otherwise defined herein, words and expressions defined in the Collateral Agreement or the Credit Agreement shall have the same meanings when used in this Mortgage and the following terms shall have the following meanings:

“Approved Manager” means NCL (Bahamas) Ltd. d/b/a NCL, a company incorporated in and existing under the laws of Bermuda, or one or more affiliates of the Borrower, or any other company approved by the Administrative Agent (such approval not to be withheld unreasonably) from time to time as the technical manager of the Vessel.

“Collateral Agreement” has the meaning assigned to such term in the recitals.

“Compulsory Acquisition” means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Vessel by any government entity or other competent authority, whether de jure or de facto, but shall exclude requisition for use or hire not involving requisition of title.

“Event of Default” has the meaning assigned to such term in Section 6.1.

“Insurances” has the meaning assigned to such term in Section 5.2(a).

“Loss Payable Clause” means the provisions regulating the manner of payment of sums receivable under the Insurances which are to be incorporated in the relevant insurance documents, such Loss Payable Clauses to be in the forms set out in Appendix A and Appendix B of Schedule 1 to the First Lien Insurance Assignment, dated as of the date hereof, made by the Owner in favor of the Mortgagee in respect of the Vessel, or in such other forms as may from time to time be agreed in writing by the Mortgagee.

“Owner” includes the successors in title and assignees of the Owner.

“Secured Obligations” has the meaning assigned to such term in Section 2.1.

“Security Period” means the period commencing on the date hereof and terminating on the date on which all the Secured Obligations (other than contingent indemnity or expense reimbursement obligations in respect of which no claim has been made) have been paid in full in cash in immediately available funds.

“Vessel” means the vessel “PRIDE OF AMERICA” registered under the U.S. flag, with Official Number 1146542 and includes, but is not limited to, any interest therein and her boiler, engines, machinery, masts, spars, boats, anchors, cables, chains, fuel, rigging, tackle, capstans, outfit, tools pumps and pumping equipment, apparel, furniture, fittings, equipment, spare parts and other appurtenances (including without limitation drilling masts, rotary tables, substructures, draw work, engines, pumps, blowout prevention equipment, drill pipes and drill bits) thereunto appertaining or belonging, whether now owned or hereafter acquired, whether on board or not and also any and all additions, improvements, renewals and replacements hereafter made in or to such vessel, or any part thereof, including all items and appurtenances thereto.

Section 1.2 This Mortgage shall be read together with the Collateral Agreement and the Credit Agreement but in case of any conflict between this Mortgage and the Collateral Agreement or the Credit Agreement, the provisions of the Mortgage shall prevail, but only to the extent required by the federal laws of the United States of America.

Section 1.3 The recitals are hereby incorporated into and deemed a part of this Mortgage.

ARTICLE II.

GRANTING CLAUSE, MORTGAGE AND COVENANT TO PAY

Section 2.1 In order to secure the payment of the Guaranteed Obligations, and the payment of all other sums that may hereinafter be secured by the Mortgage in accordance with the terms hereof, and to secure the performance and observance of and compliance with all the agreements, covenants and conditions of the Mortgage, the Collateral Agreement, the Credit Agreement, the other Loan Documents and any Relevant Swap Agreement (all of the foregoing, including but not limited to the Guaranteed Obligations, being referred to herein as the “Secured Obligations”), the Owner has duly authorized the execution and delivery of this Mortgage under and pursuant to the laws of the United States of America.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, and in order to secure the payment of the Secured Obligations, the Owner has granted, conveyed, mortgaged, pledged, confirmed, assigned, transferred and set over and by these presents does grant, convey, mortgage, pledge, confirm, assign, transfer and set over, unto the Mortgagee, and its successors and assigns, the whole of the Vessel;

TO HAVE AND TO HOLD all and singular the the Vessel unto the Mortgagee and its successors and assigns, to its and to its successors’ and assigns’ own use, benefit and behoof forever, subject to the rights of the Owner therein as herein provided;

PROVIDED, and these presents are upon the condition that, if the Owner or its successors or assigns shall pay or cause to be paid the Secured Obligations as and when the same shall become due and payable in accordance with the respective terms of the Collateral Agreement and this Mortgage, and all other such sums as may hereafter become secured by this Mortgage in accordance with the terms hereof, and the Owner shall duly perform, observe and comply with or cause to be performed, observed, or complied with all the covenants, terms and conditions of this Mortgage, the Collateral Agreement, the Credit Agreement, the other Loan Documents and any Relevant Swap Agreement expressed or implied, to be performed, then this Mortgage and the estate and rights hereunder shall cease, determine and be void, otherwise to remain in full force and effect.

The Owner, for itself, its successors and assigns, hereby covenants, declares and agrees with the Mortgagee and its successors and assigns that the Vessel is to be held subject to the further covenants, conditions, terms and uses hereinafter set forth.

Section 2.2 The Owner covenants and undertakes with the Mortgagee and the Guaranteed Parties to do or permit to be done each and every act or thing which the Mortgagee may from time to time require to be done for the purpose of enforcing the Mortgagee's and the Guaranteed Parties' rights under this Mortgage and to allow its name to be used as and when required by the Mortgagee for that purpose.

Section 2.3 The Owner covenants and undertakes with the Mortgagee and the Guaranteed Parties to pay, on demand, to the Mortgagee all monies and discharge all Secured Obligations now or hereafter due, owing or incurred to the Mortgagee and the Guaranteed Parties under, or in connection with the Credit Agreement, any other Loan Document, any Relevant Swap Agreement and/or this Mortgage when the same become due for payment in accordance with their terms whether by acceleration or otherwise.

Section 2.4 The Owner shall cause to be filed, registered or recorded, and hereby irrevocably authorizes the Mortgagee, at the Owner's expense, at any time and from time to time to file, register or record this Mortgage and any amendments hereto in the National Vessel Documentation Center of the U.S. Coast Guard, in accordance with the provisions of 46 U.S.C. Chapter 313 and the regulations contained in 46 CFR Part 67.

ARTICLE III.

REPRESENTATIONS AND WARRANTIES

Section 3.1 The Owner hereby represents and warrants to the Mortgagee and the Guaranteed Parties that it is the legal and beneficial owner of and has good right and title, free from any Liens (other than the Liens created pursuant to the Loan Documents and Permitted Liens), to the Vessel. The Vessel is duly and validly registered in the name of the Owner under the laws and flag of the United States and shall so remain during the Security Period, except as otherwise not prohibited by the Credit Agreement.

Section 3.2 The representation and warranty in Section 3.1 shall be deemed to be repeated by the Owner on and as of each day from the date of this Mortgage until the end of the Security Period as if made with reference to the facts and circumstances existing on each such date.

Section 3.3 The Owner also hereby represents and warrants to the Mortgagee and the Guaranteed Parties on the date hereof that this Mortgage has been validly created and constitutes a valid, legally binding and enforceable first preferred ship mortgage on the Vessel.

ARTICLE IV.

CONTINUING SECURITY AND OTHER MATTERS

Section 4.1 The security created by this Mortgage shall:

(a) be held by the Mortgagee (for the benefit of the Guaranteed Parties) as a continuing security for the payment of the Secured Obligations and the performance and observance of and compliance with all of the covenants, terms and conditions contained in the Credit Agreement and the other Loan Documents and any Relevant Swap Agreement, express or implied;

(b) not be satisfied by any intermediate payment or satisfaction of any part of the amount hereby and thereby secured (or by any settlement of accounts between the Owner or any other person who may be liable to the Mortgagee, the Guaranteed Parties or their permitted successors and assigns in respect of the Secured Obligations or any part thereof);

(c) be in addition to, and shall not in any way prejudice or affect, and may be enforced by the Mortgagee without prior recourse to, the security created by any other Loan Document, any Relevant Swap Agreement and any guarantee or indemnity now or hereafter held by the Mortgagee or the Guaranteed Parties in respect of the Secured Obligations; and

(d) not be in any way prejudiced or affected by the existence of any of the other Loan Documents, any Relevant Swap Agreement or any other rights or remedies or by the same becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Mortgagee or any Guaranteed Party dealing with, exchanging, varying or failing to perfect or enforce any of the same, or giving time for payment or performance or indulgence or compounding with any other person liable.

Section 4.2 All the rights, remedies and powers vested in the Mortgagee (for the ratable benefit of the Guaranteed Parties) hereunder shall be in addition to and not a limitation of any and every other right, power or remedy vested in the Mortgagee or the Guaranteed Parties under the Loan Documents, any Relevant Swap Agreement or under any other guarantees or indemnity now or hereafter held by the Mortgagee or the Guaranteed Parties in respect of the Secured Obligations and all the powers so vested in the Mortgagee or the Guaranteed Parties may be exercised from time to time and as often as the Mortgagee or the Guaranteed Parties may deem expedient.

Section 4.3 The Mortgagee shall not be obligated to make any inquiry as to the nature or sufficiency of any payment received by it under this Mortgage or to make any claim or take any action to collect any moneys hereby owed or to enforce any rights or benefits hereby granted to the Mortgagee or to which the Mortgagee or any Guaranteed Party may at any time be entitled under this Mortgage.

Section 4.4 The Owner shall remain liable to perform all the obligations assumed by it in relation to the Vessel and the Mortgagee shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever in the event of any failure by the Owner to perform its obligations in respect thereof.

ARTICLE V.

COVENANTS

Section 5.1 The Owner hereby covenants with the Mortgagee and the Guaranteed Parties and undertakes throughout the Security Period as follows (at its own cost):

(a) No Sale. The Owner will not sell or otherwise dispose of the Vessel or any part thereof or interest therein, except as otherwise not prohibited by the Credit Agreement.

(b) Negative Pledge. The Owner will not create any Lien over the Vessel or suffer the creation or existence of any such Lien to or in favor of any person, except for Permitted Liens.

(c) Maritime Liens. The Owner will pay and discharge or cause to be paid and discharged all debts, damages and liabilities whatsoever which have given or may give rise to maritime or possessory Liens on or claims enforceable against the Vessel, except such debts, damages and liabilities which give rise to maritime or possessory Liens to the extent not otherwise prohibited under Section 6.02 of the Credit Agreement, and in the event of arrest of the Vessel pursuant to legal process or in the event of her detention in exercise or purported exercise of any such Liens on or claims enforceable against the Vessel as aforesaid, to procure the release of the Vessel from such arrest or detention within twenty one (21) days of receiving notice thereof providing bail or otherwise as the circumstances may require.

(d) Flag or Registration. The Owner shall ensure that the Vessel remains documented under the flag of the United States of America, and retains the right to fly its flag and the Owner will not make any changes in the registration or the flag of the Vessel, except as otherwise not prohibited by the Credit Agreement.

(e) Bareboat Charterparties. The Owner will not permit the Vessel to be engaged on any bareboat charterparty or any sub-bareboat charterparty, unless otherwise approved (such approval not to be unreasonably withheld or delayed) by the Collateral Agent under the Collateral Agreement or the Administrative Agent under the Credit Agreement, or would not reasonably be expected to have a material adverse effect on the rights of the Guaranteed Parties.

(f) Time Charterparties. The Owner will not permit the Vessel to be engaged on any time charterparty or sub-time charterparty, unless otherwise approved (such approval not to be unreasonably withheld or delayed) by the Collateral Agent under the Collateral Agreement or the Administrative Agent under the Credit Agreement, or would not reasonably be expected to have a materially adverse effect on the rights of the Guaranteed Parties.

(g) Copies of Charterparties. Upon request of the Mortgagee, the Owner will send to the Mortgagee a copy of any charterparty for the Vessel and any addenda thereto.

(h) Managers. The Owner will ensure that the Vessel will at all times only be managed by an Approved Manager pursuant to customary technical management agreements assigned to the Mortgagee (for the ratable benefit of the Guaranteed Parties) under the Collateral Agreement; *provided* that this clause shall not prohibit an Approved Manager from entering into commercial or technical management agreements with other persons for the provision of services to the Vessel. The Owner will not agree to termination of or any material amendments that are adverse to the Guaranteed Parties' interest in, or waive or fail to enforce, any material provisions of such management agreements unless the termination, amendment, waiver or failure to enforce such provisions (1) cannot reasonably be expected to have a material adverse effect on the rights of the Guaranteed Parties or (2) is approved by the Mortgagee. If any manager or the Owner terminates any of the approved management agreements or any manager commits a default thereunder which entitles the Owner to terminate the relevant approved management agreement, then the Owner shall enter into a new management agreement with an Approved Manager.

(i) Inspection. The Owner will permit the Mortgagee or its representatives to inspect the Vessel at reasonable times, upon reasonable prior notice to the Owner, and as often as may be reasonably requested by the Mortgagee and the Owner will not in any way restrict the Mortgagee's or its representatives' access to the Vessel and to all class and insurance certificates and records whether or not being kept by third parties. As long as no Event of Default has occurred, the inspections shall be conducted without any unreasonable interference with the operation of the Vessel. The Mortgagee or its representative shall be entitled to perform one inspection of the Vessel per year at the expense of the Owner; *provided* that the Owner shall pay the costs of such additional inspections as the Mortgagee or its representative or any Guaranteed Party may carry out at any time after an Event of Default has occurred and is continuing.

(j) Class. The Owner will ensure that the Vessel shall maintain the class set out in the classification certificates issued by a classification society, free of any overdue recommendations, exceptions, qualifications and notations of such classification society, and the Owner will forward a certified copy of the classification certificates to the Mortgagee upon request.

(k) Surveys. The Owner will submit or procure the Vessel to be submitted regularly to such periodical or other surveys as may be required by applicable law, by insurers or for classification purposes.

(l) ISM Code and ISPS Code. The Owner will arrange for and procure the punctual approval and certification of the management organization on shore and on board the Vessel and ensure that the Vessel is operated in accordance with the ISM Code and ISPS Code in force from time to time. The Owner shall have a valid and current International Ship Security Certificate issued in respect of the Vessel pursuant to the ISPS Code and any other certification that may be required.

(m) Compliance. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Guaranteed Parties, the Owner will ensure that the Vessel will comply with all relevant laws, regulations and requirements (statutory or otherwise) as are applicable to ships (i) registered under the same flag as the Vessel and (ii) engaged in the same or similar service as the Vessel is engaged, including without limitation environmental laws.

(n) No Illegal Trade or Trade Outside Insurance Cover. The Owner will not operate the Vessel or permit it to be operated in any manner, trade or business which is forbidden by international law, or which is unlawful or illicit under the laws of any relevant jurisdiction, or in carrying illicit or prohibited goods, or in any manner whatsoever if the foregoing may render the Vessel liable to condemnation in a prize court, or to destruction, seizure, confiscation, penalty or sanction or, except as otherwise not prohibited under the Credit Agreement, in a geographical area outside the scope of any of its insurances or in any way which may jeopardize its insurance coverage, wholly or in part.

(o) Maintenance. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Guaranteed Parties, the Owner will ensure that the Vessel will be maintained and be in a good and efficient state of repair consistent with first class ship-ownership and management practice.

(p) Change of Structure, Type or Speed. The Owner will not change the structure, type or speed of the Vessel in any way which would reasonably be expected to have a material adverse effect on the rights of the Guaranteed Parties, unless otherwise consented to by the Mortgagee.

(q) Notification of Damage and Claims. The Owners will promptly notify the Mortgagee of:

- (i) any damage to or alteration of the Vessel involving costs in excess of US\$[*] regardless of whether the costs are paid by insurers;
- (ii) any material environmental claims or incidents, to the extent notice thereof has not been publicly filed;
- (iii) any Event of Loss with respect to the Vessel;
- (iv) any requisition of the Vessel;
- (v) any requirement or recommendation made by any insurer or classification society or by any competent authority which is not complied with in accordance with its terms; and
- (vi) any arrest, detention or seizure of the Vessel or any exercise or purported exercise of a Lien on the Vessel or any part thereof which is not lifted forthwith.

(r) Further Information. The Owner will furnish the Mortgagee without undue delay with all such information as it may from time to time reasonably require regarding the Vessel, its employment, position and engagements, including any particulars of all towages and salvages and documents relating to all charters and other contracts for its employment, or otherwise howsoever concerning the Vessel.

(s) Notice. The Owner undertakes to:

(i) Carry, or cause to be carried, on board the Vessel with its papers a certified copy of this Mortgage and cause that certified copy of this Mortgage to be exhibited to any person having business with the Vessel which might give rise to a lien on the Vessel other than a lien for crew's wages and salvage and to any representative of the Mortgagee on demand; and

(ii) place and maintain, or cause to be placed and maintained, in a conspicuous place in the navigation room and the Master's cabin of the Vessel a framed printed notice in plain type in English of such size that the paragraph of reading matter shall cover a space not less than 6 inches wide and 9 inches high reading as follows:

NOTICE OF MORTGAGE

This Vessel is subject to a first preferred mortgage in favor of NORDEA BANK ABP, NEW YORK BRANCH acting through its office at 1211 Avenue of the Americas, New York, NY 10036, not in its individual capacity, but solely as collateral agent and mortgage trustee under authority of 46 U.S.C. Chapter 313. Under the said mortgage, neither the *Owner* the Master, nor any manager nor any charterer nor the master of this Vessel nor any other person has any right, power or authority to create, incur or permit to be imposed upon this Vessel any commitments, encumbrances or liens, whatsoever other than for certain Permitted Liens that are described in the Credit Agreement, dated _____, 2019, among NORDEA BANK ABP, NEW YORK BRANCH, NCL CORPORATION LTD. and certain other parties thereto, all as more fully set forth therein, and the Mortgage, a copy of which is available on board for inspection upon request of any party having business with this Vessel.

The Mortgagee and the Owner, and their respective maritime counsel are hereby each jointly and severally authorized and directed to jointly certify a true copy of this Mortgage, as duly endorsed by the National Vessel Documentation Center of the U.S. Coast Guard to show its filing and recording data, to be carried on board the Vessel in compliance with this Clause 5.1 and 46 U.S.C. § 31324

(t) Further Assurances. Where the Vessel is (or is to be) sold in exercise of any power contained in this Mortgage or otherwise conferred on the Mortgagee, the Owner undertakes to execute, forthwith upon request by the Mortgagee, such form of conveyance of the Vessel as the Mortgagee may require.

(u) Environmental Laws. Except to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the rights of the Guaranteed Parties, the Owner shall comply with, and procure that all employees of the Owner in the course of their employment comply with, all environmental laws including, without limitation, requirements relating to manning and establishment of financial responsibility and to obtain and comply with, and procure that all employees of the Owner in the course of their employment obtain and comply with, all environmental permits.

Section 5.2 Until the Security Period has terminated, the Owner undertakes as follows (at its own cost) unless otherwise consented to by the Mortgagee:

(a) Insurances. The Owner will take out and maintain in its name or procure to be taken out and maintained in its name during the Security Period customary insurances on the Vessel with financially sound and reputable insurers or underwriters, including without limitation, as follows (jointly the "Insurances");

(i) hull, machinery and equipment insurance (including hull interest/increased value insurance) (covering all fire and usual marine risks including excess risks), freight interest/anticipated earnings insurance and freight demurrage and defense (FD&D) insurance;

(ii) war risk insurance (covering damage to hull and deprivations and blocking and trapping and protection and indemnity risks with a single and separate limit for the same amounts insured under war hull);

(iii) protection and indemnity insurance (including pollution risks); and

(iv) such additional insurances as a prudent shipowner would take out or as the Mortgagee may reasonably require.

(b) Renewal. The Owner will renew the Insurances before the relevant policies, contracts or entries expire.

(c) Premiums. The Owner will punctually pay all premiums, calls, contributions or other sums in respect of the Insurances and produce all relevant receipts when so required by the Mortgagee.

(d) Guarantees. The Owner will arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity or war risk association for or for the continuance of the Vessel's entry into such association.

(e) Collection of Claims. The Owner will do all things necessary and provide all documents, evidence and information to enable the Mortgagee to collect or recover any moneys which shall at any time become payable to the Mortgagee according to the applicable Loss Payable Clause in respect of the Insurances.

(f) Application of Recoveries. The Owner will apply all sums receivable under the Insurances which are to be paid to the Owner in accordance with the applicable Loss Payable Clause in repairing all damage and/or in discharging the liability in respect of which such sums shall have been received.

(g) Policies and Other Information. Upon request of the Mortgagee, the Owner will use commercially reasonable efforts to procure that the brokers, underwriters, protection and indemnity and war risks associations shall promptly furnish the Mortgagee with copies of the policies, insurances certificates, certificates of entry, rule books, cover notes and any changes thereto which may from time to time be issued in respect of the Insurances and the Owner shall promptly furnish the Mortgagee with all such other information as it may from time to time reasonably require regarding the Insurances.

ARTICLE VI.

DEFAULT

Section 6.1 The Mortgagee may in its discretion by notice to the Owner declare all or any part of the Secured Obligations to be immediately due and payable on the happening of any of the events set out in this Article VI (each an "Event of Default"). Following such declaration the Secured Obligations, or that part of it to which the declaration relates, shall immediately become due and payable and the security constituted by this Mortgage shall immediately become enforceable without any further notice, demand, protest or other requirement, all of which the Owner expressly waives:

(a) if there shall occur an Event of Default, as such term is used in the Credit Agreement, has occurred and is continuing; or

(b) if the registration of the Vessel or the recordation, validity or priority of this Mortgage shall be contested by any Loan Party or become void or voidable or liable to cancellation or termination; or

(c) if any act or omission of the Owner or any managers or agents of the Vessel shall materially prejudice the security conferred on the Mortgagee by this Mortgage.

ARTICLE VII.

POWERS OF MORTGAGEE ON EVENT OF DEFAULT

Section 7.1 Upon the occurrence of any Event of Default which is continuing and the Mortgagee (for the benefit of the Guaranteed Parties) shall make demand for all or any part of the Secured Obligations, the amount of the Secured Obligations to which the demand relates shall from the date of such demand bear interest at the default rate specified in Section 2.13 of the Credit Agreement and the Mortgagee shall be entitled to exercise all or any of the rights, powers, discretions and remedies (including all rights and remedies in foreclosure) vested in it (whether at law, by virtue of this Mortgage or otherwise) and, without prejudice to the generality of the foregoing, the Mortgagee shall have power:

(a) exercise all of the rights and remedies in foreclosure and otherwise given to a mortgagee by the provisions of the laws of the United States of America or of any other jurisdiction where the Vessel may be found;

(b) bring suit at law, in equity or in admiralty, as it may be advised, to recover judgment for the Secured Liabilities, and collect the same out of any and all property of the Owner whether covered by this Mortgage or otherwise;

(c) to take possession of the Vessel;

(d) to require that all policies, contracts, certificates of entry and other records relating to the Insurances (including details of and correspondence concerning outstanding claims) be delivered forthwith to such adjusters and/or brokers and/or other insurers as the Mortgagee may nominate;

(e) to collect, recover, compromise and give a good discharge for, all claims then outstanding or thereafter arising under the Insurances or any of them or in respect of any other part of the Vessel and to take over or institute (if necessary using the name of the Owner) all such proceedings in connection therewith as the Mortgagee in its absolute discretion thinks fit, and, in the case of the Insurances, to permit the brokers through whom collection or recovery is effected to charge the usual brokerage therefor;

(f) to discharge, compound, release or compromise claims in respect of the Vessel or any other part of the Vessel which have given or may give rise to any charge or Lien or other claim on the Vessel or any other part of the Vessel or which are or may be enforceable by proceedings against the Vessel or any other part of the Vessel;

(g) to sell the Vessel or any interest therein with or without prior notice to the Owner, and with or without the benefit of any charterparty, and free from any claim by the Owner (whether in admiralty, in equity, at law or by statute) by public auction or private contract, at such place and upon such terms as the Mortgagee in its absolute discretion may determine, with power to postpone any such sale, and without being answerable for any loss occasioned by such sale or resulting from postponement thereof and with power, where the Mortgagee purchases the Vessel, to make payment of the sale price by making an equivalent reduction in the amount of the Secured Obligations;

(h) to manage, insure, maintain and repair the Vessel, and to employ, sail or lay up the Vessel in such manner and for such period as the Mortgagee, in its absolute discretion, deems expedient accounting only for net profits arising from any such employment;

(i) to order the Vessel to proceed forthwith at the Owner's risk and expense to a port or place nominated by the Mortgagee and if the Owner fails to give the necessary instructions to the master of the Vessel for any reason whatsoever, the Mortgagee shall have the right to give such instructions directly to the master;

(j) to administer, amend or terminate any existing charter, management, services or similar agreement or instrument relating to the Vessel and/or enter into any such agreement or instrument; and

(k) to recover from the Owner on demand all fees, costs and expenses incurred or paid by the Mortgagee in connection with the exercise of the powers (or any of them) referred to in this Section 7.1.

Section 7.2 The Owner covenants and agrees that in addition to any and all other rights, powers and remedies elsewhere in this Mortgage granted to and conferred upon the Mortgagee, the Mortgagee in any suit to enforce any of its rights, powers or remedies, if an Event of Default shall have occurred and is continuing, shall be entitled as a matter of right and not as a matter of discretion (a) to the appointment of a receiver or receivers of the Vessel and any receiver so appointed shall have full rights and powers to use and operate the Vessel or such other powers as the Court appointing such receiver may prescribe, including but not limited to the power to pay off the crew of the Vessel and repatriate the crew, if need be, and (b) to a decree ordering and directing the sale and disposal of the Vessel, and the Mortgagee may become the purchaser at any such sale and shall have the right to credit on the purchase price any and all sums of money due under the Collateral Agreement, or otherwise hereunder.

Section 7.3 The Mortgagee shall not be liable as mortgagee in possession in respect of all or any part of the Vessel to account or be liable for any loss upon realization or for any neglect or default of any nature whatsoever in connection therewith for which a mortgagee in possession may be liable as such.

Section 7.4 Upon any sale of the Vessel or any interest therein by the Mortgagee pursuant to Section 7.1(e), the purchaser shall not be bound to see or inquire whether the Mortgagee's power of sale has arisen in the manner provided in this Mortgage and such sale shall be deemed to be within the power of the Mortgagee and the receipt of the Mortgagee of the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of such sale or be in any way answerable therefor and such sale shall operate to divest the Owner of all rights, title and interest of any nature whatsoever in the Vessel and to bar any such interest of the Owner and all persons claiming through or under the Owner.

ARTICLE VIII.

APPLICATION OF MONEYS

Subject to the terms of the Credit Agreement and Section 4.02 of the Collateral Agreement, all sums received by the Mortgagee pursuant to this Mortgage, any of the Loan Documents or any Relevant Swap Agreement and all sums received in connection with the taking possession and/or sale of the Vessel or any chartering or other use of the Vessel by the Mortgagee (including, without limitation, the proceeds of any claims for damages or claims on any insurance received by the Mortgagee while in possession of or while chartering or using the Vessel) shall, unless otherwise agreed by the Mortgagee or otherwise expressly provided in the Loan Documents or any Relevant Swap Agreement, be applied by it in the following order:

FIRST, in or towards payment of all expenses and charges incurred by the Mortgagee in the protection and exercise of its rights, powers, discretions and remedies under or pursuant to this Mortgage (including, without limitation, any damages or losses incurred by reason of the Mortgagee's possession, chartering or use of the Vessel) and in or towards supplying indemnity in such amount and in such form as the Mortgagee shall consider appropriate against any encumbrances having priority over or equality with this Mortgage; then

SECOND, in or towards payment to the Administrative Agent or the Mortgagee of any other costs, charges and expenses incurred by it or them and recoverable from the Owner or any other Loan Party under or pursuant to the Credit Agreement, the Loan Documents or any Relevant Swap Agreement, together with interest at the rate or rates specified in the Credit Agreement, the Loan Documents or any Relevant Swap Agreement; then

THIRD, to the payment in full of all other Secured Obligations, the amounts so applied to be distributed as set forth in Section 4.02 of the Collateral Agreement; then

FOURTH, to the Owner (or any other Loan Party as provided in the applicable Loan Documents), its successors or assigns, or as a court of competent jurisdiction may otherwise direct.

The Mortgagee shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Mortgage.

In the event that the amounts received by the Mortgagee and referred to in this Article VIII are insufficient to pay in full the whole of the Secured Obligations, the Mortgagee shall be entitled to collect the shortfall from the Owner or any other person liable for the time being therefor.

ARTICLE IX.

REMEDIES CUMULATIVE AND OTHER PROVISIONS

Section 9.1 No failure or delay on the part of the Mortgagee to exercise any right, power or remedy vested in it under any of the Loan Documents or any Relevant Swap Agreement shall operate as a waiver thereof, nor shall any single or partial exercise by the Mortgagee of any right, power or remedy nor the discontinuance, abandonment or adverse determination of any proceedings taken by the Mortgagee to enforce any right, power or remedy preclude any other or further exercise thereof or proceedings to enforce the same or the exercise of any other right, power or remedy nor shall the giving by the Mortgagee of any consent to any act which by the terms of this Mortgage requires such consent prejudice the right of the Mortgagee to withhold or give consent to the doing of any other similar act. The remedies provided in the Loan Documents or any Relevant Swap Agreement are cumulative and are not exclusive of any remedies provided by law.

Section 9.2 The Mortgagee shall be entitled, at any time and as often as may be expedient, to delegate all or any of the powers and discretions vested in it by this Mortgage (including the power vested in it by virtue of Article X) or any of the other Loan Documents or any Relevant Swap Agreement in such manner, upon such terms, and to such persons as the Mortgagee in its absolute discretion may think fit.

Section 9.3 The Mortgagee shall be entitled to do all acts and things incidental or conducive to the exercise of any of the rights, powers or remedies possessed by it as mortgagee of the Vessel (whether at law, under this Mortgage or otherwise) and in particular (but without prejudice to the generality of the foregoing), upon becoming entitled to exercise any of its powers under Article X, the Mortgagee shall be entitled to discharge any cargo on board the Vessel (whether the same shall belong to the Owner or any other person) and to enter into such other arrangements in respect of the Vessel, her insurances, management, maintenance, repair, classification and employment in all respects as if the Mortgagee was the owner of the Vessel, but without being responsible in the absence of gross negligence or willful misconduct for any loss incurred as a result of the Mortgagee doing or omitting to do any such acts or things as aforesaid.

ARTICLE X.

ATTORNEY

Section 10.1 By way of security, the Owner hereby irrevocably appoints the Mortgagee (and all officers, employees or agents designated by the Mortgagee), to be its attorney generally for and in the name and on behalf of the Owner, and as the act and deed or otherwise of the Owner to (i) execute, seal and deliver and otherwise perfect and do all such deeds, assurances, agreements, instruments, acts and things which may be required for the full exercise of all or any of the rights, powers or remedies conferred by this Mortgage, the Credit Agreement, any of the other Loan Documents or any Relevant Swap Agreement, or which may be deemed proper in or in connection with all or any of the purposes aforesaid (including, without prejudice to the generality of the foregoing, the execution and delivery of a bill of sale of the Vessel), and (ii) make, settle and adjust claims in respect of the Vessel under policies of insurance, endorsing the name of the Owner on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance and for making all determinations and decisions with respect thereto. In the event that the Owner at any time or times shall fail to obtain or maintain any of the policies of insurances required hereby or under the Credit Agreement or to pay any premium in whole or part relating thereto, the Mortgagee may, without waiving or releasing any obligation or liability of the Owner hereunder or any Event of Default, in its sole discretion, obtain and maintain such policies of insurance and pay such premium and take any other actions with respect thereto as the Mortgagee reasonably deems advisable. All sums disbursed by the Mortgagee in connection with this Section 10.1, including reasonable documented attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, upon demand, by the Owner to the Mortgagee and shall be additional Secured Obligations secured hereby. The Owner ratifies and confirms, and agrees to ratify and confirm, any lawful deed, assurance, agreement, instrument, act or thing which the Mortgagee may execute or do pursuant hereto, *provided always* that such power shall not be exercisable by or on behalf of the Mortgagee until the occurrence of an Event of Default which is continuing.

Section 10.2 The exercise of such power by or on behalf of the Mortgagee shall not put any person dealing with the Mortgagee upon any inquiry as to whether any Event of Default has happened, nor shall such person be in any way affected by notice that no such Event of Default has happened, and the exercise by the Mortgagee of such power shall be conclusive evidence of the Mortgagee's right to exercise the same.

Section 10.3 The Owner hereby irrevocably appoints the Mortgagee to be its attorney in its name and on its behalf and as its act and deed or otherwise of it, to agree the form of and to execute and do all deeds, instruments, acts and things in order to file, record, register or enroll this Mortgage in any court, public office or elsewhere which the Mortgagee may in its discretion consider necessary or advisable, now or in the future, to ensure the legality, validity, enforceability or admissibility in evidence thereof and any other assurance, document, act or thing required to be executed by the Owner pursuant to Section 11.2.

Section 10.4 The provisions of Section 6.08 of the Collateral Agreement shall apply *mutatis mutandis*.

ARTICLE XI.

MISCELLANEOUS

Section 11.1 Costs and Indemnities. (a) Subject to the terms of the Credit Agreement, the Owner shall pay to the Mortgagee on demand all documented reasonable expenses (including legal fees, fees of insurance advisers, printing, out-of-pocket expenses, stamp duties, registration fees and other duties or charges) together with any value added tax or similar tax payable in respect thereof incurred by the Mortgagee in connection with (i) the exercise or enforcement of, or preservation of any rights under, this Mortgage, or otherwise in respect of the Secured Obligations and the security therefor or (ii) the preparation, completion, execution or registration of this Mortgage.

(b) Subject to the terms of the Credit Agreement, the Owner hereby agrees and undertakes to indemnify the Mortgagee against all losses, actions, claims, expenses (including, but not limited to, reasonable legal fees and expenses on a full indemnity basis), demands, obligations and liabilities whatever and whenever arising which may now or hereafter be incurred by the Mortgagee; or by any manager, agent, officer or employee for whose liability, act or omission it or he may be answerable, in respect of, in relation to, or in connection with anything done or omitted in the exercise or purported exercise of the powers contained in this Mortgage, or otherwise in connection therewith and herewith or with any part of the Vessel or otherwise howsoever in relation to, or in connection with, any of the matters dealt with in this Mortgage.

Section 11.2 Further Assurances. The Owner hereby further undertakes at its own expense from time to time to execute, sign, perfect, do and (if required) register or record every such further assurance, document, act or thing as in the opinion of the Mortgagee may be reasonably necessary or desirable for the purpose of more effectually mortgaging and charging the Vessel or perfecting the security constituted or intended to be constituted by this Mortgage.

Section 11.3 Notices. The provisions of Section 6.01 of the Collateral Agreement shall apply *mutatis mutandis* in respect of any certificate, notice, demand or other communication given or made under this Mortgage.

Section 11.4 Benefit of this Mortgage. This Mortgage shall be binding on the Owner and its permitted successors and assigns and shall inure to the benefit of the Mortgagee, and its permitted successors and assigns for the benefit of the Guaranteed Parties. The Owner expressly acknowledges and accepts the provisions of Section 9.09 of the Credit Agreement and agrees that any person in favor of whom an assignment or transfer is made in accordance with such section shall be entitled to the benefit of this Mortgage.

Section 11.5 Severability of Provisions. Each of the provisions in this Mortgage are severable and distinct from the others, and if at any time one or more such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Mortgage shall not in any way be affected or impaired thereby.

Section 11.6 GOVERNING LAW. THE PROVISIONS OF THIS MORTGAGE SHALL, WITH RESPECT TO ITS VALIDITY, EFFECT, RECORDATION AND ENFORCEMENT, BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE APPLICABLE FEDERAL MARITIME LAWS OF THE UNITED STATES OF AMERICA AND TO THE EXTENT NECESSARY THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO NEW YORK'S CHOICE OF LAW RULES.

Section 11.7 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 11.8 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Mortgage and are not to affect the construction of, or to be taken into consideration in interpreting, this Mortgage.

Section 11.9 Recording Clause. The total amount of the direct and contingent obligations secured by this Mortgage is U.S.\$[*] (of which (a) U.S.\$230,000,000 is attributable to the Facilities and (b) U.S.\$[*] is attributable to the Swap Exposure) together with interest, fees, commissions and performance of mortgage covenants. The date of maturity of this Mortgage is on demand and there is no separate discharge amount.

IN WITNESS WHEREOF, this Mortgage has been executed by the duly authorized Attorney-in-Fact of the Owner on the date stated at the beginning of this Mortgage.

PRIDE OF AMERICA SHIP HOLDING, LLC,
as Owner

By: _____
Name:
Title:

ACKNOWLEDGMENT OF MORTGAGE

STATE OF NEW YORK)
) S.S.
COUNTY OF NEW YORK)

On this 10th day of January, 2019 before me personally appeared _____, to me known who being by me duly sworn did depose and say that her/his business address is _____; that s/he is an Attorney-in-Fact for PRIDE OF AMERICA SHIP HOLDING, LLC described in and which executed the foregoing instrument; and that s/he signed her/his name thereto by order of said corporation.

Notary Public

[FORM OF]
FIRST LIEN EARNINGS ASSIGNMENT

THIS ASSIGNMENT made as of _____, 2019 (this "Assignment"), by Pride of America Ship Holding, LLC, a Delaware limited liability company (the "Assignor"), to Nordea Bank Abp, New York Branch (together with each of its successors and assigns, the "Assignee"), as Collateral Agent for the Secured Parties, including but not limited to (i) the financial institutions party to the \$230,000,000 credit agreement dated as of _____, 2019 (as amended, restated, supplemented, waived or otherwise modified from time to time, the "Credit Agreement") among, *inter alios*, NCL Corporation Ltd., a Bermuda company, as Borrower, the Lenders party thereto from time to time and the Assignee as Administrative Agent and Collateral Agent, and (ii) the other Secured Parties. Capitalized terms used in this Assignment and not otherwise defined herein have the respective meanings assigned thereto in the Credit Agreement.

1. THE ASSIGNOR, in consideration of One Dollar (\$1.00) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DOES HEREBY ASSIGN, transfer and set over unto the Assignee for itself and for the benefit of the Secured Parties, and, as collateral security for the Obligations now or hereafter existing, does hereby grant to the Assignee for the benefit of the Secured Parties a security interest in all right, title and interest of the Assignor in and to all monies or claims for monies due and to become due to the Assignor (the "Earnings"), and all liens therefor, under or arising out of, any present or future passenger ticket, bill of lading, bareboat, time or voyage charter party, contract of affreightment, towing or salvage contract or service, or other contract or arrangement whatsoever, whether expressed or implied, made or issued for or in connection with the service, use, management or operation of the passenger vessel PRIDE OF AMERICA, documented under the laws of the United States with Official Number 1146542 and IMO Number 9209221 (the "Vessel"), for the carriage of goods, mail, or passengers or the performance of towing or salvage services, or for any other purpose whatsoever (such contracts or arrangement being hereinafter collectively called the "Contracts"), or any amendment thereof or addition thereto, for or as carriage, passage, charter hire, fees, freight, demurrage, requisition or otherwise thereunder, or as compensation for the modification, termination or breach thereof, or for or as contributions in general average arising out of any such carriage or under any such Contracts or pursuant to any bond or other security for general average, and all claims for damages in respect of the actual, constructive or compromised total loss or requisition or other compulsory acquisition or other loss of use of the Vessel, and all proceeds of any of the foregoing.

2. The Assignor warrants and covenants that (a) it has not heretofore assigned, hypothecated or pledged, nor will it hereafter assign, hypothecate or pledge, any of the right, title or interest assigned hereby, whether now due or hereafter becoming due, to any person, firm or corporation other than to the Assignor for the benefit of the Secured Parties, and (b) it will not take or omit to take any action, the taking or omission of which might result in the impairment of any right, title or interest assigned hereby.

3. The Assignor hereby authorizes and directs each person, firm or corporation liable therefor, upon the occurrence and during the continuation of an Event of Default, to pay the Assignee, for the benefit of the Secured Parties, upon notice by the Assignee of this Assignment, all monies as and when due the Assignor pursuant to or arising out of any of the Contracts, and to draw to the order of the Assignee or as it may direct any and all checks and other instruments for the payment of the monies and claims assigned hereby, and to accept the receipts of the Assignee therefor.

4. It is expressly agreed that, anything herein contained to the contrary notwithstanding, the Assignor shall remain liable under the Contracts to perform all the obligations assumed by it thereunder, and neither the Assignee nor the Secured Parties shall have any obligations or liabilities under the Contracts, by reason of or arising out of this Assignment, nor shall the Assignee or the Secured Parties be required or obligated in any manner to perform any obligations of the Assignor under or pursuant to the Contracts.

5. The Assignor hereby irrevocably appoints (which appointment is coupled with an interest) the Assignee, its successors and assigns, as the Assignor's true and lawful attorney-in-fact, with full power, in the name of the Assignor, or otherwise, upon the occurrence and during the continuation of an Event of Default, to demand, receive and collect, and to give acquittance for the payment of any and all monies or claims for monies or rights which are assigned hereby; to file any claims and to commence, maintain or discontinue any actions, suits or other proceedings which the Assignee deems reasonably advisable in order to collect or enforce payment of any such monies, to settle, adjust and compromise any and all disputes or claims in respect of such monies, and to endorse any and all checks, drafts or other orders or instruments for the payment of monies payable to the Assignor which shall be issued in respect of such monies, but the Assignee is not obligated in any manner to make any inquiry as to the nature or sufficiency of any payment received by it or to take any of the actions hereinabove authorized.

6. The Assignor agrees that it will promptly execute and deliver such further documents and do such other acts and things as the Assignee may from time to time reasonably request in order further to effect the purpose of this Assignment.

7. The Assignor hereby irrevocably authorizes the Assignee, at the Assignor's expense, to file such financing statements or give such notices relating to this Assignment, without the Assignor's signature, as the Assignee at its option may deem appropriate, and irrevocably appoints (which appointment is coupled with an interest) the Assignee, its successors and assigns, as the Assignor's attorney-in-fact with full power to execute any such financing statements or notices in the Assignor's name and to perform all other acts which the Assignee deems reasonably necessary or appropriate to perfect and continue the security interest conferred hereby.

8. The Assignor covenants and agrees with the Assignee that the Assignor will (a) duly perform and observe all of the terms and provisions of the Contracts on the part of the Assignor to be performed or observed; (b) clearly record on the books and records of the Assignor notations of this Assignment; and (c) in the event that the Assignor shall receive payment of any monies hereby assigned, after an Event of Default shall have occurred and be continuing, forthwith turn over the same to the Assignee in the identical form in which received (except for such endorsements as may be required thereon) and, until so turned over, hold the same in trust for the Assignee.

9. The powers and authority granted to the Assignee herein have been given for a valuable consideration and are hereby declared to be irrevocable and coupled with an interest.

10. This Assignment shall be binding upon the Assignor and upon the Assignor's successors and assigns and shall inure to the benefit of the Assignee, its successors and assigns.

11. All notices or other communications required or permitted to be made or given hereunder shall be made by postage prepaid letter, or by electronic means, as follows:

If to the Assignee:

Nordea Bank Abp, New York Branch
c/o Kamilla Nordby
Nordea Bank Abp, filial i Norge
Essendrops gate 7, Oslo, Postboks 1166 Sentrum
0107 Oslo

Tel: +47 24 01 12 67
Email: agency.soosid@nordea.com

If to the Assignor:

Pride of America Ship Holding, LLC
Corporate Creations Network, Inc.
3411 Silverside Road
Tatnall Building Suite 104
Wilmington
DE 19810

And

c/o NCL Corporation Ltd.
7665 Corporate Center Drive
Miami, Florida 33126
United States of America
Attn: Daniel S. Farkas Senior Vice President & General Counsel
Tel. No.: (305) 436-4690
Fax No.: (305) 436-4117
Email: dfarkas@ncl.com

With copies to:
Paul, Weiss, Rifkind, Wharton & Garrison
LLP
1285 Avenue of the Americas
New York
NY 10019-6064
Attn: Brad Finkelstein
Tel No: (212) 373-3074
Fax No: (212) 492-0074
Email: bfinkelstein@paulweiss.com

12. This Assignment shall be governed and controlled by the internal laws of the State of New York (but without reference to any provision thereof which might permit or require the application of the law of another jurisdiction).

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed by each of the undersigned directors on the date first above written.

PRIDE OF AMERICA SHIP HOLDING, LLC

By: _____
Name:
Title:

Signature Page to Earnings
Assignment
PRIDE OF AMERICA

**[FORM OF]
FIRST LIEN INSURANCE ASSIGNMENT**

THIS ASSIGNMENT made of _____, 2019 (this "Assignment"), by Pride of America Ship Holding, LLC, a Delaware limited liability company and NCL Corporation Ltd., a Bermuda company (the "Assignors", and each an "Assignor"), to Nordea Bank Abp, New York Branch (together with each of its successors and assigns, the "Assignee"), as Collateral Agent and Mortgage Trustee for the Secured Parties, including but not limited to (i) the financial institutions party to the \$230,000,000 credit agreement dated as of _____, 2019 (as amended, restated, supplemented, waived or otherwise modified from time to time, the "Credit Agreement") among NCL Corporation Ltd., a Bermuda company, as Borrower, the Lenders party thereto from time to time and the Assignee as Administrative Agent and Collateral Agent, and (ii) the other Secured Parties. Capitalized terms used in this Assignment and not otherwise defined herein have the respective meanings assigned thereto in the Credit Agreement.

1. THE ASSIGNORS, in consideration of One Dollar (\$1.00) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DO HEREBY ASSIGN, transfer and set over unto the Assignee for itself and for the benefit of the Secured Parties, and, as collateral security for the Obligations now or hereafter existing, does hereby grant to the Assignee for the benefit of the Secured Parties a security interest in all right, title and interest of the Assignors in and to all proceeds of insurance and all monies or claims for monies due and to become due to the Assignors, and all other rights of the Assignors, under or arising out of any present or future insurance, including loss of earnings insurance and return of premiums (the "Insurance"), on or for the benefit of or relating to the passenger vessel PRIDE OF AMERICA, documented under the laws of the United States with Official Number 1146542 and IMO Number 9209221 (the "Vessel"), which insurance shall be in accordance with the provisions of the Credit Agreement and the Vessel Mortgage for the Vessel.

2. Payment of the proceeds of the Insurance on the Vessel shall be made as provided in the loss payable clauses in the forms set out in Appendix A and Appendix B of Schedule 1 hereto, or in such other forms as may from time to time be agreed in writing by the Assignee.

3. Each Assignor warrants and covenants that (a) it has not heretofore assigned, hypothecated or pledged, nor will it hereafter assign, hypothecate or pledge, any of the right, title or interest assigned hereby, whether now due or hereafter becoming due, to any person, firm or corporation other than to the Assignee for the benefit of the Secured Parties, and (b) it will not take or omit to take any action, the taking or omission of which might result in the impairment of any right, title or interest assigned hereby.

4. Each Assignor hereby authorizes and directs each person, firm or corporation liable therefor, upon the occurrence and during the continuation of an Event of Default, to pay the Assignee, for the benefit of the Secured Parties, all monies as and when due to such Assignor pursuant to or arising out of any of the Insurance, and to draw to the order of the Assignee any and all checks and other instruments for the payment of the monies and claims assigned hereby, and to accept the receipts of the Assignee therefor.

5. It is expressly agreed that, anything herein contained to the contrary notwithstanding, each Assignor shall remain liable under the Insurance to perform all the obligations assumed by it thereunder, and neither the Assignee nor the Secured Parties shall have any obligations or liabilities under the Insurance, by reason of or arising out of this Assignment, nor shall the Assignee or the Secured Parties be required or obligated in any manner to perform any obligations of the Assignors under or pursuant to the Insurance.

6. In the event that the Assignors at any time or times shall fail to obtain or maintain any of the policies of insurance required under the Credit Agreement or Vessel Mortgage related to the Vessel or to pay any premium in whole or part relating thereto, the Assignee may, without waiving or releasing any obligation or liability of the Assignors hereunder or any Event of Default, in its sole discretion, obtain and maintain such policies of insurance in the name of the Assignors and pay such premium and take any other actions with respect thereto as the Assignee reasonably deems advisable.

7. Each Assignor hereby irrevocably appoints (which appointment is coupled with an interest) the Assignee, its successors and assigns, as such Assignor's true and lawful attorney-in-fact, with full power, in the name of such Assignor, or otherwise, upon the occurrence and during the continuation of an Event of Default, to demand, receive and collect, and to give acquittance for the payment of any and all monies or claims for monies which are assigned hereby; to file any claims and to commence, maintain or discontinue any actions, suits or other proceedings which the Assignee deems reasonably advisable in order to collect or enforce payment of any such monies; to settle, adjust and compromise any and all disputes or claims in respect of such monies, and to endorse any and all checks, drafts or other orders or instruments for the payment of monies payable to such Assignor which shall be issued in respect of such monies, but the Assignee is not obligated in any manner to make any inquiry as to the nature or sufficiency of any payment received by it or to take any of the actions hereinabove authorized.

8. Each Assignor agrees that it will promptly execute and deliver such further documents and do such other acts and things as the Assignee may from time to time reasonably request in order further to effect the purpose of this Assignment, including giving such notices (in such form as the Assignee shall reasonably require, including the Notice of Assignment of Insurances attached hereto as Schedule 1) and obtaining such consents as required by the Vessel Mortgage and Section 10 hereof.

9. Each Assignor hereby irrevocably authorizes the Assignee, at such Assignor's expense, to file such financing statements and give such notices relating to this Assignment, without that Assignor's signature, as the Assignee at its option may deem appropriate, and irrevocably appoints (which appointment is coupled with an interest) the Assignee, its successors and assigns, as the Assignors' attorney-in-fact with full power to execute any such financing statements or notices in the Assignors' names and to perform all other acts which the Assignee deems reasonably necessary or appropriate to perfect and continue the security interest conferred hereby.

10. Each Assignor covenants and agrees with the Assignee that it will (a) duly perform and observe all of the terms and provisions of the Insurance on the part of such Assignor to be performed or observed; (b) clearly record on the books and records of such Assignor notations of this Assignment; and (c) in the event that the Assignors shall receive payment of any monies hereby assigned, after an Event of Default shall have occurred and be continuing, forthwith turn over the same to the Assignee in the identical form in which received (except for such endorsements as may be required thereon) and, until so turned over, hold the same in trust for the Assignee.

11. Each Assignor hereby covenants and agrees that they will forthwith give notice of this Assignment to all underwriters or shall instruct its brokers to give such notice, and that where the consent of any underwriter is required pursuant to any of the Insurance assigned hereby that it shall be obtained and evidence thereof shall be provided to the Assignee or, in the case of protection and indemnity coverage, that such Assignor shall use commercially reasonable efforts to procure that the Assignee be provided with a letter of undertaking by the underwriters; and that there shall be duly endorsed upon all slips, cover notes, policies, certificates of entry or other instruments issued or to be issued in connection with the insurances assigned hereby such loss payable, notice of cancellation, and other clauses as may be required by Section 2 hereof.

12. The powers and authority granted to the Assignee herein have been given for a valuable consideration and are hereby declared to be irrevocable and coupled with an interest.

13. This Assignment shall be binding upon the Assignors and upon the Assignors' successors and assigns and shall inure to the benefit of the Assignee, its successors and assigns.

14. All notices or other communications required or permitted to be made or given hereunder shall be made by postage prepaid letter, or by electronic means, as follows:

If to the Assignee:

Nordea Bank Abp, New York Branch
c/o Kamilla Nordby
Nordea Bank Abp, filial i Norge
Essendrops gate 7, Oslo, Postboks 1166 Sentrum
0107 Oslo

Tel: +47 24 01 12 67
Email: agency.soosid@nordea.com

If to the Assignors:

Pride of America Ship Holding, LLC
Corporate Creations Network, Inc.
3411 Silverside Road
Tatnall Building Suite 104
Wilmington
DE 19810

And

c/o NCL Corporation Ltd.
7665 Corporate Center Drive
Miami, Florida 33126
United States of America
Attn: Daniel S. Farkas Senior Vice President & General Counsel
Tel. No.: (305) 436-4690
Fax No.: (305) 436-4117
Email: dfarkas@ncl.com

With copies to:
Paul, Weiss, Rifkind, Wharton & Garrison
LLP
1285 Avenue of the Americas
New York
NY 10019-6064
Attn: Brad Finkelstein
Tel No: (212) 373-3074
Fax No: (212) 492-0074
Email: bfinkelstein@paulweiss.com

15. This Assignment shall be governed and controlled by the internal laws of the State of New York (but without reference to any provision thereof which might permit or require the application of the law of another jurisdiction) as to interpretation, enforcement, validity, construction, effect, and in all other respects, including, without limitation, the legality of any interest rate and other charges, but excluding perfection of the security interests in the rights, title and interest assigned hereby, which shall be governed and controlled by the laws of the relevant jurisdiction.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Assignors have caused this Assignment to be executed by each of the undersigned directors on the date first above written.

PRIDE OF AMERICA SHIP HOLDING, LLC

By: _____
Name: _____
Title: _____

NCL CORPORATION LTD.

By: _____
Name: _____
Title: _____

Signature Page to Insurance
Assignment
PRIDE OF AMERICA

SCHEDULE 1

NOTICE OF ASSIGNMENT OF INSURANCES

NCL Corporation Ltd. (the "Parent") and Pride of America Ship Holding, LLC (the "Owner"), the owner of the passenger vessel PRIDE OF AMERICA, registered under the laws of the United States with Official Number 1146542 and IMO Number 9209221 (the "Vessel"), HEREBY GIVE NOTICE that by an Assignment in writing dated as of _____, 2019 made by the Owner and the Parent to Nordea Bank Abp, New York Branch as collateral agent and mortgage trustee (the "Mortgagee") under a credit agreement dated as of _____, 2019 (the "Credit Agreement"), each of the Owner and the Parent have assigned to the Mortgagee all its right, title and interest in all insurances in respect of the Vessel including the insurances constituted by the policy whereon this Notice is endorsed.

Dated as of _____, 2019

PRIDE OF AMERICA SHIP HOLDING, LLC

By: _____
Name: _____
Title: _____

NCL CORPORATION LTD.

By: _____
Name: _____
Title: _____

APPENDIX A

LOSS PAYABLE CLAUSE

HULL AND MACHINERY, HULL INTEREST AND WAR

BY AN ASSIGNMENT IN WRITING dated as of _____, 2019, NCL Corporation Ltd. (the "Parent") and the owner of the Vessel described below assigned absolutely to Nordea Bank Abp, New York Branch (the "Mortgagee"), as collateral agent and mortgage trustee under a credit agreement dated as of _____, 2019 (the "Credit Agreement"), first mortgagee of: the passenger vessel PRIDE OF AMERICA, registered under the laws of the United States with Official Number 1146542 and IMO Number 9209221 (the "Vessel") this policy and all benefits thereof including all claims of whatsoever nature hereunder.

Claims hereunder for an actual total loss, arranged, agreed or compromised or constructive total loss shall be payable to the Mortgagee for distribution first to itself and thereafter to others as their respective interests may appear.

Subject thereto, all other claims shall be payable as provided in subsections (a) and (b) below; PROVIDED HOWEVER that upon notice from the Mortgagee to the underwriters of a default under the Credit Agreement, all claims under this policy of insurance shall be payable to the Mortgagee for distribution first to itself and thereafter to others as their respective interests may appear.

(a) A claim in respect of any one casualty or occurrence where the aggregate claim against all insurers does not exceed [*] UNITED STATES DOLLARS (US\$[*]) or the equivalent in any other currency, prior to adjustment for any franchise or deductible under the terms of the policy, shall be paid directly to the Parent for the repair, salvage or other charges involved or as reimbursement if the Parent has fully repaired all damage sustained to the Vessel and paid all the salvage or other charges.

(b) A claim in respect of any one casualty or occurrence where the aggregate claim against all insurers exceeds [*] UNITED STATES DOLLARS (US\$[*]) or the equivalent in any other currency prior to adjustment for any franchise or deductible under the terms of the policy, shall, subject to the prior written consent of the Mortgagee, be paid to the Parent as and when the Vessel is restored to her former state and condition and the liability in respect of which the insurance loss is payable is discharged, and provided that the insurers may with such consent as aforesaid make payment on account of repairs in the course of being effected, but, in the absence of such prior written consent shall be payable directly to the Mortgagee for distribution first to itself and thereafter to others as their respective interests may appear.

APPENDIX B

LOSS PAYABLE CLAUSE
PROTECTION AND INDEMNITY

| <u>Vessel</u> | <u>IMO No.</u> | <u>Owner</u> |
|------------------|----------------|------------------------------------|
| PRIDE OF AMERICA | 9209221 | Pride of America Ship Holding, LLC |

Payment of any recovery to which NCL Corporation Ltd. (the "Parent") and the Joint Members under Rule 9i listed in the Certificate of Entry and Acceptance are entitled to receive out of the funds of the Association in respect of any liability, costs or expenses incurred by it shall be made to the Parent or to its order unless and until the Association receives notice from Nordea Bank Abp, New York Branch, as collateral agent and mortgage trustee for itself and others (together with its successors and assigns, the "Mortgagee"), that the Parent is in default under a credit agreement dated as of _____, 2019 (the "Credit Agreement") or is otherwise obligated to deliver such recovery to the Mortgagee, in which event all recoveries shall thereafter be paid to the Mortgagee or its order, provided always that no liability whatsoever shall attach to the Association, its managers or their agents for failure to comply with the latter obligation until after the expiry of two clear business days from the receipt of such notice. The Association shall, unless it receives from the Mortgagee notice to the contrary, be at liberty at the request of the Parent to provide bail or other security to prevent the arrest or obtain the release of the Vessel, without liability to the Mortgagee.

[Reserved]

[Reserved]

[FORM OF]
NOTE

US\$: _____

New York, New York
_____, 20__

FOR VALUE RECEIVED, NCL Corporation Ltd., a Bermuda company (the "Borrower"), promises to pay to the order of _____ (the "Lender") the principal amount of _____ DOLLARS AND ___ CENTS (US\$_____). The outstanding principal amount of this Note shall be paid in the manner specified in the Credit Agreement referred to below. The Borrower further agrees to pay interest on the principal amount hereof from time to time outstanding at the rates and on the dates specified in the Credit Agreement. All such principal and interest and any other amounts shall be payable in Dollars in immediately available funds at the office of the Administrative Agent.

This Note (a) is one of the promissory notes referred to in the Credit Agreement dated as of January 10, 2019 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement") among the Borrower, the LENDERS party thereto from time to time, NORDEA BANK ABP, NEW YORK BRANCH, as administrative and collateral agent for and on behalf of the Lenders and certain other parties thereto (in such capacity, the "Administrative Agent"), and the other financial institutions party thereto in the various capacities specified therein, (b) is subject to, and the Lender is entitled to the benefits of, the provisions of Credit Agreement and (c) is subject to prepayment as provided in the Credit Agreement. This Note is secured as provided in the Security Documents. There shall be maintained a Register for the purpose of registering transfers of this Note and the amount of the Lender's Commitment and the Term Loan owing by the Borrower to the Lender as provided in Section 10.04(b) of the Credit Agreement.

Upon the occurrence and during the continuance of any one or more Events of Default, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable, all as provided in the Credit Agreement.

All parties now and hereafter liable with respect to this Note, whether as maker, principal, surety, guarantor, endorser or otherwise, hereby waive presentment, demand, protest and all other notices of any kind.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES THEREOF.

[Signature Page to Follow.]

This Promissory Note is issued pursuant to and is subject to the Credit Agreement, executed as of the date set forth above.

NCL CORPORATION LTD.

By: _____
Name:
Title:

Signature Page to the Promissory Note – Term Loan

PERFECTION CERTIFICATE

Reference is hereby made to (i) that certain Credit Agreement (the "Credit Agreement") dated as of January 10, 2019 among NCL CORPORATION LTD., a Bermuda company ("NCL"), NORDEA BANK ABP, NEW YORK BRANCH, as Collateral Agent (in such capacity, the "Collateral Agent") and the other parties thereto and (ii) that certain Guarantee and Collateral Agreement (the "Collateral Agreement") dated as of January 10, 2019 between Pride of America Ship Holding, LLC (the "Subsidiary Guarantor") and the Collateral Agent. Capitalized terms used but not defined herein have the meanings assigned in the Credit Agreement.

As used herein, the term "Company" means the Subsidiary Guarantor.

The undersigned hereby certify to the Collateral Agent as follows:

1. Names.

(a) The exact legal name of the Company, as such name appears in its certificate of formation, is set forth in Schedule 1(a). The Company is (i) the type of entity disclosed next to its name in Schedule 1(a) and (ii) a registered organization except to the extent disclosed in Schedule 1(a). Also set forth in Schedule 1(a) is the organizational identification number, if any, of the Company, the Federal Taxpayer Identification Number of the Company and the jurisdiction of formation of the Company.

(b) Set forth in Schedule 1(b) hereto is a list of any other corporate or organizational names the Company has had in the past five years, together with the date of the relevant change.

(c) Set forth in Schedule 1(c) is a list of all other names used by the Company, or any other business or organization to which the Company became the successor by merger, consolidation, acquisition, change in form, nature or jurisdiction of organization or otherwise, on any filings with the Internal Revenue Service at any time within the five years preceding the date hereof. Except as set forth in Schedule 1(c), the Company has not changed its jurisdiction of organization at any time during the past four months.

2. Current Locations. The chief executive office of the Company is located at the address set forth in Schedule 2 hereto.

3. Extraordinary Transactions. Except for those purchases, acquisitions and other transactions described in Schedule 3 attached hereto, all of the Collateral owned by the Company has been originated by the Company in the ordinary course of business or consists of goods which have been acquired by the Company in the ordinary course of business from a person in the business of selling goods of that kind.

4 . File Search Reports Attached hereto as **Schedule 4** is a true and accurate summary of file search reports from the Uniform Commercial Code filing offices (i) in each jurisdiction identified in Section 1(a) or Section 2 with respect to each legal name set forth in Section 1 and (ii) in each jurisdiction described in **Schedule 1(c)** or **Schedule 3** relating to any of the transactions described in **Schedule 1(c)** or **Schedule 3** with respect to each legal name of the person or entity from which the Company purchased or otherwise acquired any of the Collateral. A true copy of each financing statement, including judgment and tax liens, bankruptcy and pending lawsuits or other filing identified in such file search reports has been delivered to the Collateral Agent.

5. UCC Filings. The financing statements (duly authorized by the Company constituting the debtor therein), including the indications of the collateral, attached as **Schedule 5** relating to the Collateral Agreement, are in the appropriate forms for filing in the filing offices in the jurisdictions identified in **Schedule 6** hereof.

6. Schedule of Filings. Attached hereto as **Schedule 6** is a schedule of (i) the appropriate filing offices for the financing statements attached hereto as **Schedule 5**, (ii) the appropriate filing offices for the filings described in **Schedule 11(c)**, and (iii) any other actions required to create, preserve, protect and perfect the security interests in the Collateral owned by the Company granted to the Collateral Agent pursuant to the Security Documents. No other filings or actions are required to create, preserve, protect and perfect the security interests in the Collateral owned by the Company granted to the Collateral Agent pursuant to the Security Documents.

7 . Real Property. (a) Attached hereto as **Schedule 7(a)** is a list of all (i) real property owned, leased or otherwise held by the Company located in the United States as of the Closing Date, (ii) real property to be encumbered by a Mortgage and fixture filing, which real property includes all real property owned, leased or otherwise held by the Company as of the Closing Date having a value in excess of \$2,000,000 (such real property, the "Mortgaged Property"), (iii) common names, addresses and uses of each Mortgaged Property (stating improvements located thereon) and (iv) other information relating thereto required by such Schedule. Except as described in **Schedule 7(b)** attached hereto: (i) the Company has not entered into any leases, subleases, tenancies, franchise agreements, licenses or other occupancy arrangements as owner, lessor, sublessor, licensor, franchisor or grantor with respect to any of the real property described in **Schedule 7(a)** and (ii) the Company has no Leases which require the consent of the landlord, tenant or other party thereto to the borrowing of the Loans. The Mortgages delivered as of the date hereof are in the appropriate form for filing in the filing offices in the jurisdictions identified in **Schedule 6**.

8. [Reserved.]

9 . Stock Ownership and Other Equity Interests. Attached hereto as **Schedule 9(a)** is a true and correct list of each of all of the authorized, and the issued and outstanding, stock, partnership interests, limited liability company membership interests or other equity interest of the Company and the record and beneficial owners of such stock, partnership interests, membership interests or other equity interests setting forth the percentage of such equity interests pledged under the Subsidiary Guarantor Pledge Agreement.

10. Instruments and Tangible Chattel Paper. Attached hereto as **Schedule 10** is a true and correct list of all promissory notes, instruments (other than checks to be deposited in the ordinary course of business), tangible chattel paper, electronic chattel paper and other evidence of indebtedness held by the Company as of the date hereof, including all intercompany notes between or among the Company or any of NCL's Subsidiaries, stating if such instruments, chattel paper or other evidence of indebtedness is pledged under the Collateral Agreement.

11. Intellectual Property. (a) Attached hereto as **Schedule 11(a)** is a schedule setting forth all of the Company's Patents and Trademarks (each as defined in the Collateral Agreement) applied for or registered with the United States Patent and Trademark Office, and all other Patents and Trademarks (each as defined in the Collateral Agreement), including the name of the registered owner or applicant and the registration, application, or publication number, as applicable, of each Patent or Trademark owned by the Company.

(b) Attached hereto as **Schedule 11(b)** is a schedule setting forth all of the Company's United States Copyrights (each as defined in the Collateral Agreement), and all other Copyrights, including the name of the registered owner and the registration number of each Copyright owned by the Company.

(c) Attached hereto as **Schedule 11(c)** is a schedule setting forth all Patent Licenses, Trademark Licenses and Copyright Licenses, whether or not recorded with the USPTO or USCO, as applicable, including, but not limited to, the relevant signatory parties to each license along with the date of execution thereof and, if applicable, a recordation number or other such evidence of recordation.

(d) Attached hereto as **Schedule 11(d)** in proper form for filing with the United States Patent and Trademark Office (the "USPTO") and United States Copyright Office (the "USCO") are the filings necessary to preserve, protect and perfect the security interests in the United States Trademarks, Trademark Licenses, Patents, Patent Licenses, Copyrights and Copyright Licenses set forth in **Schedule 11(a), Schedule 11(b), and Schedule 11(c)**, including duly signed copies of each of the Patent Security Agreement, Trademark Security Agreement and the Copyright Security Agreement, as applicable.

12. Commercial Tort Claims. Attached hereto as **Schedule 12** is a true and correct list of all Commercial Tort Claims (as defined in the Collateral Agreement) held by the Company, including a brief description thereof and stating if such commercial tort claims are required to be pledged under the Collateral Agreement.

13. Deposit Accounts, Securities Accounts and Commodity Accounts. No information is provided with respect to the Deposit Accounts, Securities Accounts and/or Commodity Account since they are not required to be subject to Collateral Agent's control pursuant to the Collateral Agreement.

14. Letter-of-Credit Rights. Attached hereto as **Schedule 14** is a true and correct list of all letters of credit issued in favor of the Company, as beneficiary thereunder, stating if letter-of-credit rights with respect to such letters of credit are required to be subject to a control arrangement pursuant to the Collateral Agreement.

15. Motor Vehicles. No information is provided with respect to the motor vehicles and other goods (covered by certificates of title or ownership) since they are not required to be pledged pursuant to the Collateral Agreement.

16. Insurance. Attached hereto as **Schedule 16** is a true and correct list of all general liability, vessel and property insurance policies of the Company.

17. Other Collateral. Attached hereto as **Schedule 17** is a true and correct list of all of the following types of collateral, if any, owned or held by the Company: (a) all agreements and contracts with any Governmental Authority and (b) all ships and boats vessels, stating in each case, if such types of collateral are required to be pledged pursuant to the Collateral Agreement or any other Security Document.

IN WITNESS WHEREOF, we have hereunto signed this Perfection Certificate as of this ____ day of _____, 2019.

[_____]

By:

Name:
Title:

[_____]

By:

Name:
Title:]

[Signature Page to Perfection Certificate]

Schedule 1(a)

Legal Names, Etc.

| Legal Name | Type of Entity | Registered Organization (Yes/No) | Organizational Number⁸ | Federal Taxpayer Identification Number | State of Formation |
|-------------------|-----------------------|---|--|---|---------------------------|
|-------------------|-----------------------|---|--|---|---------------------------|

⁸ If none, so state.

Schedule 1(b)

Prior Organizational Names

[]

Schedule 1(e)

Changes in Corporate Identity; Other Names

[]

Schedule 2

Chief Executive Offices

| <u>Company/Subsidiary</u> | <u>Address</u> | <u>Country</u> | <u>State</u> |
|----------------------------------|-----------------------|-----------------------|---------------------|
|----------------------------------|-----------------------|-----------------------|---------------------|

Schedule 3

Transactions Other Than in the Ordinary Course of Business

[]

Schedule 4

File Search Reports

See attached.

Schedule 5

Copy of Financing Statements To Be Filed

See attached.

Schedule 6

Filings/Filing Offices

| Type of Filing⁹ | Entity | Applicable Security Document | Jurisdictions |
|-----------------------------------|---------------|-------------------------------------|----------------------|
|-----------------------------------|---------------|-------------------------------------|----------------------|

⁹ UCC-1 financing statement, intellectual property filing or other necessary filing.

Schedule 7(a)

Real Property

[]

Schedule 7(b)

Real Property Leases

[]

Schedule 9

(a) Equity Interests of the Company

| Current Legal Entities Owned | Record Owner | Certificate No. | No. Shares/ Interest | Percent Pledged |
|---|---------------------|------------------------|---------------------------------|----------------------------|
|---|---------------------|------------------------|---------------------------------|----------------------------|

Schedule 10

Instruments and Tangible Chattel Paper

1. **Promissory Notes/Intercompany Notes:**

[]

2. **Chattel Paper:**

[]

Schedule 11(a)

Patents and Trademarks

UNITED STATES PATENTS:

[]

OTHER PATENTS:

[]

UNITED STATES TRADEMARKS:

[]

OTHER TRADEMARKS:

[]

Schedule 11(b)

Copyrights

[]

Schedule 11(c)

Intellectual Property Licenses

Patent Licenses:

[]

Trademark Licenses:

[]

Copyright Licenses:

[]

Schedule 11(d)

Intellectual Property Filings

[]

Schedule 12

Commercial Tort Claims

[]

Schedule 14

Letter of Credit Rights

[]

Schedule 16

**Vessel and Property
Insurance**

See attached.

Schedule 17

Other Collateral

(a) Agreements and Contracts with Governmental Authorities

[]

(b) Ships, Boats and Vessels

| Description | Pledged [Yes/No] |
|--------------------|-----------------------------|
|--------------------|-----------------------------|

[FORM OF]
PERMITTED LOAN PURCHASE ASSIGNMENT AND ACCEPTANCE

Reference is made to the Credit Agreement dated as of January 10, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), the Lenders party thereto from time to time, Nordea Bank Abp, New York Branch, as administrative agent (together with its successors and assigns, in such capacity, the "Administrative Agent") and as collateral agent and certain other parties thereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The Assignor identified on Schedule I hereto (the "Assignor") and the Borrower or Fund Affiliate identified on Schedule I hereto as "Assignee" (the "Assignee") agree as follows:

1. The Assignor hereby irrevocably sells and assigns to the Assignee without recourse to the Assignor, and the Assignee hereby irrevocably purchases and assumes from the Assignor without recourse to the Assignor, as of the Effective Date (as defined below) and pursuant to the terms and conditions set forth in the Credit Agreement for Permitted Loan Purchases (including, without limitation, Sections 10.04(i) and 10.04(j) thereof), the interest described in Schedule I hereto (the "Assigned Interest") in and to the Assignor's rights and obligations under the Credit Agreement with respect to those credit facilities contained in the Credit Agreement as are set forth on Schedule I hereto (individually, an "Assigned Facility"; collectively, the "Assigned Facilities"), in a principal amount for each Assigned Facility as set forth on Schedule I hereto.
 2. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Permitted Loan Purchase Assignment and Acceptance and to consummate the transactions contemplated hereby; (b) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or with respect to the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant thereto, other than that the Assignor has not created any adverse claim upon the interest being assigned by it hereunder and that such interest is free and clear of any such adverse claim; (c) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower, any of its Subsidiaries or any other obligor or the performance or observance by the Borrower, any of its Subsidiaries or any other obligor of any of its respective obligations under the Credit Agreement or any other Loan Document or any other instrument or document furnished pursuant hereto or thereto; and (d) attaches any Notes held by it evidencing the Assigned Facilities. To the extent the Assignor has retained any interest in the Assigned Facility and holds a Note evidencing such interest, the Assignor hereby requests that the Administrative Agent exchange the attached Notes for a new Note or Notes payable to the Assignor, in each case in amounts which reflect the assignment being made hereby (and after giving effect to any other assignments which have become effective on the Effective Date).
-

3. The Assignee (a) represents and warrants that it is legally authorized to enter into this Permitted Loan Purchase Assignment and Acceptance and has taken all action necessary to execute and deliver this Permitted Loan Purchase Assignment and Acceptance and to consummate the transaction contemplated hereby; and (b) represents and warrants that it satisfied the requirements, if any, specified in the Credit Agreement that are required to be satisfied in order to make a Permitted Loan Purchase of the Assigned Interest.

4. The effective date of this Permitted Loan Purchase Assignment and Acceptance shall be the Effective Date of Assignment described in Schedule 1 hereto (the "Effective Date"). Following the execution of this Permitted Loan Purchase Assignment and Acceptance, the Assigned Interest shall be deemed to be automatically and immediately (contributed to the Borrower, if applicable, and) cancelled and extinguished. The Administrative Agent shall update the Register, effective as of the Effective Date, to record such event as if it were a prepayment of such Assigned Interest pursuant to Section 10.04(j) of the Credit Agreement.

5. Upon such acceptance and recording, from and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued prior to the Effective Date. No payments in respect of the Assigned Interest (which shall be deemed to have been cancelled and extinguished as of the Effective Date) shall be due to the Assignor or the Assignee from and after the Effective Date.

6. As of the Effective Date, the Assignor shall, to the extent provided in this Permitted Loan Purchase Assignment and Acceptance, relinquish its rights and be released from its obligations under the Credit Agreement.

7. This Permitted Loan Purchase Assignment and Acceptance shall be binding upon, and inure to the benefit of the parties hereto and their respective successors and assigns. This Permitted Loan Purchase Assignment and Acceptance may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Permitted Loan Purchase Assignment and Acceptance by telecopy shall be effective as delivery of a manually executed counterpart of this Permitted Loan Purchase Assignment and Acceptance.

8. This Permitted Loan Purchase Assignment and Acceptance shall be governed by and construed in accordance with the laws of the State of New York.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Permitted Loan Purchase Assignment and Acceptance to be executed as of the date first above written by their respective duly authorized officers on Schedule 1 hereto.

[NAME OF ASSIGNOR]

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signature Page to Permitted Loan Purchase Assignment and Acceptance]

Accepted and Consented To:

NORDEA BANK ABP, NEW YORK BRANCH,
as Administrative Agent

By:

Name:
Title:

[Signature Page to Permitted Loan Purchase Assignment and Acceptance]

Schedule 1
to Permitted Loan Purchase Assignment and Acceptance

Name of Assignor: _____

Name of Assignee: _____

Effective Date of Assignment: _____

| Principal Amount Assigned of the Term Facility | Percentage of Loan/Commitment Assigned¹ |
|---|---|
| \$ _____ | ____._____% |

1 Calculate the Loan/Commitment Percentage that is assigned to at least 15 decimal places and show as a percentage of the aggregate Term Loans of all the Lenders, or the aggregate Commitments of all the Lenders in respect of Term Loans, as applicable.

FORM OF NON-BANK TAX CERTIFICATE
(For Foreign Lenders That Are Not Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement dated as of January 10, 2019 (as amended, supplemented or otherwise modified from time to time) (the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), each lender from time to time party thereto (collectively, the "Lenders"), and Nordea Bank Abp, New York Branch as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (v) no payments in connection with any Loan Document are effectively connected with the undersigned's conduct of a U.S. trade or business.

The undersigned has furnished the Administrative Agent with a certificate of its non-U.S. person status on IRS Form W-8BEN or W-8BEN-E, as appropriate. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent in writing and (2) the undersigned shall furnish the Borrower and the Administrative Agent a properly completed and currently effective certificate in either the calendar year in which payment is to be made by the Borrower or the Administrative Agent to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Lender]

By: _____
Name:
Title:

[Address]

Dated: _____, 20[]

FORM OF NON-BANK TAX CERTIFICATE
(For Foreign Lenders That Are Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement dated as of January 10, 2019 (as amended, supplemented or otherwise modified from time to time) (the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), each lender from time to time party thereto (collectively, the "Lenders"), and Nordea Bank Abp, New York Branch as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) neither the undersigned nor any of its partners/members is a bank within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) no payments in connection with any Loan Document are effectively connected with the undersigned's or its partners/members' conduct of a U.S. trade or business.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as appropriate, or (ii) and IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as appropriate, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent in writing and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Lender]

By: _____
Name:
Title:

[Address]

Dated: _____, 20[]

FORM OF NON-BANK TAX CERTIFICATE
(For Foreign Participants That Are Not Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement dated as of January 10, 2019 (as amended, supplemented or otherwise modified from time to time) (the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), each lender from time to time party thereto (collectively, the "Lenders"), and Nordea Bank Abp, New York Branch as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(e) and Section 10.04(d) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (v) no payments in connection with any Loan Document are effectively connected with the undersigned's conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. person status on IRS Form W-8BEN or W-8BEN-E, as appropriate. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Participant]

By: _____
Name:
Title:

[Address]

Dated: _____, 20[]

FORM OF NON-BANK TAX CERTIFICATE
(For Foreign Participants That Are Treated As Partnerships For
U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement dated as of January 10, 2019 (as amended, supplemented or otherwise modified from time to time) (the "Credit Agreement"), among NCL Corporation Ltd., a Bermuda company (the "Borrower"), each lender from time to time party thereto (collectively, the "Lenders"), and Nordea Bank Abp, New York Branch as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Pursuant to the provisions of Section 2.17(e) and Section 10.04(d) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such participation, (iii) neither the undersigned nor any of its partners/members is a bank within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) no payments in connection with any Loan Document are effectively connected with the undersigned's or its partners/members' conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as appropriate, or (ii) and IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as appropriate, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding each such payment.

[Signature Page Follows]

[Foreign Participant]

By: _____
Name:
Title:

[Address]

Dated: _____, 20[]

SCHEDULE 1.01(a)
IMMATERIAL SUBSIDIARIES

None.

**SCHEDULE 2.01
COMMITMENTS**

| Lender | Delayed Draw Term Loan Commitment |
|---|--|
| NORDEA BANK ABP, NEW YORK BRANCH | \$ [*] |
| MIZUHO BANK, LTD. | \$ [*] |
| MUFG BANK, LTD. | \$ [*] |
| SKANDINAVISKA ENSKILDA BANKEN AB (PUBL) | \$ [*] |
| Total | \$ 230,000,000.00 |

**SCHEDULE 3.01
ORGANIZATION AND GOOD STANDING**

None.

**SCHEDULE 3.04
GOVERNMENTAL APPROVALS**

None.

SCHEDULE 3.07(b)
POSSESSION UNDER LEASES

None.

**SCHEDULE 3.07(c)
INTELLECTUAL PROPERTY**

None.

**SCHEDULE 3.08(a)
SUBSIDIARIES**

| Name | Jurisdiction of Organization | Owner | Percentage |
|---|-------------------------------------|---|-------------------|
| NCL Corporation, Ltd. | Bermuda | Norwegian Cruise Line Holdings Ltd. | 100% |
| Arrasas Limited | Isle of Man | NCL Corporation Ltd. | 100% |
| NCL International, Ltd. | The Islands of Bermuda | Arrasas Limited | 100% |
| Pride of Hawaii, LLC | Delaware | Arrasas Limited | 100% |
| NCL America Holdings, LLC | Delaware | Norwegian Sextant Ltd | 100% |
| NCL America LLC | Delaware | NCL America Holdings, LLC | 100% |
| Pride of America Ship Holding, LLC | Delaware | NCL America Holdings, LLC | 100% |
| NCLC Investments Canada Ltd. | British Columbia, Canada | NCL Corporation Ltd. | 100% |
| NCL Australia Pty Ltd | Australia | NCL Corporation Ltd. | 100% |
| NCL Singapore Pte. Ltd. | Singapore | NCL Corporation Ltd. | 100% |
| NCL Japan KK | Japan | NCL Corporation Ltd. | 100% |
| NCL Hong Kong Limited | Hong Kong | NCL Corporation Ltd. | 100% |
| Norwegian Cruise Co. Inc. | Delaware | NCL Corporation Ltd. | 100% |
| Norwegian Compass Ltd. | United Kingdom | NCL Corporation Ltd. | 100% |
| Norwegian Sextant Ltd | United Kingdom | Norwegian Cruise Co. Inc. | 100% |
| Norwegian Cruise Line India Private Limited | India | NCL Singapore Pte. Ltd., NCL International, Ltd. | 99.999% 0.001% |
| NCL (Bahamas) Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Breakaway One, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Breakaway Two, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Breakaway Three, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |

| Name | Jurisdiction of Organization | Owner | Percentage |
|-------------------------|-------------------------------------|-------------------------|-------------------|
| Breakaway Four, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Epic, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Jewel Limited | Isle of Man | NCL International, Ltd. | 100% |
| Norwegian Gem, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Pearl, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Spirit, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Star Limited | Isle of Man | NCL International, Ltd. | 100% |
| Norwegian Dawn Limited | Isle of Man | NCL International, Ltd. | 100% |
| Norwegian Sun Limited | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian Sky, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Norwegian USCRA, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo One, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Two, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Three, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Four, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Five, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Leonardo Six, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Seahawk One, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Seahawk Two, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |

| Name | Jurisdiction of Organization | Owner | Percentage |
|--|-------------------------------------|--|-------------------|
| Sixthman Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Eurosoft Corporation Limited | United Kingdom | NCL International, Ltd. | 100% |
| Bermuda Tenders, Ltd. | The Islands of Bermuda | NCL International, Ltd. | 100% |
| Eurosoft Cruise Line (Shanghai) Co., Ltd. | China | Eurosoft Corporation Limited | 100% |
| Cruise Quality Travel Spain SL | Spain | NCL (Bahamas) Ltd. | 100% |
| NCL (Guernsey) Limited | Guernsey | NCL (Bahamas) Ltd. | 100% |
| NCL Construction Corp., Ltd. | The Islands of Bermuda | NCL (Bahamas) Ltd. | 100% |
| NCLM Limited | Malta | NCL (Guernsey) Limited | 100% |
| Norwegian Cruise Line Agência de Viagens Ltda. | Brazil | NCL (Bahamas) Ltd., NCL International, Ltd. | 90%, 10% |
| Future Investments, Ltd. | The Islands of Bermuda | Arrasas Limited | 100% |
| Belize Investments Limited | St. Lucia | Future Investments, Ltd. | 100% |
| Krystalsea Limited | British Virgin Islands | Belize Investments Limited | 100% |
| Belize Island Holdings Ltd. | Belize | Belize Investments Limited, Future Investments, Ltd. | 99.99%, 0.01% |
| Prestige Cruises International S. de R.L. | Panama | NCL Corporation Ltd. Norwegian Cruise Lines Holdings Ltd. | 99.99%, 0.01% |
| Prestige Cruise Holdings S. de R.L. | Panama | Prestige Cruises International S. de R.L. NCL Corporation Ltd. | 99.99%, 0.01% |
| Oceania Cruises S. de R.L. | Panama | Prestige Cruise Holdings S. de R.L. Prestige Cruises International S. de R.L. | 99.99%, 0.01% |

| Name | Jurisdiction of Organization | Owner | Percentage |
|---|-------------------------------------|--|-------------------|
| Classic Cruises, LLC | Delaware | Prestige Cruise Holdings S. de R.L. | 100% |
| Classic Cruises II, LLC | Delaware | Prestige Cruise Holdings S. de R.L. | 100% |
| Insignia Vessel Acquisition, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Marina New Build, LLC | Marshall Islands | Oceania Cruises S. de R.L. | 100% |
| Nautica Acquisition, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Regatta Acquisition, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Riviera New Build, LLC | Marshall Islands | Oceania Cruises S. de R.L. | 100% |
| Sirena Acquisition | Cayman Islands | Oceania Cruises S. de R.L. | 100% |
| OCI Finance Corp | Delaware | Oceania Cruises S. de R.L. | 100% |
| Prestige Cruise Services, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Prestige Cruises Air Services, Inc. | Florida | Oceania Cruises S. de R.L. | 100% |
| O Class Plus One, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| O Class Plus Two, LLC | Delaware | Oceania Cruises S. de R.L. | 100% |
| Seven Seas Cruises S. de R.L. | Panama | Classic Cruises, LLC, Classic Cruises II, LLC | 50%, 50% |
| Explorer New Build, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Explorer II New Build, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Explorer III New Build, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| SSC Finance Corp | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Mariner, LLC | Marshall Islands | Seven Seas Cruises S. de R.L. | 100% |
| Navigator Vessel Company, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Voyager Vessel Company, LLC | Delaware | Seven Seas Cruises S. de R.L. | 100% |
| Prestige Cruise Services (Europe) Limited | United Kingdom | Seven Seas Cruises S. de R.L. | 100% |

**SCHEDULE 3.08(b)
SUBSCRIPTIONS**

None.

**SCHEDULE 3.17
FILINGS/FILING OFFICES**

| Type of Filing | Entity | Applicable Security Document [Guarantee and Collateral Agreement or Other] | Jurisdictions |
|-------------------------------|------------------------------------|---|--------------------------------------|
| UCC-1 | Pride of America Ship Holding, LLC | Guarantee and Collateral Agreement | Delaware |
| First Preferred Ship Mortgage | Pride of America Ship Holding, LLC | First Preferred Ship Mortgage | National Vessel Documentation Center |

SCHEDULE 3.20
INSURANCE

1. Marine Hull and Machinery, Hull and Freight Interests, War Risk Hull and War Risk Protection and Indemnity insurance covering the Mortgaged Vessel, as more fully described in Certificate to the Letter of Undertaking issued by [*], dated on or about the Closing Date and delivered to the Collateral Agent, which is incorporated herein by reference.
 2. Protection and Indemnity insurance covering the Mortgaged Vessel, as more fully described in the Letters of Undertaking issued by [*] dated on or about the Closing Date and delivered to the Collateral Agent, which is incorporated herein by reference.
-

SCHEDULE 4.02(b)
LOCAL COUNSEL

1. Clyde & Co LLP and Clyde & Co US LLP, Maritime counsel to the Loan Parties.
 2. Walkers Bermuda, Bermuda counsel to the Loan Parties.
-

**SCHEDULE 6.01
INDEBTEDNESS**

1. Indenture dated December 14, 2016 between NCL Corporation Ltd. as Issuer and U.S. Bank National Association as Trustee with respect to 4.75% Senior Notes due 2021.
 2. Credit Agreement dated November 18, 2010 and as amended and/or amended and restated by a first amendment dated May 31, 2012, among Breakaway One, Ltd. as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH as facility agent and collateral agent and the other agents and parties named therein.
 3. Credit Agreement dated November 18, 2010 and as amended and/or amended and restated by a first amendment dated December 21, 2010 and a second amendment dated May 31, 2012, among Breakaway Two, Ltd. as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH as facility agent and collateral agent and the other agents and parties named therein.
 4. Credit Agreement dated October 12, 2012 among Breakaway Three, Ltd. as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH as facility agent, collateral agent and Hermes agent and the other agents and parties named therein.
 5. Credit Agreement dated October 12, 2012 and as amended and/or amended and restated by the Supplemental Agreement to the Credit Agreement dated July 26, 2016, among Breakaway Four, Ltd. as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH as facility agent, collateral agent and Hermes agent and the other agents and parties named therein.
 6. Credit Agreement dated July 14, 2014 and as amended and/or amended and restated by the Supplemental Agreement to the Credit Agreement dated December 22, 2015, among Seahawk One Ltd., as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH, as facility agent, collateral agent and Hermes agent, and the other agents and parties named therein.
 7. Credit Agreement dated July 14, 2014 and as amended and/or amended and restated by the Supplemental Agreement to the Credit Agreement dated December 22, 2015, among Seahawk Two Ltd., as Borrower, NCL Corporation Ltd., various lenders, KfW IPEX-Bank GmbH, as facility agent, collateral agent and Hermes agent, and the other agents and parties named therein.
 8. Facility Agreement dated July 18, 2008 and as amended and/or amended and restated by a supplemental agreement dated October 25, 2010 and the Amendment and Restatement Agreement dated October 31, 2014, among Marina New Build, LLC as Borrower, NCL Corporation Ltd., various lenders, Crédit Agricole Corporate and Investment Bank as agent and SACE agent and the other agents and parties named therein.
-

9. Facility Agreement dated July 18, 2008 and as amended and/or amended and restated by a supplemental agreement dated October 25, 2010 and the Amendment and Restatement Agreement dated October 31, 2014, among Riviera New Build, LLC as Borrower, NCL Corporation Ltd., various lenders, Crédit Agricole Corporate and Investment Bank as agent and SACE agent and the other agents and parties named therein.
 10. Facility Agreement dated July 31, 2013 and as amended and/or amended and restated by the Amendment and Restatement Agreement dated October 31, 2014, among Explorer New Build, LLC as Borrower, NCL Corporation Ltd., various lenders, Crédit Agricole Corporate and Investment Bank as agent, SACE agent and security trustee and the other agents and parties named therein.
 11. Loan Agreement dated September 22, 2006 and as amended and/or amended and restated by the Supplemental Deed dated June 1, 2012 and the amendment letter dated November 27, 2015, among Norwegian Epic, Ltd. as Borrower, NCL Corporation Ltd., BNP Paribas, as the agent and BNP Paribas, Crédit Agricole Corporate and Investment Bank, HSBC France and Société Générale, as mandated lead arrangers and lenders.
 12. Loan Agreement dated March 30, 2016, among Explorer II New Build, LLC as Borrower, various lenders, Crédit Agricole Corporate and Investment Bank as agent, SACE agent and security trustee and the other agents and parties named therein.
 13. Loan Agreement dated April 12, 2017, and as amended and restated on 21 November, 2017, among Leonardo One, Ltd. as Borrower, various lenders, Crédit Agricole Corporate and Investment Bank as agent, SACE agent and security trustee and the other agents and parties named therein, as guaranteed by NCL Corporation Ltd.
 14. Loan Agreement dated April 12, 2017, and as amended and restated on 21 November, 2017, among Leonardo Two, Ltd. as Borrower, various lenders, Crédit Agricole Corporate and Investment Bank as agent, SACE agent and security trustee and the other agents and parties named therein, as guaranteed by NCL Corporation Ltd.
 15. Loan Agreement dated April 12, 2017, and as amended and restated on 21 November, 2017, among Leonardo Three, Ltd. as Borrower, various lenders, BNP Paribas S.A. as agent, SACE agent and security trustee and the other agents and parties named therein, as guaranteed by NCL Corporation Ltd.
 16. Loan Agreement dated April 12, 2017, and as amended and restated on 21 November, 2017, among Leonardo Four, Ltd. as Borrower, various lenders, BNP Paribas S.A. as agent, SACE agent and security trustee and the other agents and parties named therein, as guaranteed by NCL Corporation Ltd.
 17. Fourth Amended and Restated Credit Agreement dated January 2nd, 2019, among NCL Corporation Ltd. and Voyager Vessel Company, LLC as Co-Borrowers, various lenders, JP Morgan Chase Bank N.A. as administrative agent and collateral agent, and the other parties named therein.
-

SCHEDULE 6.02(b)
LIENS

None.

**SCHEDULE 6.04
INVESTMENTS**

None.

**SCHEDULE 6.07
TRANSACTIONS WITH AFFILIATES**

None.

SCHEDULE 6.09
CONTRACTUAL ENCUMBRANCES

1. The Indebtedness set forth on Schedule 6.01 hereof.
-

**SCHEDULE 10.01
NOTICE INFORMATION**

Loan Parties' Address:

7665 Corporate Center Drive
Miami, Florida 33126
United States of America
Attn: Mark Kempa
Tel. No.: (305) 436-4932
Fax No.: (305) 436-4140
Email: mkempa@nclcorp.com

and

Attn: Daniel Farkas
Tel. No.: (305) 436-4690
Fax No.: (305) 436-4117
Email: dfarkas@ncl.com

With copies to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York NY 10019-6064
Attn: Brad Finkelstein
Tel No: (212) 373-3074
Fax No: (212) 492-0074
Email: bfinkelstein@paulweiss.com

Administrative and Collateral Agent's Address:

Nordea Bank Abp, New York Branch
1211 Avenue of the Americas
23rd Floor New York, NY 10036
Email: agency.soosid@nordea.com

For billing/funding notices:

Racquel Breg
Nordea Bank Abp, New York Branch
1211 Avenue of the Americas
23rd Floor New York, NY 10036
Phone 212-318-9582
Fax 212-750-9188
DLNY-NY-CADLoan@nordea.com

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution Version

DATED 19 December 2018

EXPLORER III NEW BUILD, LLC
as Borrower

and

**THE BANKS AND FINANCIAL INSTITUTIONS
LISTED IN SCHEDULE 1**
as Lenders

and

**CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
BNP PARIBAS FORTIS S.A./N.V.
HSBC BANK PLC
KFW IPEX-BANK GMBH
CASSA DEPOSITI E PRESTITI S.P.A.
BANCO SANTANDER, S.A.
SOCIÉTÉ GÉNÉRALE**
as Joint Mandated Lead Arrangers

and

BNP PARIBAS
as Facility Agent

and

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK
as SACE Agent

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
as Security Trustee

with the support of

SACE S.P.A.

LOAN AGREEMENT

relating to
the part financing of the 740 passenger cruise ship
newbuilding presently designated as
Hull No. [*] at Fincantieri S.p.A.

**WATSON FARLEY
&
WILLIAMS**

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THIS AGREEMENT is made on 19 December 2018.

PARTIES

- (1) **EXPLORER III NEW BUILD, LLC**, a limited liability company formed in the state of Delaware, United States of America whose registered office is at c/o Corporate Creations Network Inc., 3411 Silverside Road, Tatnall Building 104, Wilmington, DE 19810 as borrower (the "**Borrower**")
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1 (*Lenders and Commitments*) as lenders (the "**Lenders**")
- (3) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK, BNP PARIBAS FORTIS S.A./N.V., KFW IPEX-BANK GMBH, HSBC BANK PLC, CASSA DEPOSITI E PRESTITI S.P.A., SOCIÉTÉ GÉNÉRALE and BANCO SANTANDER S.A.** as joint mandated lead arrangers (the "**Joint Mandated Lead Arrangers**")
- (4) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK**, as SACE agent (the "**SACE Agent**")
- (5) **BNP PARIBAS**, as facility agent (the "**Facility Agent**")
- (6) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, as security trustee (the "**Security Trustee**")

BACKGROUND

- (A) By a shipbuilding contract dated as of 25 May 2018 (as amended or supplemented from time to time, the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A., a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) the Borrower, the Builder agreed to design, construct and deliver, and the Borrower agreed to purchase, a 740 - passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on or about [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
 - (B) The total price payable by the Borrower to the Builder under the Shipbuilding Contract is four hundred seventy-three million five hundred thousand Euros (€473,500,000) (the "**Initial Contract Price**"). The Initial Contract Price is payable on the following terms and:
 - (i) as to [*], being [*], by an initial payment which is to be within 5 Business Days after the effective date of the Shipbuilding Contract in accordance with Article 10.1(A) of the Shipbuilding Contract ("**First Shipbuilding Contract Instalment**");
 - (ii) as to [*], being [*], on the later of the date of commencement of steel cutting and the date falling 36 months prior to the Intended Delivery Date;
 - (iii) as to [*], being [*], on the later of keel laying in dry-dock and the date falling 24 months prior to the Intended Delivery Date;
 - (iv) as to [*], being [*], on the later of launching and the date falling 12 months prior to the Intended Delivery Date; and
 - (v) as to [*], being [*], on delivery of the Ship on the Delivery Date,
-

as each such event is described in the Shipbuilding Contract.

- (C) The Initial Contract Price may be decreased at delivery of the Ship under Articles 13, 14, 16, 17, 19 and 20 of the Shipbuilding Contract (in aggregate the **Liquidated Damages**) or by mutual agreement between the parties (the Initial Contract Price adjusted as aforesaid being the **Final Contract Price**). For the avoidance of doubt, under the Shipbuilding Contract the price of the Ship may be increased or decreased pursuant to Article 24 thereof but, for the purposes of this Agreement, the Final Contract Price will not include any increase in the price under Article 24.
- (D) The Lenders have agreed to make available to the Borrower a Dollar loan facility for the purpose of assisting the Borrower in financing, subject to exchange rate fluctuations, up to eighty per cent. (80%) of the Final Contract Price (and subject to an aggregate amount no greater than the Eligible Amount) and one hundred per cent. (100%) of the SACE Premium.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Definitions

Subject to Clause 1.5 (*General Interpretation*), in this Agreement:

"**Affected Lender**" has the meaning given in Clause 6.6 (*Unavailability of Screen Rate*).

"**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.

"**Annex VI**" means Annex VI (Regulations for the Prevention of Air Pollution from Ships, entered into on 19 May, 2005) to the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 (MARPOL) and as further revised in October 2008 with such revised version having entered into force on 1 July 2010.

"**Approved Broker**" means Clarkson plc, Barry Rogliano Salles, Fearnleys, Rocca & Partners, Brax Shipbrokers AS (or any Affiliate of such person through which valuations are commonly issued) or such other shipbroker or ship valuer experienced in valuing cruise ships nominated by the Borrower and approved by the Facility Agent.

"**Approved Flag**" means the Bermuda flag, the Marshall Islands flag, the Bahamas flag or such other flag as the Facility Agent may, with the approval of the Italian Authorities and at least four Lenders representing as a minimum the Majority Lenders, approve from time to time.

"**Approved Manager**" means any of the Borrower, NCL Corporation Ltd., NCL (Bahamas) Ltd., the Member as bareboat charterer or other member of the Group, or any company which is not a member of the Group which the Facility Agent may, with the authorisation of the Majority Lenders, approve from time to time as manager of the Ship.

"**Approved Manager's Undertaking**" means, in the event that the Approved Manager is a company other than the Borrower or the Member as bareboat charterer, a letter of undertaking executed or to be executed by the Approved Manager in favour of the Facility Agent, which will include, without limitation, an agreement by the Approved Manager to subordinate its rights against the Ship and the Borrower to the rights of the Secured Parties under the Finance Documents, in the agreed form.

"**Availability Period**" means the period commencing on the Effective Date and ending on:

- (a) the earlier to occur of (i) the Delivery Date and (ii) 27 June 2024 (or such later date as the Facility Agent may, with the authorisation of the Lenders, agree with the Borrower); or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated.

"**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.

"**Bareboat Charter**" means the bareboat charter of the Ship by the Borrower as owner to the Member as bareboat charterer which shall be entered into no later than the Delivery Date in a form of draft approved by the Facility Agent before the date of this Agreement with such reasonable changes thereto as the Facility Agent may approve from time to time.

"**Base Rate**" means one Euro for[*] Dollars.

"**Builder**" has the meaning given in Recital (A).

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open in New York, Milan, Frankfurt, Brussels, Madrid, Paris, Rome and London; and

"**CDP**" means Cassa Depositi e Prestiti S.p.A.

"**Certified Copy**" means in relation to any document delivered or issued by or on behalf of any company, a copy of such document certified as a true, complete and up-to-date copy of the original by any of the directors or the secretary or assistant secretary or any attorney-in-fact for the time being of that company or, in the case of the Borrower, the sole manager of the Borrower.

"**Charged Property**" means all of the assets which from time to time are, or are expressed to be, the subject of Security Interests pursuant to the Finance Documents.

"**CIRR**" means, in relation to the Loan, the applicable Commercial Interest Reference Rate determined in accordance with the OECD Arrangement on Guidelines for Officially Supported Export Credits, to be notified by SIMEST to the Facility Agent (through the SACE Agent) and expected to be three point thirty two per cent. (3.32%) per annum.

"**CIRR Break Costs**" means, in respect of the Loan, all the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the relevant Interest Make-up Agreement, including without limitation, as a result of any prepayment of all or any part of the Loan under this Agreement (whether voluntary, following acceleration of the Loan or otherwise), as a result of an Interest Make-up Event and/or as a result of the Borrower deciding to switch from the Fixed Interest Rate to another interest rate after the Drawdown Date. Such amounts include, without limitation, (i) breakage costs calculated on the basis of the net present value referred to in the relevant Interest Make-up Agreement, (ii) any amount due as a consequence of the close-out of any hedging arrangement entered into by SIMEST in relation to this Agreement, (iii) default interest and penalties (*maggiorazioni*) whenever applicable, and (iv) all amounts (if any) to be returned by the SACE Agent or the Facility Agent (as applicable) to SIMEST under and pursuant to the Interest Make-up Agreement.

"**Code**" means the United States Internal Revenue Code of 1986.

"**Code of Ethics**" means the code of ethics adopted by CDP, available on CDP's website (http://www.cdp.it/static/upload/cdp/cdp_code_ethics.pdf).

"**Commitment**" means, in relation to a Lender, the amount equal to the percentage of the Maximum Loan Amount set opposite its name in Schedule 1 (*Lenders and Commitments*), or, as the case may require, the amount specified in the relevant Transfer Certificate, in each case as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and "**Total Commitments**" means the aggregate of the Commitments of all the Lenders).

"**Common Units**" means all membership interests held at any time during the term of the limited liability company agreement of the Borrower by the Member, including, without limitation, the Member's (i) right to a distributive share of the income, gain, losses and deductions of the Borrower in accordance with the limited liability company agreement, (ii) the right to a distributive share of the Borrower's assets, and (iii) any securities issued in respect of or in exchange for common units, whether by way of dividend or other distribution, split reverse split, recapitalization, merger, rollup transaction, consolidation conversion or reorganization.

"**Compliance Certificate**" has the meaning given to the term "Compliance Certificate" in the Guarantee.

"**Confidential Information**" means all information relating to any Obligor, the Group, the Finance Documents or the Loan of which a Creditor Party becomes aware in its capacity as, or for the purpose of becoming, a Creditor Party or which is received by a Creditor Party from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Creditor Party, if the information was obtained by that Creditor Party directly or indirectly from any member of the Group or any of its advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Creditor Party of Clause 33 *Confidentiality*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (iii) is known by that Creditor Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Creditor Party after that date, from a source which is, as far as that Creditor Party is aware, unconnected with the Group and which, in either case, as far as that Creditor Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or
- (iv) any Reference Bank Quotation.

"**Confidentiality Undertaking**" means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrower and the Facility Agent.

"**Contribution**" means, in relation to a Lender, the amount of the Loan which is owing to that Lender.

"**Conversion Rate**" means the rate determined by the Facility Agent on the Conversion Rate Fixing Date and notified to the Borrower as being the lower of:

- (a) the Base Rate; or
- (b) the FOREX Contracts Weighted Average Rate.

"**Conversion Rate Fixing Date**" means the date falling [*] days before the Intended Delivery Date.

"**Corresponding Debt**" means any amount, other than any Parallel Debt, which an Obligor owes to a Creditor Party under or in connection with the Finance Documents.

"**Creditor Party**" means the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender, whether as at the date of this Agreement or at any later time.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee

"**Delivery Date**" means the date and time of delivery of the Ship by the Builder to the Borrower as stated in the Protocol of Delivery and Acceptance.

"**Document of Compliance**" has the meaning given to it in the ISM Code.

"**Dollar Equivalent**" means such amount in Dollars as is calculated by the Facility Agent on the Conversion Rate Fixing Date to be the equivalent of an amount in Euro at the Conversion Rate.

"**Dollars**", "**\$**" and "**USD**" means the lawful currency for the time being of the United States of America.

"**Drawdown Date**" means the date on which the Loan is drawn down and applied in accordance with Clause 2 *(Facility)*.

"**Drawdown Notice**" means a notice in the form set out in Schedule 2 *(Form of Drawdown Notice)* (or in any other form which the Facility Agent approves or reasonably requires).

"**Earnings**" means all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower, by the Member as bareboat charterer and which arise out of the use or operation of the Ship, including (but not limited to):

- (a) all freight, hire, fare and passage moneys, compensation payable to the Borrower, the Facility Agent or the Security Trustee (as the case may be) in the event of requisition of the Ship for hire, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of the Ship;
- (b) all moneys which are at any time payable under Insurances in respect of loss of earnings;
- (c) all moneys which are at any time payable to the Borrower in respect of the general average contribution; and
- (d) if and whenever the Ship is employed on terms whereby any moneys falling within paragraphs (a) or (b) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Ship.

"**EEA Member Country**" means any member state of the European Union, Iceland, Liechtenstein and Norway.

"**Effective Date**" means the earlier of:

- (a) the Guarantor providing the Facility Agent with written notice stating that this Agreement and the other Finance Documents signed on or about the date hereof have become effective; and
- (b) 16.00 Central European time on 31 January 2019.

"**Eligible Amount**" means eighty per cent. (80%) of the lesser of:

- (a) the Dollar Equivalent of four hundred seventy-three million five hundred thousand Euros (€473,500,000); and
- (b) the Dollar Equivalent of the Final Contract Price.

"Environmental Approval" means any present or future permit, ruling, variance or other authorisation required under Environmental Laws.

"Environmental Claim" means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, "claim" includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

"Environmental Incident" means:

- (a) any release, emission, spill or discharge into the Ship or into or upon the air, sea, land or soils (including the seabed) or surface water of Environmentally Sensitive Material within or from the Ship; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or potentially liable to be arrested, attached, detained or enjoined and/or the Ship and/or any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water otherwise than from the Ship and in connection with which the Ship is actually or potentially liable to be arrested and/or where any Obligor and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

"Environmental Law" means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

"Environmentally Sensitive Material" means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

"Equator Principles" means the standards entitled "A financial industry benchmark for determining, assessing and managing environmental and social risk in projects" dated June 2013 and adopted by certain financial institutions, as the same may be amended or supplemented from time to time.

"**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.

"**EU Blocking Regulation**" means EU Regulation (EC) 2271/96 of 22 November 1996.

"**Euro**", "**Euros**" and "**EUR**" means the single currency of the Participating Member States.

"**Event of Default**" means any of the events or circumstances described in Clause 18.1 (*Events of Default*).

"**Existing Indebtedness**" means Financial Indebtedness referred to in the financial statements of the Guarantor delivered to the Facility Agent prior to the date of this Agreement.

"**Exporter Declaration**" means a declaration in the form required by SIMEST at the relevant time duly signed by an authorised signatory of the Builder.

"**Facility**" means the term loan facility made available under this Agreement as described in Clause 2.1 (*Amount of facility*).

"**Facility Agent**" means BNP Paribas, a French "*société anonyme*", having a share capital of two billion four hundred ninety-nine million five hundred ninety-seven thousand one hundred and twenty-two Euros (€2,499,597,122) and its registered office located at 16 Boulevard des Italiens, 75009, Paris, France, registered under the n° Siren 662.042.449 at the *Registre du Commerce et des Sociétés* of Paris or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

"**Facility Office**" means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**FATCA**" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"**FATCA Application Date**" means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;

(b) in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or

(c) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

"FATCA Deduction" means a deduction or withholding from a payment under a Finance Document required by FATCA.

"FATCA Exempt Party" means a Party that is entitled to receive payments free from any FATCA Deduction.

"Fee Letter" means any letter dated on or about the date of this Agreement between:

(a) the Facility Agent and the Borrower setting out the fees referred to in paragraph (a) of Clause 9.1 *(Fees)*;

(b) the Facility Agent and the Borrower setting out the fees referred to in paragraph (c) of Clause 9.1 *(Fees)*;

(c) the SACE Agent and the Borrower setting out the fees referred to in paragraph (d) of Clause 9.1 *(Fees)*;

(d) the Security Trustee and the Borrower setting out the fees referred to in paragraph (e) of Clause 9.1 *(Fees)*; or

(e) the Borrower and a Creditor Party setting out the fees payable to such Creditor Party pursuant to the terms of this Agreement.

"Finance Documents" means:

(a) this Agreement;

(b) any Fee Letter;

(c) the Guarantee;

(d) the General Assignment;

(e) the Mortgage;

(f) the Post-Delivery Assignment;

(g) any Subordinated Debt Security;

(h) the Pledge Agreement;

(i) the Approved Manager's Undertaking;

- (j) any Transfer Certificate;
- (k) any Compliance Certificate;
- (l) any Drawdown Notice;
- (m) any other document (whether creating a Security Interest or not) which is executed as security for, or for the purpose of establishing any priority or subordination arrangement in relation to, the Secured Liabilities; and
- (n) any other document (whether creating a Security Interest or not) which is designated as a Finance Document by agreement between the Borrower, SACE and the Facility Agent.

"**Final Contract Price**" has the meaning given in Recital (C).

"**Financial Indebtedness**" means, in relation to a person (the "**debtor**"), an indebtedness of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount;
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person; or
- (g) arising from receivables sold or discounted (other than receivables to the extent they are sold on a non-recourse basis).

"**First Instalment**" means the first instalment of the SACE Premium as more particularly described in paragraph (a) of Clause 8.1 *§ACE Premium*).

"**Fixed Interest Rate**" means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) the CIRR.

"Fixed Rate Margin" means the difference between the Floating Rate Margin and the SIMEST Margin Contribution.

"Floating Interest Rate" means, in respect of any Interest Period, the rate per annum determined by the Facility Agent to be the aggregate of:

- (a) the applicable Margin; and
- (b) LIBOR for the relevant period.

"Floating Rate Margin" means one point forty five per cent. (1.45%).

"FOREX Contracts" means each actual purchase contract, spot or forward contract and any other contract, such as an option or collar arrangement, which is entered into in the foreign exchange markets for the acquisition of Euro intended to pay the delivery instalment under the Shipbuilding Contract, which:

- (a) matures not later than the Intended Delivery Date, provided that option arrangements may mature up to one month after such date if at the time they are entered into there exists a reasonable uncertainty as to the date on which the Ship will be delivered;
- (b) is entered into by the Borrower or the Guarantor or a combination of the foregoing not later than two (2) days before the Conversion Rate Fixing Date so that the Borrower, directly or through the Guarantor, purchases or may purchase Euro with Dollars at a pre-agreed rate; and
- (c) is notified to the Facility Agent within ten (10) days of its execution but in any event no later than the day preceding the Conversion Rate Fixing Date, with a Certified Copy of each such contract being delivered to the Facility Agent at such time.

"FOREX Contracts Weighted Average Rate" means the rate determined by the Facility Agent on the Conversion Rate Fixing Date in accordance with the following principles which (inter alia) are intended to take into account any maturity mismatch between the maturity of the FOREX Contracts and the Intended Delivery Date as well as FOREX Contracts that are unwound as part of the hedging strategy of the Borrower:

- (a) FOREX Contracts that are spot or forward foreign exchange contracts, if any, shall be valued at the contract value (taking into account any rescheduling);
- (b) the difference between the Euro amount available under (a) above and the Euro amount balance payable to the Builder on the Delivery Date is assumed to be purchased at the official daily fixing rate of the Bloomberg Fx Fixings for the purchase of Euro with Dollars as displayed on World Markets Reuters (or such other pages as may replace that page on that service or a successor service) at or around 1 p.m. (London time) on the Conversion Rate Fixing Date;
- (c) any FOREX Contract which is an option or collar arrangement and is not unwound at the Conversion Rate Fixing Date will be marked to market and the resulting profit or loss shall reduce or increase the Dollar countervalue of the purchased Euro;

- (d) any FOREX Contract which is an option or collar arrangement and is sold or purchased back at the time FOREX Contract(s) are entered into for an identical Euro amount shall be accounted for the net premium cost or profit, as the case may be.

Any marked to market valuation, as required in paragraph (c) above, shall be performed by BNP Paribas's dedicated desk in accordance with market practices. The Borrower shall have the right to request indicative valuations from time to time prior to the Conversion Rate Fixing Date.

"Funding Rate" means any individual rate notified by a Lender to the Facility Agent pursuant to Clause 6.11(b).

"GAAP" means generally accepted accounting principles in the United States of America consistently applied (or, if not consistently applied, accompanied by details of the inconsistencies) including, without limitation, those set forth in the opinion and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

"General Assignment" means an assignment of, *inter alia*, any Management Agreement, the Earnings, the Insurances, any charter and any Requisition Compensation, executed or to be executed by the Borrower, the Member as charterer and, in the event that the Approved Manager is not a member of the Group and is named as a co-assured in the Insurances, the Approved Manager in favour of the Security Trustee in the agreed form.

"German Blocking Provisions" means section 7 of the German Foreign Trade Regulation (AWV) (*Außenwirtschaftsverordnung*) (in connection with section 4 paragraph 1 a no. 3 German Foreign Trade Law (AWG) (*Außenwirtschaftsgesetz*)).

"Gross Negligence" means any act or omission, whether deliberate or not, which in the circumstances (including both the probability and seriousness of the consequences likely to result) would reasonably be regarded by those familiar with the nature of the activity in question and with the surrounding circumstances, as amounting to the reckless disregard of, or serious indifference to, the consequences, being in any case more than a negligent failure to exercise proper skill and care.

"Group" means the Guarantor and its Subsidiaries.

"Guarantee" means a guarantee issued by the Guarantor in favour of the Security Trustee in the agreed form.

"Guarantor" means NCL Corporation Ltd., a Bermuda company with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda.

"Holding Company" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"IAPPC" means a valid international air pollution prevention certificate for the Ship issued under Annex VI.

"**Illicit Origin**" means any origin which is illicit, fraudulent or in breach of Sanctions including, without limitation, drug trafficking, corruption, organised criminal activities, terrorism, money laundering or fraud.

"**Initial Contract Price**" has the meaning given in Recital (B).

"**Insurances**" means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are effected in respect of the Ship, its Earnings or otherwise in relation to it; and
- (b) all rights and other assets relating to, or derived from any of such policies, contracts or entries, including any rights to a return of a premium.

"**Intended Delivery Date**" means [*] (the date on which the Ship will be ready for delivery pursuant to the Shipbuilding Contract as at the date of this Agreement) or any other date notified by the Borrower to the Facility Agent in accordance with paragraph (a) of Clause 3.5 (*No later than sixty (60) days before the Intended Delivery Date*) or paragraph (c) of Clause 3.9 (*No later than five (5) Business Days before the Intended Delivery Date*) as being the date on which the Builder and the Borrower have agreed that the Ship will be ready for delivery pursuant to the Shipbuilding Contract.

"**Interest Make-up Agreement**" means an agreement on interest stabilisation (*Capitolato per il Contributo Interessi*) to be entered into between SIMEST and the SACE Agent on behalf of the Lenders and in form and substance acceptable to the SACE Agent, the Facility Agent and the Lenders, which provides, *inter alia*, for the applicable CIRR to be subsidised in relation to the Loan made available under this Agreement and to which the CIRR applies.

"**Interest Make-up Event**" means the occurrence of any circumstances which result in the termination, cancellation, revocation, cessation or suspension (in each case, in whole or in part) of the Interest Make-up Agreement or the Interest Make-up Agreement otherwise ceases or may cease to be in full force and effect or the SACE Agent notifies the Borrower that the Fixed Interest Rate is not available for any reason, in each case, in accordance with the terms of the Interest Make-up Agreement.

"**Interest Period**" means a period determined in accordance with Clause 7 (*Interest Periods*).

"**ISM Code**" means the International Safety Management Code for the safe operation of ships and for pollution prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation as the same may be amended or supplemented from time to time.

"**ISPS Code**" means the International Ship and Port Facility Security (ISPS) Code adopted by the International Maritime Organisation (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

"**Italian Authorities**" means SACE and/or SIMEST and any other relevant Italian authorities involved in the implementation of the Loan.

"**Legislative Decree 231/01**" means the Italian legislative decree of 8 June 2001, no. 231 (*Disciplina della responsabilità amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica, a norma dell'articolo 11 della legge 29 settembre 2000, n.300*) as amended from time to time, on administrative vicarious liability of corporate entities.

"**Lender**" means a bank, financial institution, trust, fund or other entity listed in Schedule 1 (*Lenders and Commitments*) and acting through its Facility Office or its transferee, successor or assign.

"**LIBOR**" means, in relation to the Loan or any part of the Loan:

- (a) the applicable Screen Rate as of the Quotation Date for Dollars and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or
- (b) as otherwise determined pursuant to Clause 6.6 (*Unavailability of Screen Rate*).

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

"**Loan**" means the principal amount for the time being outstanding under this Agreement.

"**Majority Lenders**" means:

- (a) before the Loan has been made, Lenders whose Commitments total [*] per cent. of the Total Commitments; and
- (b) after the Loan has been made, Lenders whose Contributions total [*] per cent. of the Loan.

"**Management Agreement**" means the management agreement (if any) entered or to be entered into between the Borrower and an Approved Manager which is not a member of the Group with respect to the Ship on terms reasonably acceptable to the Majority Lenders and SACE.

"**Margin**" means:

- (a) in relation to the Fixed Interest Rate, the Fixed Rate Margin; and
- (b) in relation to the Floating Interest Rate, the Floating Rate Margin.

"**Maritime Registry**" means the maritime registry which the Borrower will specify to the Lenders no later than 90 days before the Intended Delivery Date, being that of Bermuda, the Marshall Islands, Bahamas or such other registry as the Facility Agent may, with the approval of the Italian Authorities and at least three Lenders representing as a minimum the Majority Lenders, approve.

"**Material Adverse Effect**" means the occurrence of any event or circumstance which reasonably would be expected to have a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) of any Obligor or the Group as a whole;
- (b) the ability of any Obligor to perform its obligations under any Finance Document; or

- (c) the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Secured Party under any of the Finance Documents.

"**Maximum Loan Amount**" means the aggregate of:

- (a) the Dollar Equivalent of three hundred and seventy eight million and eight hundred thousand Euros (€378,800,000); and
- (b) one hundred per cent. (100%) of the SACE Premium to be paid in accordance with Clause 8.1 *SACE Premium*),

provided that such amount shall not, at any time, exceed five hundred and sixty five million, one hundred and fifty four thousand, six hundred and sixty eight Dollars and five cents (\$565,154,668.05).

"**Member**" means Seven Seas Cruises S. de R.L., a Panamanian *sociedad de responsabilidad limitada* domiciled in Panama whose resident agent is PH Arifa, 9th and 10th Floors, West Boulevard, Santa Maria Business District, Panama, Republic of Panama as the sole member of the Borrower.

"**Minor Modification**" means a modification of the plans or the specification or the construction of the Ship under Article 24 of the Shipbuilding Contract, resulting in a contract price increase or decrease of less than [*] Euros (€[*]).

"**Model**" means the principles of the compliance system adopted by CDP pursuant to Legislative Decree 231/01, available on CDP's website (https://en.cdp.it/kdocs/1896656/Organization_Management_and_Control_Model_pursuant_to_Italian_Legislative_Decree_No._231-01_EN.pdf).

"**Mortgage**" means the first priority mortgage on the Ship acceptable for registration on the Approved Flag and, if applicable, deed of covenant, executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

"**Negotiation Period**" has the meaning given in Clause 6.9 (*Negotiation of alternative rate of interest*).

"**Obligors**" means the Borrower, the Guarantor, the Member and (in the event that the Approved Manager is a member of the Group) the Approved Manager.

"**Original Jurisdiction**" means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated or formed, as the case may be, as at the date of this Agreement.

"**Overnight LIBOR**" means, on any date, the London interbank offered rate, being the day to day rate at which Dollars are offered to prime banks in the London interbank market and published by the Intercontinental Exchange at or about 11.00 a.m. London time on page LIBOR01 of the Reuters screen. If the agreed page is replaced or the service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower, provided that if the rate is less than zero, Overnight LIBOR shall be deemed to be zero (except with respect to the Interest Make-up Agreement).

"**Parallel Debt**" means any amount which an Obligor owes to the Security Trustee under Clause 27.2 *Parallel Debt (Covenant to pay the Security Trustee)*.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement from time to time.

"**Permitted Financial Indebtedness**" means any Financial Indebtedness:

- (a) incurred under the Finance Documents; or
- (b) permitted pursuant to Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*).

"**Permitted Security Interests**" means:

- (a) in the case of the Borrower:
 - (i) any of the Security Interests referred to in paragraph (b)(ii)(A) below; and
 - (ii) any of the Security Interests referred to in paragraphs (b)(ii)(B), (b)(ii)(C), (b)(ii)(E), (b)(ii)(H) and (b)(ii)(I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Borrower in the case of paragraphs (b)(ii)(C) or (b)(ii)(E) or incurred by the Borrower in the case of paragraphs (b)(ii)(B), (b)(ii)(H) or (b)(ii)(I); and
- (b) in the case of the Guarantor:
 - (i) any of the Security Interests referred to in paragraphs (ii)(A), (ii)(D), (ii)(F) and (ii)(G) below; and
 - (ii) any of the Security Interests referred to in paragraphs (C), (E), (H) and (I) below if, by reason of any chartering or management arrangements for the Ship approved by the Facility Agent pursuant to the provisions of this Agreement, such Security Interests are created by the Guarantor in the case of paragraph (C) or (E) or incurred by the Guarantor in the case of paragraph (H) or (I);
 - (A) any Security Interest created by or pursuant to the Finance Documents and any deposits or other Security Interests placed or incurred in connection with any bond or other surety from time to time provided to the US Federal Maritime Commission in order to comply with laws, regulations and rules applicable to the operators of passenger vessels operating to or from ports in the United States of America;

- (B) liens on the Ship up to an aggregate amount at any time not exceeding [*] for current crew's wages and salvage and liens incurred in the ordinary course of trading the Ship;
- (C) any deposits or pledges up to an aggregate amount at any time not exceeding [*] to secure the performance of bids, tenders, bonds or contracts required in the ordinary course of business;
- (D) any other Security Interest including in relation to the Existing Indebtedness over the assets of any Obligor other than the Borrower notified by the Borrower or any of the Obligors to the Facility Agent and accepted by it prior to the date of this Agreement;
- (E) (without prejudice to the provisions of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*)) liens on assets leased, acquired or upgraded after the date of this Agreement or assets newly constructed or converted after the date of this Agreement provided that (i) such liens secure Financial Indebtedness otherwise permitted under this Agreement, (ii) such liens are incurred at the time of such lease, acquisition, upgrade, construction or conversion and (iii) the Financial Indebtedness secured by such liens does not exceed the cost of such upgrade or the cost of such assets acquired or leased;
- (F) other liens arising in the ordinary course of business of the Group unrelated to Financial Indebtedness and securing obligations not yet delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established provided that (i) the aggregate amount of all cash and the fair market value of all other property subject to such liens as are described in this paragraph (F) does not exceed [*] and (ii) such cash and/or other property is not an asset of the Borrower;
- (G) subject to the other provisions of this Agreement and the Guarantee, any Security Interest in respect of existing Financial Indebtedness of a person which becomes a Subsidiary of the Guarantor or is merged with or into the Guarantor or any of its subsidiaries;
- (H) liens in favour of credit card companies on unearned customer deposits pursuant to agreements therewith; and
- (I) liens in favour of customers on unearned customer deposits.

"Pertinent Document" means:

- (a) any Finance Document;
- (b) any policy or contract of insurance contemplated by or referred to in Clause 12 (*General Undertakings*) or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and

- (d) any document which has been or is at any time sent by or to the Facility Agent in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraph (b) or (c).

"Pertinent Matter" means:

- (a) any transaction or matter contemplated by, arising out of, or in connection with a Pertinent Document; or
- (b) any statement relating to a Pertinent Document or to a transaction or matter falling within paragraph (a);

and covers any such transaction, matter or statement, whether entered into, arising or made at any time before the signing of this Agreement or on or at any time after that signing.

"Pledge Agreement" means a document creating security over the limited liability company interests in the Borrower in the agreed form.

"Post-Delivery Assignment" means an assignment of the rights of the Borrower in respect of the post-delivery guarantee liability of the Builder under Article 25 of the Shipbuilding Contract executed or to be executed by the Borrower in favour of the Security Trustee in the agreed form.

"Prohibited Jurisdiction" means any country or territory which is, or whose government is, the target of country-wide or territory-wide Sanctions.

"Prohibited Payment" means:

- (a) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would constitute bribery or an improper gift or payment under, or a breach of Sanctions, any laws of the Republic of Italy, England and Wales, Panama, the Council of the European Union, Germany, the United States of America or any other applicable jurisdiction; or
- (b) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would or might constitute bribery within the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997.

"Prohibited Person" means any person that (i) appears on any Sanctions list of prohibited persons, (ii) is directly or indirectly owned 50 percent or more by, or directly or indirectly controlled by, one or more persons covered by sub-section (i) above, or (iii) is located, is resident in or is incorporated or formed, as the case may be, under the laws of a Prohibited Jurisdiction.

"Protocol of Delivery and Acceptance" means the protocol of delivery and acceptance of the Ship to be signed by the Borrower and the Builder in accordance with Article 8 of the Shipbuilding Contract.

"Quotation Date" means, in relation to any Interest Period (or any period for which an interest rate is to be determined under any provision of a Finance Document), the day which is 2 Business Days before the first day of that period, unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Date will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Date will be the last of those days).

"**Qualifying Certificate**" means the certificate to be issued by the Builder on the Delivery Date and issued to the Facility Agent and copied to the Borrower substantially in the form set out in Schedule 5 (*Qualifying Certificate*).

"**Receiver**" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property

"**Reference Bank Quotation**" means any quotation supplied to the Facility Agent by a Reference Bank.

"**Reference Bank Rate**" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks as either:

- (a) if:
 - (i) the Reference Bank is a contributor to the applicable Screen Rate; and
 - (ii) it consists of a single figure,

the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the Screen Rate are asked to submit to the relevant administrator; or

- (b) in any other case, the rate at which the relevant Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market.

"**Reference Banks**" means such entities as may be appointed by the Facility Agent in consultation with the Borrower.

"**Relevant Interbank Market**" means the London Interbank Market.

"**Relevant Jurisdiction**" means, in relation to an Obligor:

- (a) its jurisdiction of incorporation or formation, as the case may be;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Interests created, or intended to be created, under the Finance Documents to which it is a party.

"**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 (or any successor organization).

"**Repayment Date**" means a date on which a repayment is required to be made under Clause 5 (*Repayment*).

"**Replacement Benchmark**" means a benchmark rate which is:

- (a) a formally designated, nominated or recommended as the replacement for the Screen Rate by:
- (i) the administrator of the Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by the 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" shall be the replacement under paragraph (ii) above;
- (b) in the opinion of the Majority Lenders and the Obligors, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor of that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Obligors, an appropriate successor to that Screen Rate.

"**Representative**" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

"**Requisition Compensation**" includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of "**Total Loss**".

"**Restricted Creditor Party**" means a Creditor Party which serves a notice pursuant to paragraph (a) of Clause 37.7 *Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation*.

"**Resolution Authority**" means any body which has authority to exercise any Write-down and Conversion Powers.

"**SACE**" means SACE S.p.A.

"**SACE Agent**" means Crédit Agricole Corporate and Investment Bank, a French "*société anonyme*", having a share capital of seven billion eight hundred and fifty one million six hundred and thirty six thousand three hundred and forty two Euros (€7,851,636,342) and its registered office located at 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France, registered under the n° Siren 304 187 701 at the Registre du Commerce et des Sociétés of Nanterre or any successor of it appointed under Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*).

"**SACE Insurance Policy**" means the insurance policy in respect of this Agreement (which, in all material respects, is not inconsistent with the commercial terms of this Agreement) to be issued by SACE for the benefit of the Lenders in respect of one hundred per cent. (100%) of the Loan together with interest thereon in form and substance satisfactory to the Facility Agent, the SACE Agent and all the Lenders.

"**SACE Premium**" means the amount payable by the Borrower to SACE directly or through the SACE Agent in two instalments in respect of the SACE Insurance Policy as set out in Clause 8 (*SACE Premium and Italian Authorities*).

"**SACE Premium Instalments**" means each of the First Instalment and Second Instalment.

"**SACE Required Documents**" means in relation to the Drawdown Notice:

- (a) a duly completed and executed Qualifying Certificate; and
- (b) each of the other documents, information and other evidence specified in or required to be enclosed with such Qualifying Certificate.

"**Safety Management Certificate**" has the meaning given to it in the ISM Code.

"**Sanctions**" means any financial, economic or trade sanctions, embargoes or other restrictions relating to trading, doing business, investment, exporting, importing, travelling, financing or making assets available (or other activities similar to or connected with any of the foregoing):

- (a) imposed by law or regulation of the United Kingdom, the Hong Kong Monetary Authority, the European Union or the Council of the European Union, the United Nations or its Security Council or imposed by any member state of the European Union or Switzerland;
- (b) imposed by the US, including the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC); or
- (c) otherwise imposed by any law or regulation.

"**SBC Effective Date**" means the effective date under the Shipbuilding Contract.

"**Screen Rate**" means, in relation to a particular period, 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 at or about 11 a.m (London time) on the Quotation Date for such period as displayed on page LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters (and if such page ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consulting with the Borrower).

"**Screen Rate Replacement Event**" means, in relation to the Screen Rate:

- (a) the methodology, formula or other means of determining the Screen Rate has, in the opinion of the Majority Lenders and the Obligors materially changed;

(b)

(i)

- (A) the administrator of the Screen Rate or its supervisor publicly announces that such administrator is insolvent;
- (B) information is published in any order, decree, notice, petition or filing, however, described of or filed with a court, tribunal, exchange, regulatory authority or judicial body which reasonably confirms that the administrator of the Screen Rate is insolvent,

provided that in each case, at that time, there is no successor or administrator to continue to provide the Screen Rate;

- (ii) the administrator of the Screen Rate publicly announces that it has ceased or will cease, to provide the Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the Screen Rate;
 - (iii) the supervisor of the administrator of the Screen Rate publicly announces that the Screen Rate has been or will be permanently or indefinitely discontinued;
 - (iv) the administrator of the Screen Rate or its supervisor announces that the Screen Rate may no longer be used;
- (c) the administrator of the Screen Rate determines that the Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
- (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Obligors) temporary; or
 - (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the period of fifteen (15) Business Days;
- (d) in the opinion of the Majority Lenders and the Obligors, the Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

"Second Instalment" means the second instalment of the SACE Premium as more particularly described in paragraph (b) of Clause 8.1 *SACE Premium*).

"Secured Liabilities" means all liabilities which the Borrower, the Obligors or any of them have, at the Effective Date or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country.

"**Secured Party**" means SACE, the Facility Agent, the Security Trustee, the SACE Agent, the Joint Mandated Lead Arrangers or any Lender whether at the date of this Agreement or any later time, a Receiver or any Delegate.

"**Security Interest**" means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien, assignment, hypothecation or any other security interest of any kind or other agreement or arrangement having the effect of conferring security;
- (b) the security rights of a plaintiff under an action *in rem*; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which B would have been had he held a security interest over an asset of A; but this paragraph (c) does not apply to a right of set off or combination of accounts conferred by the standard terms of business of a bank or financial institution.

"**Security Period**" means the period commencing on the Effective Date and ending on the date on which:

- (a) all amounts which have become due for payment by the Borrower or any Obligor under the Finance Documents have been fully and irrevocably paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) neither the Borrower nor any other Obligor has any future or contingent liability under Clause 19 (*Application of sums received*) below or any other provision of this Agreement or another Finance Document; and
- (d) the Facility Agent does not consider that there is a significant risk that any payment or transaction under a Finance Document would be set aside, or would have to be reversed or adjusted, in any present or possible future bankruptcy of the Borrower or an Obligor or in any present or possible future proceeding relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created by a Finance Document.

"**Security Property**" means:

- (a) the Security Interests expressed to be granted in favour of the Security Trustee as trustee for the Secured Parties and all proceeds received or recovered by or on behalf of the Security Trustee under or by virtue of any Security Interest including any money or other assets which are received or recovered by it as a result of the enforcement or exercise by it of such a Security Interest or right;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Trustee as trustee for the Secured Parties and secured by the Security Interests together with all representations and warranties expressed to be given by an Obligor in favour of the Security Trustee as trustee for the Secured Parties;

- (c) the Security Trustee's interest in any turnover trust created under the Finance Documents;
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Trustee is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties,

except:

- (i) rights intended for the sole benefit of the Security Trustee; and
- (ii) any moneys or other assets which the Security Trustee has transferred to the Facility Agent or (being entitled to do so) has retained in accordance with the provisions of this Agreement.

"Security Requirement" means the amount in Dollars (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which is at any relevant time one hundred and twenty-five per cent. (125%) of the Loan.

"Security Trustee" means HSBC Corporate Trustee Company (UK) Limited, a company incorporated in England and Wales (with registered number 6447555) whose registered office is located at 8 Canada Square, London, E14 5HQ or any successor of it appointed under Clause 27 (*The Security Trustee*).

"Security Value" means the amount in Dollars (as certified by the Facility Agent whose certificate shall, in the absence of manifest error, be conclusive and binding on the Borrower and the Facility Agent) which, at any relevant time, is the aggregate of (i) the charter free market value of the Ship as most recently determined in accordance with Clause 13.4 (*Valuation of the Ship*); and (ii) the market value of any additional security for the time being actually provided to the Facility Agent pursuant to Clause 15 (*Security Value Maintenance*).

"Servicing Party" means the Facility Agent or the Security Trustee.

"Ship" means the passenger cruise ship currently designated with Hull No.[*] (as more particularly described in the Shipbuilding Contract) to be constructed under the Shipbuilding Contract and to be delivered to, and purchased by, the Borrower and registered in its name under an Approved Flag.

"Shipbuilding Contract" has the meaning given in Recital (A).

"SIMEST" means Società Italiana per Le Imprese all'Estero - SIMEST S.p.A., which grants export subsidies in Italy under and according to the Italian Legislative Decree n. 143/98 and its amendments.

"SIMEST Margin Contribution" means the margin contribution approved and granted by SIMEST to the Lenders under the Interest Make-up Agreement as communicated by the SACE Agent to the Creditor Parties and the Borrower following the date of this Agreement as soon as the SACE Agent is made aware of it.

"Structuring Fee" has the meaning given in paragraph 9.1(a) of Clause 9.1 (*Fees*).

"**Subordinated Debt Security**" has the meaning given in paragraph (b)(ii) of Clause 12.14 *Financial Indebtedness and subordination of indebtedness*).

"**Subsidiary**" has the following meaning:

A company (S) is a subsidiary of another company (P) if:

- (a) a majority of the issued equity interests in S (or a majority of the issued equity interests in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; or
- (b) P has direct or indirect control over a majority of the voting rights attaching to the issued equity interests of S; or
- (c) P has the direct or indirect power to appoint or remove a majority of the directors (or equivalent) of S; or
- (d) P otherwise has the direct or indirect power to ensure that the affairs of S are conducted in accordance with the wishes of P;

and any company of which S is a subsidiary is a parent company of S.

"**Tax**" means any tax, levy, impost, duty, assessment, fee, deduction or other charge or withholding of a similar nature imposed by any governmental authority (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Third Party Act**" means the Contracts (Rights of Third Parties) Act 1999.

"**Total Loss**" means:

- (a) actual, constructive, compromised, agreed or arranged total loss of the Ship;
- (b) any expropriation, confiscation, requisition or acquisition of the Ship, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority, (excluding a requisition for hire for a fixed period not exceeding 1 year without any right to an extension) unless it is within 1 month redelivered to the Borrower's full control;
- (c) any arrest, capture, seizure or detention of the Ship (including any hijacking or theft) unless it is within 1 month redelivered to the Borrower's full control.

"**Total Loss Date**" means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earliest of:

- (i) the date on which a notice of abandonment is given to the insurers (or deemed or agreed to be given); and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower with the Ship's insurers in which the insurers agree to treat the Ship as a total loss; and
- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Facility Agent acting reasonably and in consultation with the Borrower that the event constituting the total loss occurred.

"Transaction Documents" means the Finance Documents and the Underlying Documents.

"Transfer Certificate" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrower.

"Underlying Documents" means the Shipbuilding Contract, any Management Agreement, any bareboat charter and any charter and associated guarantee in respect of which a notice of assignment is required to be served under the terms of the General Assignment.

"Unpaid Sum" means (i) any sum due and payable but unpaid by an Obligor under the Finance Documents and (ii) any part of the SACE Premium unpaid by the Borrower.

"US" means the United States of America.

"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 of certain terms

In this Agreement:

"**Facility Agent**", the "**SACE Agent**", the "**Joint Mandated Lead Arranger**", the "**Security Trustee**", "**SACE**", any "**Creditor Party**", any "**Secured Party**", any "**Lender**", any "**Obligor**" or any other "**person**", shall be construed so as to include its successors in title, permitted assigns and permitted transferees.

"**approved by the Lenders**" (or any similar determination or instruction by the Lenders) means approved in writing by the Facility Agent acting on the instructions of all the Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and any requirement for approval by all the Lenders shall mean prior approval.

"**approved by the Majority Lenders**" (or any similar determination or instruction by the Majority Lenders) means approved in writing by the Facility Agent acting on the instructions of the Majority Lenders and approved in writing by the SACE Agent acting on the instructions of SACE (or the Majority Lenders only to the extent the SACE Insurance Policy does not cover the event for which such instruction or approval is required) (on such conditions as they may respectively impose) and otherwise "approved" means approved in writing by the Facility Agent (on such conditions as the Facility Agent may impose) and "approval" and "approve" shall be construed accordingly and any requirement for approval by the Facility Agent, the SACE Agent or the Majority Lenders shall mean prior approval.

"**asset**" includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment.

"**company**" includes any partnership, joint venture and unincorporated association.

"**consent**" includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation.

"**contingent liability**" means a liability which is not certain to arise and/or the amount of which remains unascertained.

"**date of this Agreement**" means 19 December 2018.

"**document**" includes a deed; also a letter, fax or electronic mail.

"**expense**" means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Taxes including VAT.

"**including**" and "**in particular**" (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.

"**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;

"**law**" includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council.

"**legal or administrative action**" means any legal proceeding or arbitration and any administrative or regulatory action or investigation.

"**liability**" includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise.

"**months**" shall be construed in accordance with Clause 1.4 (*Meaning of "month"*).

"**parent company**" has the meaning given in the definition of "Subsidiary".

"**person**" includes any individual, firm, company, corporation, government, any state, political sub-division of a state and local or municipal authority, agency of a state or any association, trust, joint venture, consortium or partnership; and any international organisation (whether or not having a separate legal personality).

"**proceedings**" means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure.

"**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Construction of Insurance Terms

"**approved**" means, for the purposes of Clause 14 (*Insurance Undertakings*), approved in writing by the Facility Agent.

"**excess risks**" means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims.

"**obligatory insurances**" means all insurances effected, or which the Borrower is obliged to effect, under Clause 14 (*Insurance Undertakings*) or any other provision of this Agreement or another Finance Document.

"**policy**" in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms.

"**protection and indemnity risks**" means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 6 of the International Hull Clauses (1/11/02) (1/11/03), clause 8 of the Institute Time Clauses (Hulls) (1/10/83) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision.

"war risks" includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24 of the Institute Time Clauses (Hulls) (1/11/95) or clause 23 of the Institute Time Clauses (Hulls)(1/10/83).

1.4 Meaning of "month"

A period of one or more "months" ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started ("the numerically corresponding day"), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;

and "month" and "monthly" shall be construed accordingly.

1.5 General Interpretation

In this Agreement:

- (a) references in Clause 1.1 (*Definitions*) to a Finance Document or any other document being an "agreed form" are to the form agreed between the Facility Agent (acting with the authorisation of each of the Creditor Parties and SACE) and the Borrower with any modifications to that form which the Facility Agent (with the authorisation of the Majority Lenders and SACE in the case of substantial modifications) approves or reasonably requires;
- (b) references to, or to a provision of, a Finance Document or any other document are references to it as amended, amended and restated or supplemented, whether before the date of this Agreement or otherwise;
- (c) references to Sanctions, for the purposes of Clause 11 (*Representations and Warranties*), Clause 12 (*General Undertakings*), Clause 20 (*Indemnities*), Clause 21 (*Illegality, etc.*) and the Finance Documents shall mean "Sanctions" as defined in Clause 1.1 (*Definitions*), by which any Obligor, any Creditor Party or any party involved in the transactions contemplated in the Finance Documents is bound or to which it is subject or, as regards a regulation, compliance with which is reasonable in the ordinary course of business of any Obligor or any Creditor Party;
- (d) references to, or to a provision of, any law or regulation include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (e) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;

- (f) words denoting the singular number shall include the plural and vice versa; and
- (g) Clauses 1.1 (*Definitions*) to 1.5 (*General Interpretation*) apply unless the contrary intention appears.

1.6 Headings

In interpreting a Finance Document or any provision of a Finance Document, all clauses, sub-clauses and other headings in that and any other Finance Document shall be entirely disregarded.

1.7 Schedules

The schedules form an integral part of this Agreement.

2 FACILITY

2.1 Amount of facility

Subject to the other provisions of this Agreement, the Lenders agree to make available to the Borrower a loan not exceeding the Maximum Loan Amount intended to be applied as follows:

- (a) in payment to the Builder, up to the Eligible Amount, of all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) in reimbursement to the Borrower of the amount of the First Instalment of the SACE Premium paid by it to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (c) in payment to SACE of the amount of the Second Instalment of the SACE Premium payable by the Borrower to SACE in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.2 Lenders' participations in Loan

Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

2.3 Purpose of Loan

The Borrower undertakes with each Secured Party to use the Loan only to pay for:

- (a) goods and services of Italian origin incorporated in the design, construction or delivery of the Ship;
- (b) subject to the limits and conditions fixed by the Italian Authorities, goods and services incorporated in the design, construction or delivery of the Ship and originating from countries other than Italy where the provision of such goods or services has been sub-contracted by the Builder and therefore remains the Builder's responsibility under the Shipbuilding Contract;

- (c) all or part of eighty per cent. (80%) of the Final Contract Price;
- (d) reimbursement to the Borrower of the First Instalment of the SACE Premium paid by the Borrower direct to SACE in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*); and
- (e) the Second Instalment of the SACE Premium payable in accordance with paragraph (b) of Clause 8.1 (*SACE Premium*).

2.4 Creditor Parties' rights and obligations

- (a) The obligations of each Creditor Party under the Finance Documents are several. Failure by a Creditor Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Creditor Party is responsible for the obligations of any other Creditor Party under the Finance Documents.
- (b) The rights of each Creditor Party and SACE under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Creditor Party and SACE from an Obligor shall be a separate and independent debt.
- (c) A Creditor Party and SACE may not, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.
- (d) Notwithstanding any other provision of the Finance Documents and subject to the prior written consent of SACE, a Creditor Party may separately sue for any Unpaid Sum due to it without the consent of any other Creditor Party or joining any other Creditor Party to the relevant proceedings (it being understood that a Creditor Party may file a claim noting the amounts due to it in the event insolvency proceedings are commenced against the Borrower by a third party).

2.5 Monitoring

No Creditor Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

2.6 Obligations of Lenders several

The obligations of the Lenders under this Agreement are several; and a failure of a Lender to perform its obligations under this Agreement shall not result in:

- (a) the obligations of the other Lenders being increased; nor
 - (b) any Obligor or any other Lender being discharged (in whole or in part) from its obligations under any Finance Document,
- and in no circumstances shall a Lender have any responsibility for a failure of another Lender to perform its obligations under this Agreement or any other Finance Document.

3 CONDITIONS PRECEDENT

3.1 General

The Borrower may only draw the Loan when the following conditions have been fulfilled to the satisfaction of the Facility Agent and provided no Event of Default shall have occurred and remains unremedied or is likely to occur as a consequence of the drawing of the Loan:

3.2 No later than the Effective Date

The Facility Agent shall have received no later than the Effective Date:

- (a) an opinion from legal counsel to the Secured Parties as to the laws of the state of Delaware in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Borrower's execution of any Finance Documents to which they are party on the Effective Date;
- (b) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of this Agreement and the Guarantee;
- (c) an opinion from legal counsel to the Secured Parties as to Bermuda law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Guarantor's execution of the Guarantee;
- (d) an opinion from legal counsel to the Secured Parties as to the laws of the state of New York in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the Pledge Agreement;
- (e) an opinion from legal counsel to the Secured Parties as to Panamanian law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the Member's execution of the Pledge Agreement;
- (f) a Certified Copy of the executed Shipbuilding Contract;
- (g) such documentary evidence as the Facility Agent and its legal advisers may require in relation to the due authorisation and execution by the Borrower and the Builder of the Shipbuilding Contract and of all documents to be executed by the Borrower and the Builder;
- (h) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom that it will act for the Borrower and the Guarantor as agent for service of process in England in respect of this Agreement and any other Finance Document;
- (i) duly executed originals of the Guarantee and the Pledge Agreement and of each document to be submitted pursuant to it;
- (j) such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender or SACE) or any Lender or SACE (for itself) in order for the Facility Agent and such Lender or SACE 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;

- (k) payment of the initial portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter; and
- (l) payment of the initial portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the initial portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the initial portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter.

3.3 No later than two (2) years before the Intended Delivery Date

The Facility Agent shall have received no later than two (2) years before the Intended Delivery Date, payment of the remaining portion of the Structuring Fee as set out in and payable in accordance with the relevant Fee Letter.

3.4 No later than ninety (90) days before the Intended Delivery Date

The Facility Agent (or the SACE Agent in respect of paragraphs (c), (e) and (f) below) shall have received no later than ninety (90) days before the Intended Delivery Date:

- (a) notification from the Borrower of its chosen Maritime Registry;
- (b) notification of the Approved Manager;
- (c) the SACE Insurance Policy documentation relating to the transaction contemplated by this Agreement issued on terms whereby the SACE Insurance Policy will enter into full force and effect upon fulfilment of the conditions specified therein to be fulfilled on or before the Drawdown Date;
- (d) evidence that the First Instalment has been paid;
- (e) an original of the Interest Make-up Agreement relative to the Loan and in full force and effect;
- (f) an original of the SACE Insurance Policy; and
- (g) an opinion from legal counsel to the Creditor Parties as to Italian law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of SACE's issuance of the SACE Insurance Policy and compliance with the principles governing the eligibility of credit risk mitigation techniques as per Article 194, paragraph 1, of the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013.

3.5 No later than sixty (60) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than sixty (60) days before the Intended Delivery Date:

- (a) notification of the Intended Delivery Date;
- (b) a notice from the Borrower as described in paragraph (a) of Clause 8.4 *Refund*; and

- (c) a US tax opinion from legal counsel to the Secured Parties in respect of the tax treatment of the entry by the U.S. incorporated Borrower into this Agreement and the other Finance Documents substantially in the form notified to the Borrower on or around the Effective Date and updated to reflect any changes in law.

3.6 No later than forty-five (45) days before the Intended Delivery Date

The Facility Agent shall have received from the Borrower no later than forty five (45) days before the Intended Delivery Date (and on each subsequent date on which a Compliance Certificate is to be received by the Security Trustee pursuant to clause 11.3(c) of the Guarantee) a duly completed Compliance Certificate from the Guarantor;

3.7 No later than [*] ([*]) days before the Intended Delivery Date

The SACE Agent (with a copy to the Facility Agent) shall have received from the Borrower no later than [*] ([*]) days before the Intended Delivery Date notification, signed by a duly authorised signatory of the Borrower, specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable to the Loan until the date of payment of the final repayment instalment of the Loan.

3.8 No later than fifteen (15) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than fifteen (15) Business Days before the Intended Delivery Date insurance documents in form and substance satisfactory to the Lenders confirming that the Insurances have been effected and will be in full force and effect on the Delivery Date.

3.9 No later than five (5) Business Days before the Intended Delivery Date

The Facility Agent shall have received no later than five (5) Business Days before the Intended Delivery Date:

- (a) the Drawdown Notice from the Borrower, signed by a duly authorised signatory of the Borrower, specifying the amount of the Loan to be drawn down;
- (b) a Certified Copy of any amendments to the Shipbuilding Contract which are not Minor Modifications and of the power of attorney pursuant to which the authorised signatory of the Borrower signed the Drawdown Notice and a specimen of his signature; and
- (c) a final confirmation of the Intended Delivery Date signed by a duly authorised signatory of the Borrower, and counter-signed by a duly authorised signatory of the Builder.

3.10 No later than the Delivery Date

The Facility Agent shall have received no later than the Delivery Date:

- (a) if applicable, a duly executed original of the Subordinated Debt Security;
- (b) any opinions from legal counsel to the Secured Parties relating to the due execution, validity and enforceability of the Subordinated Debt Security, in form and substance satisfactory to the Facility Agent and the Secured Parties;

- (c) evidence of payment to and receipt by the Builder of:
 - (i) the four (4) pre-delivery instalments of the Final Contract Price; and
 - (ii) any other part of the Final Contract Price as at the Delivery Date not being financed hereunder;
- (d) payment of the relevant portion of the Facility Agent Fee (as defined in the relevant Fee Letter), the relevant portion of the SACE Agency Fee (as defined in the relevant Fee Letter), the relevant portion of Security Trustee Fee (as defined in the relevant Fee Letter) and any other such fees which may be payable by the Borrower to a Creditor Party, payable in accordance with terms of the relevant Fee Letter;
- (e) evidence of payment of all amounts which are due and payable hereunder by the Borrower on or prior to the Delivery Date;
- (f) a certificate from the Borrower, signed by an authorised representative of the Borrower, confirming that:
 - (i) the representations and warranties contained in Clause 11 (*Representations and Warranties*) are true and correct as of the Delivery Date in consideration of the facts and circumstances existing as of the Delivery Date; and
 - (ii) no mandatory prepayment event pursuant to Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) is continuing or would result from the Loan;
- (g) an original or a certified copy of each of the SACE Required Documents and the Facility Agent and the SACE Agent shall be satisfied that the SACE Required Documents on their face appear properly completed and comply with the requirements of this Agreement and the requirements of the SACE Insurance Policy; and
- (h) provided always that the obligations of the Lenders to make the Loan available on the Delivery Date are subject to the Lenders remaining satisfied that each of the SACE Insurance Policy and the Interest Make-up Agreement will cover the Loan following the advance of the Loan, payment of the Second Instalment and delivery to the Facility Agent of the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.11 At Delivery

Immediately prior to the delivery of the Ship by the Builder to the Borrower, the Facility Agent shall have received:

- (a) evidence that immediately following delivery:
 - (i) the Ship will be registered in the name of the Borrower in the Maritime Registry;
 - (ii) title to the Ship will be held by the Borrower free of all Security Interests other than any maritime lien in respect of crew's wages and trade debts arising out of equipment, consumable and other stores placed on board the Ship prior to or concurrently with delivery, none of which is overdue;

- (iii) the Mortgage will be duly registered in the Maritime Registry and constitutes a first priority security interest over the Ship and that all taxes and fees payable to the Maritime Registry in respect of the Ship have been paid in full; and
- (iv) the opinions mentioned in paragraphs (b), (c) and (d) of Clause 3.12 (*Immediately following Delivery*), in draft form immediately prior to the delivery of the Ship, and the documents mentioned in paragraph (e) of Clause 3.12 (*Immediately following Delivery*) will be issued to and received by the Facility Agent;
- (b) a Certified Copy of a classification certificate (or interim classification certificate) showing the Ship to be classed in accordance with paragraph (c) of Clause 11.3 (*Representations on the Delivery Date*).
- (c) duly executed originals of the General Assignment, any Approved Manager's Undertaking and the Post-Delivery Assignment together with relevant notices of assignment and the acknowledgement of the notice of assignment to be issued pursuant to the General Assignment and the Post-Delivery Assignment;
- (d) a Certified Copy of any executed Management Agreement, any bareboat charter and any related security pursuant to paragraph (b) of Clause 13.1 (*Pooling of earnings and charters*) (if applicable) and any time charterparty in respect of the Ship;
- (e) a Certified Copy of any current certificate of financial responsibility in respect of the Ship issued under OPA, a valid Safety Management Certificate (or interim Safety Management Certificate) issued to the Ship in respect of its management by the Approved Manager pursuant to the ISM Code, a valid Document of Compliance (or interim Document of Compliance) issued to the Approved Manager in respect of ships of the same type as the Ship pursuant to the ISM Code, a valid International Ship Security Certificate issued to the Ship in accordance with the ISPS Code and a valid IAPPC issued to the Ship in accordance with Annex VI and, if entered into, any carrier initiative agreement with the United States' Customs and Border Protection under the Customs-Trade Partnership Against Terrorism (C-TPAT) programme along with any other documents required under the ISM Code and the ISPS Code;
- (f) a Certified Copy of the power of attorney pursuant to which the authorised signatory(ies) of the Borrower signed the documents referred to in this Clause 3.11 (*At Delivery*) and to which the Borrower is a party and a specimen of his or their signature(s); and
- (g) a confirmation from Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom (or any replacement process agent satisfactory to the Facility Agent acting reasonably) that it will act for each of the relevant Obligors as agent for service of process in England in respect of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment and the Post-Delivery Assignment.

3.12 Immediately following Delivery

Immediately following the delivery of the Ship by the Builder to the Borrower, the Facility Agent (with copy to the Security Trustee), or, in the case of paragraph (a) below, the Security Trustee (with copy to the Facility Agent), shall receive:

- (a) a duly executed original of the Mortgage;

- (b) an opinion from legal counsel acceptable to the Secured Parties as to the law of the Maritime Registry in form and substance satisfactory to the Facility Agent and the Secured Parties confirming:
 - (i) the valid registration of the Ship in the Maritime Registry; and
 - (ii) the Mortgage over the Ship is a first priority security and has been validly registered in the Maritime Registry;
- (c) an opinion from legal counsel to the Secured Parties as to English law in form and substance satisfactory to the Facility Agent and the Secured Parties in respect of the validity and enforceability of the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and any other relevant security document entered into at delivery;
- (d) an opinion from legal counsel acceptable to the Secured Parties as to the laws of the state of Delaware in form and substance satisfactory to the Facility Agent and the Secured Parties together with the company documentation of the Borrower and a certificate of a competent officer or manager of the Borrower containing specimen signatures of the persons authorised to sign the documents on behalf of the Borrower, confirming that, without limitation:
 - (i) the Mortgage, the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) fall within the scope of the Borrower's company purpose as defined by its Memorandum of Association and By-laws and are binding on it; and
 - (ii) the Borrower's representatives are fully empowered to sign the Protocol of Delivery and Acceptance, the Mortgage, the deed of covenants constituting part of the Mortgage (if applicable), the General Assignment, the Post-Delivery Assignment and the bareboat charter (if applicable) and any related security pursuant to paragraph (b) of Clause 13.1 (*Pooling of earnings and charters*); and
- (e) an opinion from legal counsel to acceptable to the Secured Parties as to Panamanian law in form and substance satisfactory to the Facility Agent and the Secured Parties together with the corporate documentation of the Member as bareboat charterer and a certificate of a competent officer of the Member containing specimen signatures of the persons authorised to sign the documents on behalf of the Member, confirming that, without limitation:
 - (i) the General Assignment falls within the scope of the Member's corporate purpose as defined by its Articles of Incorporation and By-laws; and
 - (ii) the representative of the Member is fully empowered to sign the General Assignment;
- (f) the documents listed in Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

3.13 Notification of satisfaction of conditions precedent

The Facility Agent shall notify the Lenders and SACE promptly upon being satisfied as to the satisfaction of the conditions precedent referred to in this Clause 3 (*Conditions Precedent*).

3.14 Waiver of conditions precedent

If the Majority Lenders, at their discretion, subject to the prior written consent of SACE, permit the Loan to be borrowed before any of the conditions precedent referred to in Clause 3 (*Conditions Precedent*) has been satisfied, the Borrower shall ensure that that condition is satisfied within five (5) Business Days after the date (as specified in the relevant part of Clause 3 (*Conditions Precedent*)) or such later date as the Facility Agent may agree in writing with the Borrower.

3.15 Changes to SACE's or SIMEST's requirements

- (a) If SACE or SIMEST notifies the SACE Agent in writing of a change of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), or gives instructions to the SACE Agent with the effect that, in the opinion of the SACE Agent, this Agreement or certain documents which the Borrower is or may be required to provide for the purpose of drawing the Loan under this Agreement shall be amended to comply with such change or instructions, then the SACE Agent shall promptly notify the Borrower of such a change in SACE's or SIMEST's requirements (as applicable) and of the relevant amendments to be made to this Agreement or any such documents as the SACE Agent considers appropriate.
- (b) If the SACE Agent notifies the Borrower of any proposed changes to this Agreement under paragraph (a) above, and provided that:
 - (i) all the Lenders and the Borrower agree with such changes; and
 - (ii) the Borrower indemnifies and holds harmless the SACE Agent, the Facility Agent and the Lenders for any reasonable costs that it may incur arising from or in connection with any such amendments (including legal fees),

then such changes will be made to this Agreement in accordance with the terms hereof.

- (c) If, in the opinion of the Lenders, there are any provisions of this Agreement that contradict or conflict with any provision of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable), such that compliance by any Creditor Party with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) may result in a breach by such Creditor Party of the any of the terms of this Agreement or to an extent that the same may have the effect of rendering all or any part of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable) void, voidable or otherwise not in full force and effect, the Borrower agrees that any relevant terms of this Agreement will be amended to the extent agreed in writing between the Borrower, the Facility Agent and the SACE Agent to ensure compliance with the terms of the SACE Insurance Policy or the Interest Make-up Agreement (as applicable).

3.16 No claim against the Creditor Parties

The Borrower agrees that the Creditor Parties may act on the instructions of the Italian Authorities in relation to this Agreement.

3.17 Examination and reliance on documents by the Facility Agent

- (a) The SACE Agent shall ensure that an officer or employee or other person designated by it as its authorised representative is present at the Builder on the Delivery Date for the purpose of examining originals (or certified copies) of the SACE Required Documents duly signed by the parties thereto and collecting copies thereof (which copies shall be certified as true copies by an authorised signatory of the Builder and/or the Borrower, as applicable).

- (b) The Facility Agent shall be entitled (but not obliged) to rely and act upon any documentation or information provided under this Clause 3 *Conditions Precedent*), which appears on its face to have been duly completed.
- (c) The Facility Agent's responsibility to the Borrower and the Lenders for the examination of the Drawdown Notice, and, when applicable, the documents provided by any person other than the Borrower in connection with the Drawdown Notice, shall be limited to the examination of their apparent compliance with the terms and conditions thereof in accordance with Articles 14 (Standard of examination of documents) and 34 (Disclaimer on effectiveness of documents) of the "Uniform Customs and Practice for Documentary Credits" (currently publication number 600 of the International Chamber of Commerce, latest edition) (except that no time limit for examination of documents shall apply).
- (d) The Facility Agent and the Lenders shall not be obliged to enquire as to, or be responsible for, the validity, truthfulness and genuineness and (where the relevant document is a conformed copy) conformity to the original of the Drawdown Notice or any other document which appears on its face to be in order, or of any signatures thereon or any of the statements set out therein and shall be entitled to rely on the accuracy of any such statements.
- (e) In case of any discrepancy in any such documents, the Facility Agent shall notify the Borrower in writing thereof and shall request its approval of such discrepancy in writing.
- (f) The Facility Agent and the Lenders shall not be responsible for any delay in making available the Loan resulting from any requirement for the delivery of further information or documents reasonably required by the Facility Agent for the relevant conditions precedent in this Agreement to be satisfied.

4 DRAWDOWN

4.1 Borrower's irrevocable payment instructions

The Lenders shall not be obliged to fulfil their obligation to make the Loan available other than (i) by paying the Builder all or part of eighty per cent. (80%) of the Final Contract Price on behalf of and in the name of the Borrower, (ii) by reimbursing the Borrower for the First Instalment of the SACE Premium which was paid by the Borrower to SACE on the earlier of (A) the date falling 30 days after the issuance of the SACE Insurance Policy and (B) the date falling 6 months after the date of SACE's board approval and (iii) by payment to SACE of the Second Instalment of the SACE Premium payable on the Drawdown Date. For the avoidance of doubt, the amount of the Loan shall not exceed the Maximum Loan Amount.

The Borrower hereby instructs the Lenders in accordance with this Clause 4.1 *Borrower's irrevocable payment instructions*):

- (a) to pay to the Builder, up to the Eligible Amount, all or part of eighty per cent. (80%) of the Final Contract Price;
- (b) to reimburse the Borrower the amount of the First Instalment of the SACE Premium already paid by the Borrower to SACE on the date specified in paragraph (a) of Clause 8.1; and

- (c) to pay to the Facility Agent on behalf of the Lenders for onward payment to SACE (such payment to SACE to be made for value on the Drawdown Date), by drawing under this Agreement, the amount of the Second Instalment of the SACE Premium.

Payment to the Builder of the amount drawn under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) above shall be made on the Drawdown Date during usual banking hours in Italy to the Builder's account as specified by the Builder in accordance with the Shipbuilding Contract after receipt and verification by the Facility Agent of the documents provided under Schedule 3 (*Documents to be produced by the Builder to the Facility Agent on Delivery*).

Save as contemplated in Clause 4.3 (*Modification of payment terms*) below, the payment instruction contained in this Clause 4.1 (*Borrower's irrevocable payment instructions*) is irrevocable.

4.2 Conversion Rate for Loan

The Dollar amount to be drawn down under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) shall be calculated by the Facility Agent on the Conversion Rate Fixing Date in accordance with the definitions of "Eligible Amount" and "Conversion Rate" in Clause 1.1 (*Definitions*).

4.3 Modification of payment terms

The Borrower expressly acknowledges that the payment terms set out in this Clause may only be modified with the agreement of the Italian Authorities, the Facility Agent, the Security Trustee, the Lenders and the Borrower in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) and with the agreement of the Italian Authorities, the Facility Agent, the Lenders and the Borrower in the case of paragraphs (b) and (c) of Clause 4.1 (*Borrower's irrevocable payment instructions*); **provided that** it is the intention of the Borrower, the Lenders, the Security Trustee and the Facility Agent that prior to the Conversion Rate Fixing Date agreement shall be reached with those financial institutions with whom the Borrower has entered into the FOREX Contracts (the "**Counterparties**") in order that the Euro payments due from the Counterparties under the FOREX Contracts shall be paid to the Facility Agent for holding in escrow and to be released by the Facility Agent simultaneously with (i) the payment in full to the Builder of the balance of the Final Contract Price denominated in Euro at the time of delivery of the Ship and (ii) the payment to the Counterparties of the Dollars due to them under the relevant FOREX Contracts out of the Dollar amount available under paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*), subject only to delivery of the Ship by the Builder to the Borrower taking place as evidenced by the execution and delivery of the Protocol of Delivery and Acceptance and to the Borrower having deposited with the Facility Agent before the Drawdown Date, if and to the extent required, any Dollar and/or Euro amounts as may be needed to ensure the payment in full of both the balance of the Final Contract Price in Euro and the Dollars owed to the Counterparties under all the relevant FOREX Contracts.

4.4 Availability and conditions

- (a) Drawing may not be made under this Agreement (and the Loan shall not be available) after the expiry of the Availability Period.

- (b) There will be only one drawing under this Agreement.
- (c) The aggregate amount of the Loan cannot exceed the Maximum Loan Amount.

4.5 Notification to Lenders of receipt of a Drawdown Notice

The Facility Agent shall promptly and, in any case, by no later than three (3) Business Days before the Drawdown Date, notify the Lenders that it has received a Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;
- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the first Interest Period.

4.6 Lenders to make available Contributions

Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Facility Agent the amount due from that Lender under Clause 2.2 (*Lenders' participations in Loan*).

4.7 Disbursement of Loan

Subject to the provisions of this Agreement, the Facility Agent shall on the Drawdown Date pay the amounts which the Facility Agent receives from the Lenders under Clause 4.6 (*Lenders to make available Contributions*) in the like funds as the Facility Agent received the payments from the Lenders:

- (a) in the case of the amount referred to in paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*), to the account of the Builder which the Borrower specifies in the Drawdown Notice; and
- (b) in the case of an amount referred to in paragraph (b) of Clause 4.1 (*Borrower's irrevocable payment instructions*) to the account of the Borrower which the Borrower shall specify; and
- (c) in the case of an amount referred to in paragraph (c) of Clause 4.1 (*Borrower's irrevocable payment instructions*) to the account of SACE which the SACE Agent shall specify.

4.8 Disbursement of Loan to third party

The payment by the Facility Agent under Clause 4.7 (*Disbursement of Loan*) shall constitute the making of the Loan and the Borrower shall at that time become indebted, as principal and direct obligor, to each Lender in an amount equal to that Lender's Contribution.

5 REPAYMENT

5.1 Number of repayment instalments

The Borrower shall repay the Loan by twenty-four (24) consecutive six-monthly instalments from the earlier of (i) the Delivery Date and (ii) the date of actual disbursement of the Loan (the "**Starting Point of Repayment**").

5.2 Repayment Dates

The first repayment instalment shall be repaid on the date falling six (6) months after the Starting Point of Repayment and the last repayment instalment on the date falling one hundred and forty-four (144) months after the Starting Point of Repayment, each date of payment of an instalment being a "**Repayment Date**".

5.3 Amount of repayment instalments

Each repayment instalment of the Loan shall be of an equal amount.

5.4 Final Repayment Date

On the final Repayment Date, the Borrower shall additionally pay to the Facility Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.

6 INTEREST

6.1 Fixed or Floating Interest Rate

The Borrower shall provide notification, signed by a duly authorised signatory of the Borrower, to the SACE Agent (with a copy to the Facility Agent) at least [*] days before the Drawdown Date specifying which of the Fixed Interest Rate or the Floating Interest Rate shall be applicable until the date of payment of the final repayment instalment of the Loan.

6.2 Fixed Interest Rate

If the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the Loan shall bear interest in respect of each Interest Period at the Fixed Interest Rate. Such interest shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid on the last day of each Interest Period.

6.3 Floating Interest Rate

If:

- (a) the Borrower has specified a Floating Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*); or
- (b) the Borrower has specified a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*) but thereafter for any reason whatsoever the Interest Make-up Agreement is suspended or otherwise ceases to be in effect; or
- (c) SIMEST has requested a change of currency pursuant to the Interest Make-up Agreement and such change of currency is not agreed by the Borrower or Lenders in accordance with Clause 6.16 (*Change of currency*); or
- (d) SIMEST has failed to make a net payment of interest to the Lenders pursuant to the Interest Make-up Agreement,

the rate of interest on the Loan in respect of any Interest Period shall be the Floating Interest Rate applicable for that Interest Period and the following provisions of this Clause 6 (*Interest*) shall apply (in the case of the circumstances referred to in paragraph (b) above, with effect from the date on which the Interest Make-up Agreement ceases to be in effect, with such consequential amendments as shall be necessary to give effect to the switch from a Fixed Interest Rate to a Floating Interest Rate).

6.4 Payment of Floating Interest Rate

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period shall accrue on the actual number of days elapsed based upon a 360 day year and shall be paid by the Borrower on the last day of that Interest Period.

6.5 Notification of Interest Periods and Floating Interest Rate

The Facility Agent shall notify the Borrower and each Lender of each Floating Interest Rate and the duration of each Interest Period as soon as reasonably practicable after each is determined and no later than the Quotation Date.

6.6 Unavailability of Screen Rate

- (a) *Market disruption:* If, on a Quotation Date, no Screen Rate is available for LIBOR, LIBOR shall be the rate quoted to the Facility Agent by the Lenders who are able to quote such rate at the request of the Facility Agent as those Lenders' offered rate for deposits of Dollars in an amount approximately equal to the amount in relation to which LIBOR is to be determined for a period equivalent to such period to prime banks in the London interbank eurocurrency market at or about 11 a.m. (London time) on the Quotation Date for such period.
- (b) If:
- (i) no Screen Rate is quoted and the Lenders do not (pursuant to paragraph 6.6 above), before 1.00 p.m. (London time) on the Quotation Date for an Interest Period, provide quotations to the Facility Agent in order to fix LIBOR; or
 - (ii) at least 1 Business Day before the start of an Interest Period, Lenders having Contributions together amounting to more than [*] per cent. of the Loan (or, if the Loan has not been made, Commitments amounting to more than [*] per cent. of the Total Commitments) notify the Facility Agent that LIBOR fixed by the Facility Agent would not accurately reflect the cost to those Lenders of funding their respective Contributions (or any part of them) during the Interest Period in the London Interbank Market at or about 11.00 a.m. (London time) on the Quotation Date for the Interest Period; or
 - (iii) at least 1 Business Day before the start of an Interest Period, the Facility Agent is notified by a Lender (the "**Affected Lender**") that for any reason it is unable to obtain Dollars in the London Interbank Market in order to fund its Contribution (or any part of it) during the Interest Period,

the following provisions of this Clause 6 (*Interest*) apply.

6.7 Notification of market disruption

The Facility Agent shall promptly notify the Borrower and each of the Lenders stating the circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which have caused its notice to be given.

6.8 Suspension of drawdown

If the Facility Agent's notice under Clause 6.6 (*Unavailability of Screen Rate*) is served before the Loan is made:

- (a) in a case falling within sub-paragraphs 6.6(b)(i) or (ii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*), the Lenders' obligations to make the Loan;
 - (b) in a case falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*), the Affected Lender's obligation to participate in the Loan;
- shall be suspended while the circumstances referred to in the Facility Agent's notice continue.

6.9 Negotiation of alternative rate of interest

If the Facility Agent's notice under Clause 6.7 (*Notification of market disruption*) is served after the Loan is made, the Borrower, the Facility Agent and the Lenders or (as the case may be) the Affected Lender shall use reasonable endeavours to agree, in consultation with SACE and SIMEST, within the 30 days after the date on which the Facility Agent serves its notice under Clause 6.7 (*Notification of market disruption*) (the "**Negotiation Period**"), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.

6.10 Application of agreed alternative rate of interest

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

6.11 Alternative rate of interest in absence of agreement

- (a) If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the Reference Bank Rate for Dollars.
- (b) If, following the end of the Negotiation Period and request by the Facility Agent for a quotation by the Reference Banks pursuant to paragraph (a) above, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period and the Facility Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender (and in consultation with SACE and SIMEST), set an interest period and interest rate representing the cost of funding of the Lenders or (as the case may be) the Affected Lender in Dollars or in any available currency of their or its contribution plus the Margin; and the procedure provided for by this Clause 6.11 (*Alternative rate of interest in absence of agreement*) shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Facility Agent.

6.12 Notice of prepayment

If the Borrower does not agree with an interest rate set by the Facility Agent under Clause 6.11 (*Alternative rate of interest in absence of agreement*), the Borrower may give the Facility Agent not less than 15 Business Days', or, if the Fixed Interest Rate has been selected pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), 30 days, notice of its intention to prepay at the end of the interest period set by the Facility Agent.

6.13 Prepayment; termination of Commitments

A notice under Clause 6.12 (*Notice of prepayment*) shall be irrevocable; the Facility Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender and, if the Fixed Interest Rate has been selected by the Borrower, SIMEST of the Borrower's notice of intended prepayment; and:

- (a) on the date on which the Facility Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender shall be cancelled; and 6.6(b)(i)
- (b) on the last Business Day of the Interest Period set by the Facility Agent, the Borrower shall prepay (without premium or penalty subject to the provisions of Clause 20.2 (*Breakage costs and SIMEST arrangements*)) the Loan or, as the case may be, the Affected Lender's Contribution, together with accrued interest thereon at the applicable rate (being either the Floating Interest Rate or the Fixed Interest Rate as specified by the Borrower pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*)).

6.14 Application of prepayment

The provisions of Clause 16 (*Cancellation, Prepayment and Mandatory Prepayment*) shall apply in relation to the prepayment.

6.15 Certain Circumstances

Notwithstanding anything to the contrary in this Agreement:

- (a) in the event of any circumstances falling within paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) which might affect the advance of the Loan on the Drawdown Date (the "**Relevant Circumstances**"):
 - (i) occurring and being continuing on the date falling ninety (90) days before the Intended Delivery Date (the "**Relevant Date**"), each Lender will notify the Borrower (through the Facility Agent) of the Relevant Circumstances on the Relevant Date or, if the Relevant Date is not a Business Day, on the next following Business Day; and
 - (ii) occurring after the Relevant Date, each Lender will notify the Borrower (through the Facility Agent) immediately upon such Lender becoming aware of the Relevant Circumstances;
- (b) in the event of any Relevant Circumstances falling within sub-paragraphs 6.6(b)(i) or (ii) of paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) (the "**Pricing-Related Relevant Circumstances**") occurring before the Loan is made available and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will fund its respective Contributions by reference to the agreed alternative rate of interest in accordance with Clauses 6.9 (*Negotiation of alternative rate of interest*), 6.10 (*Application of agreed alternative rate of interest*) and 6.11 (*Alternative rate of interest in absence of agreement*) as if the provisions of such Clauses applied not only in the event that the Pricing-Related Relevant Circumstances have been notified by the Facility Agent to the Borrower after the making of the Loan but also before the making of the Loan;

- (c) in the event of any Relevant Circumstances falling within sub-paragraph (iii) of paragraph (b) of Clause 6.6 *Unavailability of Screen Rate*) (the "**Availability-Related Relevant Circumstances**") occurring before the Loan is made and notwithstanding the provisions of Clause 6.8 (*Suspension of drawdown*), each Lender will enter into good faith discussions with the Borrower for a period not exceeding 10 Business Days in order to discuss a basis on which the Lenders could be able to fund their respective Contributions in Dollars (or, if unavailable in Dollars, then in any available currency). Such discussions shall be without obligation on the Lenders provided that during such discussion period, such circumstances continue.

6.16 Change of currency

- (a) In the event that the SACE Agent notifies the Borrower that SIMEST has requested a change in the currency of the Loan in accordance with clause 6.3 of the Interest Make-up Agreement, the Borrower and the Lenders shall, without obligation, consider such request for a change of currency acting reasonably for a period of not exceeding 10 Business Days. Following such discussions the SACE Agent shall report the decision of the Facility Agent, the Borrower and the Lenders to SIMEST, providing their reason for any negative decision.
- (b) In the event that a change of currency is agreed the Parties agree to negotiate in good faith the necessary changes to this Agreement, the Finance Documents, the SACE Insurance Policy and the Interest Make-up Agreement in order to document the change in currency.
- (c) In the event that a change in currency is not acceptable to the Lenders or the Borrower, the provision of paragraph (c) of Clause 6.3 *Floating Interest Rate*) shall apply.

6.17 Modification and/or discontinuation of certain benchmarks

Without prejudice to any other provisions of this Agreement, each Party acknowledges and agrees to the benefit of the other Party that:

- (a) LIBOR benchmarks (i) may be subject to methodological or other changes which could affect their value, (ii) may not comply with applicable laws and regulations (such as the European Benchmark Regulation as far as EURIBOR and EONIA are concerned) and/or (iii) may be permanently discontinued (in particular LIBOR which may be phased out after 2021).
- (b) The occurrence of any of the aforementioned events and/or a Screen Rate Replacement Event may have adverse consequences which may materially impact the economics of the financing transaction contemplated under this Agreement.
- (c) The Parties further acknowledge that if any of the aforementioned events and/or a Screen Rate Replacement Event is forthcoming, they shall enter into negotiations with a view to agreeing the necessary changes to this Agreement in order to preserve the economics of the financing transaction contemplated therein and, in particular, the margin initially agreed between the Parties. Such negotiations shall be carried out by each Party in good faith and in consideration of the then prevailing market practice (without prejudice to the particularities, as the case may be, of the transaction).

6.18 Replacement rate

- (a) If any of the events described in clause 6.17 (including a Screen Rate Replacement Event in relation to the Screen Rate) has occurred, 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 fall back and market disruption provisions for that Replacement Benchmark;
 - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practical, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),
- may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders) and the Obligors.
- (b) If any Lender fails to respond to a request for an amendment to waiver described in paragraph (a) above, within fifteen (15) Business Days (or such longer period in relation to any request which the Borrower and the Facility Agent may agree) of that request being made:
- (i) its Commitment shall not be included for the purpose of calculating the Total Commitments under the relevant Loan when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
 - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

7 INTEREST PERIODS

7.1 Commencement of Interest Periods

The first Interest Period applicable to the Loan shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period.

7.2 Duration of Interest Periods

Subject to Clause 7.3 (*Duration of Interest Periods for Repayment Instalments*), each Interest Period shall be 6 months.

7.3 Duration of Interest Periods for Repayment Instalments

Any Interest Period that includes a Repayment Date shall expire on such Repayment Date.

8 SACE PREMIUM AND ITALIAN AUTHORITIES

8.1 SACE Premium

The estimated SACE Premium for an amount equal to[*] (being [*] per cent. ([*]%) of the Maximum Loan Amount) is due and payable in two instalments as follows:

- (a) the first instalment of the SACE Premium being an amount of [*] (calculated as being [*] per cent. ([*]%) of the SACE Premium) (the "**First Instalment**") shall be paid by the Borrower to SACE (provided that the Borrower and the Lenders have been notified by the SACE Agent that the SACE Insurance Policy has been issued) on the earlier of (i) the date falling 30 days after the issuance of the SACE Insurance Policy and (ii) 5 April 2019, being the date falling 6 months after the date of SACE's board approval or any other later date as communicated by SACE; and
- (b) the second instalment of the SACE Premium being an amount of [*] (calculated as being [*] per cent. ([*]%) of the SACE Premium) (the "**Second Instalment**") and shall be payable on or prior to the Drawdown Date. For the sake of clarity, no set-off with the First Instalment shall be permitted.

8.2 Reimbursement by the Borrower of the SACE Premium

The Borrower irrevocably agrees to pay the First Instalment, and to instruct the Lenders to pay the Second Instalment on behalf of the Borrower as follows:

- (a) the Borrower has requested and the Lenders have agreed to reimburse the payment of one hundred per cent. (100%) of the First Instalment to the Borrower on the Drawdown Date, it being agreed that such First Instalment shall be paid to SACE by the Borrower in accordance with paragraph (a) of Clause 8.1 (*SACE Premium*) and upon notification by the Facility Agent to the Borrower (i) of the issuance of the SACE Insurance Policy documentation in the form required by paragraph (g) of Clause 3.4 (*No later than ninety (90) days before the Intended Delivery Date*), and (ii) of the amount of the First Instalment; and

- (b) the Borrower has requested and the Lenders have agreed to finance the payment of one hundred per cent. (100%) of the Second Instalment on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement.

Consequently, the Borrower hereby irrevocably instructs the Facility Agent on behalf of the Lenders to pay the Second Instalment to SACE on the Drawdown Date in accordance with paragraph (c) of Clause 2.1 (*Amount of facility*) of this Agreement and to reimburse the Borrower by the Borrower drawing under the Loan the amount of the First Instalment in accordance with paragraph (b) of Clause 2.1 (*Amount of facility*) of this Agreement.

The First Instalment and Second Instalment each financed by the Loan will be repayable in any event by the Borrower to the Lenders in the manner specified in Clause 5 (*Repayment*) and under any and all circumstances including but without limitation in the event of prepayment or acceleration of the Loan.

8.3 Italian Authorities

- (a) The Borrower acknowledges and agrees that the Facility Agent, the SACE Agent and the Lenders are entitled to provide the Italian Authorities with any information they may have relative to the Loan and the business of the Group, to allow the Italian Authorities to inspect all their records relating to this Agreement and the other Transaction Documents and to furnish them with copies thereof. Any such information relative to the Loan may also be given by any Italian Authorities to international institutions charged with collecting statistical data.
- (b) The Borrower acknowledges that, in the making of any decision or determination or the exercise of any discretion or the taking or refraining to take any action under this Agreement or any of the other Finance Documents, the Facility Agent, the SACE Agent and the Lenders shall be deemed to have acted reasonably if they have acted on the instructions of either of the Italian Authorities.
- (c) Each Party further undertakes not to act in a manner which is inconsistent with the terms of the SACE Insurance Policy and the Interest Make-up Agreement.

8.4 Refund

- (a) The Borrower shall, at the latest on the date falling sixty (60) days before the Intended Delivery Date, provide a notice in writing to the SACE Agent (who will promptly forward it to other Lenders and SACE), signed by an authorised signatory of the Borrower, indicating the amount of the Loan to be drawn on the Delivery Date less (i) any amount cancelled based on the Conversion Rate and (ii) the Refund (as defined below) to be refunded in accordance with paragraph (b), such amount of the Refund to be confirmed by SACE at least six (6) Business Days prior to the Delivery Date. The Borrower hereby agrees and shall confirm in such notice that the remaining Commitments shall be deemed to be cancelled. The Borrower acknowledges, for the avoidance of doubt, that the shortfall to be paid to the Builder at the Delivery Date shall be funded and paid directly by the Borrower to the Builder.
- (b) If the Loan is less than the Maximum Loan Amount, and provided that no Event of Default has occurred and is then continuing and no loss has occurred under the SACE Insurance Policy, the Borrower shall be entitled to a refund of the Second Instalment of the SACE Premium in an amount calculated by SACE on the undrawn amount (the "**Refund**"). For the avoidance of doubt, the First Instalment of the SACE Premium is non-refundable, irrespective of whether any disbursements have been made under this Agreement and irrespective of whether the SACE Insurance Policy has been terminated.

- (c) Any refund of the Second Instalment of the SACE Premium, whether in whole or in part, must be expressly requested by the SACE Agent to SACE in writing following receipt by the SACE Agent of the Borrower's notice referred to in paragraph (a) above.
- (d) To the extent the Borrower is entitled to the Refund, SACE shall transfer the Refund as soon as practicably possible to the SACE Agent who shall as soon as practicably possible following receipt thereof transfer such amount to the Borrower. The Borrower hereby acknowledges that SACE shall not be liable to pay interest to the Borrower on the amount of the Refund.
- (e) Under the terms of the SACE Insurance Policy, the Parties acknowledge that SACE will withhold an amount of [*] per cent. ([*]%) from the amount of the SACE Premium to be refunded. Such withholding, charged as a lump sum to cover administration and management costs for the SACE Insurance Policy, may not, in any event, amount to less than the equivalent of [*] Euros (€[*]) or more than the equivalent of [*] Euros (€[*]), calculated by SACE at the European Central Bank EUR/USD exchange rate as at the date of the refund request.
- (f) Except as set out in paragraphs (a) to (c) above, no part of the SACE Premium is refundable to any Obligor.
- (g) In no event shall the SACE Agent be liable for any refund of the SACE Premium to be made by SACE or for the calculation of any Refund and/or withholding thereof.

9 FEES

9.1 Fees

The following fees shall be due by the Borrower and payable as required hereunder:

- (a) to the Facility Agent, for the benefit of the Joint Mandated Lead Arrangers, a Joint Mandated Lead Arranger structuring fee (the **'Structuring Fee'**) in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (b) to the Facility Agent, for the benefit of the Lenders, a commitment fee in Dollars for the period from the Effective Date to the Delivery Date of the Ship, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, computed at the rate of:
 - (i) from the Effective Date to and including 31 December 2019, [*] per cent. ([*]%) per annum;
 - (ii) from 1 January 2020 to and including 31 December 2020, [*] per cent. ([*]%) per annum;
 - (iii) from 1 January 2021 to and including 28 February 2022, [*] per cent. ([*]%) per annum; and

(iv) from 1 March 2022 to and including the Delivery Date, [*] per cent. ([*]%) per annum,

and calculated on the undrawn amount of the Maximum Loan Amount and payable in arrears on the date falling six (6) months after the Effective Date and on each date falling at the end of each following consecutive six (6) month period, with the exception of the commitment fee due in respect of the last period, which shall be paid on the Delivery Date, or the date of receipt by the Facility Agent of the written cancellation notice (as described in Clause 16.1(a)) or written termination notice (as described in Clause 16.1(b)) (as applicable) sent by the Borrower, whichever is the earliest, such commitment fee to be calculated on the actual number of days elapsed divided by three hundred and sixty (360). For the purpose of the computation of the periodical commitment fee payable to the Lenders, the Maximum Loan Amount is assumed to be five hundred and sixty five million, one hundred and fifty four thousand, six hundred and sixty eight Dollars and five cents (\$565,154,668.05);

- (c) to the Facility Agent, for its own account, an agency fee in the amount and payable at the time separately agreed in writing between the Facility Agent and the Borrower;
- (d) to the SACE Agent, a SACE agency fee in the amount and payable at the time separately agreed in writing between the SACE Agent and the Borrower; and
- (e) to the Security Trustee, a security trustee fee in the amount and payable at the time separately agreed in writing between the Security Trustee and the Borrower.

10 TAXES, INCREASED COSTS, COSTS AND RELATED CHARGES

10.1 Definitions

- (a) In this Agreement:

"**Protected Party**" means a Secured Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Tax Credit**" means a credit against, relief or remission for, or repayment of any Tax.

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

"**Tax Payment**" means either the increase in a payment made by an Obligor to a Secured Party under Clause 10.2 (*Tax gross-up*) or a payment under Clause 10.3 (*Tax indemnity*).

- (b) Unless a contrary indication appears, in this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) reference to "**determines**" or "**determined**" means a determination made in the absolute discretion of the person making the determination.

10.2 Tax gross-up

- (a) Each Obligor shall make all payments to be made by it under the Finance Documents 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 Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the 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 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) A payment shall not be increased under paragraph (c) above if on the date on which the payment falls due the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender (having been given notice of the documentation requested under Clause 10.7 *(Lender Status)*) at least 30 Business Days prior to such payment date) complied with its obligations under Clause 10.7 *(Lender Status)*.
- (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 thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Secured Party entitled to the payment evidence reasonably satisfactory to that Secured Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

10.3 Tax indemnity

- (a) The Borrower shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Secured Party:
 - (A) under the law of the jurisdiction in which that Secured Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Secured Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction,
 if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Secured Party; or
 - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 10.2 *(Tax gross-up)* or would have been compensated for by an increased payment under Clause 10.2 *(Tax gross-up)* but was not so compensated solely because an exclusion in paragraph (d) of Clause 10.2 *(Tax gross-up)* applied, or relates to a FATCA Deduction required to be made by a Party; or

- (iii) with respect to the Taxes in the nature of a branch profits tax imposed by Section 884(a) of the Code that is imposed by any jurisdiction described in paragraph (b)(i)(B) above.
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 10.3 (*Tax indemnity*), notify the Facility Agent.

10.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Creditor Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Creditor Party has obtained, retained and utilised that Tax Credit,

the Creditor Party shall pay an amount to the Obligor which that Creditor 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.

10.5 Stamp taxes

The Borrower shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

10.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Secured 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 Secured Party to any Party under a Finance Document and such Secured Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Secured 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 Secured Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Secured Party (the "**Supplier**") to any other Secured Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

- (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Secured Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Secured Party for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that such Secured 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 10.6 (*VAT*) to any Party being required to account to a tax authority for VAT shall, at any time when such Party is treated as a member of a group for VAT purposes, include a reference to another member of that group being required to so account to the relevant tax authority.
 - (e) In relation to any supply made by a Secured Party to any Party under a Finance Document, if reasonably requested by such Secured Party, that Party must promptly provide such Secured Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Secured Party's VAT reporting requirements in relation to such supply.

10.7 Lender Status

- (a) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under a Finance Document shall deliver to the Facility Agent and the Borrower, at the time or times reasonably requested by the Facility Agent or the Borrower, such properly completed and executed documentation reasonably requested by the Facility Agent or the Borrower (and which it is reasonable for the Lender to complete and execute) as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Facility Agent or the Borrower, shall deliver such other documentation as prescribed by applicable law and reasonably requested by the Facility Agent or the Borrower as will enable the Facility Agent or the Borrower to determine whether or not such Lender is subject to backup withholding or information reporting requirements.
- (b) Any Lender shall, to the extent it is legally entitled to do so, and where it is entitled to an exemption from, or reduction of, U.S. federal withholding tax, deliver to the Facility Agent and the Borrower on or prior to the date on which such Lender becomes a Lender under this Agreement or promptly thereafter (and from time to time thereafter as prescribed by applicable law or upon the request of the Facility Agent or the Borrower), duly executed and properly completed copies of Internal Revenue Service Form W-9 or W-8, as applicable, certifying that it is not subject to U.S. federal backup withholding and, in the case of a non-U.S. Lender that is eligible for an exemption from, or reduction of, U.S. federal withholding Tax establishing an exemption from, or reduction of, U.S. federal withholding Tax.

10.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower, the Facility Agent and the other Secured Parties.

10.9 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 Creditor 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 paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) Each Lender shall, within ten Business Days of (i) where the relevant Lender is a Lender at the date of this Agreement, the date of this Agreement and (ii) where the relevant Lender is a Transferee Lender, the effective date of a Transfer Certificate under Clause 24.4 (*Effective Date of Transfer Certificate*), supply to the Facility Agent:
 - (i) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (ii) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.
- (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.
- (i) Each Party acknowledges that CDP is a FATCA Exempt Party pursuant to article 1, paragraph 11.1(e) of the Italian Mef Decree dated 6 August 2015 enacting Italian law of 18 June 2015 no. 95, which ratified the agreement between the Government of the US and the Government of the Republic of Italy to improve international tax compliance and to implement FATCA, signed in Rome in 10 January 2014.

10.10 Increased Costs

- (a) If after the date of this Agreement by reason of (x) any change in law or in its interpretation or administration and/or (y) compliance with any request from or requirement of any central bank or other fiscal, monetary or other authority including but without limitation the Basel Committee on Banking Regulations and Supervisory Practices whether or not having the force of law:
 - (i) any of the Lenders incurs a cost as a result of its performing its obligations under this Agreement and/or its making available its Commitment hereunder; or

- (ii) there is any increase in the cost to any of the Lenders of funding or maintaining all or any of the advances comprised in a class of advances formed by or including its Commitment advanced or to be advanced by it hereunder; or
- (iii) any of the Lenders incurs a cost as a result of its having entered into and/or its assuming or maintaining its commitment under this Agreement; or
- (iv) any of the Lenders becomes liable to make any payment on account of Tax or otherwise (other than Tax on its overall net income) on or calculated by reference to the amount of its Commitment advanced or to be advanced hereunder and/or any sum received or receivable by it hereunder; or
- (v) any of the Lenders suffers any decrease in its rate of return as a result of any changes in the requirements relating to capital ratios, monetary control ratios, the payment of special deposits, liquidity costs or other similar requirements affecting that Lender,

then the Borrower shall on demand pay to the Facility Agent for the account of the relevant Lender or Lenders amounts sufficient to indemnify the relevant Lender or Lenders against, as the case may be, such cost, such increased cost (or such proportion of such increased cost as is in the reasonable opinion of the relevant Lender or Lenders attributable to the funding or maintaining of its or their Commitment(s) hereunder) or such liability.

(b) This Clause 10.10 (*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 10.3 (*Tax indemnity*) (or would have been compensated for under Clause 10.3 (*Tax indemnity*) but was not compensated solely because any of the exclusions in paragraph (b) of Clause 10.3 (*Tax indemnity*) applied); or
- (iv) attributable to the wilful breach by the relevant Creditor Party or its Affiliates of any law of regulation.

In this Clause 10.10 (*Increased Costs*), a reference to a "Tax Deduction" has the same meaning given to the term in Clause 10.1 (*Definitions*).

(c) A Lender affected by any provision of this Clause 10.10 (*Increased Costs*) shall promptly inform the Facility Agent after becoming aware of the relevant change and its possible results (which notice shall be conclusive evidence of the relevant change and its possible results) and the Facility Agent shall, as soon as reasonably practicable thereafter, notify the Borrower of the change and its possible results. Without affecting the Borrower's obligations under this Clause 10.10 (*Increased Costs*) and in consultation with the Facility Agent and the Italian Authorities, the affected Lender will then take all such reasonable steps as may be open to it to mitigate the effect of the change (for example (if then possible) by changing its Facility Office or transferring some or all of its rights and obligations under this Agreement to another financial institution reasonably acceptable to the Borrower, the Facility Agent and the Italian Authorities). The reasonable costs of mitigating the effect of any such change shall be borne by the Borrower save where such costs are of an internal administrative nature and are not incurred in dealings by any Lender with third parties.

10.11 Transaction Costs

- (a) The Borrower undertakes to pay to the Facility Agent, the SACE Agent and the Security Trustee as applicable:
- (i) upon demand, all costs and expenses, duties and fees, including, but without limitation, pre-agreed legal costs (which, for avoidance of doubt are exclusive of VAT and disbursements) out of pocket expenses and travel costs, reasonably incurred by the Italian Authorities, the Joint Mandated Lead Arrangers, the Security Trustee, the Facility Agent, the SACE Agent and the Lenders (but not including any bank which becomes a Lender after the date of this Agreement) in connection with the negotiation, preparation, execution and perfection of all agreements, guarantees, security agreements and related documents entered into, or to be entered into, for the purpose of the transaction contemplated hereby; and
 - (ii) all costs and expenses (including legal fees) (together with any applicable VAT), duties and fees incurred by the Facility Agent, the Security Trustee, the Joint Mandated Lead Arrangers, the SACE Agent, the Lenders or the Italian Authorities in connection with the registration, filing, enforcement or discharge of the said guarantees or security interests, including, without limitation, the fees and expenses of legal advisers and insurance experts (provided that such insurance costs are not to exceed ten thousand Dollars (\$10,000)) and the related travel and out of pocket expenses.
- (b) the Borrower further undertakes to pay:
- (i) to the Facility Agent, all costs, expenses, duties and fees incurred by the Facility Agent, the SACE Agent, the Security Trustee, the Lenders and the Italian Authorities in connection with any amendment or variation of this Agreement and the related documents, guarantees and security agreements, any supplements thereto and waiver given in relation thereto and in connection with the investigation of any potential Event of Default;
 - (ii) to the Security Trustee the amount of all costs and expenses (together with any applicable VAT) incurred in connection with the enforcement or preservation of any rights under this Agreement and/or the related guarantees and security agreements, (including in each case the fees and expenses of legal advisers) and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security Interest and/or the Security Property or enforcing these rights.

10.12 Costs of delayed Delivery Date

The Borrower undertakes to pay to the Facility Agent, upon demand, any costs incurred by the Lenders and/or the Italian Authorities in funding the Loan in the event that the Delivery Date is later than the Intended Delivery Date unless the Borrower has given the Facility Agent at least three (3) Business Days' notification of such delay in the Delivery Date.

10.13 SACE obligations

To the extent that this Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

11 REPRESENTATIONS AND WARRANTIES

11.1 Timing and repetition

The following applies in relation to the time at which representations and warranties are made and repeated:

- (a) the representations and warranties in Clause 11.2 (*Continuing representations and warranties*) are made on the date of this Agreement (apart from the representation at paragraphs (ee) and (ff) of Clause 11.2 (*Continuing representations and warranties*) which shall only be made on the date of this Agreement and the Effective Date and shall not be further repeated) and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents; and
- (b) the representations and warranties in Clause 11.3 (*Representations on the Delivery Date*) are made on the Delivery Date and shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made thereafter on each day until the Borrower has no remaining obligations, actual or contingent, under or pursuant to this Agreement or any of the other Finance Documents.

11.2 Continuing representations and warranties

The Borrower represents and warrants to each of the Secured Parties that:

- (a) each Obligor is a limited liability company or body corporate duly organised, formed or (as the case may be) incorporated, constituted and validly existing under the laws of the country of its formation or (as the case may be) incorporation, possessing perpetual existence, the capacity to sue and be sued in its own name and the power to own and charge its assets and carry on its business as it is now being conducted;
- (b) the membership interests of the Member in the Borrower are represented by Common Units. 1,000 Common Units are authorised for issuance, all of which are held by the Member;
- (c) the legal title to and beneficial interest in the equity in the Borrower is held free of any Security Interest (other than pursuant to the Pledge Agreement) or any other claim by the Member;
- (d) none of the equity in the Borrower is subject to any option to purchase, pre-emption rights or similar rights;
- (e) each Obligor has the power to enter into and perform this Agreement and those of the other Transaction Documents to which it is a party and the transactions contemplated hereby and thereby and has taken all necessary action to authorise the entry into and performance of this Agreement and such other Transaction Documents and such transactions;
- (f) this Agreement and each other Transaction Document constitutes (or will constitute when executed) legal, valid and binding obligations of each Obligor expressed to be a party thereto enforceable in accordance with their respective terms and in entering into this Agreement and borrowing the Loan, the Borrower is acting on its own account;

(g) the entry into and performance of this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby do not and will not conflict with:

- (i) any law or regulation or any official or judicial order; or
- (ii) the constitutional documents of any Obligor; or
- (iii) any agreement or document to which any Obligor is a party or which is binding upon such Obligor or any of its assets,

nor result in the creation or imposition of any Security Interest on the Borrower or its assets pursuant to the provisions of any such agreement or document, except for Security Interests which qualify as Permitted Security Interests with respect to the Borrower;

(h) except for:

- (i) the filing of UCC-1 financing statements against the Borrower in respect of those Finance Documents to which it is a party and which create Security Interests;
- (ii) the recording of the Mortgage in the office of the Marshall Islands Registry; and
- (iii) the registration of the Ship under an Approved Flag,

all authorisations, approvals, consents, licences, exemptions, filings, registrations, notarisations and other matters, official or otherwise, required in connection with the entry into, performance, validity and enforceability of this Agreement and each of the other Transaction Documents to which any Obligor is a party and the transactions contemplated thereby have been obtained or effected and are in full force and effect except authorisations, approvals, consents, licences, exemptions, filings and registrations required in the normal day to day course of the operation of the Ship and not already obtained by the Borrower;

- (i) it is disregarded as an entity separate from its owner for U.S. federal Tax purposes;
- (j) all written information furnished by any Obligor relating to the business and affairs of any Obligor in connection with this Agreement and the other Transaction Documents (but excluding any forward looking statements and projections) was and remains true and correct in all material respects and there are no other material facts or considerations the omission of which would render any such information misleading;
- (k) each Obligor has fully disclosed to the Facility Agent all facts relating to each Obligor which it knows or should reasonably know and which might reasonably be expected to influence the Lenders in deciding whether or not to enter into this Agreement;
- (l) the obligations of the Borrower, the Member and the Guarantor under the Finance Documents rank at least *pari passu* with all its other present unsecured and unsubordinated indebtedness with the exception of any obligations which are mandatorily preferred by law;
- (m) the Borrower is and shall remain, after the advance to it of the Loan, solvent in accordance with the laws of the state of Delaware and the United Kingdom and in particular with the provisions of the Insolvency Act 1986 (as from time to time amended) and the requirements thereof;

- (n) neither the Borrower nor any other Obligor has taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against any of them for the reorganisation, winding-up, dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of any of them or any or all of their assets or revenues nor has it sought any other relief under any applicable insolvency or bankruptcy law;
- (o) (in relation to any date on which this representation and warranty is deemed to be repeated pursuant to paragraph (a) of Clause 11.1 (*Timing and repetition*)) the latest available annual consolidated audited accounts of the Guarantor at the date of repetition (which accounts have been prepared in accordance with GAAP) fairly represent the financial condition of the Guarantor as shown in such audited accounts;
- (p) none of the Obligors nor any of their respective assets enjoys any right of immunity (sovereign or otherwise) from set-off, any legal action or proceeding including, without limitation, suit, attachment prior to judgment, execution or other enforcement in respect of their obligations under this Agreement or any of the other Transaction Documents or by any relevant or applicable law;
- (q) all of the limited liability company interest in the Borrower and all shares or limited liability company interest in any Approved Manager which is a member of the Group shall be legally and beneficially owned directly or indirectly by (in the case of the Borrower), the Member and (in the case of such Approved Manager) the Guarantor and such structure shall remain so throughout the Security Period;
- (r) the copy of the Shipbuilding Contract is a true and complete copy of such document constituting valid and binding obligations of the parties thereto enforceable in accordance with its terms and, subject to Clause 12.23 (*Shipbuilding Contract*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable;
- (s) the Borrower is the sole legal and beneficial owner of all rights and interests which the Shipbuilding Contract creates in favour of the Borrower;
- (t) any borrowing by the Borrower under this Agreement, and the performance of its obligations under this Agreement and the other Transaction Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to "money laundering" as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities (as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001); and
- (u) no Obligor:
 - (i) nor to its knowledge, any director, manager, officer or Affiliate of any Obligor or any member of the Group, is a Prohibited Person;
 - (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or

- (iii) owns or controls a Prohibited Person;
- (v) no proceeds of the Loan shall be made available directly or indirectly to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party;
- (w) the choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions and any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions;
- (x) for the purposes of The Council of the European Union Regulation No. 2015/848 on Insolvency Proceedings (recast) (the **Regulation**), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated outside of the European Union and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in a European Union country;
- (y) no investments made and no payments made, received or to be made by the Borrower, the Member or the Guarantor under this Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Borrower, indirectly, out of funds of Illicit Origin or otherwise derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Borrower, the Member or the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business are, whether directly or, to the knowledge of the Borrower, indirectly, of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction;
- (z) no Prohibited Payment has been or will be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Member or the Guarantor (with respect to the Member and the Guarantor, to the best of the Borrower's knowledge), any of its affiliates or its officers, directors, managers, or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, manager, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents;
- (aa) no event has occurred which constitutes a default under or in respect of any Transaction Document to which any Obligor or the Builder is a party or by which any Obligor or the Builder may be bound (including (inter alia) this Agreement) and no event has occurred which constitutes a default under or in respect of any agreement or document to which any Obligor is a party or by which any Obligor may be bound to an extent or in a manner which might have a material adverse effect on the ability of that Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (bb) none of the assets or rights of the Borrower is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Borrower or (ii) is permitted by Clause 12.8 (*Negative pledge*) of this Agreement;

- (cc) no litigation, arbitration or administrative proceedings are current or pending or, to its knowledge, threatened, which might, if adversely determined, have a material adverse effect on the ability of an Obligor to perform its obligations under the Transaction Documents to which it is a party;
- (dd) to the best of its knowledge, each of the Obligors has complied in all material respects with all taxation laws in all jurisdictions in which it is subject to taxation and has paid all material Taxes due and payable by it;
- (ee) it is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document to which it is a party with respect to any Lender that provides the documentation described in paragraph (b) of Clause 10.7 (*Lender Status*) indicating that it is not subject to tax withholding;
- (ff) under the laws of its Relevant Jurisdictions it is not necessary that any stamp or similar taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents;
- (gg) each member of the Group has good and marketable title to all its assets which are reflected in the audited accounts referred to in paragraph (o) of Clause 11.2 (*Continuing representations and warranties*);
- (hh) none of the Obligors has a place of business in any jurisdiction (except as already disclosed) which requires any of the Finance Documents to be filed or registered in that jurisdiction to ensure the validity of the Finance Documents to which it is a party;
- (ii) the Borrower does not have a place of business in any country (except as already disclosed) other than that of its Original Jurisdiction;
- (jj) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to it and its business generally;
- (kk) each of the Obligors and each member of the Group:
 - (i) is in compliance with all Environmental Laws and Environmental Approvals provided that any non-compliance would not be expected to result in a Material Adverse Effect;
 - (ii) has not received any notice or threat of any Environmental Claim against any member of the Group and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;
 - (iii) confirms that no Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred in each case that would reasonably be expected to result in a Material Adverse Effect;
- (ll) the Borrower has read and acknowledged the principles provided under the Code of Ethics and Model;

- (mm) the Borrower has implemented adequate internal procedures aimed at preventing commission of crimes provided under Legislative Decree 231/01;
- (nn) no litigation is pending against the Borrower in relation to administrative liability provided under Legislative Decree 231/01;
- (oo) no final judgment under Legislative Decree 231/01 has been issued against the Borrower and no plea bargain (also known as *spatteggiamento* under Italian law) has been agreed by the Borrower pursuant to article 444 of the Italian code of criminal procedure; and
- (pp) neither the Borrower nor any of its assets are subject to any precautionary measure provided under Legislative Decree 231/01.

11.3 Representations on the Delivery Date

The Borrower further represents and warrants to each of the Secured Parties at the Delivery Date that:

- (a) the Ship is in its absolute and unencumbered ownership save as contemplated by the Finance Documents;
- (b) the Ship is registered in its name under the laws and flag of the Maritime Registry;
- (c) the Ship is classed with the highest classification available for a Ship of its type free of all recommendations and qualifications with Lloyd's Register, RINA or Bureau Veritas;
- (d) the Ship is operationally seaworthy and in compliance with all relevant provisions, regulations and requirements (statutory or otherwise) applicable to ships registered under the laws and flag of the Maritime Registry;
- (e) the Ship is in compliance with the ISM Code, the ISPS Code and Annex VI as they relate to the Borrower, any Approved Manager and the Ship;
- (f) the Ship is insured in accordance with the provisions of Clause 14 (*Insurance Undertakings*) and in compliance with the requirements therein in respect of such insurances;
- (g) the Ship is managed by the Approved Manager and, in the event that the Approved Manager is not a member of the Group, on and subject to the terms set out in the Management Agreement;
- (h) there is no agreement or understanding to allow or pay any rebate, premium, inducement, commission, discount or other benefit or payment (however described) to the Borrower or any other member of the Group, the Builder or a third party in connection with the purchase by the Borrower of the Ship, other than as disclosed to the Facility Agent in writing on or before the date of this Agreement;
- (i) no Obligor has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Facility Agent sufficient details to enable an accurate search against it to be undertaken by the Lenders at the Companies Registry;

- (j) the Borrower is in all material respects (except in the case of compliance with Sanctions which the Borrower complies with in all respects) compliant with all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration; and
- (k) the copies of any Management Agreement, any charter and any charter guarantee which require a notice of assignment to be served under the terms of the General Assignment (if any) and any other relevant third party agreements including but without limitation the copies of any documents in respect of the Insurances delivered to the Facility Agent are true and complete copies of each such document constituting valid and binding obligations of the parties thereto enforceable in accordance with their respective terms and, subject to Clause 13.2 (*Management and employment*), no amendments thereto or variations thereof have been agreed nor has any action been taken by the parties thereto which would in any way render such document inoperative or unenforceable.

12 GENERAL UNDERTAKINGS

12.1 General

The Borrower undertakes with each Secured Party to comply with the following undertakings during the Security Period:

12.2 Information

The Borrower will provide to the Facility Agent for the benefit of the Lenders and SACE (or will procure the provision of):

- (a) as soon as practicable (and in any event within one hundred and twenty (120) days after the close of its financial year) a Certified Copy of the audited consolidated accounts of the Guarantor and its subsidiaries for that year (commencing with accounts made up to 31 December 2018 in the case of the consolidated accounts of the Guarantor);
- (b) as soon as practicable (and in any event within ninety (90) days of the commencement of each financial year) the budgetary forecast (profit and loss statement, balance sheet statement and cash flow statement) for the two following years for the Guarantor;
- (c) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter for the first three quarters in any fiscal year and within 90 days for the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year-to-date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of paragraph (a) and of this paragraph (c));
- (d) promptly, such further information in its possession or control regarding the condition or operations of the Ship and its financial condition and operations of the Borrower and those of any company in the Group as the Facility Agent may reasonably request for the benefit of the Secured Parties; and
- (e) details of any material litigation, arbitration or administrative proceedings (including proceedings relating to any alleged or actual breach of Sanctions, the ISM Code of the ISPS Code) which affect any company in the Group as soon as the same are instituted and served, or, to the knowledge of the Borrower, threatened (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency provided that this threshold shall not apply to any proceedings relating to Sanctions).

All accounts required under this Clause 12.2 (*Information*) shall be prepared in accordance with GAAP and shall fairly represent the financial condition of the relevant company.

12.3 Equator Principles Compliance

Upon the request of the Facility Agent, the Borrower shall provide to the Facility Agent information as may be reasonably requested by the Lenders for the purposes of monitoring that the Borrower conducts its operations in all material respects in accordance with the Equator Principles.

12.4 Sanctions and Illicit Payments

- (a) The Borrower shall not directly or indirectly use or make available any of the proceeds of the Loan to or for the benefit of a Prohibited Person or in a Prohibited Jurisdiction nor shall they be otherwise directly or indirectly applied in a manner or for a purpose prohibited by Sanctions or in any other manner that would result in a violation of any Sanctions by any Obligor or any Creditor Party.
- (b) No payments made or received by the Borrower, the Member, the Guarantor or any Approved Manager which is a member of the Group under this Agreement or any Finance Document shall be funded directly or, to the knowledge of the Borrower, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Borrower, the Member, the Guarantor or any Approved Manager which is a member of the Group in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Borrower, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (c) Without limiting the generality of the foregoing, no Loan nor any proceeds of the Loan shall be used to finance trade of equipment or any other kind of activity in relation to goods, technologies or sectors in a manner or for a purpose prohibited by Sanctions.

12.5 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Borrower, the Member, the Guarantor or any of their affiliates, officers, directors, managers or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, manager, agent or key employee of, or other person with management responsibilities in, of any authority or public or government entity) in connection with the Ship, this Agreement and/or the Finance Documents.

12.6 Notification of default

The Borrower will notify the Facility Agent of any Event of Default forthwith upon becoming aware of the occurrence thereof. Upon the Facility Agent's request from time to time the Borrower will issue a certificate stating whether any Obligor is aware of the occurrence of any Event of Default.

12.7 Consents and registrations

The Borrower will procure that (and will promptly furnish Certified Copies to the Facility Agent on the request of the Facility Agent of) all such authorisations, approvals, consents, licences and exemptions as may be required under any applicable law or regulation to enable it or any Obligor to perform its obligations under, and ensure the validity or enforceability of, each of the Transaction Documents are obtained and promptly renewed from time to time and will procure that the terms of the same are complied with at all times. Insofar as such filings or registrations have not been completed on or before the Drawdown Date the Borrower will procure the filing or registration within applicable time limits of each Finance Document which requires filing or registration together with all ancillary documents required to preserve the priority and enforceability of the Finance Documents.

12.8 Negative pledge

The Borrower will not create or permit to subsist any Security Interest on the whole or any part of its present or future assets, except for the following:

- (a) Security Interests created with the prior consent of the Facility Agent and the Security Trustee; or
- (b) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraphs (a) and (b) of the definition of "Permitted Security Interests" in Clause 1.1 (*Definitions*); or
- (c) Security Interests qualifying as Permitted Security Interests with respect to the Borrower and described in paragraph (C), (E), (H) or (I) of such definition, provided that insofar as they are enforceable against the Ship they do not prevail over the Mortgage.

12.9 Disposals

Except in the case of a sale of the Ship if the completion of the sale is contemporaneous with prepayment of the Loan in accordance with the provisions of Clause 16.3 (*Mandatory prepayment – Sale and Total Loss*) and except for charters and other arrangements complying with Clause 13.1 (*Pooling of earnings and charters*) the Borrower shall not without the consent of the Majority Lenders and SACE, either in a single transaction or in a series of transactions whether related or not and whether voluntarily or involuntarily:

- (a) sell, transfer, lease or otherwise dispose of the Ship or any of the Ship's equipment except in the case of items:
 - (i) being replaced (by an equivalent or superior item) or renewed; or
 - (ii) that are being disposed of in the ordinary course of business,

provided that in the case of both sub-paragraphs (i) and (ii) above the net impact does not reduce the value of the Ship and, in the case of sub-paragraph (ii), the value of any such disposals during the term of this Agreement do not, in aggregate, exceed ten million Dollars (\$10,000,000);

- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having the same 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.

12.10 Change of business

Except with the prior consent of the Facility Agent, the Borrower shall not make or threaten to make any substantial change in its business as presently conducted, namely that of a single ship owning company for the Ship, or change its place of business to any country other than that of its Original Jurisdiction, or carry on any other business which is substantial in relation to its business as presently conducted so as to affect, in the opinion of the Facility Agent, the Borrower's ability to perform its obligations hereunder.

12.11 Mergers

Except with the prior consent of the Lenders and SACE and subject to compliance with all necessary "know your customer" requirements, the Borrower will not enter into any amalgamation, restructure, substantial reorganisation, merger, de-merger or consolidation or anything analogous to the foregoing nor will it acquire any equity, share capital or obligations of any corporation or other entity.

12.12 Maintenance of status and franchises

The Borrower will do all such things as are necessary to maintain its limited liability company existence in good standing and will ensure that it has the right and is duly qualified to conduct its business as it is conducted in all applicable jurisdictions and will obtain and maintain all franchises and rights necessary for the conduct of its business.

12.13 Financial records

The Borrower will keep proper books of record and account, in which proper and correct entries shall be made of all financial transactions and the assets, liabilities and business of the Borrower in accordance with GAAP.

12.14 Financial Indebtedness and subordination of indebtedness

The following restrictions shall apply:

- (a) otherwise than in the ordinary course of business as owner of the Ship, except as contemplated by this Agreement and except any loan, advance or credit extended by the Guarantor or any member of the Group which is a wholly owned Subsidiary of the Guarantor, the Borrower will not create, incur, assume or allow to exist any financial indebtedness, enter into any finance lease or undertake any material capital commitment (including but not limited to the purchase of any capital asset); and

- (b) the Borrower shall procure that:
- (i) any and all indebtedness (and in particular with any other Obligor) is at all times fully subordinated to the Finance Documents and the obligations of the Borrower hereunder; and
 - (ii) if required by any applicable laws, the subordinated liabilities created pursuant to such indebtedness shall be subject to security (in form and substance satisfactory to the Secured Parties) in favour of the Security Trustee ("**Subordinated Debt Security**") and any related legal opinions shall be issued if so required by the Secured Parties; and
 - (iii) upon the occurrence of an Event of Default, the Borrower shall not make any repayments of principal, payments of interest or of any other costs, fees, expenses or liabilities arising from or representing such indebtedness. In this paragraph (b) of Clause 12.14 (*Financial Indebtedness and subordination of indebtedness*) "fully subordinated" shall mean that any claim of the lender against the Borrower in relation to such indebtedness shall rank after and be in all respects subordinate to all of the rights and claims of the Secured Parties under this Agreement and the other Finance Documents and that the lender shall not take any steps to enforce its rights to recover any monies owing to it by the Borrower and in particular but without limitation the lender will not institute any legal or quasi-legal proceedings under any jurisdiction at any time against the Ship, her Earnings or Insurances or the Borrower and it will not compete with the Secured Parties or any of them in a liquidation or other winding-up or bankruptcy of the Borrower or in any proceedings in connection with the Ship, her Earnings or Insurances.

12.15 Investments

The Borrower shall not:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Obligor and where such loan or form of credit is Permitted Financial Indebtedness;
- (b) give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which the Borrower assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents.
- (c) enter into any material agreement other than:
 - (i) the Transaction Documents;
 - (ii) any other agreement expressly allowed under any other term of this Agreement; and
- (d) enter into any transaction on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms' length; or

- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks.

12.16 Unlawfulness, invalidity and ranking; security imperilled

No Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest to rank after, or lose its priority to, any other Security Interest; and
- (e) imperil or jeopardise any Security Interest.

12.17 Distributions

The Borrower shall not make or pay any distribution (in cash or in kind) in respect of its equity interests other than distributions that are transferred to the Member or the Guarantor provided that no Event of Default has occurred or is continuing or would result from the payment of any distribution.

12.18 Loans and guarantees by the Borrower

Otherwise than in the ordinary course of business in its ownership and operation of the Ship following the Delivery Date, the Borrower will not make any loan or advance or extend credit to any person, firm or corporation (other than as permitted pursuant to paragraph (a) of Clause 12.15 (*Investments*)), or issue or enter into any guarantee or indemnity or otherwise become directly or contingently liable for the obligations of any other person, firm or corporation.

12.19 Acquisition of shares

The Borrower will not:

- (a) acquire any equity, share capital, assets or obligations of any corporation or other entity; or
- (b) permit any of its limited liability company interests to be directly held other than by the Member.

12.20 Further assurance

The Borrower will, from time to time on being required to do so by the Facility Agent, do or procure the doing of all such acts and/or execute or procure the execution of all such documents in a form satisfactory to the Facility Agent as the Facility Agent may reasonably consider necessary for giving full effect to any of the Transaction Documents, the Interest Make-up Agreement or the SACE Insurance Policy or securing to the Secured Parties the full benefit of the rights, powers and remedies conferred upon the Secured Parties or any of them in any such Transaction Document, the Interest Make-up Agreement or the SACE Insurance Policy.

12.21 Irrevocable payment instructions

The Borrower shall not modify, revoke or withhold the payment instructions set out in Clause 4.1 (*Borrower's irrevocable payment instructions*) without the agreement of the Builder (in the case of paragraph (a) of Clause 4.1 (*Borrower's irrevocable payment instructions*) only), the Facility Agent, SACE and the Lenders.

12.22 "Know your customer" checks

- (a) If:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of the Borrower after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Facility Agent or any Lender (or, in the case of paragraph (a)(iii) of Clause 12.22 (*"Know your customer" checks*), 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 or the Lenders (acting reasonably) require any additional documents to supplement those already provided, the Borrower shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (a)(iii) of Clause 12.22 (*"Know your customer" checks*), on behalf of any prospective new Lender) in order for the Facility Agent and, such Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of a Servicing Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Servicing Party (for itself) in order for that Servicing Party to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

12.23 Shipbuilding Contract

- (a) The Shipbuilding Contract constitutes legal, valid and binding and enforceable obligations of the Builder and accordingly the Borrower shall not modify the Shipbuilding Contract, directly or indirectly, in such a manner that would result in a change of the type, principal dimensions or class of the Ship or decrease the value of the Ship by equal to or greater than 5 per cent. (in aggregate) without the prior written consent of the Lenders and SACE.

- (b) The Borrower will, therefore, submit to the Facility Agent any proposals for any such modification and SACE and the Facility Agent on behalf of the Lenders will indicate in a timely manner whether the modification proposed will allow the Loan to be maintained.
- (c) The Borrower also undertakes to notify the Facility Agent of any change in the Intended Delivery Date as soon as practicable after each change has occurred.
- (d) The Borrower shall notify the Facility Agent promptly, and in any event within ten (10) Business Days of any other changes to the Shipbuilding Contract (other than Minor Modifications) and provide copies of the same to the Facility Agent.
- (e) The Borrower undertakes to notify the Facility Agent promptly of any termination and/or repudiation of the Shipbuilding Contract (including a termination and/or repudiation pursuant to article 32 of the Shipbuilding Contract).
- (f) For the avoidance of doubt, all modifications not falling under paragraph (a) above shall be permitted and the Borrower shall not be obliged to seek or obtain any consent from the Lenders and/or SACE in respect of any such modifications subject to the notification requirements as set out in paragraphs (d) and (e) above.

12.24 FOREX Contracts

The Borrower shall:

- (a) provide the Facility Agent with a copy of all FOREX Contracts together with all relevant details within ten (10) days of their execution; and
- (b) inform the Facility Agent, when requested by the Facility Agent, of its intended hedging policy for purchasing Euro with Dollars.

The Facility Agent shall inform the Lenders within ten (10) days of receipt of such information from the Borrower.

12.25 Compliance with laws etc.

The Borrower shall:

- (a) comply, or procure compliance with:
 - (i) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws and regulations relating to it and its business generally; and
 - (ii) in all material respects (except in the case of compliance with Sanctions which the Borrower shall comply with in all respects), all laws or regulations relating to the Ship, its ownership, employment, operation, management and registration,

including the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;

- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals which are applicable to it; and
- (c) without limiting paragraph (a) above, not employ the Ship nor allow its employment, operation or management in any Prohibited Jurisdiction or in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and all Sanctions and applicable anti-corruption laws.

12.26 Most favoured nations

The Borrower shall procure that if at any time after the date of this Agreement the Guarantor enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of Clause 11.2 (*Continuing representations and warranties*) and Clause 18.6 (*Cross default*) respectively, the Borrower or the Guarantor shall immediately notify the Facility Agent of such provisions and the relevant provisions contained in this Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to this Agreement.

12.27 Code of Ethics and Model

- (a) The Borrower shall not behave so as to cause any of the following persons to violate the principles set out in the Code of Ethics and/or Model:
 - (i) persons who are representatives, administrators or managers of CDP or of any of its organizational units with financial and functional independence;
 - (ii) persons who are managed or supervised by one of the persons referred to in paragraph (i) above; or
 - (iii) external advisors of CDP.
- (b) The Borrower shall maintain adequate internal procedures aimed at preventing liabilities provided under Legislative Decree 231/01.
- (c) The Borrower shall inform CDP of any (i) new pending litigation against it in relation to administrative liability provided under Legislative Decree 231/01; (ii) new final judgment under Legislative Decree 231/01, including, without limitation, any plea bargain (also known as *patteggiamento* under Italian law) pursuant to article 444 of the Italian code of criminal procedure; and (iii) new precautionary measures under Legislative Decree 231/01.

13 SHIP UNDERTAKINGS

13.1 Pooling of earnings and charters

The Borrower will not without the prior written consent of the Facility Agent or SACE enter into in respect of the Ship (such consent for the purposes of paragraph (e) of Clause 13.1 (*Pooling of earnings and charters*) shall not be unreasonably withheld or delayed), nor permit to exist at any time following the Delivery Date:

- (a) any pooling agreement or other arrangement for the sharing of any of the Earnings or the expenses of the Ship except with a member of the Group and provided that it does not adversely affect the rights of the Secured Parties under the Finance Documents in the reasonable opinion of the Facility Agent; or
- (b) any demise or bareboat charter (other than the Bareboat Charter), provided however that such consent shall not be unreasonably withheld in the event that the Borrower wishes to enter into a bareboat charter in a form approved by the Facility Agent with another member of the Group on condition that if so requested by the Facility Agent and without limitation:
 - (i) any such bareboat charterer shall enter into such deeds (including but not limited to a full subordination and assignment deed in respect of its rights under the bareboat charter and its interest in the Insurances and earnings payable to it arising out of its use of the Ship), agreements and indemnities as the Majority Lenders and SACE shall require prior to entering into the bareboat charter with the Borrower; and
 - (ii) the Borrower shall assign the benefit of any such bareboat charter and its interest in the Insurances to the Secured Parties by way of further security for the Borrower's obligations under the Finance Documents; or
- (c) any charter whereunder two (2) months' charterhire (or the equivalent thereof) is payable in advance in respect of the Ship; or
- (d) any charter of the Ship or employment which, with the exercise of options for extension, could be for a period longer than [*]; or
- (e) any time charter of the Ship with a company outside the Group (other than a time charter entered into in the ordinary course of business which does not exceed [*] **provided that** (x) any such time charter is assigned to the Security Trustee and (y) during the period of such time charter, the Ship continues to be managed by the existing Approved Manager), provided however that such consent shall not be unreasonably withheld in the event that:
 - (i) such time charter is assigned to the Security Trustee and the Borrower agrees to:
 - (A) serve a notice of assignment of any time charter, the Earnings therefrom and any guarantee of the charterer's obligations on the time charterer and any time charter guarantor; and
 - (B) use commercially reasonable endeavours to obtain an acknowledgement of such assignment,and each of the notice of assignment and acknowledgement of assignment being substantially in the form appended to the General Assignment;
 - (ii) the Facility Agent is satisfied that the income from such time charter will be sufficient to cover the expenses of the Ship and to service repayment of the Loan and all other amounts from time to time outstanding under this Agreement; and

(iii) during the term of such time charter, the Ship continues to be managed by the existing Approved Manager.

13.2 Management and employment

The Borrower will not as from the Delivery Date:

- (a) permit any person other than an Approved Manager to be the manager of, including providing crewing services to, the Ship, at all times acting upon terms approved in writing by the Facility Agent and having entered into (in the case of the Approved Manager) an Approved Manager's Undertaking;
- (b) permit any amendment to be made to the terms of any Management Agreement unless the amendment is advised by the Borrower's tax counsel or is deemed necessary by the parties thereto to reflect the prevailing circumstances but provided that the amendment does not imperil the security to be provided pursuant to the Finance Documents or adversely affect the ability of any Obligor to perform its obligations under the Transaction Documents; or
- (c) permit the Ship to be employed other than within the Norwegian Cruise Line brand unless the Borrower notifies the Lenders that they intend to employ the Ship within another brand of the Group and the ship remains employed within the Group.

13.3 Trading with the United States of America

The Borrower shall in respect of the Ship take all reasonable precautions as from the Delivery Date to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America (as the same may be amended and/or re-enacted from time to time hereafter) or any similar legislation applicable to the Ship in any other jurisdiction in which the Ship shall trade (a "**Trading Jurisdiction**") where the Ship trades in the territorial waters of the United States of America or a Trading Jurisdiction.

13.4 Valuation of the Ship

The following shall apply in relation to the valuation of the Ship:

- (a) the Borrower will on or before 31 May of each year that commences after the delivery of the Ship, unless an Event of Default has occurred and remains unremedied, at the Borrower's expense, procure that the Ship is valued by an Approved Broker (such valuation to be made without taking into account the benefit or otherwise of any fixed employment relating to the Ship);
- (b) the Borrower shall procure that forthwith upon the issuance of any valuation obtained pursuant to this Clause 13.4 (*Valuation of the Ship*) a copy thereof is sent directly to the Facility Agent and the Security Trustee for review; and
- (c) in the event that the Borrower fails to procure a valuation in accordance with paragraph (a) of Clause 13.4 (*Valuation of the Ship*), the Facility Agent shall be entitled to procure a valuation of the Ship on the same basis.

13.5 Earnings

The Borrower will procure that the Earnings (if any) are paid in full without set off and free and clear of and without deduction for any taxes, levies, duties, imposts, charges, fees, restrictions or conditions of any nature whatsoever.

13.6 Operation and maintenance of the Ship

From the Delivery Date until the end of the Security Period at its own expense the Borrower will keep the Ship in a good and efficient state of repair so as to maintain it to the highest classification notation available for the Ship of its age and type free of all recommendations and qualifications with Bureau Veritas. On the Delivery Date and annually thereafter, it will furnish to the Facility Agent (with copy to the Security Trustee) a statement by such classification society that such classification notation is maintained. It will comply with all recommendations, regulations and requirements (statutory or otherwise) from time to time applicable to the Ship and shall have on board as and when required thereby valid certificates showing compliance therewith and shall procure that all repairs to or replacements of any damaged, worn or lost parts or equipment are carried out (both as regards workmanship and quality of materials) so as not to diminish the value or class of the Ship. It will not make any substantial modifications or alterations to the Ship or any part thereof which would reduce the market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*).

13.7 Surveys and inspections

The Borrower will:

- (a) submit the Ship to continuous survey in respect of its machinery and hull and such other surveys as may be required for classification purposes and, if so required by the Facility Agent, supply to the Facility Agent (with copy to the Security Trustee) copies in English of the survey reports;
- (b) permit surveyors or agents appointed by the Facility Agent to board the Ship to inspect its condition or satisfy themselves as to repairs proposed or already carried out and afford all proper facilities for such inspections **provided that**, unless an Event of Default has occurred or there is an accident to the Ship involving repairs the cost of which will or is likely to exceed [*], such inspections shall be limited to one a year and shall all be at reasonable times.

13.8 ISM Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISM Code (as the same may be amended from time to time) or any replacement of the ISM Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISM Code and at all times thereafter:

- (a) hold, or procure that the Approved Manager holds, a valid Document of Compliance duly issued to the Borrower or the Approved Manager (as the case may be) pursuant to the ISM Code and a valid Safety Management Certificate duly issued to the Ship pursuant to the ISM Code;

- (b) provide the Facility Agent (with copy to the Security Trustee) with copies of any such Document of Compliance and Safety Management Certificate as soon as the same are issued; and
- (c) keep, or procure that there is kept, on board the Ship a copy of any such Document of Compliance and the original of any such Safety Management Certificate.

13.9 ISPS Code

The Borrower will comply, or procure that the Approved Manager will comply, with the ISPS Code (as the same may be amended from time to time) or any replacement of the ISPS Code (as the same may be amended from time to time) and in particular, without prejudice to the generality of the foregoing, as and when required to do so by the ISPS Code and at all times thereafter:

- (a) keep, or procure that there is kept, on board the Ship the original of the International Ship Security Certificate required by the ISPS Code; and
- (b) keep, or procure that there is kept, on board the Ship a copy of the ship security plan prepared pursuant to the ISPS Code.

13.10 Annex VI

The Borrower will comply with Annex VI (as the same may be amended from time to time) or any replacement of Annex VI (as the same may be amended from time to time) and in particular, without limitation, to:

- (a) procure that the Ship's master and crew are familiar with, and that the Ship complies with, Annex VI; and
- (b) maintain for the Ship throughout the Security Period a valid and current IAPPC and provide a copy to the Facility Agent (with copy to the Security Trustee); and
- (c) notify the Facility Agent (with copy to the Security Trustee) immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the IAPPC.

13.11 Employment of Ship

The Borrower shall:

- (a) not employ the Ship or permit its employment in any trade or business which is forbidden by any applicable law or is otherwise illicit or in carrying illicit or prohibited goods or in any manner whatsoever which may render it liable to condemnation in a prize court or to destruction, seizure or confiscation or that may expose the Ship to penalties. In the event of hostilities in any part of the world (whether war be declared or not) it will not employ the Ship or permit its employment in carrying any contraband goods; and
- (b) promptly provide the Facility Agent (with copy to the Security Trustee) with (i) all information which the Facility Agent may reasonably require regarding the Ship, its employment, earnings, position and engagements (ii) particulars of all towages and salvages and (iii) copies of all charters and other contracts for its employment and otherwise concerning it.

13.12 Provision of information

The Borrower shall give notice to the Facility Agent and the Security Trustee promptly and in reasonable detail upon the Borrower or any other Obligor becoming aware of:

- (a) accidents to the Ship involving repairs the cost of which will or is likely to exceed [*];
- (b) the Ship becoming or being likely to become a Total Loss;
- (c) any recommendation or requirement made by any insurer or classification society or by any competent authority which is not complied with, or cannot be complied with, within any time limit relating thereto and that might reasonably affect the maintenance of either the Insurances or the classification of the Ship;
- (d) any writ or claim served against or any arrest of the Ship or the exercise of any lien or purported lien on the Ship, her Earnings or Insurances;
- (e) the Ship ceasing to be registered under the flag of the Maritime Registry or anything which is done or not done whereby such registration may be imperilled;
- (f) it becoming impossible or unlawful for it to fulfil any of its obligations under the Finance Documents; and
- (g) anything done or permitted or not done in respect of the Ship by any person which is likely to imperil the security created by the Finance Documents.

13.13 Payment of liabilities

The Borrower shall promptly pay and discharge:

- (a) all debts, damages and liabilities, taxes, assessments, charges, fines, penalties, tolls, dues and other outgoings in respect of the Ship and keep proper books of account in respect thereof provided always that the Borrower shall not be obliged to compromise any debts, damages and liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested debt, damage or liability which, either individually or in aggregate exceeds [*] shall forthwith be provided to the Facility Agent (with copy to the Security Trustee). As and when the Facility Agent may so require the Borrower will make such books available for inspection on behalf of the Facility Agent and provide evidence satisfactory to the Facility Agent that the wages and allotments and the insurance and pension contributions of the master and crew are being regularly paid, that all deductions of crew's wages in respect of any tax liability are being properly accounted for and that the master has no claim for disbursements other than those incurred in the ordinary course of trading on the voyage then in progress or completed prior to such inspection;
- (b) all liabilities which have given rise, or may give rise, to liens or claims enforceable against the Ship under the laws of all countries to whose jurisdiction the Ship may from time to time be subject and in particular the Borrower hereby agrees to indemnify and hold the Secured Parties, their successors, assigns, directors, officers, shareholders, employees and agents harmless from and against any and all claims, losses, liabilities, damages, expenses (including attorneys, fees and expenses and consultant fees) and injuries of any kind whatsoever asserted against the Secured Parties, with respect to or as a result of the presence, escape, seepage, spillage, release, leaking, discharge or migration from the Ship or other properties owned or operated by the Borrower of any hazardous substance, including without limitation, any claims asserted or arising under any applicable environmental, health and safety laws, codes and ordinances, and all rules and regulations promulgated thereunder of all governmental agencies, regardless of whether or not caused by or within the control of the Borrower subject to the following:

- (i) it is the parties' understanding that the Secured Parties do not now, have never and do not intend in the future to exercise any operational control or maintenance over the Ship or any other properties and operations owned or operated by the Borrower, nor in the past, presently, or intend in the future to, maintain an ownership interest in the Ship or any other properties owned or operated by the Borrower except as may arise upon enforcement of the Lenders' rights under the Mortgage;
- (ii) unless and until an Event of Default shall have occurred and without prejudice to the right of each Lender to be indemnified pursuant to this paragraph (b) of Clause 13.13 (*Payment of liabilities*):
 - (A) each Lender will, if it is reasonably practicable to do so, notify the Borrower upon receiving a claim in respect of which the relevant Lender is or may become entitled to an indemnity under this paragraph (b) of Clause 13.13 (*Payment of liabilities*); and
 - (B) subject to the prior written approval of the relevant Lender which the Lender shall have the right to withhold, the Borrower will be entitled to take, in the name of the relevant Lender, such action as the Borrower may see fit to avoid, dispute, resist, appeal, compromise or defend any such claims, losses, liabilities, damages, expenses and injuries as are referred to above in this paragraph (b) of Clause 13.13 (*Payment of liabilities*) or to recover the same from any third party, subject to the Borrower first ensuring that the relevant Lender is secured to its reasonable satisfaction against all expenses thereby incurred or to be incurred,

provided always that the Borrower shall not be obliged to compromise any liabilities as aforesaid which are being contested in good faith subject always that full details of any such contested liabilities which, either individually or in aggregate, exceed [*] shall be forthwith provided to the Facility Agent (with copy to the Security Trustee). If the Ship is arrested or detained for any reason it will procure its immediate release by providing bail or taking such other steps as the circumstances may require.

13.14 Certificate as to liabilities

The Borrower shall give to the Facility Agent (with copy to the Security Trustee) at such times as it may from time to time reasonably require a certificate, duly signed on its behalf, as to the total amount of any debts, damages and liabilities relating to the Ship and details of such of those debts, damages and liabilities as are over a certain amount to be specified by the Facility Agent at the relevant time and, if so required by the Facility Agent, forthwith discharge such of those debts, damages and liabilities as the Facility Agent shall require other than those being contested in good faith.

13.15 Modifications

The Borrower shall maintain the type of the Ship as at the Delivery Date and not put the Ship into the possession of any person for the purpose of work being done on it in an amount exceeding or likely to exceed [*] unless such person shall first have given to the Facility Agent a written undertaking addressed to the Facility Agent in terms satisfactory to the Facility Agent agreeing not to exercise a lien on the Ship or her Earnings for the cost of such work or for any other reason (or the Borrower is able to demonstrate to the reasonable satisfaction of the Facility Agent that the Borrower or the relevant Group company has set aside and will have funds readily available for payment when due of the cost of the work (to the extent not fully covered by insurance proceeds in the case of a partial loss)).

13.16 Registration of Ship

The Borrower shall maintain the registration of the Ship under and fly the flag of the Maritime Registry and not do or permit anything to be done whereby such registration may be forfeited or imperilled.

13.17 Environmental Law

The Borrower shall comply with all Environmental Laws, obtain, maintain and ensure compliance with all requisite Environmental Approvals, and implement procedures to monitor compliance with and to prevent liability under any Environmental Law.

13.18 Notice of Mortgage

The Borrower shall keep the Mortgage registered against the Ship as a valid first preferred mortgage, carry on board the Ship a certified copy of the Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of the Ship a framed printed notice stating that the Ship is mortgaged by the Borrower to the Security Trustee.

13.19 Environmental claims

Each Obligor shall, (through the Guarantor), promptly upon becoming aware of the same, inform the Facility Agent in writing of:

- (a) any Environmental Claim which is likely to result in a Material Adverse Effect against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group which is likely to result in a Material Adverse Effect.

13.20 Trading in war zones

In the event of hostilities in any part of the world (whether war is declared or not), the Borrower shall not cause or permit the Ship to enter or trade to any zone which is declared a war zone by the Ship's war risks insurers unless:

- (a) the prior written consent of the Security Trustee has been given; and

- (b) the Borrower has (at its expense) effected any special, additional or modified insurance cover which the Security Trustee may require.

14 INSURANCE UNDERTAKINGS

14.1 General

The undertakings in this Clause 14 (*Insurance Undertakings*) remain in force on and from the Delivery Date and throughout the rest of the Security Period except as the Facility Agent may otherwise permit.

14.2 Maintenance of obligatory insurances

The Borrower shall insure the Ship in its name and keep the Ship insured on an agreed value basis for an amount in the currency in which the Loan is denominated approved by the Facility Agent (acting on the instructions of the Majority Lenders) but not being less than the greater of (x) [*] per cent. ([*]%) of the amount of the Loan; and (y) the full market and commercial value of the Ship determined in accordance with Clause 13.4 (*Valuation of the Ship*) from time to time through internationally recognised independent first class insurance companies, underwriters, war risks and protection and indemnity associations acceptable to the Facility Agent (acting on the instruction of the Majority Lenders), acting reasonably, in each instance on terms and conditions approved by the Facility Agent including as to deductibles but at least in respect of:

- (a) fire and marine risks including but without limitation hull and machinery and all other risks customarily and usually covered by first-class and prudent shipowners in the global insurance markets under English or Norwegian marine policies or Facility Agent-approved policies containing the ordinary conditions applicable to similar Ships;
- (b) war risks (including terrorism, piracy, blocking and trapping and protection and indemnity war risks) up to the insured amount;
- (c) excess risks that is to say the proportion of claims for general average and salvage charges and under the running down clause not recoverable in consequence of the value at which the Ship is assessed for the purpose of such claims exceeding the insured value;
- (d) protection and indemnity risks with full standard coverage as offered by first-class protection and indemnity associations which are a member of the International Group of P&I Association and up to the highest limit of liability available (for oil pollution risk the highest limit currently available is one billion Dollars (\$1,000,000,000) and this to be increased if reasonably requested by the Facility Agent and the increase is possible in accordance with the standard protection and indemnity cover for Ships of its type and is compatible with prudent insurance practice for first class cruise shipowners or operators in waters where the Ship trades from time to time from the Delivery Date until the end of the Security Period);
- (e) when and while the Ship is laid-up, in lieu of hull insurance, normal port risks; and
- (f) such other risks as the Facility Agent may from time to time reasonably require;

and in any event in respect of those risks and at those levels covered by first class and prudent owners and/or financiers in the international market in respect of similar tonnage provided that if any of such insurances are also effected in the name of any other person (other than the Borrower and/or a Secured Party) such person shall if so required by the Facility Agent execute a first priority assignment of its interest in such insurances in favour of the Secured Parties in similar terms *mutatis mutandis* to the relevant provisions of the General Assignment.

14.3 Mortgagee's interest and pollution risks insurances

The Facility Agent shall take out mortgagee interest insurance on such conditions as the Facility Agent may reasonably require and mortgagee interest insurance for pollution risks as from time to time agreed each for an amount in the currency in which the Loan is denominated of [*] per cent. ([*]%) of the amount of the Loan, the Borrower having no interest or entitlement in respect of such policies; the Borrower shall upon demand of the Facility Agent reimburse the Facility Agent for the costs of effecting and/or maintaining any such insurance(s).

14.4 Trading in the United States of America

If the Ship shall trade in the United States of America and/or the Exclusive Economic Zone of the United States of America (the "EEZ") as such term is defined in the US Oil Pollution Act 1990 ("OPA"), to comply strictly with the requirements of OPA and any similar legislation which may from time to time be enacted in any jurisdiction in which the Ship presently trades or may or will trade at any time during the existence of this Agreement and in particular before such trade is commenced and during the entire period during which such trade is carried on:

- (a) to pay any additional premiums required to maintain full standard protection and indemnity cover for oil pollution up to the highest limit available to it for the Ship in the market;
- (b) to make all such quarterly or other voyage declarations as may from time to time be required by the Ship's protection and indemnity association and to comply with all obligations in order to maintain such cover, and promptly to deliver to the Facility Agent (with copy to the Security Trustee) copies of such declarations;
- (c) to submit the Ship to such additional periodic, classification, structural or other surveys which may be required by the Ship's protection and indemnity insurers to maintain cover for such trade and promptly to deliver to the Facility Agent copies of reports made in respect of such surveys;
- (d) to implement any recommendations contained in the reports issued following the surveys referred to in paragraph (c) of Clause 14.4 *Trading in the United States of America* within the time limit specified therein and to provide evidence satisfactory to the Facility Agent that the protection and indemnity insurers are satisfied that this has been done;
- (e) in particular strictly to comply with the requirements of any applicable law, convention, regulation, proclamation or order with regard to financial responsibility for liabilities imposed on the Borrower or the Ship with respect to pollution by any state or nation or political subdivision thereof, including but not limited to OPA, and to provide the Facility Agent on demand with such information or evidence as it may reasonably require of such compliance;
- (f) to procure that the protection and indemnity insurances do not contain a clause excluding the Ship from trading in waters of the United States of America and the EEZ or any other provision analogous thereto and to provide the Facility Agent with evidence that this is so; and

- (g) strictly to comply with any operational or structural regulations issued from time to time by any relevant authorities under OPA so that at all times the Ship falls within the provisions which limit strict liability under OPA for oil pollution.

14.5 Protections for Secured Parties

- (a) The Borrower shall give notice forthwith of any assignment of its interest in the Insurances to the relevant brokers, insurance companies, underwriters and/or associations in the form approved by the Facility Agent.
- (b) The Borrower shall execute and deliver all such documents and do all such things as may be necessary to confer upon the Secured Parties legal title to the Insurances in respect of the Ship and to procure that the interest of the Secured Parties is at all times filed with all slips, cover notes, policies and certificates of entry and to procure (a) that a loss payable clause in the form approved by the Facility Agent shall be filed with all the hull, machinery and equipment and war risks policies in respect of the Ship and (b) that a loss payable clause in the form approved by the Facility Agent shall be endorsed upon the protection and indemnity certificates of entry in respect of the Ship.
- (c) In the event of the Borrower making default in insuring and keeping insured the Ship as hereinbefore provided then the Facility Agent may (but shall not be bound to) insure the Ship or enter the Ship in such manner and to such extent as the Facility Agent in its discretion thinks fit and in such case all the cost of effecting and maintaining such insurance together with interest thereon at the interest rate shall be paid on demand by the Borrower to the Facility Agent.

14.6 Copies of policies; letters of undertaking

The Borrower will procure that each of the relevant brokers and associations furnishes the Facility Agent with a letter of undertaking in the standard form available in the relevant insurance market or otherwise in such form as may be required by the Facility Agent and waives any lien for premiums or calls except in relation to premiums or calls solely attributable to the Ship.

14.7 Payment of premiums

The Borrower shall punctually pay all premiums, calls, contributions or other sums payable in respect of the Insurances on the Ship and to produce all relevant receipts when so required by the Facility Agent.

14.8 Renewal of obligatory insurances

The Borrower shall notify the Facility Agent (with copy to the Security Trustee) of the renewal of the obligatory insurances at least five (5) days before the expiry thereof and shall procure that the relevant brokers or associations shall promptly confirm in writing to the Facility Agent (with copy to the Security Trustee) that such renewal is effected, it being understood by the Borrower that any failure to renew the Insurances on the Ship at least two (2) days before the expiry thereof or to give or procure the relevant notices of such renewal shall constitute an Event of Default.

14.9 Guarantees

The Borrower shall arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity and/or war risks association.

14.10 Provision of insurances information

The Borrower will furnish the Facility Agent (with copy to the Security Trustee) from time to time on request with full information about all Insurances maintained on the Ship and the names of the offices, companies, underwriters, associations or clubs with which such Insurances are placed.

14.11 Alteration to terms of insurances

The Borrower shall not make or agree to any variation in the terms of any of the Insurances on the Ship without the prior approval of the Facility Agent nor to do any act or voluntarily suffer or permit any act to be done whereby any Insurances shall or may be rendered invalid, void, voidable, suspended, defeated or unenforceable and not to suffer or permit the Ship to engage in any voyage nor to carry any cargo not permitted under any of the Insurances without first obtaining the consent of the insurers or reinsurers concerned and complying with such requirements as to payment of extra premiums or otherwise as the insurers or reinsurers may impose.

14.12 Settlement of claims

The Borrower shall not settle, compromise or abandon any claim in respect of any of the Insurances on the Ship other than a claim of less than [*] Dollars (\$[*]) or the equivalent in any other currency and not being a claim arising out of a Total Loss.

14.13 Application of insurance proceeds

The Borrower shall apply or ensure the appliance of all such sums receivable in respect of the Insurances on the Ship for the purpose of making good the loss and fully repairing all damage in respect whereof the insurance monies shall have been received.

14.14 Insurance advisers

The Facility Agent shall be entitled, immediately prior to the Delivery Date and thereafter no more frequently than annually on renewals but also additionally at any time when there is a proposed change of underwriters or the terms of any Insurances, to instruct independent reputable insurance advisers for the purpose of obtaining any advice or information regarding any matter concerning the Insurances which the Facility Agent shall deem necessary, it being hereby specifically agreed that the Borrower shall reimburse the Facility Agent on demand for the costs and expenses incurred by the Facility Agent in connection with the instruction of such advisers subject to a limit of ten thousand Dollars (\$10,000) at the time of delivery of the Ship or in the event of a change of underwriters or of terms of any Insurances and otherwise ten thousand Dollars (\$10,000) annually thereafter.

15 SECURITY VALUE MAINTENANCE

15.1 Security Shortfall

If, upon receipt of a valuation of the Ship in accordance with Clause 13.4 (*Valuation of the Ship*), the Security Value shall be less than the Security Requirement, the Facility Agent may give notice to the Borrower requiring that such deficiency be remedied and then the Borrower shall (unless the Ship has become a Total Loss) either:

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

Clauses 15.2 (*Costs*) and 15.4 (*Documents and evidence*) and paragraph (c) of Clause 16.2 (*Voluntary prepayment*) shall apply to prepayments under paragraph (a) of Clause 15.1 (*Security Shortfall*).

15.2 Costs

All costs in connection with the Facility Agent obtaining any valuation of the Ship referred to in Clause 13.4 (*Valuation of the Ship*), and obtaining any valuation either of any additional security for the purposes of ascertaining the Security Value at any time or necessitated by the Borrower electing to constitute additional security pursuant to paragraph (b) of Clause 15.1 (*Security Shortfall*) shall be borne by the Borrower.

15.3 Valuation of additional security

For the purpose of this Clause 15 (*Security Value Maintenance*), the market value of any additional security provided or to be provided to the Facility Agent and/or the Security Trustee shall be determined by the Facility Agent and the Security Trustee in their absolute discretion without any necessity for the Facility Agent or the Security Trustee assigning any reason thereto.

15.4 Documents and evidence

In connection with any additional security provided in accordance with this Clause 15 (*Security Value Maintenance*), the Facility Agent shall be entitled to receive such evidence and documents of the kind referred to in Clause 3 (*Conditions Precedent*) in respect of other Finance Documents as may in the Facility Agent's opinion be appropriate.

15.5 Valuations binding

Any valuation under this Clause 15 (*Security Value Maintenance*) shall be binding and conclusive as regards the Borrower.

15.6 Provision of information

- (a) The Borrower shall promptly provide the Facility Agent (with copy to the Security Trustee) and any shipbroker acting under this Clause 15 (*Security Value Maintenance*) with any information which the Facility Agent or the shipbroker may reasonably request for the purposes of the valuation.
- (b) If the Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the shipbroker or the Facility Agent considers prudent.

16 CANCELLATION, PREPAYMENT AND MANDATORY PREPAYMENT

16.1 Cancellation

- (a) Subject to paragraph (b) below, at any time between the Effective Date and prior to the end of the Availability Period, the Borrower may give notice to the Facility Agent in writing that it wishes to cancel the whole or any part of the available Commitments whereupon (without penalty to the Borrower but without prejudice to any liabilities of the Borrower including, without limitation, in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such cancellation) such available Commitments shall terminate upon the date specified in such notice. Any cancellation under this Clause 16.1(a) shall reduce the remaining Commitments of the Lenders rateably.
- (b) If the SBC Effective Date has not occurred by 31 January 2019, then at any time thereafter, the Borrower may, by written notice (signed by the Borrower, the Member and the Guarantor) to the Facility Agent, terminate this Agreement and the other Finance Documents and, except for this Clause, Clause 10.11 (*Transaction Costs*), Clause 33 (*Confidentiality*) and the Fee Letter in relation to the Structuring Fee, this Agreement and the other Finance Documents shall, with effect from such termination, be null and void and no party nor any of its respective parents, subsidiaries, affiliates, officers or employees of any of the foregoing shall have any further liability or obligation whatsoever (including payment of fees and expenses other than in respect of fees payable or accrued under this Agreement, arising on or prior to the date of such termination) under or in connection with this Agreement and/or any other Finance Document or their termination and clause 4(c) of the Fee Letter in relation to the Structuring Fee shall apply.

16.2 Voluntary prepayment

- (a) The Borrower may prepay all or part of the Loan (but if in part being an amount that reduces the Loan by a minimum amount of one (1) repayment instalment of principal of the Loan) together with interest thereon. Such prepayment shall, regardless of the date on which such prepayment is made, be made together with all of the amounts that SIMEST is entitled to charge, whether for taxes, costs, expenses, indemnities, penalties, losses or liabilities whatsoever, under and in accordance with the Interest Make-up Agreement and Clause 20.2 (*Breakage costs and SIMEST arrangements*) but without any other penalty provided that the prepayment is made on the last day of an Interest Period and thirty-five (35) days prior written notice indicating the intended date of prepayment is given to the Facility Agent and the SACE Agent. However, the following amounts shall be payable to the Facility Agent if any prepayment made pursuant to this Clause 16.2 (*Voluntary prepayment*) is not made on the last day of an Interest Period:

- (i) for the account of the Lenders, whether the Borrower elected a Floating Interest Rate or a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the difference (if positive), calculated by the Lenders and notified by them to the Facility Agent, between the actual cost for the Lenders of the funding for the Loan and the rate of interest for the monies to be invested by the Lenders, applied to the amounts so prepaid for the period from the said prepayment until the last day of the Interest Period during which the prepayment occurs (if prepayment does not occur on the last day of that Interest Period), details of any such calculation being supplied to the Borrower by the Facility Agent on behalf of the Lenders; or
 - (ii) for the account of SIMEST, if the Borrower elected a Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the sum of charges (if any) imposed by SIMEST representing funding or breakage costs of the Italian Authorities as more specifically set out in Clause 20 (*Indemnities*).
- (b) For the avoidance of doubt, regardless of the date on which a voluntary prepayment is made, such prepayment shall be paid together with all amounts payable in accordance with Clause 20.2 (*Breakage costs and SIMEST arrangements*) and if a voluntary prepayment is made other than on the last day of an Interest Period, the prepayment shall be paid together with such other amounts payable in accordance with Clauses 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and 20.2 (*Breakage costs and SIMEST arrangements*).
 - (c) If the Borrower has selected the Fixed Interest Rate pursuant to Clause 6.1 (*Fixed or Floating Interest Rate*), the SACE Agent shall give SIMEST thirty (30) days written notice of the intended date of prepayment.

16.3 Mandatory prepayment – Sale and Total Loss

The Borrower shall be obliged to prepay the whole of the Loan if the Ship is sold (without prejudice to Clause 12.9 *Disposals*)) or becomes a Total Loss:

- (a) in the case of a sale, on or before the date on which the sale is completed by delivery of the Ship to the buyer; or
- (b) in the case of a Total Loss, on the earlier of the date falling 120 days after the Total Loss Date and the date of receipt by the Facility Agent or the Security Trustee (as the case may be) of the proceeds of insurance relating to such Total Loss.

16.4 Mandatory prepayment – SACE Insurance Policy

- (a) The Borrower shall be obliged to prepay the whole of the Loan if it is or becomes unlawful for SACE to perform or comply with any or all of its payment obligations pursuant to the SACE Insurance Policy, if the SACE Insurance Policy is revoked, rescinded, cancelled, terminated, suspended or otherwise becomes unenforceable or ceases to be valid, binding or in full force and effect.
- (b) In the event that any other event occurs or any other circumstances arise or develop which would have a material adverse effect on SACE's ability to perform its obligations under the SACE Insurance Policy, the Borrower and the Lenders shall, provided that no Event of Default has occurred and is continuing, negotiate in good faith for a period of not less than 30 days with a view to agreeing such revised terms and conditions as the Lenders may require to enable the Lenders to maintain the entire Loan (and during such 30 day period, no Lender shall be obliged to make available to the Borrower their portion of the Loan to the extent such amounts have not already been drawn). In the event that following such negotiations the Borrower and the Lenders fail to agree on such revised terms, the Borrower shall be obliged to prepay, on demand by the Facility Agent, the outstanding principal amount of the Loan to the extent of the amount covered pursuant to the SACE Insurance Policy. If, during the period while negotiations are on-going pursuant to this paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) the events described in paragraph (b) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*) should occur, the Borrower shall be obliged to prepay the Loan in full as required by paragraph (a) of Clause 16.4 (*Mandatory prepayment – SACE Insurance Policy*).

16.5 Other amounts

Any prepayment of the whole of the Loan shall be made together with all other sums due under this Agreement (including, without limitation, the compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*)).

16.6 Application of partial prepayment

Amounts prepaid shall be applied in accordance with paragraph (b) of Clause 19.1 (*Receipts*).

16.7 No reborrowing

Amounts prepaid may not be reborrowed.

17 INTEREST ON LATE PAYMENTS

17.1 Default rate of interest

Without prejudice to the provisions of Clause 18 (*Events of Default*) and without this Clause in any way constituting a waiver of terms of payment, all sums due by the Borrower under this Agreement will automatically bear interest on a day to day basis from the date when they are payable until the date of actual payment at a rate per annum equal to the higher of:

- (a) where the Floating Interest Rate is applicable, the aggregate of:
 - (i) Overnight LIBOR;
 - (ii) the applicable Margin; and
 - (iii) [*] per cent. ([*]%) per annum; or
- (b) where the Fixed Interest Rate is applicable, the higher of:
 - (i) the Fixed Interest Rate plus [*] per cent. ([*]%) per annum; and
 - (ii) Overnight LIBOR plus the applicable Margin plus [*] per cent. ([*]%) per annum.

17.2 Compounding of default interest

To the extent permitted by applicable law, any such interest will itself bear interest at the above rate if it is due for at least three (3) months and thereafter at three monthly intervals.

18 EVENTS OF DEFAULT

18.1 Events of Default

An Event of Default occurs if any of the events or circumstances described in Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*) occur.

18.2 Non-payment

Any Obligor fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document and such failure is not remedied within three (3) Business Days of the due date or (if payable on demand) within three (3) Business Days of receiving the demand.

18.3 Non-remediable breaches

The Borrower fails to comply with the provisions of Clauses 12.4 (*Sanctions and Illicit payments*), 12.5 (*Prohibited payments*), 12.8 (*Negative pledge*), 12.9 (*Disposals*), 12.11 (*Mergers*) or 12.18 (*Loans and guarantees by the Borrower*).

18.4 Breach of other obligations

- (a) Any Obligor fails to comply with any provision of any Finance Document (other than a failure to comply covered by any of the other provisions of Clauses 18.2 (*Non-payment*) to 18.20 (*Material Adverse Change*)) and in particular but without limitation the Guarantor fails to comply with the provisions of clause 11 (*Undertakings*) of its Guarantee or there is any material breach in the opinion of the Majority Lenders and SACE of any of the Underlying Documents provided that (save in respect of Clause 12.27 (*Code of Ethics and Model*)) no Event of Default shall be deemed to have occurred if, in the opinion of the Majority Lenders and SACE, such failure or material breach is capable of remedy and is remedied within the Relevant Period (as defined below) from the date of its occurrence, if the failure or material breach was known to that Obligor, or from the date the relevant Obligor is notified by the Facility Agent of the failure or material breach, if the failure or material breach was not known to that Obligor, unless in any such case as aforesaid the Majority Lenders and SACE consider that the failure or material breach is or could reasonably be expected to become materially prejudicial to the interests, rights or position of the Lenders, "**Relevant Period**" meaning for the purposes of this Clause fifteen (15) days in respect of a remedy period commencing after the date of this Agreement.
- (b) There is a repudiation or termination of any Transaction Document (save for the Shipbuilding Contract and, to the extent replaced, any Management Agreement and any charter) or any of the parties thereto becomes entitled to terminate or repudiate any of them and evidences an intention so to do.

18.5 Misrepresentation

Any representation, warranty or statement made or repeated in, or in connection with, any Transaction Document or the SACE Insurance Policy or in any accounts, certificate, statement or opinion delivered by or on behalf of any Obligor thereunder or in connection therewith is materially incorrect or misleading when made or would, if repeated at any time hereafter by reference to the facts subsisting at such time, no longer be materially correct.

18.6 Cross default

- (a) Any event of default occurs under any financial contract or financial document relating to any Financial Indebtedness of the Borrower.
- (b) Any such Financial Indebtedness or any sum payable in respect thereof is not paid when due (after the expiry of any applicable grace period(s)) whether by acceleration or otherwise.
- (c) Any other Financial Indebtedness of any member of the Group is not paid when due or is or becomes capable of being declared due prematurely by reason of default or any Security Interest securing the same becomes enforceable by reason of default provided that no Event of Default will arise if the aggregate amount of the relevant Financial Indebtedness and liabilities secured by the relevant Security Interests is less than [*] Dollars (\$[*]) or its equivalent in other currencies.
- (d) Any other Security Interest over any assets of any member of the Group securing any alleged liability that does not qualify as Financial Indebtedness becomes enforceable where the alleged liability is in respect of a sum of, or sum aggregating, [*] Dollars (\$[*]) or its equivalent in other currencies, unless the alleged liability is being contested in good faith by appropriate means by the relevant Group member and the Facility Agent is reasonably satisfied that the relevant member of the Group has reasonable grounds for succeeding in its action.

18.7 Winding-up

Any order is made or an effective resolution passed or other action taken for the suspension of payments or reorganisation, dissolution, termination of existence, liquidation, winding-up or bankruptcy of any Obligor.

18.8 Appointment of liquidators etc.

A liquidator, trustee, administrator, receiver, administrative receiver, manager or similar officer is appointed in respect of any Obligor or in respect of all or any substantial part of the assets of any Obligor.

18.9 Enforcement of any security

Any corporate action, legal proceeding or other procedure or step is taken in relation to enforcement of any security interests over any assets of the Borrower.

18.10 Insolvency

- (a) An Obligor is unable or admits inability to pay its debts as they fall due, is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts.
- (b) The value of the assets of any Obligor is less than its liabilities (taking into account contingent liabilities).
- (c) A moratorium in respect of all or any debts of any Obligor or a compromise, composition, assignment or an arrangement with creditors of any Obligor or any similar proceeding or arrangement by which the assets of any Obligor are submitted to the control of its creditors is applied for, ordered or declared or any Obligor commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of all or a significant part of its Financial Indebtedness. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

18.11 Legal process

Any corporate action, legal proceeding, distress, execution, attachment or other process affects the whole or any substantial part of the assets of any Obligor and remains undischarged for a period of thirty (30) days, any step is taken in relation to enforcement of any security interests over any assets of any Obligor (other than the Borrower) or any uninsured judgment which, in each case, is in excess of [*] Dollars (\$[*]) following final appeal, remains unsatisfied for a period of ten (10) days.

18.12 Analogous events

Anything analogous to or having a substantially similar effect to any of the events specified in Clauses 18.7 (*Winding-up*) to 18.11 (*Legal process*) shall occur under the laws of any applicable jurisdiction.

18.13 Cessation of business

Any Obligor ceases to carry on all or a substantial part of its business.

18.14 Revocation of consents

Any authorisation, approval, consent, licence, exemption, filing, registration or notarisation or other requirement necessary to enable any Obligor to comply with any of its obligations under any of the Transaction Documents is materially adversely modified, revoked or withheld or does not remain in full force and effect and within ninety (90) days of the date of its occurrence such event is not remedied to the satisfaction of the Facility Agent consider that such failure is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the modification, revocation or withholding of the authorisation, approval or consent is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interests might reasonably be expected to be materially adversely affected.

18.15 Unlawfulness

At any time it is unlawful or impossible for any Obligor to perform any of its material (to the Secured Parties or any of them) obligations under any Transaction Document to which it is a party or it is unlawful or impossible for the Secured Parties or any Lender to exercise any of their or its rights under any of the Transaction Documents provided that no Event of Default shall be deemed to have occurred where the unlawfulness or impossibility does not relate to the payment obligation of any Obligor under any Transaction Document and is cured within the period of twenty one (21) days of the date of occurrence of the event giving rise to the unlawfulness or impossibility and the affected Obligor performs its obligation within such period.

18.16 Insurances

The Borrower fails to insure the Ship in the manner specified in Clause 14 (*Insurance Undertakings*) or fails to renew the Insurances at least five (5) days prior to the date of expiry thereof and produce prompt confirmation of such renewal to the Facility Agent provided that if the insurers withdraw their cover an Event of Default shall be deemed to have occurred upon issue of the insurer's notice of withdrawal.

18.17 Disposals

If the Borrower or any other Obligor shall have concealed, removed, or permitted to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or made or suffered a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of its property to or for the benefit of a creditor with the intention of preferring such creditor over any other creditor.

18.18 Prejudice to security

Anything is done or suffered or omitted to be done by any Obligor which in the reasonable opinion of the Facility Agent would or might be expected to imperil the security created by any of the Finance Documents.

18.19 Governmental intervention

The authority of any Obligor in the conduct of its business is wholly or substantially curtailed by any seizure or intervention by or on behalf of any authority and within ninety (90) days of the date of its occurrence any such seizure or intervention is not relinquished or withdrawn and the Facility Agent reasonably considers that the relevant occurrence is or might be expected to become materially prejudicial to the interests, rights or position of the Lenders provided that the Borrower shall not be entitled to the aforesaid ninety (90) day period if the seizure or intervention executed by any authority is due to an act or omission of any Obligor and the Majority Lenders and SACE are satisfied that the Lenders' interest might reasonably be expected to be materially adversely affected.

18.20 Material Adverse Change

- (a) Any event or circumstance occurs which results in a Material Adverse Effect.
- (b) Any event or circumstance occurs (including, without limitation, following the sending of a notice by the Borrower under paragraph (c) of Clause 12.27 *Code of Ethics and Model*), which results in a material adverse effect on the ability of the Borrower, also under an economic and/or financial standpoint, to perform its obligations under this Agreement.

18.21 Actions following an Event of Default

On, or at any time after, the occurrence of an Event of Default the Facility Agent may, and if so instructed by the Majority Lenders and SACE (acting through the SACE Agent), the Facility Agent shall:

- (a) serve on the Borrower a notice stating that the Commitments and all other obligations of each Lender to the Borrower under this Agreement are terminated; and/or

- (b) serve on the Borrower a notice stating that the Loan (including but without limitation the amount representing the financed First Instalment and Second Instalment of the SACE Premium), all accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
- (c) take any other action which, as a result of the Event of Default or any notice served under paragraph (a) or (b), the Facility Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law.

18.22 Termination of Commitments

On the service of a notice under paragraph (a) of Clause 18.21 (*Actions following an Event of Default*), the Commitments and all other obligations of each Lender to the Borrower under this Agreement shall terminate.

18.23 Acceleration of Loan

On the service of a notice under paragraph (b) of Clause 18.21 (*Actions following an Event of Default*), the Loan, all accrued interest and all other amounts accrued or owing from the Borrower or any Obligor under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

18.24 Further amounts payable

Upon an acceleration of repayment of the Loan following an Event of Default the Borrower shall be liable to pay compensation calculated in accordance with Clause 16.2 (*Voluntary prepayment*).

18.25 Multiple notices; action without notice

The Facility Agent may serve notices under paragraphs (a) and (b) of Clause 18.21 (*Actions following an Event of Default*) simultaneously or on different dates and it may take any action referred to in paragraph (c) of Clause 18.21 (*Actions following an Event of Default*) if no such notice is served simultaneously with or at any time after the service of both or either of such notices.

18.26 Notification of Secured Parties and Obligors

The Facility Agent shall send to the Italian Authorities, each Lender and each Obligor a copy or the text of any notice which the Facility Agent serves on the Borrower under Clause 18.21 (*Actions following an Event of Default*); but the notice shall become effective when it is served on the Borrower, and no failure or delay by the Facility Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide any Obligor with any form of claim or defence.

18.27 Lender's rights unimpaired

Nothing in this Clause 18 (*Events of Default*) shall be taken to impair or restrict the exercise of any right given to individual Lenders under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clauses 2.4 (*Creditor Parties' rights and obligations*) and 2.6 (*Obligations of Lenders several*).

18.28 Exclusion of Secured Party liability

No Secured Party, and no receiver or manager appointed by the Facility Agent, shall have any liability to an Obligor:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset.

19 APPLICATION OF SUMS RECEIVED

19.1 Receipts

- (a) Except as any Finance Document may otherwise provide, all sums received under this Agreement or any other Finance Document by the Facility Agent, on behalf of the Lenders, the SACE Agent, the Security Trustee, Receiver, Delegate or by any of the Lenders for any reason whatsoever will be applied in the following order of priority:
 - (i) first, in discharging any unpaid fees, costs and expenses of, and any amounts owed to the Facility Agent, SACE Agent, Security Trustee, any Receiver or any Delegate on a pro rata basis;
 - (ii) second, to payments of any kind due or in arrears in the order of their due payment dates due to the Lenders and Joint Mandated Lead Arrangers in the following order of priority:
 - (A) first, to interest payable pursuant to Clause 17 (*Interest on Late Payments*);
 - (B) second, to interest payable pursuant to Clause 6 (*Interest*);
 - (C) third, to the principal of the Loan payable pursuant to Clause 5 (*Repayment*);
 - (D) fourth, to any sums due pursuant to Clause 20.2 (*Breakage costs and SIMEST arrangements*); and
 - (E) fifth, to any other sums due under this Agreement or any other Finance Document,and, if relevant, payments under paragraphs (a)(ii)(A) to (a)(ii)(E) above, shall be made *pro rata* to each of the Lenders and Joint Mandated Lead Arrangers as applicable.
- (b) if no payments are in arrears or if these payments have been discharged as set out above, then and to sums remaining due under this Agreement or any other Finance Document and, if relevant, pro rata to each of the Lenders and in each case in inverse order of maturity, the interest being recalculated accordingly.

- (c) The Facility Agent shall, if so directed by the Lenders and subject to SACE's prior written consent, vary the order set out in paragraphs (a)(ii)(A) to (a)(ii)(D) above.
- (d) Paragraphs (a), (b) and (c) above will override any appropriation made by an Obligor.

20 INDEMNITIES

20.1 Indemnities regarding borrowing and repayment of Loan

- (a) The Borrower shall fully indemnify the Facility Agent, SACE Agent, Security Trustee, any Delegate, any Receiver, each Lender, SACE and SIMEST (but without double counting to the extent that a Lender is making a claim in respect of amounts owing to SIMEST) on the Facility Agent's demand in respect of all costs, claims, expenses, liabilities and losses which are made or brought against or incurred by that Secured Party, or which that Secured Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:
 - (i) the Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity;
 - (ii) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
 - (iii) any failure (for whatever reason) by the Borrower to comply with its obligations to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 17 (*Interest on Late Payments*));
 - (iv) the occurrence and/or continuance of an Event of Default and/or the acceleration of repayment of the Loan under Clause 18 (*Events of Default*);
 - (v) the taking, holding, protection or enforcement of a Security Interest;
 - (vi) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Trustee, each Receiver and each Delegate by a Finance Document or by law;
 - (vii) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; and
 - (viii) acting as Facility Agent, SACE Agent, Security Trustee, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Interests or Security Property (otherwise, in each case, excluding sub-paragraphs (v) and (vi) above, than by reason of the relevant Facility Agent's, Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct).
- (b) The Security Trustee and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Security Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) and shall have a lien on the Security Interests and the proceeds of the enforcement of the Security Interests for all moneys payable to it.

20.2 Breakage costs and SIMEST arrangements

Without limiting its generality, Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*) covers:

- (a) any claim, expense, liability or loss, including a loss of a prospective profit, incurred by a Lender in liquidating or employing deposits from third parties acquired or arranged to fund or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount);
- (b) if the Borrower has selected the Fixed Interest Rate in accordance with Clause 6.1 (*Fixed or Floating Interest Rate*), the CIRR Break Costs; and
- (c) any other costs whatsoever or howsoever arising under or in respect of the Interest Make-up Agreement which are passed to the SACE Agent, and any such costs imposed by SIMEST shall be paid by the Borrower to SIMEST through the SACE Agent.

20.3 Miscellaneous indemnities

The Borrower shall fully indemnify each Secured Party severally on their respective demands in respect of all claims, expenses, liabilities and losses which may be made or brought against or incurred by a Secured Party, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Facility Agent or any other Secured Party or by any receiver appointed under a Finance Document;
- (b) any other Pertinent Matter,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the relevant Secured Party's (or its officers' or employees') Gross Negligence or wilful misconduct.

Without prejudice to its generality, this Clause 20.3 (*Miscellaneous indemnities*) covers (i) any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code or any Environmental Laws or any Sanctions and (ii) any claims, expenses, liabilities (including, without limitation, under a reputational standpoint) and losses which arise, or are asserted, against CDP under or in connection with any breach by the Borrower of any of the provisions of paragraphs (ll) to (pp) of Clause 11.2 (*Continuing representations and warranties*) and/or of Clause 12.27 (*Code of Ethics and Model*).

20.4 Currency indemnity

If any sum due from an Obligor to a Secured Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- (a) making or lodging any claim or proof against an Obligor, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrower shall indemnify the Secured Party concerned against the loss arising when the amount of the payment actually received by that Secured Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 20.4 (*Currency indemnity*) the "**available rate of exchange**" means the rate at which the Secured Party concerned is able at the opening of business (Paris time) on the Business Day after it receives the sum concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 20.4 (*Currency indemnity*) creates a separate liability of the Borrower which is distinct from its other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

20.5 Certification of amounts

A notice which is signed by 2 officers of a Secured Party, which states that a specified amount, or aggregate amount, is due to that Secured Party under this Clause 20 (*Indemnities*) and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be prima facie evidence that the amount, or aggregate amount, is due.

20.6 Sums deemed due to a Lender

For the purposes of this Clause 20 (*Indemnities*), a sum payable by the Borrower to the Facility Agent for distribution to a Lender shall be treated as a sum due to that Lender.

20.7 SACE obligations

To the extent that this Clause 20 (*Indemnities*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

21 ILLEGALITY, ETC.

21.1 Illegality and Sanctions

This Clause 21 (*Illegality, etc.*) applies if:

- (a) a Lender (the "**Notifying Lender**") notifies the Facility Agent that:
 - (i) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to perform any of its obligations as contemplated by the Finance Documents or to fund its participation in the Loan; and/or

(ii) it is or becomes unlawful or contrary to any law, regulation (including Sanctions) – including by way of civil, administrative or criminal liability - in any applicable jurisdiction for the Notifying Lender to maintain its participation in the Loan; or

- (b) an Obligor is or becomes a Prohibited Person,
(such event, an **"Illegality or Sanctions Event"**).

21.2 Notification of illegality

The Borrower shall promptly notify the Facility Agent of the occurrence of an event under Clause 21.1(b) above and the Facility Agent shall promptly notify the Lenders. The Facility Agent shall promptly notify the Borrower, the Obligors and the other Lenders of the notice under Clause 21.1(a) which the Facility Agent receives from the Notifying Lender.

21.3 Prepayment; termination of Commitment

- (a) Upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(i) above, the Notifying Lender's Commitment will be immediately suspended and that Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*) within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event), the Notifying Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment;
- (b) upon the Facility Agent notifying the Borrower of an event under Clause 21.1(a)(ii) above, the Notifying Lender shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) the Notifying Lender may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;
- (c) upon the Borrower notifying the Facility Agent and the Facility Agent notifying the Lenders of an event under Clause 21.1(b) above, the Lenders shall act in accordance with Clause 21.4 (*Mitigation*). To the extent no alternative arrangements have been agreed in accordance with Clause 21.4 (*Mitigation*), within the earlier of (i) the grace period permitted by law and (ii) a period of 15 Business Days from the date on which the Facility Agent became aware of the event (or if the mitigation or grace period described above is not permissible under applicable Sanctions, immediately upon the Facility Agent becoming aware of that event) any Lender may cancel, by notice to the Facility Agent (which notice the Facility Agent shall promptly send to the Borrower), its available Commitment and may require prepayment of its share of any Loan, in which case, that Lender's share of such Loan shall be prepaid in accordance with paragraph (d) below;
- (d) The date for repayment or prepayment of a Lender's share in the Loan will be:

- (i) the date specified by the Facility Agent in the notification under Clause 21.2 above; or
- (ii) the last day of the current Interest Period for the Loan or, if earlier, the date specified by the Lender in the notification under paragraph (a) above and which must not be earlier than the last day of any applicable grace period allowed by law.

21.4 Mitigation

- (a) Each Creditor Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to Clause 21.1 (*Illegality and Sanctions*) or Clause 10 (*Taxes, Increased Costs, Costs and related Charges*) 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.

22 SET-OFF

22.1 Application of credit balances

Each Creditor Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from the Borrower to that Creditor Party under any of the Finance Documents; and
- (b) for that purpose:
 - (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;
 - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars;
 - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

22.2 Existing rights unaffected

No Creditor Party shall be obliged to exercise any of its rights under Clause 22.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

22.3 Sums deemed due to a Lender

For the purposes of this Clause 22 (*Set-Off*), a sum payable by the Borrower to the Facility Agent for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to such Lender.

22.4 No Security Interest

This Clause 22 (*Set-Off*) gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

23 BAIL-IN

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each Party acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-in Action in relation to any such liability.

24 CHANGES TO THE LENDERS

24.1 Transfer by a Lender

Subject to Clause 24.2 (*Conditions of assignment or transfer*), Clause 24.5 (*No transfer without Transfer Certificate*), Clause 24.17 (*Assignment or transfer to SACE*) and Clause 24.14 (*Change of Facility Office*), a Lender (the "**Transferor Lender**") may at any time provided they have obtained the prior written consent of the Italian Authorities cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or
- (c) a combination of (a) and (b),

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, in whole or in part any of its Affiliates or another bank or financial institution or a trust, fund, insurance or reinsurance company or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a "**Transferee Lender**") by delivering to the Facility Agent a completed certificate in the form set out in Schedule 4 (*Form of Transfer Certificate*) with any modifications approved or required by the Facility Agent (a "**Transfer Certificate**") executed by the Transferor Lender and the Transferee Lender.

However any rights and obligations of the Transferor Lender in its capacity as Facility Agent or Security Trustee will have to be dealt with separately in accordance with the provisions of Clauses 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*) and 27 (*The Security Trustee*) respectively.

24.2 Conditions of assignment or transfer

- (a) The consent of the Borrower is required at all times (subject to the provisions of Clauses 24.5 (*No transfer without Transfer Certificate*) and 24.17 (*Assignment or transfer to SACE*) for an assignment or transfer by an Transferor Lender, unless (i) there is an Event of Default or (ii) the assignment or transfer is to another Lender or an Affiliate of a Lender or a vehicle (including trusts or funds) whose majority shares or notes are held by a Lender or an Affiliate of a Lender.
- (b) The consent of the Borrower to an assignment or transfer must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent ten (10) Business Days after the Transferor Lender has requested it unless consent is expressly refused by that Borrower within that time.
- (c) The assignment or transfer must be with respect to a minimum Commitment of [*] Dollars (\$[*]) or, if less, the Transferor Lender's full Commitment.

24.3 Transfer Certificate, delivery and notification

As soon as reasonably practicable after a Transfer Certificate is delivered to the Facility Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrower, any other Obligors, the Security Trustee and each of the other Lenders;
- (b) on behalf of the Transferee Lender, send to the Borrower and each Obligor letters or faxes notifying them of the Transfer Certificate and attaching a copy of it; and
- (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above,

but the Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Transferor Lender and the Transferee Lender once it is satisfied that itself and the Security Trustee have complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to that Transferee Lender.

24.4 Effective Date of Transfer Certificate

A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date, provided that it is signed by the Facility Agent under Clause 24.3 (*Transfer Certificate, delivery and notification*) on or before that date.

24.5 No transfer without Transfer Certificate

Except as provided in Clause 24.16 (*Security over Lenders' rights*), no assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, the Borrower, any Obligor, the Facility Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

24.6 Lender re-organisation; waiver of Transfer Certificate

However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the "successor"), the Facility Agent may, if it sees fit, by notice to the successor and the Borrower and the Security Trustee waive the need for the execution and delivery of a Transfer Certificate; and, upon service of the Facility Agent's notice, the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender.

24.7 Effect of Transfer Certificate

A Transfer Certificate takes effect in accordance with English law as follows:

- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender's title and of any rights or equities which the Borrower or any Obligor had against the Transferor Lender;
- (b) the Transferor Lender's Commitment is discharged to the extent specified in the Transfer Certificate;
- (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
- (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Facility Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;
- (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate's effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the Transferor Lender, assuming that any defects in the Transferor Lender's title and any rights or equities of the Borrower or any Obligor against the Transferor Lender had not existed;
- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under paragraph (b) of Clause 6.6 (*Unavailability of Screen Rate*) and Clause 9 (*Fees*), and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and
- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of the Borrower or any Obligor referred to above include, but are not limited to, any right of set off and any other kind of cross-claim.

24.8 Maintenance of register of Lenders

During the Security Period the Facility Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the Facility Office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 24.4 (*Effective Date of Transfer Certificate*)) of the Transfer Certificate; and the Facility Agent shall make the register available for inspection by any Lender, the Security Trustee and the Borrower during normal banking hours, subject to receiving at least 3 Business Days' prior notice.

24.9 Reliance on register of Lenders

The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Facility Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.

24.10 Authorisation of Facility Agent to sign Transfer Certificates

The Borrower, the Security Trustee and each Lender irrevocably authorise the Facility Agent to sign Transfer Certificates on its behalf.

24.11 Fees and Costs

In respect of any Transfer Certificate:

- (a) the Facility Agent shall be entitled to recover a registration fee of five thousand Euros (€5,000) from the Transferor Lender or (at the Facility Agent's option) the Transferee Lender;
- (b) the Transferee Lender shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation legal costs and out of pocket expenses, incurred by the Facility Agent or the Lenders in connection with any necessary amendment to or supplementing of the Transaction Documents or any of them or the SACE Insurance Policy as a consequence of the assignment or transfer; and
- (c) the Transferee Lender shall pay to the Facility Agent, upon demand, such amount as is payable to the Italian Authorities to cover its costs of giving its approval under Clause 24.1 (*Transfer by a Lender*).

24.12 Sub-participation; subrogation assignment

A Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the Borrower, any Obligor, the Facility Agent or the Security Trustee but with the prior written consent of SACE.

24.13 Disclosure of information

A Lender may disclose to a potential Transferee Lender or sub participant any information which the Lender has received in relation to the Borrower, any Obligor or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature.

24.14 Change of Facility Office

Subject to the prior written consent of SACE, a Lender may change its Facility Office by giving notice to the Facility Agent and the change shall become effective on the later of:

- (a) the date on which the Facility Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect, provided that 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 or an increased payment to the new Lender or Lender acting through its new Facility Office under Clause 10 (*Taxes, Increased Costs, Costs and related Charges*), 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.

24.15 Notification

On receiving such a notice, the Facility Agent shall notify the Borrower and the Security Trustee; and, until the Facility Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the Facility Office of which the Facility Agent last had notice.

24.16 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 24 (*Changes to the Lenders*) each Lender may without consulting with or obtaining consent from the Borrower or any Obligor but subject to the prior written consent of SACE, 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 (i) to the benefit of any Affiliate and/or (ii) within the framework of its, or its Affiliates', direct or indirect funding operations including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve, central bank or a multilateral development bank (including the European Investment Bank and the European Investment Fund); and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities;

except that no such charge, assignment or Security Interest shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
- (ii) alter the obligations of the Obligor or require any payments to be made by the Borrower or any Obligor 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.

Notwithstanding any provision to the contrary, upon the enforcement of any charge, assignment or other Security Interest referred to in paragraph (a) above, the beneficiary thereof (the "Beneficiary") shall deliver a notice of that enforcement to the Facility Agent (such notice to take effect in accordance with its terms) and the Beneficiary shall, upon fulfilment of the conditions referred to in Clauses 24.2 and 24.3, become party as a new Lender in respect of the rights which are subject to that charge, assignment or Security Interest.

The Borrower shall comply with all necessary formalities, if any, and take all steps necessary in order to ensure the enforceability, recognition, priority and enforcement of the charge, assignment or Security Interest granted pursuant to this Clause 24.16.

24.17 Assignment or transfer to SACE or as directed by SACE

- (a) Notwithstanding the above provisions of this Clause 24 (*Changes to the Lenders*) each Lender and the Facility Agent may, if so requested by SACE in accordance with the provisions of the SACE Insurance Policy and without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights and obligations to SACE or to any person specified by SACE (but for the avoidance of doubt, SACE will not assume any of the Lenders' obligations (if any) under this Agreement), which assignment or transfer shall take effect upon the date stated in the relevant documentation subject to the relevant parties being satisfied that they have complied with all necessary "know your customer" requirements in relation to such assignment or transfer.
- (b) The Facility Agent shall promptly notify the Borrower of any such assignment or transfer to SACE (or as directed by SACE) and, following an Event of Default, the Borrower shall pay to the Facility Agent, upon demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.18 Assignment or transfer by SACE

- (a) SACE may, without any requirement for the consent of any Obligor, assign its rights or (as the case may be) transfer its rights under this Agreement, the Finance Documents or the SACE Insurance Policy to:
 - (i) providers of reinsurance, counter-guarantee or any form of risk enhancement (in each case, in favour of SACE);
 - (ii) pursuant to article 32 of the Italian law decree no. 91/2014 converted into law 116/2014; or

(iii) following any payment under the SACE Insurance Policy, any person.

- (b) The Facility Agent shall promptly notify the Obligors of such assignment or transfer by SACE and, following an Event of Default, the Obligors shall pay to the Facility Agent, within three (3) Business Days of a demand, all reasonable costs and expenses, duties and fees, including but without limitation, legal costs and out of pocket expenses, incurred by SACE, the Facility Agent or the Lenders in connection with any such assignment or transfer.

24.19 No prejudice to SACE rights

Nothing in the Finance Documents shall prejudice or otherwise limit:

- (a) the rights of any Lender to assign its rights or transfer its rights and obligations, under or in connection with, any Finance Document, to SACE or as directed by SACE, or the rights of SACE to assign its rights or (as the case may be) transfer its rights and obligations pursuant to Clause 24.18 (*Assignment or transfer by SACE*); and
- (b) the right of SACE to be subrogated to any Lender's rights under, or in connection with, any Finance Document.

24.20 SACE's power to direct

- (a) The Creditor Parties agree and the Obligors acknowledge that SACE has the right to direct the decision making of the Facility Agent, including (without limitation) following an Event of Default; and
- (b) to the extent SACE makes any payment to the Creditor Parties under the SACE Insurance Policy in respect of principal and/or following an assignment or transfer pursuant to Clause 24.17 (*Assignment or transfer to SACE or as directed by SACE*) or Clause 24.18 (*Assignment or transfer by SACE*), SACE shall be entitled to exercise all voting rights with respect to the relevant principal as if the relevant corresponding Commitment had been transferred to it.

24.21 Definition of Affiliate

For the purposes of this Clause 24 (*Changes to the Lenders*), the definition of "Affiliate" in respect of Crédit Agricole Corporate and Investment Bank shall, for the avoidance of doubt, include any other member of Crédit Agricole Group, and in particular:

- (a) Crédit Agricole S.A.;
- (b) Caisses Régionales de Crédit Agricole;
- (c) Crédit Agricole Assurances;
- (d) LCL SA; and/or
- (e) any company or legal entity in which one or more of the companies or entities referred to in paragraphs (a) to (d) above, together or separately, owns a direct majority interest.

25 CHANGES TO THE OBLIGORS

25.1 No change without consent

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

26 ROLE OF THE FACILITY AGENT, THE JOINT MANDATED LEAD ARRANGERS, THE SACE AGENT AND THE REFERENCE BANKS

26.1 Appointment of the Facility Agent

- (a) Each other Creditor Party appoints the Facility Agent to act as its agent under and in connection with this Agreement, the other Finance Documents and the Interest Make-Up Agreement.
- (b) Each other Creditor Party authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

26.2 Duties of the Facility Agent

- (a) The Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Facility Agent receives notice from a Party referring to this Agreement, describing an Event of Default and stating that the circumstance described is an Event of Default, it shall promptly notify the other Secured Parties.
- (d) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Secured Party (other than the Facility Agent or a Joint Mandated Lead Arranger) under this Agreement it shall promptly notify the other Secured Parties.
- (e) The Facility Agent's duties under the Finance Documents are solely administrative in nature.

26.3 Role of Joint Mandated Lead Arrangers

None of the Joint Mandated Lead Arrangers has any obligations of any kind to any other Party under or in connection with any Transaction Document, the Interest Make-Up Agreement or the SACE Insurance Policy.

26.4 No fiduciary duties

- (a) Nothing in this Agreement constitutes the Facility Agent or any of the Joint Mandated Lead Arrangers as a trustee or fiduciary of any other person.
- (b) Neither the Facility Agent nor any of the Joint Mandated Lead Arrangers shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

26.5 Business with the Guarantor

The Facility Agent and each of the Joint Mandated Lead Arrangers may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Affiliate or Subsidiary of the Guarantor.

26.6 Rights and discretions of the Facility Agent

- (a) The Facility Agent may rely on:
 - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and
 - (ii) any statement made by a director, manager, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Event of Default has occurred (unless it has actual knowledge of an Event of Default); and
 - (ii) any right, power, authority or discretion vested in any Party or the Lenders has not been exercised.
- (c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (e) The Facility Agent may disclose to any other Party any information it reasonably believes it has received as the Facility Agent under this Agreement.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor any of the Joint Mandated Lead Arrangers 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.

26.7 Lenders' and SACE's instructions

- (a) Unless a contrary indication appears in a Finance Document, the Facility Agent (and in the case of SACE, the SACE Agent) shall:
 - (i) exercise any right, power, authority or discretion vested in it as Facility Agent (or as SACE Agent as the case may be) in accordance with any instructions given to it by the Majority Lenders (or in the case of the SACE Agent, by SACE) (or, if so instructed by the Majority Lenders or, in the case of the SACE Agent, by SACE, refrain from exercising any right, power, authority or discretion vested in it as the Facility Agent or as the SACE Agent (as the case may be)); and

- (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders and/or SACE (as applicable).
- (b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders and SACE will be binding on all the Secured Parties.
- (c) The Facility Agent (and the SACE Agent as regards SACE) may refrain from acting in accordance with the instructions of the Majority Lenders and SACE until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.
- (d) In the absence of instructions from the Majority Lenders and SACE, the Facility Agent (or the SACE Agent as the case may be) may act (or refrain from taking action) as it considers to be in the best interest of the Secured Parties.
- (e) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.
- (f) Notwithstanding anything to the contrary, the Lenders agree that if the Facility Agent (acting in its sole discretion) is of the opinion that or if any Lender notifies the Facility Agent that it is of the opinion that, the prior approval of the Italian Authorities should be obtained in relation to the exercise or non-exercise by the Facility Agent or the Lenders of any power, authority or discretion specifically given to them under or in connection with the Finance Documents or in relation to any other incidental rights, powers, authorities or discretions, then the SACE Agent shall seek such approval of the Italian Authorities prior to such exercise or non-exercise.

26.8 Responsibility for documentation

The Facility Agent is not responsible for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, a Joint Mandated Lead Arranger, an Obligor or any other person given in or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-Up Agreement; nor for
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document the SACE Insurance Policy or the Interest Make-Up Agreement or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Transaction Document, the SACE Insurance Policy or the Interest Make-up Agreement.

26.9 Exclusion of liability

- (a) Without limiting paragraph (b) of Clause 26.9 (*Exclusion of liability*), the Facility Agent will not be liable for any action taken by it under or in connection with any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement, unless directly caused by its Gross Negligence or wilful misconduct.

- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, the SACE Insurance Policy or the Interest Make-Up Agreement and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents, the SACE Insurance Policy or the Interest Make-Up Agreement to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or a Joint Mandated Lead Arranger to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent and the Joint Mandated Lead 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 Facility Agent or a Joint Mandated Lead Arranger.

26.10 Lenders' indemnity to the Facility Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three (3) Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's Gross Negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).

26.11 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Creditor Parties, the Borrower and SACE and with the consent of SACE.
- (b) Alternatively the Facility Agent may resign by giving notice to the other Secured Parties and the Borrower, in which case the Lenders (after consultation with the Borrower and the prior consent of SACE) may appoint a successor Facility Agent.
- (c) If the Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) within thirty (30) days after notice of resignation was given, the Facility Agent (after consultation with the Borrower and SACE) may appoint a successor Facility Agent.
- (d) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.

- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26 (*Role of the Facility Agent and the Joint Mandated Lead Arrangers*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Italian Authorities, the Majority Lenders may, subject to the prior consent of the Italian Authorities, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*). In this event, the Facility Agent shall resign in accordance with paragraph (b) of Clause 26.11 (*Resignation of the Facility Agent*) but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The appointment of a successor Facility Agent pursuant to this Clause 26.11 (*Resignation of the Facility Agent*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

26.12 Confidentiality

- (a) In acting as agent for the Secured Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

26.13 Relationship with the Lenders

The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

26.14 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and each of the Joint Mandated Lead 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 the Guarantor and each Subsidiary of the Guarantor;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the 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;

- (d) the adequacy, accuracy and/or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by 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; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Charged Property, the priority of any Security Interests or the existence of any Security Interest affecting the Charged Property.

26.15 Deduction from amounts payable by the Facility Agent

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

26.16 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Facility Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Facility Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

26.17 SACE Agent, SACE Insurance Policy and Interest Make-Up Agreement

With the prior written consent of each of the Lenders, the SACE Agent (with a copy to the Facility Agent) may require SACE or SIMEST to amend or modify the SACE Insurance Policy and the Interest Make-up Agreement provided that such amendments are not inconsistent with the commercial terms of this Agreement, otherwise, the SACE Agent (with a copy to the Facility Agent) undertakes not to require SACE or SIMEST to amend or modify the SACE Insurance Policy or the Interest Make-up Agreement.

26.18 Resignation of the Facility Agent in relation to FATCA

The Facility Agent shall resign in accordance with Clause 26.11 (*Resignation of the Facility Agent*) (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) of Clause 26.11 (*Resignation of the Facility Agent*)) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:

- (a) the Facility Agent fails to respond to a request under Clause 10.9 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
- (b) the information supplied by the Facility Agent pursuant to Clause 10.9 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (c) the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

26.19 No duty to monitor

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Event of 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.

26.20 Appointment of the SACE Agent

- (a) Each Lender and each Joint Mandated Lead Arranger irrevocably appoints the SACE Agent to act as its agent under and in connection with:
 - (i) the SACE Insurance Policy; and
 - (ii) the Finance Documents in relation to matters involving SACE, SIMEST and the SACE Insurance Policy.

- (b) Each Lender and each Joint Mandated Lead Arranger irrevocably authorises the SACE Agent to:
- (i) perform the duties, obligation and responsibilities and exercise the rights, powers, authorities and discretions specifically given to the SACE Agent under or in connection with the Finance Documents and the SACE Insurance Policy, together with any other incidental rights, powers, authorities and discretions; and
 - (ii) execute the SACE Insurance Policy.

26.21 Application of certain Clauses

The provisions of Clauses 26.2 (*Duties of the Facility Agent*), 26.4 (*No fiduciary duties*), 26.6 (*Rights and discretions of the Facility Agent*), 26.7 (*Lenders' and SACE's instructions*), 26.8 (*Responsibility for documentation*), 26.9 (*Exclusion of liability*), 26.10 (*Lenders' indemnity to the Facility Agent*), 26.11 (*Resignation of the Facility Agent*), 26.12 (*Confidentiality*), 26.13 (*Relationship with the Lenders*), 26.14 (*Credit appraisal by the Lenders*), 26.16 (*Full freedom to enter into transactions*), 26.19 (*No duty to monitor*) and 27.23 (*Business with the Group*) shall apply in respect of the SACE Agent in its capacity as such as if each reference to the Facility Agent (or Security Trustee in the case of Clause 27.23 (*Business with the Group*)) were a reference to the SACE Agent and each reference to the Finance Documents or Transaction Documents included a reference to the SACE Insurance Policy.

26.22 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 26.22 (*Role of Reference Banks*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

26.23 Third Party Reference Banks

A Reference Bank which is not a Party may rely on Clause 26.22 (*Role of Reference Banks*) and Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Parties Act.

27 THE SECURITY TRUSTEE

27.1 Trust

- (a) The Security Trustee declares that it shall hold the Security Property on trust for the Secured Parties on the terms contained in this Agreement and shall deal with the Security Property in accordance with this Clause 27 (*The Security Trustee*) and the other provisions of the Finance Documents.

- (b) Each of the parties to this Agreement agrees that the Security Trustee shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Finance Documents (and no others shall be implied).
- (c) The Security Trustee shall not have any liability to any person in respect of its duties, obligations and responsibilities under this Agreement or the other Finance Documents except as expressly set out in paragraph (a) of Clause 27.1 (*Trust*) and as excluded or limited by this Clause 27 (*The Security Trustee*) including in particular Clause 27.8 (*Instructions to Security Trustee and exercise of discretion*), Clause 27.13 (*Responsibility for documentation*), Clause 27.14 (*Exclusion of liability*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*), Clause 27.23 (*Business with the Group*) and Clause 27.28 (*Full freedom to enter into transactions*).

27.2 Parallel Debt (Covenant to pay the Security Trustee)

- (a) Each Obligor irrevocably and unconditionally undertakes to pay to the Security Trustee its Parallel Debt which shall be amounts equal to, and in the currency or currencies of, its Corresponding Debt.
- (b) The Parallel Debt of an Obligor:
 - (i) shall become due and payable at the same time as its Corresponding Debt;
 - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For purposes of this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*), the Security Trustee:
 - (i) is the independent and separate creditor of each Parallel Debt;
 - (ii) acts in its own name and not as agent, representative or trustee of the Secured Parties and its claims in respect of each Parallel Debt shall not be held on trust; and
 - (iii) shall have the independent and separate right to demand payment of each Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).
- (d) The Parallel Debt of an Obligor shall be:
 - (i) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged; and
 - (ii) increased to the extent that its Corresponding Debt has increased,and the Corresponding Debt of an Obligor shall be:
 - (A) decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged; and

(B) increased to the extent that its Parallel Debt has increased,

in each case provided that the Parallel Debt of an Obligor shall never exceed its Corresponding Debt.

- (e) All amounts received or recovered by the Security Trustee in connection with this Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) to the extent permitted by applicable law, shall be applied in accordance with Clause 19 (*Application of sums received*).
- (f) This Clause 27.2 (*Parallel Debt (Covenant to pay the Security Trustee)*) shall apply, with any necessary modifications, to each Finance Document.

27.3 No independent power

The Secured Parties shall not have any independent power to enforce, or have recourse to, any Security Interest created by any of the Finance Documents or to exercise any rights or powers arising under the Finance Documents creating the Security Interest except through the Security Trustee.

27.4 Application of receipts

- (a) Except as expressly stated to the contrary in any Finance Document, any moneys which the Security Trustee receives or recovers and which are, or are attributable to, Security Property (for the purposes of this Clause 27 (*The Security Trustee*), the "**Recoveries**") shall be transferred to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*).
- (b) Paragraph (a) above is without prejudice to the rights of the Security Trustee, any Receiver or any Delegate:
 - (i) under Clause 26.10 (*Lenders' indemnity to the Facility Agent*) to be indemnified out of the Charged Property; and
 - (ii) under any Finance Document to credit any moneys received or recovered by it to any suspense account.
- (c) Any transfer by the Security Trustee to the Facility Agent in accordance with paragraph (a) above shall be a good discharge, to the extent of that payment, by the Security Trustee.
- (d) The Security Trustee is under no obligation to make the payments to the Facility Agent under paragraph (a) of this Clause 27.4 (*Application of receipts*) in the same currency as that in which the obligations and liabilities owing to the relevant Secured Party are denominated.

27.5 Deductions from receipts

- (a) Before transferring any moneys to the Facility Agent under Clause 27.4 (*Application of receipts*), the Security Trustee may, in its discretion:
 - (i) deduct any sum then due and payable under this Agreement or any other Finance Documents to the Security Trustee or any receiver and retain that sum for itself or, as the case may require, pay it to another person to whom it is then due and payable;

- (ii) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
 - (iii) pay all Taxes which may be assessed against it in respect of any of the Security Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).
- (b) For the purposes of paragraph (a)(i) above, if the Security Trustee has become entitled to require a sum to be paid to it on demand, that sum shall be treated as due and payable, even if no demand has yet been served.

27.6 Prospective liabilities

Following acceleration of any Security Interest, the Security Trustee may, in its discretion, or at the request of the Facility Agent, hold any recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) for later payment to the Facility Agent for application in accordance with Clause 19 (*Application of sums received*) in respect of:

- (a) any sum to the Security Trustee, any Receiver or Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Trustee or, in the case of paragraph (b) only, the Facility Agent, reasonably considers, in each case, might become due or owing at any time in the future.

27.7 Investment of proceeds

Prior to the payment of the proceeds of the recoveries to the Facility Agent for application in accordance with Clause 27.4 (*Application of receipts*) the Security Trustee may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) pending the payment from time to time of those moneys in the Security Trustee's discretion in accordance with the provisions of this Clause 27.7 (*Investment of proceeds*).

27.8 Instructions to Security Trustee and exercise of discretion

- (a) Subject to paragraph (d) below, the Security Trustee shall act in accordance with any instructions given to it by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) or, if so instructed by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)), refrain from exercising any right, power, authority or discretion vested in it as Security Trustee and shall be entitled to assume that:

- (i) any instructions received by it from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) are duly given in accordance with the terms of the Finance Documents; and
 - (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.
- (b) The Security Trustee shall be entitled to request instructions, or clarification of any direction, from the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Trustee may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Any instructions given to the Security Trustee by the Facility Agent (acting on the instructions of SACE and the Majority Lenders or all the Lenders (as appropriate)) shall override any conflicting instructions given by any other Party.
- (d) Paragraph (a) above shall not apply:
- (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement requires the Security Trustee to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Trustee's own position in its personal capacity as opposed to its role of Security Trustee for the Secured Parties including, without limitation, the provisions set out in Clauses 27.10 (*Security Trustee's discretions*) to Clause 27.28 (*Full freedom to enter into transactions*); and
 - (iv) in respect of the exercise of the Security Trustee's discretion to exercise a right, power or authority under any of Clause 27.5 (*Deductions from receipts*) and Clause 27.6 (*Prospective liabilities*).

27.9 Security Trustee's Actions

Without prejudice to the provisions of Clause 27.4 (*Application of receipts*), the Security Trustee may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.

27.10 Security Trustee's discretions

- (a) The Security Trustee may:
- (i) assume (unless it has received actual notice to the contrary from the Facility Agent) that (i) no Event of Default has occurred and no Obligor is in breach of or default under its obligations under any of the Finance Documents and (ii) any right, power, authority or discretion vested by any Finance Document in any person has not been exercised;
 - (ii) assume that any notice or request made by the Borrower (other than a Drawdown Notice) is made on behalf of and with the consent and knowledge of all the Obligors;

- (iii) if it receives any instructions or directions to take any action in relation to a Security Interest under the Finance Documents, assume that all applicable conditions under the Finance Documents for taking that action have been satisfied;
 - (iv) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Trustee or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;
 - (v) act in relation to the Finance Documents through its personnel and agents;
 - (vi) disclose to any other Party any information it reasonably believes it has received as Security Trustee under this Agreement;
 - (vii) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party or an Obligor, upon a certificate signed by or on behalf of that person; and
 - (viii) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received any indemnification and/or security that it may in its discretion require (which may be greater than that contained in the Finance Documents and which may include payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting.
- (b) Notwithstanding any other provision of any Finance Document to the contrary, the Security Trustee is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
 - (c) Notwithstanding any provision of any Finance Document to the contrary, the Security Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion, if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not assured to it.

27.11 Security Trustee's obligations

The Security Trustee shall promptly:

- (a) copy to the Facility Agent the contents of any notice or document received by it from any Obligor under any Finance Document;
- (b) forward to a Party the original or a copy of any document which is delivered to the Security Trustee for that Party by any other Party provided that the Security Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform the Facility Agent of the occurrence of any Event of Default or any default by an Obligor in the due performance of or compliance with its obligations under any Finance Document of which the Security Trustee has received notice from any other party to this Agreement.

27.12 Excluded obligations

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee shall not:

- (a) be bound to enquire as to (i) whether or not any Event of Default has occurred or (ii) the performance, default or any breach by an Obligor of its obligations under any of the Finance Documents;
- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (d) be or be deemed to be an agent, trustee or fiduciary of any Obligor.

27.13 Responsibility for documentation

None of the Security Trustee, any Receiver or Delegate shall accept responsibility or be liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Trustee or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

27.14 Exclusion of liability

- (a) Without limiting Clause 27.15 (*No proceedings*), (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate), none of the Security Trustee or any Receiver nor any Delegate will be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of any action taken by it or not taken by it under or in connection with any Finance Document or any Security Interest, 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 of the Finance Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Finance Documents or the Security Property;
- (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) Nothing in this Agreement shall oblige the Security Trustee to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Security Trustee that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Trustee.
- (c) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate, any liability of the Security Trustee, any Receiver or Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Trustee, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Trustee, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Trustee, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Trustee, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

27.15 No proceedings

No Party (other than the Security Trustee or that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Trustee, Receiver or Delegate in respect of any claim it might have against the Security Trustee, Receiver or Delegate in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Property and any officer, employee or agent of the Security Trustee, Receiver or Delegate may rely on this Clause subject to Clause 37.4 (*Third party rights*) and the provisions of the Third Party Act.

27.16 Lenders' indemnity to the Security Trustee

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Security Trustee and every Receiver and every Delegate within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Trustee's, Receiver's or Delegate's Gross Negligence or wilful misconduct) in acting as Security Trustee, Receiver or Delegate under the Finance Documents (unless the relevant Security Trustee, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document).

27.17 Own responsibility

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Creditor Party confirms to the Security Trustee that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Finance Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) whether that Creditor Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Trustee or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Security Interests created by the Finance Documents or the existence of any Security Interest affecting the Charged Property,

and each Creditor Party warrants to the Security Trustee that it has not relied on and will not at any time rely on the Security Trustee in respect of any of these matters.

27.18 No responsibility to perfect Security Interests

The Security Trustee shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Finance Documents or any Security Interest;
- (c) register, file or record or otherwise protect any Security Interests (or the priority of any of Security Interest) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Finance Documents or of any Security Interest;
- (d) take, or to require any of the Obligors to take, any steps to perfect its title to any of the Charged Property or to render any Security Interest effective or to secure the creation of any ancillary Security Interest under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Finance Documents creating the Security Interests.

27.19 Insurance by Security Trustee

- (a) The Security Trustee shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Finance Documents. The Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.
- (b) Where the Security Trustee is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Facility Agent shall have requested it to do so in writing and the Security Trustee shall have failed to do so within fourteen (14) days after receipt of that request.

27.20 Custodians and nominees

The Security Trustee may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Trustee 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 Trustee 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.

27.21 Acceptance of title

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Obligors 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.

27.22 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Trustee may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Trustee may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

27.23 Business with the Group

The Security Trustee may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

27.24 Winding up of trust

If the Security Trustee, with the approval of the Facility Agent determines that (a) all of the Secured Liabilities and all other obligations secured by the Finance Documents creating the Security Interests have been fully and finally discharged and (b) none of the Secured Parties 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:

- (a) the trusts set out in this Agreement shall be wound up and the Security Trustee shall release, without recourse or warranty, all of the Security Interests and the rights of the Security Trustee under each of the Finance Documents creating the Security Interests; and
- (b) any Retiring Security Trustee shall release, without recourse or warranty, all of its rights under each of the Finance Documents creating the Security Interests.

27.25 Powers supplemental

The rights, powers and discretions conferred upon the Security Trustee by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Trustee by general law or otherwise.

27.26 Trustee division separate

- (a) In acting as trustee for the Secured Parties, the Security Trustee shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Trustee, it may be treated as confidential to that division or department and the Security Trustee shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.

27.27 Disapplication

In addition to its rights under or by virtue of this Agreement and the other Finance Documents, the Security Trustee shall have all the rights conferred on a trustee by the Trustee Act 1925, the Trustee Delegation Act 1999, the Trustee Act 2000 and by general law or otherwise, provided that:

- (a) section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by this Agreement and the other Finance Documents; and
- (b) where there are any inconsistencies between (i) the Trustee Acts 1925 and 2000 and (ii) the provisions of this Agreement and any other Finance Document, the provisions of this Agreement and any other Finance Document shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, such provisions shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000.

27.28 Full freedom to enter into transactions

Notwithstanding any rule of law or equity to the contrary, the Security Trustee shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security trustee for, and/or participating in, other facilities to such Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrower or any person who is a party to, or referred to in, a Finance Document,

and, in particular, each Servicing Party shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

27.29 Resignation of the Security Trustee

- (a) The Security Trustee may resign and appoint one of its affiliates as successor by giving notice to the Borrower and each Secured Party.
- (b) Alternatively the Security Trustee may resign by giving notice to the other Parties in which case the Majority Lenders (with the prior consent of SACE) may appoint a successor Security Trustee.
- (c) If the Majority Lenders have not appointed a successor Security Trustee in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Trustee (after consultation with the Facility Agent and SACE) may appoint a successor Security Trustee.

- (d) The retiring Security Trustee (the "**Retiring Security Trustee**") shall, at its own cost, make available to the successor Security Trustee such documents and records and provide such assistance as the successor Security Trustee may reasonably request for the purposes of performing its functions as Security Trustee under the Finance Documents.
- (e) The Security Trustee's resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer, by way of a document expressed as a deed, of all of the Security Property to that successor.
- (f) Upon the appointment of a successor, the Retiring Security Trustee shall be discharged, by way of a document executed as a deed, from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 27.24 (*Winding up of trust*) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Trustee, remain entitled to the benefit of Clause 27 (*The Security Trustee*), Clause 27.5 (*Deductions from receipts*), Clause 27.16 (*Lenders' indemnity to the Security Trustee*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability in acting as Security Trustee. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Majority Lenders may, by notice to the Security Trustee, require it to resign in accordance with paragraph (b) above. In this event, the Security Trustee shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrower.
- (h) The consent of the Borrower (or any other Obligor) is not required for an assignment or transfer of rights and/or obligations by the Security Trustee.
- (i) The appointment of a successor Security Trustee pursuant to this Clause 27.29 (*Resignation of the Security Trustee*) shall be subject to compliance with all necessary "know your customer" requirements of the Lenders.

27.30 Delegation

- (a) Each of the Security Trustee, any Receiver or any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Finance Documents.
- (b) That delegation may be made upon any terms and conditions and subject to any restrictions that the Security Trustee, that Receiver or that Delegate (as the case may be) considers in its discretion to be appropriate and it shall not be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct or default on the part of any such delegate or sub delegate.
- (c) The Security Trustee shall exercise reasonable care in the selection of any such delegate or sub delegate.

27.31 Additional Security Trustee

- (a) The Security Trustee 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 appropriate; or
 - (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Trustee deems to be relevant; or
 - (iii) for obtaining or enforcing any judgment in any jurisdiction,
- and the Security Trustee shall give prior notice to the Borrower and the Facility Agent of that appointment.
- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Trustee by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Trustee 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 Trustee.

27.32 Financial Services and Markets Act 2000

- (a) Notwithstanding anything in any Finance Document to the contrary, the Security Trustee shall not do, or be authorised or required to do, anything which might constitute a regulated activity for the purpose of the Financial Services and Markets Act 2000 ("FSMA"), unless it is authorised under FSMA to do so.
- (b) The Security Trustee shall have the discretion at any time:
- (i) to delegate any of the functions which fall to be performed by an authorised person under FSMA to any other agent or person which also has the necessary authorisations and licences; and
 - (ii) to apply for authorisation under FSMA and perform any or all such functions itself if, in its absolute discretion, it considers it necessary, desirable or appropriate to do so.

28 CONDUCT OF BUSINESS BY THE CREDITOR PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Creditor Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Creditor 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 Creditor Party to disclose any information relating to its affairs (Tax or otherwise) or any computations in respect of Tax.

29 SHARING AMONG THE CREDITOR PARTIES

29.1 Payments to Creditor Parties

If a Creditor Party (a "**Recovering Creditor Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 29 (*Sharing among the Creditor Parties*) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Creditor Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Facility Agent;
- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Creditor Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Creditor Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Creditor Party as its share of any payment to be made, in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Creditor Parties (other than the Recovering Creditor Party) in accordance with Clause 19 (*Application of sums received*) and Clause 30 (*Payment Mechanics*).

29.3 Recovering Creditor Party's rights

- (a) On a distribution by the Facility Agent under Clause 29.2 (*Redistribution of payments*), the Recovering Creditor Party will, if possible under the relevant applicable laws, be subrogated to the rights of the Creditor Parties which have shared in the redistribution.
- (b) If and to the extent that the Recovering Creditor Party is not able to rely on its rights under paragraph (a) of Clause 29.3 (*Recovering Creditor Party's rights*), the relevant Obligor shall be liable to the Recovering Creditor Party for a debt equal to the Sharing Payment which is immediately due and payable.

29.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Creditor Party becomes repayable and is repaid by that Recovering Creditor Party, then:

- (a) each Lender which has received a share of the relevant Sharing Payment pursuant to Clause 29.2 (*Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Creditor 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 Creditor Party for its proportion of any interest on the Sharing Payment which that Recovering Creditor Party is required to pay); and

- (b) that Recovering Creditor Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Creditor Party for the amount so reimbursed.

29.5 Exceptions

- (a) This Clause 29 (*Sharing among the Creditor Parties*) shall not apply to the extent that the Recovering Creditor Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Creditor Party is not obliged to share with any other Creditor Party any amount which the Recovering Creditor Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Creditor Party of the legal or arbitration proceedings; and
 - (ii) that other Creditor 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.
- (c) Following full indemnification by SACE of the SACE Agent (on behalf of the Lenders) under the SACE Insurance Policy, the provisions relating to the sharing of proceeds among the Creditor Parties in this Clause 29 (*Sharing among the Creditor Parties*) shall not apply to any payment made to SACE by a Lender or the Borrower following a payment by SACE to any Lender under the SACE Insurance Policy.

30 PAYMENT MECHANICS

30.1 Payments to the Facility 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 Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to Euro, in a principal financial centre in a Participating Member State or London) with such bank as the Facility Agent specifies.
- (c) Payment shall be made before 11.00 a.m. New York time or 11.00 a.m. Paris time (in the case of a payment in Euro).
- (d) For each payment by the Borrower, it shall notify the Facility Agent on the third Business Day prior to the due date for payment that it will issue to its bank (which shall be named in such notification) to make the payment.

30.2 Distributions by the Facility Agent or the SACE Agent

Each payment received by the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party shall, subject to Clause 30.3 (*Distributions to an Obligor*), Clause 30.4 (*Clawback*) be made available by the Facility Agent or SACE Agent (as the case may be) as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent (following which the Facility Agent shall promptly notify the SACE Agent, if relevant to it) by not less than five (5) Business Days' notice with a bank in the principal financial centre of the country of that currency.

30.3 Distributions to an Obligor

The Facility Agent may in accordance with Clause 22 (*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.

30.4 Clawback

- (a) Where a sum is to be paid to the Facility Agent or the SACE Agent under the Finance Documents or the SACE Insurance Policy for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

30.5 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.

30.6 Business Days

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (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.

30.7 Currency of account

- (a) Subject to paragraphs (b) and (c) of Clause 30.7 (*Currency of account*) Dollars is the currency of account and payment for any sum from an Obligor under any Finance Document.

- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than Dollars shall be paid in that other currency.

30.8 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Lenders and 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 Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Lenders and the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

30.9 Distributions under the Interest Make-up Agreement

Each payment received by the Facility Agent under the Interest Make-up Agreement for a Lender shall be made available by the Facility Agent as soon as practicable after receipt to the Lender entitled to receive such payment in accordance with this Agreement (for the account of its Facility Office), to such account as that Lender may notify to the Facility Agent by not less than five (5) Business Days' notice with a bank 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).

31 VARIATIONS AND WAIVERS

31.1 Variations, waivers etc. by Majority Lenders

Subject to Clause 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), a document shall be effective to vary, waive, amend, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to by fax, by the Borrower, by the Facility Agent on behalf of the Majority Lenders, by the Facility Agent and the Security Trustee in their own rights, and, if the document relates to a Finance Document to which an Obligor is party, by an Obligor (provided that no amendment or variation may be made to this Agreement or any other Finance Document without the consent of the Italian Authorities); provided, further, that no amendment or variation may be made before the date falling ten Business Days after the terms of that amendment or variation have been notified by the Facility Agent to the Lenders. The Facility Agent shall notify the Lenders reasonably promptly of any amendments or variations proposed by the Borrower.

31.2 Variations, waivers etc. requiring agreement of all Lenders

However, as regards the following, Clause 31.1 (*Variations, waivers etc. by Majority Lenders*) applies as if the words "by the Facility Agent on behalf of the Majority Lenders" were replaced by the words "by or on behalf of every Lender":

- (a) a reduction in the Margin;
- (b) a postponement to the date for, or a reduction in the amount of, any payment of principal, interest, fees, commission or other sum payable under this Agreement;
- (c) an increase in or extension of any Lender's Commitment or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Loan;
- (d) a change to the definition of "**Majority Lenders**";
- (e) a change to Clause 2 (*Facility*), Clause 6 (*Interest*), Clause 24 (*Changes to the Lenders*) or this Clause 31 (*Variations and Waivers*);
- (f) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
- (g) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender's consent is required.

31.3 Exclusion of other or implied variations

Except for a document which satisfies the requirements of Clauses 31.1 (*Variations, waivers etc. by Majority Lenders*) and 31.2 (*Variations, waivers etc. requiring agreement of all Lenders*), no document, and no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower or an Obligor of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

32 NOTICES

32.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

32.2 Addresses for communications

A notice shall be sent:

- (a) to the Borrower: 7665 Corporate Center Drive
Miami FL 33126 USA
Fax No: (00) 1 305 436 4140
- (b) to a Lender: At the address below its name in Schedule 1 (*Lenders and Commitments*) or (as the case may require) in the relevant Transfer Certificate.
- (c) to the Facility Agent: CIB- COO Office-TMEF
Millénaire 4
35 rue de la gare
75019 Paris
Fax No. (33) 1 43 16 81 84
Attn: Attention: S. CASET-CARRICABURU/B. SOHIER
Email: sylvie.casetcarricaburu@bnpparibas.com
beatrice.sohier@bnpparibas.com
- (d) to the SACE Agent: 12, place des Etats-Unis
CS 70052
92547 Montrouge cedex
Paris
Fax No. (33) 1 41 89 19 34
Attn: Shipping Middle Office – Ms Clémentine Costil and Romy Roussel
E-mail: clementine.costil@ca-cib.com
romy.roussel@ca-cib.com
- (e) to the Security Trustee: 8 Canada Square
London
E14 5HQ
Fax: +44 20 7991 4350
Email: Ctla.trustee.admin@hsbc.com
Attention: CTLA Trustee Services Administration

or to such other address as the relevant party may notify the Facility Agent or, if the relevant party is the Facility Agent, the Borrower and the Lenders.

32.3 Effective date of notices

Subject to Clauses 32.4 (*Service outside business hours*) and 32.5 (*Electronic communication*):

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered;
- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, 2 hours after its transmission is completed.

32.4 Service outside business hours

However, if under Clause 32.3 (*Effective date of notices*) a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
- (b) on such a business day, but after 6 p.m. local time;

the notice shall (subject to Clause 32.5 (*Electronic communication*)) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

32.5 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means, to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

32.6 Illegible notices

Clauses 32.3 (*Effective date of notices*) and 32.4 (*Service outside business hours*) do not apply if the recipient of a notice notifies the sender within 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

32.7 Valid notices

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

32.8 English language

Any notice under or in connection with a Finance Document shall be in English.

32.9 Meaning of "notice"

In this Clause 32 (*Notices*), "notice" includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

33 CONFIDENTIALITY

33.1 Confidential Information

Each Creditor Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 (*Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

33.2 Disclosure of Confidential Information

Any Creditor Party may disclose:

- (a) to the Italian Authorities, to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Creditor Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:

- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates, Representatives and professional advisers;
- (ii) who is an insurer or reinsurer of any Creditor Party and requests such information;
- (iii) 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, Representatives and professional advisers;
- (iv) appointed by any Creditor Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
- (v) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
- (vi) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (viii) who is a Party, a member of the Group or any related entity of an Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document; or
- (x) with the consent of the Guarantor; or
- (xi) any employee, officer, director or Representative of any Italian Authorities to whom information is required to be disclosed in the course of such person's employment or duties;
- (xii) to whom or for whose benefit that Creditor Party charges, assigns or otherwise creates a Security Interest (or may do so) pursuant to Clause 24.16 *Security over Lenders' rights*.

in each case, such Confidential Information as that Creditor Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii) and (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

- (B) in relation to paragraph (b)(v) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(vi), (b)(vii) and (b)(xii) 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 Creditor Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Creditor Party or by a person to whom sub-paragraphs (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Creditor Party;
 - (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the 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.

33.3 Entire agreement

This Clause 33 (*Confidentiality*) constitutes the entire agreement between the Parties in relation to the obligations of the Creditor Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

33.4 Disclosure to information services

- (a) Any Creditor Party may disclose to any national or international information service company such as Dealogic, TF, GTR, TXF, IFR and any other similar information service company appointed by that Creditor Party, the following information:
 - (i) names of Parties;
 - (ii) country of domicile of Obligors;
 - (iii) place of incorporation or formation, as the case may be, of Obligors;

- (iv) date of this Agreement and Effective Date;
- (v) Clause 38 (*Governing Law*);
- (vi) the name of the Facility Agent;
- (vii) amount of Total Commitments;
- (viii) currency of the Facility;
- (ix) type of Facility;
- (x) ranking of Facility; and
- (xi) duration of Facility,

to enable such information service company to provide its usual services.

- (b) Each Obligor represents that none of the information set out in sub-paragraphs (i) to (xi) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.

33.5 Inside information

Each of the Creditor Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Creditor Parties undertakes not to use any Confidential Information for any unlawful purpose.

33.6 Notification of disclosure

Each of the Creditor Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(vi) of Clause 33.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 33 (*Confidentiality*).

33.7 Continuing obligations

The obligations in this Clause 33 (*Confidentiality*) are continuing and, in particular, shall survive and remain binding on each Creditor Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Creditor Party otherwise ceases to be a Creditor Party.

33.8 Disclosure by SACE

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information:

- (a) as required to be disclosed by applicable law, regulation, rule or order of a competent authority in the context of litigation, arbitration or administrative proceedings to which SACE is subject or as required to be disclosed as a consequence of the participation of SACE and/or the Republic of Italy to an international organisation of which SACE and/or the Republic of Italy is a member (and in such event, upon notification from SACE, the SACE Agent shall inform the Obligors of such requirement as soon as reasonably practicable to the extent permitted by law, regulation, rule or order of a competent authority and the person to whom such Confidential Information is to be given is informed of its confidential nature);
- (b) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (c) to any providers of any reinsurance, counter-guarantee or any form of risk enhancement (including but not limited to SACE's agents, brokers and consultants) subject to such persons entering into confidentiality arrangements with SACE unless such persons are subject to professional obligations of confidentiality;
- (d) if required for the purposes of the state guarantee in favour of SACE pursuant to article 32 of law-decree no. 91/2014 converted into law 116/2014 in the Republic of Italy;
- (e) following any payment due under the SACE Insurance Policy; or
- (f) with the consent of the Borrower, such consent not to be unreasonably withheld.

33.9 Disclosure by SIMEST

Notwithstanding any other provision of this Agreement to the contrary, SACE may disclose any Confidential Information to SIMEST provided that SIMEST may, in turn, disclose such Confidential Information:

- (a) to its ultimate shareholder, holding company, parent, subsidiaries and affiliates;
- (b) to its professional advisers provided that such advisers are under a professional duty to keep such information confidential;
- (c) to providers of hedging arrangements entered into by SIMEST in connection with the Facility (including their agents, brokers and consultants) subject to such persons undertaking confidentiality obligations with SIMEST (unless they are subject to professional duties of confidentiality) and with the written consent of the Borrower (such consent not to be unreasonably withheld); or
- (d) with the consent of the Borrower.

33.10 Press release

Neither SACE nor the Borrower will issue any press release or make any public announcement in relation to the SACE Insurance Policy without the prior consent of the other party (such consent not to be unreasonably withheld).

34 CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

34.1 Confidentiality and disclosure

- (a) The Facility Agent and the Borrower agree to keep each Funding Rate (and, in case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.
- (b) The Facility Agent may disclose any Funding Rate or Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation and the Borrower may disclose any Funding Rate to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives, if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this sub-paragraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
 - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
 - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
 - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.

34.2 Related obligations

- (a) The Facility Agent and the Borrower acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and the Borrower undertake not to use any Funding Rate (or, in the case of the Facility Agent, any Reference Bank Quotation) for any unlawful purpose.
- (b) The Facility Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (c) of Clause 34.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 34 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

35 LEGAL INDEPENDENCE AND UNCONDITIONAL OBLIGATIONS OF THE BORROWER

35.1 Legal independence and Unconditional Obligations of the Borrower

This Agreement is legally independent from the Shipbuilding Contract. The obligations of the Borrower to make payments and to observe and perform its obligations under the Transaction Documents are absolute, unconditional, irrevocable and several and such obligations shall not:

- (a) in any way be affected or discharged by reason of any matter affecting the Shipbuilding Contract including its performance, frustration or validity, the insolvency or dissolution of any party to the Shipbuilding Contract or the destruction, non-completion or non-functioning of the goods and equipment supplied under the Shipbuilding Contract;
- (b) in any way be affected or discharged by reason of any dispute under the Shipbuilding Contract or any claim which it or any other person may have against, or consider that it has against, any person under the Shipbuilding Contract;
- (c) in any way be affected or discharged by reason of unenforceability, illegality or invalidity of any obligation of the Borrower or any other person under the Shipbuilding Contract or any documents or agreements relating to the Shipbuilding Contract;
- (d) in any way be affected by the fact that all or any part of the amount requested referred to in the Drawdown Notice is not or was not due or payable to the Builder;
- (e) be conditional on the performance by the Creditor Parties of any obligations (except as otherwise stated herein) in order to give rise to a relevant obligation of the Borrower hereunder; or
- (f) in any way be affected or discharged by the insolvency or dissolution of the Borrower.

36 SACE SUBROGATION AND REIMBURSEMENT

36.1 Acknowledgement of Subrogation

Each of the Parties acknowledges that, upon any payment being made by or on behalf of SACE of any amount under the SACE Insurance Policy, SACE will be immediately and automatically subrogated to the rights of the Lenders in the amount of such payment under the Finance Documents in accordance with the SACE Insurance Policy. Following such subrogation, the Creditor Parties shall provide all assistance required by SACE to enforce its rights under this Agreement and the other Finance Documents.

36.2 Reimbursement

- (a) Without prejudice to Clause 36.1 (*Acknowledgement of Subrogation*), each Obligor, jointly and severally undertakes to pay to SACE, and keep SACE indemnified from and against, each and every amount paid (whether by direct payment or set-off) by SACE to the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy;
- (b) Each Obligor undertakes to pay SACE an amount in Dollars equal to:
 - (i) for each payment made by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such payment; and
 - (ii) for each deduction or withholding imposed, levied, collected, withheld or assessed on any payment by SACE to any of the Creditor Parties or any person on any of their behalf under the SACE Insurance Policy, the amount of such deduction or withholding,

in each case together with interest thereon (calculated in accordance with Clause 17.1 *Default rate of interest*) of this Agreement).

- (c) Each Obligor further agrees that its obligations under this Clause 36.2 (*Reimbursement*) are separate from and in no way conditional upon the Obligor's obligations under this Agreement or any of the other Finance Documents and will not be affected or discharged by any matter relating thereto including, but not limited to, whether or not the Obligor is itself liable to make payment, or is disputing its liability to make payment, under this Agreement or any of the other Finance Documents.
- (d) SACE will promptly inform the Obligors of any amounts to be reimbursed and indemnified under this Clause 36.2 (*Reimbursement*).
- (e) Each amount that is payable by the Obligors pursuant to Clause 36.2 (*Reimbursement*) is due and payable to SACE in Dollars within five (5) Business Days of demand by SACE to the Obligors.

36.3 Obligations Absolute

The obligations of the Obligors under this Clause 36.2 (*Reimbursement*), to the extent permitted by applicable law:

- (a) are absolute and unconditional;

- (b) are to be discharged and/or performed strictly in accordance with this Agreement under all circumstances;
- (c) are continuing obligations and will extend to the ultimate balance of sums payable by SACE to any Creditor Party or any person on any of their behalf under the SACE Insurance Policy, regardless of any intermediate payment or discharge in whole or in part;
- (d) will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under Clause 36.2 (*Reimbursement*) (without limitation and whether or not known to it or any Creditor Party) including:
 - (i) any time, waiver or consent granted to, or composition with any Obligor;
 - (ii) any lack of validity or enforceability of, or any amendment or other modifications of, or waiver with respect to, any of the Finance Documents;
 - (iii) any reduction or release of any other obligations under this Agreement;
 - (iv) the release of any Obligor or any other person under the terms of any composition or arrangement;
 - (v) the taking, variation, compromise, exchange, renewal, discharge, substitution or release of, or refusal or neglect to perfect, take up, realise or enforce, any rights against, or security over assets of, any Obligor or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - (vi) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor, any Creditor Party or any other person;
 - (vii) any amendment (however fundamental) or replacement of a Finance Document, the SACE Insurance Policy or any other document or security;
 - (viii) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, the SACE Insurance Policy or any other document or security;
 - (ix) any insolvency or similar proceedings;
 - (x) the existence of any claim, set-off, defence, reduction, abatement or other right which any Obligor may have at any time against SACE;
 - (xi) any document presented in connection with the SACE Insurance Policy proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
 - (xii) any payment by SACE against presentation of a demand for payment substantially, on its face, in the form of a claim under the SACE Insurance Policy where any certificate or other document required to be provided with such claim in accordance with the terms of the SACE Insurance Policy either is not provided or does not comply with the terms of the SACE Insurance Policy; and

(xiii) any other circumstances which might otherwise constitute a defence available to, or discharge of any Obligor.

37 SUPPLEMENTAL

37.1 Rights cumulative, non-exclusive

The rights and remedies which the Finance Documents give to each Secured Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

37.2 Severability of provisions

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

37.3 Counterparts

A Finance Document may be executed in any number of counterparts.

37.4 Third party rights

- (a) Except for SACE, SIMEST and their successors, transferees and assignees or as otherwise provided in a Finance Document, a person who is not a Party has no right under the Third Party Act to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any provision of any Finance Document, the consent of any person (other than SACE, SIMEST or their successors, transferees and assignees) who is not a party to a Finance Document is not required to rescind, vary or terminate any Finance Document at any time.
- (c) Subject to the provisions of the Third Party Act, and without prejudice to the provisions of paragraphs (a) and (b) above, each of SACE and/or SIMEST (as applicable) has the right to enforce and to enjoy the benefit of Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clause 20.2 (*Breakage costs and SIMEST arrangements*), Clause 20.3 (*Miscellaneous indemnities*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 10.6 (*VAT*), Clause 10.13 (*SACE obligations*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), 33.10 (*Press release*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable).
- (d) Any amendment or waiver which relates to the rights of SACE and/or SIMEST (as applicable) under this Agreement, including under Clause 36 (*SACE Subrogation and Reimbursement*), Clause 17 (*Interest on Late Payments*), Clause 8 (*SACE Premium and Italian Authorities*), Clause 10.2 (*Tax gross-up*), Clause 10.3 (*Tax indemnity*), Clause 20.4 (*Currency indemnity*), Clause 22 (*Set-Off*), Clause 27 (*The Security Trustee*), Clause 20.3 (*Miscellaneous indemnities*), Clause 10.6 (*VAT*), Clause 10.11 (*Transaction Costs*), Clause 20.1 (*Indemnities regarding borrowing and repayment of Loan*), Clauses 33.8 (*Disclosure by SACE*), Clause 33.9 (*Disclosure by SIMEST*), 33.10 (*Press release*), Clause 39 (*Enforcement*) and any other provision of this Agreement which expressly confers rights on SACE and/or SIMEST (as applicable) may not be effected without the consent of SACE and/or SIMEST (as applicable).

37.5 No waiver

No failure or delay on the part of a Secured Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise thereof preclude any other or further exercise thereof by the Secured Parties or the exercise by the Secured Parties of any other right, power or privilege. The rights and remedies of the Secured Parties herein provided are cumulative and not exclusive of any rights or remedies provided by law.

37.6 Writing required

This Agreement shall not be capable of being modified otherwise than by an express modification in writing signed by the Borrower, the Facility Agent and the Lenders.

37.7 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under paragraph (e) of Clause 12.2 (*Information*), Clause 12.4 (*Sanctions and Illicit Payments*), Clause 12.5 (*Prohibited Payments*), Clause 12.25 (*Compliance with laws etc.*) or provisions contained in Clause 20.3 (*Miscellaneous indemnities*) or Clause 21.1 (*Illegality and Sanctions*) and the representations and warranties given under paragraphs (u), (v), (y), (z) and (jj) of Clause 11.2 (*Continuing representations and warranties*) and paragraph (j) of Clause 11.3 (*Representations on the Delivery Date*) respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.
- (b) If a Creditor Party elects to be a Restricted Creditor Party, in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

38 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with English law.

39 ENFORCEMENT

39.1 Jurisdiction of English Courts

The courts of England have exclusive jurisdiction to settle any Dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**"). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

39.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.

If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within 15 days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

40 WAIVER OF IMMUNITY

40.1 To the fullest extent permitted by applicable law, the Borrower hereby irrevocably and unconditionally:

- (a) submits to the jurisdiction of the English courts in accordance with Clause 38 (Enforcement) and agrees not to claim any sovereign or other immunity from the jurisdiction of any such court;
- (b) submits to the jurisdiction of the English courts in respect of any proceedings arising out of or connected with the enforcement and/or execution of any judgment made against it and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to the recognition of any such judgment or court order and agrees to ensure that no such claim is made on its behalf;
- (c) consents generally in respect of any such proceedings to the giving of any relief in the English courts and the courts of any other jurisdiction whether before or after a final judgment including, without limitation: suit, relief by way of interim or final injunction or order for specific performance or recovery of any property, attachment of its assets prior to judgment, other attachment, the obtaining of judgment and enforcement or execution against any property, revenues or other assets whatsoever (irrespective of their use or intended use) and waives and agrees not to claim any sovereign or other immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to such enforcement and the giving of such relief (including to the extent that such immunity may be attributed to it) against itself or with respect to its assets, and agrees to ensure that no such claim is made on its behalf or with respect to its assets;

- (d) waives any right of immunity which it or its assets now has or may subsequently acquire; and
 - (e) agrees not to claim any sovereign or other immunity from service of process against its assets or revenues for the enforcement of a judgment or an action in rem, for the arrest, detention or sale of any of its assets and revenues.
- 40.2 The Borrower agrees that in any proceedings in the English courts this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 (the “Act”) and that this waiver is intended to be irrevocable for the purposes of such Act.

41 EFFECTIVE DATE

This Agreement and the other Finance Documents shall not come into force or have any legal effect until the occurrence of the Effective Date.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

LENDERS AND COMMITMENTS

| Lender | Facility Office | Commitment (%) | Amount (USD) |
|---|---|-----------------------|---------------------|
| Banco Santander S.A. | Avda. Cantabria s/n. 28660 Boadilla del Monte, Madrid, Spain | [*]% | [*] |
| BNP Paribas Fortis S.A./N.V. | 3, Montagne du Parc, 1 KA1E 1000 Brussels, Belgium | [*]% | [*] |
| Cassa Depositi e Prestiti S.p.A. | Via Goito, 4 – 00185, Rome, Italy | [*]% | [*] |
| Crédit Agricole Corporate and Investment Bank | 12, place des Etats-Unis, CS 70052, 92547 Montrouge cedex, France | [*]% | [*] |
| HSBC Bank plc | Level 2, 8 Canada Square, London E14 5HQ, United Kingdom | [*]% | [*] |
| KfW IPEX-Bank GmbH | Palmengartenstr. 5-9 60325 Frankfurt Germany | [*]% | [*] |
| Société Générale | 29, boulevard Haussmann 75009 Paris France | [*]% | [*] |

SCHEDULE 2

FORM OF DRAWDOWN NOTICE

To: BNP Paribas
Attention: Loans Administration

[●]

DRAWDOWN NOTICE

- 1 We refer to the loan agreement (the "**Loan Agreement**") dated [●] 2018 and made between, *inter alios*, ourselves, as Borrower, the Lenders, and the Joint Mandated Lead Arrangers referred to therein and yourselves as Facility Agent in connection with a facility of the Dollar Equivalent of up to € [●]. Terms defined in the Loan Agreement have their defined meanings when used in this Drawdown Notice.
- 2 We request to borrow as follows:-
- (a) Amount:
- (i) [●] in respect of the payment of part of the Eligible Amount of the Final Contract Price to be paid to the Builder to the account specified in paragraph (d) below;]
- (ii) [●] in respect of the First Instalment of the SACE Premium to be reimbursed to the Borrower to the account specified in paragraph (d) below;]
- (iii) [●] in respect of the Second Instalment of the SACE Premium to be paid, in accordance with paragraph (d) below to SACE.]
- (b) Drawdown Date: [●];
- (c) Duration of the first Interest Period shall be 6 months;
- (d) Payment instructions:
- (i) [in respect of Clause 2(a)(i) above and for the countervalue in EUR at the Conversion Rate:
Beneficiary: FINCANTIERI S.p.A.
[account details to be completed]
- (ii) [in respect of Clause 2**Error! Reference source not found.** above:
Beneficiary: EXPLORER III NEW BUILD, LLC
[account details to be completed]
- (iii) [in respect of Clause 2(a)(iii) above:
Beneficiary: SACE S.p.A.
[account details to be completed]

- 3 We represent and warrant that:
- (a) the representations and warranties in Clauses 11.2 (*Continuing representations and warranties*) and 11.3 (*Representations on the Delivery Date*) of the Loan Agreement would remain true and not misleading if repeated on the date of this notice with reference to the circumstances now existing;
 - (b) no Event of Default has occurred or will result from the borrowing of the Loan.
- 4 This notice cannot be revoked without the prior consent of the Facility Agent.

[Name of Signatory]

Manager

for and on behalf of
EXPLORER III NEW BUILD, LLC

SCHEDULE 3

DOCUMENTS TO BE PRODUCED BY THE BUILDER TO THE FACILITY AGENT ON DELIVERY

- 1 Qualifying Certificate, duly signed by the Builder, and the related attachments:
 - 1.1 a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined under the Shipbuilding Contract), as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - 1.2 a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract);
 - 1.3 a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract; and
 - 1.4 a duly executed Exporter Declaration.
- 2 Certified copy of the acknowledgement of the notice of assignment of the Borrower's rights under the post-delivery warranty given by the Builder under the Shipbuilding Contract pursuant to the Post-Delivery Assignment.
- 3 Certified Copy of the power of attorney pursuant to which the authorised signatory of the Builder signed the documents referred to in this Schedule 3 *Documents to be produced by the Builder to the Facility Agent on Delivery*) and a specimen of his signature.
- 4 Evidence that, at the time of delivery of the Ship on the Delivery Date, no encumbrances whatsoever are registered against the Ship in the competent Italian registry of ships under construction.

SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

The Transferor and the Transferee accept exclusive responsibility for ensuring that this Certificate and the transaction to which it relates comply with all legal and regulatory requirements applicable to them respectively.

To: [Name of Facility Agent] for itself and for and on behalf of the Borrower, any other Obligor, the Security Trustee and each Lender, as defined in the Loan Agreement referred to below.

[●]

1 This Certificate relates to Loan Agreement (the "**Loan Agreement**") dated [●] 2018 and made between (1)EXPLORER III NEW BUILD, LLC (the "**Borrower**"), (2) the banks and financial institutions named therein as lenders (3) BNP Paribas as Facility Agent and (4) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a loan facility of up to [●].

2 In this Certificate, terms defined in the Loan Agreement shall, unless the contrary intention appears, have the same meanings and:

"**Relevant Parties**" means the Facility Agent, the Borrower, any other Obligor, the Security Trustee and each Lender.

"**Transferee**" means [full name] of [facility office].

"**Transferor**" means [full name] of [facility office].

3 The effective date of this Certificate is [●], **provided that** this Certificate shall not come into effect unless it is signed by the Facility Agent on or before that date.

4 The Transferor assigns to the Transferee absolutely all rights and interests (present, future or contingent) which the Transferor has as Lender under or by virtue of the Loan Agreement and every other Finance Document in relation to [●] per cent. of its Contribution, which percentage represents [●].

5 By virtue of this Certificate and clause 24 (*Changes to the Lender*) of the Loan Agreement, the Transferor is discharged [entirely from its Commitment which amounts to [●]] [from [●] per cent. of its Commitment, which percentage represents [●]] and the Transferee acquires a Commitment of [●].

6 The Transferee undertakes with the Transferor and each of the Relevant Parties that the Transferee will observe and perform all the obligations under the Finance Documents which clause 24 (*Changes to the Lender*) of the Loan Agreement provides will become binding on it upon this Certificate taking effect.

7 The Facility Agent, at the request of the Transferee (which request is hereby made) accepts, for the Facility Agent itself and for and on behalf of every other Relevant Party, this Certificate as a Transfer Certificate taking effect in accordance with clause 24 (*Changes to the Lender*) of the Loan Agreement.

- 8 The Transferor:
- (a) warrants to the Transferee and each Relevant Party that:
 - (i) the Transferor has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which are in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferor;
 - (b) warrants to the Transferee that the Transferor is absolutely entitled, free of encumbrances, to all the rights and interests covered by the assignment in paragraph 4 above; and
 - (c) undertakes with the Transferee that the Transferor will, at its own expense, execute any documents which the Transferee reasonably requests for perfecting in any relevant jurisdiction the Transferee's title under this Certificate or for a similar purpose.
- 9 The Transferee:
- (a) confirms that it has received a copy of the Loan Agreement and each of the other Finance Documents;
 - (b) agrees that it will have no rights of recourse on any ground against either the Transferor, the Facility Agent, the Security Trustee or any Lender in the event that:
 - (i) any of the Finance Documents prove to be invalid or ineffective;
 - (ii) the Borrower or any Obligor fails to observe or perform its obligations, or to discharge its liabilities, under any of the Finance Documents;
 - (iii) it proves impossible to realise any asset covered by a Security Interest created by a Finance Document, or the proceeds of such assets are insufficient to discharge the liabilities of the Borrower or other Obligors under the Finance Documents;
 - (c) agrees that it will have no rights of recourse on any ground against the Facility Agent, the Security Trustee or any Lender in the event that this Certificate proves to be invalid or ineffective;
 - (d) warrants to the Transferor and each Relevant Party that:
 - (i) it has full capacity to enter into this transaction and has taken all corporate action and obtained all consents which it needs to take or obtain in connection with this transaction; and
 - (ii) this Certificate is valid and binding as regards the Transferee; and
 - (e) confirms the accuracy of the administrative details set out below regarding the Transferee.
- 10 The Transferor and the Transferee each undertake with the Facility Agent and the Security Trustee severally, on demand, fully to indemnify the Facility Agent and/or the Security Trustee in respect of any claim, proceeding, liability or expense (including all legal expenses) which they or either of them may incur in connection with this Certificate or any matter arising out of it, except such as are shown to have been mainly and directly caused by the gross and culpable negligence or dishonesty of the Facility Agent's or the Security Trustee's own officers or employees.

11 The Transferee shall repay to the Transferor on demand so much of any sum paid by the Transferor under paragraph 10 as exceeds one-half of the amount demanded by the Facility Agent or the Security Trustee in respect of a claim, proceeding, liability or expense which was not reasonably foreseeable at the date of this Certificate; but nothing in this paragraph shall affect the liability of each of the Transferor and the Transferee to the Facility Agent or the Security Trustee for the full amount demanded by it.

[Name of Transferor]

[Name of Transferee]

By:

By:

Date:

Date:

Facility Agent

Signed for itself and for and on behalf of itself

as Facility Agent and for every other Relevant Party

[Name of Facility Agent]

By:

Date:

Administrative Details of Transferee

Name of Transferee:

Facility Office:

Contact Person

(Loan Administration Department):

Telephone:

Fax:

Contact Person

(Credit Administration Department):

Telephone:

Fax:

Account for payments:

Note: This Transfer Certificate alone may not be sufficient to transfer a proportionate share of the Transferor's interest in the security constituted by the Finance Documents in the Transferor's or Transferee's jurisdiction. It is the responsibility of each Lender to ascertain whether any other documents are required for this purpose.

SCHEDULE 5

QUALIFYING CERTIFICATE

To: BNP Paribas as Facility Agent (the "**Facility Agent**")

cc: EXPLORER III NEW BUILD, LLC as Borrower

From: Fincantieri S.p.A (the "**Builder**")

Date: [●]

Dear Sirs,

- 1 We refer to the SACE backed term facility agreement dated [●] 2018 (as supplemented, amended and/or restated from time to time, the "**Facility Agreement**") and entered into between, among others, the Facility Agent, the Borrower and the financial institutions named therein as Lenders. Terms defined in the Facility Agreement shall have the same meaning when used herein.
- 2 This is a Qualifying Certificate.
- 3 This Qualifying Certificate relates to the Drawdown Notice dated [●].
- 4 We attach hereto the following documents in respect of the Ship to be delivered on the Delivery Date under the Shipbuilding Contract:
 - (a) a copy (certified as a true copy by the Builder) of the invoices from the Builder in respect of the Contract Price (as defined in the Shipbuilding Contract) as well as a copy (certified as a true copy by the Builder) of the relevant bank statements attesting receipt of the amounts paid directly by the Borrower in respect of the Contract Price (as defined in the Shipbuilding Contract);
 - (b) a copy (certified as a true copy by the Builder) of the Builder's Certificate and Declaration of Warranty (as each is defined in the Shipbuilding Contract) duly executed by the Builder;
 - (c) a copy (certified as a true copy by the Builder) of the Protocol of Delivery and Acceptance issued under the Shipbuilding Contract duly executed by the Builder and the Borrower; and
 - (d) a duly executed Exporter Declaration.
- 5 We hereby certify that the cumulative total amount invoiced by us pursuant to the Contract Price (as defined in the Shipbuilding Contract) paid by the Borrower as direct payment is as follows: €[●] corresponding to not less than twenty per cent. (20)% of the Final Contract Price of the Ship.
- 6 We hereby warrant that:
 - (a) the amount claimed does not include any sum in respect of any matter currently the subject of arbitration or other proceeding nor to the best of our knowledge and belief will it be the subject of arbitration or other proceeding;

- (b) the Shipbuilding Contract has not been terminated, suspended or amended and to the best of our knowledge and belief no action is proceeding which might lead to the termination or suspension thereof;
- (c) all relevant authorisations (if any) in respect of the Ship intended to be financed by the proposed Loan have been obtained and are in full force and effect;
- (d) all documents supplied by us in support of this Qualifying Certificate are in all material respect in conformity with the Shipbuilding Contract and SACE's requirements; you may rely on the accuracy and completeness of all information and documents contained in or supplied with this Qualifying Certificate or delivered pursuant thereto:
 - (i) the goods incorporated in and used for the construction of the Ship have the origin set out in the table below and complies with the requirements of the SACE Insurance Policy; and

| Origin of the goods incorporated in the Ship | Value in percentage of the total Contract Price of the Ship | Relevant portion of the Contract Price of the Ship |
|---|--|---|
| Italian goods | [●]% | € [●] |
| Other EU goods | [●]% | € [●] |
| Extra EU goods (if any) | [●]% | € [●] |
| | Total Contract Price of the Ship (in percentage) = 100% | Total Contract Price of the Ship = € [●] |

- (ii) the aggregate amounts transferred abroad (*importi trasferiti all'estero*) up to the date hereof and to be transferred abroad following the Drawdown Date for any reason connected to the performance of the Shipbuilding Contract, are equal to € [●].

Yours faithfully,

Fincantieri S.p.A
 For and on behalf of the Builder
 (the Authorised Signatory of the Builder)

EXECUTION PAGES

BORROWER

SIGNED by

for and on behalf of
EXPLORER III NEW BUILD, LLC
in the presence of:

)s/Paul A. Turner

)Paul A. Turner
)Attorney-in-Fact

)s/Ioanna Tsekoura

Ioanna Tsekoura
Solicitor
Clyde & Co LLP
The St. Botolph Building
138 Houndsditch
London EC3A 7AR
United Kingdom

LENDERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

)s/Jérôme LEBLOND

)Jérôme LEBLOND
)

)s/Anne-Laure ORANGE

)Anne-Laure ORANGE
)

)s/Anne-Sophie Spach

Anne-Sophie Spach

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

)s/Véronique DE BLIC

)Véronique DE BLIC
)Head of Export Finance EMEA
)

)s/ Bruno CLOQUET

Bruno CLOQUET
Global Head of Exporters and ECAs Origination

)s/Scheerlinck Lieve

Scheerlinck Lieve

SIGNED by

for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

)s/Parit Patani

)Attorney-in-Fact
)

)s/Pierre Welch

)Pierre Welch

SIGNED by

for and on behalf of
HSBC BANK PLC
in the presence of:

)/s/Philip E Lewis

)Philip E Lewis

)

)/s/ Kirstie Moore

)Kirstie Moore

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

)/s/Francesco De Bartolo

)Francesco De Bartolo

)Head of Execution Export Banca

)

)/s/Giulio Dal Magro

)Giulio Dal Magro

)Head of International Financing

)/s/Matteo Primicerio

)Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

)/s/Jose Luis Vicent

)Jose Luis Vicent

)

)/s/ Antonio Sala

)Antonio Sala

)/s/Juan Carlos García Rosas

)Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

)/s/Konstantina Kyprianidou

)Konstantina Kyprianidou

)Attorney-in-Fact

)

)/s/Natasha Seel

)Natasha Seel

)Solicitor

)Watson Farley & Williams LLP

)28 avenue Victor Hugo

)75116 Paris

JOINT MANDATED LEAD ARRANGERS

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

)/s/Jérôme LEBLOND

)Jérôme LEBLOND

)

)/s/Anne-Laure ORANGE

)Anne-Laure ORANGE

)

)/s/Anne-Sophie Spach

)Anne-Sophie Spach

SIGNED by

for and on behalf of
BNP PARIBAS FORTIS S.A./N.V.
in the presence of:

)/s/Véronique DE BLIC

)/Véronique DE BLIC
)Head of Export Finance EMEA
)
)/s/Bruno CLOQUET

Bruno CLOQUET
Global Head of Exporters and ECAs Origination

)/s/Scheerlinck Lieve

Scheerlinck Lieve

SIGNED by

for and on behalf of
KFW IPEX-BANK GMBH
in the presence of:

)/s/Parit Patani

)/Parit Patani
)Attorney-in-Fact
)
)/s/Pierre Welch

Pierre Welch

SIGNED by

for and on behalf of
HSBC BANK PLC
in the presence of:

)/s/Philip E Lewis

)/Philip E Lewis
)
)/s/Kirstie Moore

Kirstie Moore

SIGNED by

for and on behalf of
CASSA DEPOSITI E PRESTITI S.P.A.
in the presence of:

)/s/Francesco De Bartolo

)/Francesco De Bartolo
)Head of Execution Export Banca
)
)/s/Giulio Dal Magro

Giulio Dal Magro
Head of International Financing

)/s/Matteo Primicerio

Matteo Primicerio

SIGNED by

for and on behalf of
BANCO SANTANDER S.A.
in the presence of:

)s/ Jose Luis Vicent

)Jose Luis Vicent

)

)s/Antonio Sala

)Antonio Sala

)s/Juan Carlos García Rosas

Juan Carlos García Rosas

SIGNED by

for and on behalf of
SOCIETE GENERALE
in the presence of:

)s/Konstantina Kyprianidou

)Konstantina Kyprianidou

)Attorney-in-Fact

)

)s/Natasha Seel

Natasha Seel

Solicitor

Watson Farley & Williams LLP

28 avenue Victor Hugo

75116 Paris

FACILITY AGENT

SIGNED by

for and on behalf of
BNP PARIBAS
in the presence of:

)s/Luca Lunari

)Luca Lunari

)Head of Export Finance Italy BNP Paribas

)

)s/Stefano Leo

Stefano Leo

Deputy Head of Export Finance Italy BNP Paribas

)s/Lorenzo Canestri

Lorenzo Canestri

SACE AGENT

SIGNED by

for and on behalf of
**CRÉDIT AGRICOLE CORPORATE
AND INVESTMENT BANK**
in the presence of:

)s/Jérôme LEBLOND

)Jérôme LEBLOND

)

)s/Anne-Laure ORANGE

)Anne-Laure ORANGE

)

)s/ Anne-Sophie Spach

Anne-Sophie Spach

SECURITY TRUSTEE

SIGNED by

for and on behalf of
**HSBC CORPORATE TRUSTEE
COMPANY (UK) LIMITED**
in the presence of:

)s/Andrea Stevenson

)Andrea Stevenson

)Authorised Signatory

)

)s/Hanish Bhatt

)Hanish Bhatt

[*]: THE CONFIDENTIAL PORTION HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND THE OMITTED MATERIAL HAS BEEN FILED SEPARATELY WITH THE COMMISSION.

Execution version

Dated 19 December 2018

NCL CORPORATION LTD.

as Guarantor

and

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED

as Security Trustee

GUARANTEE

relating to a Loan Agreement dated 19 December 2018 in respect of
the passenger cruise ship newbuilding presently designated as Hull No. [*]

**WATSON FARLEY
&
WILLIAMS**

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THIS GUARANTEE is made on 19 December 2018

PARTIES

- (1) **NCL CORPORATION LTD.**, an exempted company incorporated under the laws of Bermuda with its registered office at Park Place, 55 Par-la-Ville Road, Hamilton HM11, Bermuda (the "**Guarantor**")
- (2) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, a company incorporated in England and Wales (with registered number 06447555) whose registered office is at 8 Canada Square, London E14 5HQ as security trustee on behalf of the Secured Parties (the "**Security Trustee**", which expression includes its successors, transferees and assigns)

BACKGROUND

- (A) By a shipbuilding contract dated 25 May 2018 (as amended from time to time) (the "**Shipbuilding Contract**") entered into between (i) Fincantieri S.p.A, a company incorporated in Italy with registered office in Trieste, via Genova, 1, and having fiscal code 00397130584 (the "**Builder**") and (ii) Explorer III New Build, LLC (the "**Borrower**"), the Builder has agreed to design, construct and deliver, and the Borrower has agreed to purchase, a 740 passenger cruise ship currently having hull number [*] as more particularly described in the Shipbuilding Contract to be delivered on [*] subject to any adjustments of such delivery date in accordance with the Shipbuilding Contract.
- (B) By a loan agreement dated 19 December 2018 (as amended from time to time), and made between (i) the Borrower, (ii) the Lenders, (iii) the Joint Mandated Lead Arrangers, (iv) the Facility Agent, (v) the SACE Agent and (vi) the Security Trustee, it was agreed that the Lenders would make available to the Borrower, a facility of the Dollar Equivalent of up to three hundred and seventy eight million and eight hundred thousand Euros (€ 378,800,000) and the amount of the SACE Premium (but not exceeding five hundred and sixty five million, one hundred and fifty four thousand, six hundred and sixty eight Dollars and five cents (\$ 565,154,668.05)) for the purpose of assisting the Borrower, in financing (a) payment or reimbursement under the Shipbuilding Contract of all or part of 80% of the Final Contract Price up to the Eligible Amount and (b) reimbursement to the Borrower of 100% of the First Instalment of the SACE Premium paid by it to SACE and payment to SACE of 100% of the Second Instalment of the SACE Premium (as defined therein).
- (C) The execution and delivery to the Security Trustee of this Guarantee is one of the conditions precedent to the availability of the facility under the Loan Agreement.

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 Defined expressions

Words and expressions defined in the Loan Agreement shall have the same meanings when used in this Guarantee unless the context otherwise requires.

1.2 Construction of certain terms

In this Guarantee:

"**Bankruptcy**" includes a liquidation, receivership or administration and any form of suspension of payments, arrangement with creditors or reorganisation under any corporate or insolvency law of any country.

"**Capital Stock**" means:

- (a) in the case of a corporation or company, corporate stock or shares;
- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person.

"**First Financial Quarter**" means the financial quarter ending immediately prior to or on the date falling forty five (45) days before the Intended Delivery Date.

"**Loan Agreement**" means the loan agreement dated 19 December 2018 referred to in Recital (B) and includes any existing or future amendments, restatements, or supplements, whether made with the Guarantor's consent or otherwise.

"**Management**" means the employees of the Guarantor and its subsidiaries or their dependants or any trust for which such persons are the intended beneficiary.

"**Party**" means a party to this Guarantee.

1.3 Application of construction and interpretation provisions of Loan Agreement

Clauses 1.2 (*Construction of certain terms*) to 1.5 (*General Interpretation*) of the Loan Agreement apply, with any necessary modifications, to this Guarantee.

1.4 Non-applicable provisions between the Obligors, German Lenders and any Creditor Party subject to the EU Blocking Regulation

- (a) A Creditor Party that is incorporated in the Federal Republic of Germany or is otherwise subject to the EU Blocking Regulation may notify the Facility Agent in writing that it elects that any provisions with respect to Sanctions, including, without limitation, the undertakings and covenants given under any of Clause 10.12 (*Sanctions*) or any undertakings in Clause 11.19 (*Sanctions and Illicit Payments*), Clause 11.20 (*Prohibited Payments*) and Clause 11.21 (*Sanctions*) of this Guarantee respectively (the "**Sanctions Provisions**") shall only enure to the benefit of, and be applicable to, that Creditor Party to the extent that such provisions would not result in: (i) any violation of, conflict with or liability under the EU Blocking Regulation; or (ii) in the case of a Creditor Party that is incorporated in the Federal Republic of Germany only, a violation or conflict with the German Blocking Provisions.
- (b) If a Creditor Party elects to be a Restricted Creditor Party pursuant to the foregoing paragraph (a), in respect of any proposed requirement to comply, enforcement, waiver, non-waiver, consent, variation or amendment of or in relation to a Finance Document relating to any Sanctions Provision (a "**Relevant Action**"), the Restricted Creditor Party shall notify the Facility Agent in writing whether or not it shall be deemed to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve the Relevant Action and upon receipt by the Facility Agent of such notice such Restricted Creditor Party shall be so deemed for such purposes.

2 GUARANTEE

2.1 Guarantee and indemnity

The Guarantor unconditionally and irrevocably:

- (a) guarantees to the Security Trustee (acting on behalf of the Secured Parties) punctual performance by the Borrower of all the Borrower's obligations under or in connection with the Loan Agreement and every other Finance Document;
- (b) undertakes to the Security Trustee that whenever the Borrower does not pay any amount when due under or in connection with the Loan Agreement and the other Finance Documents, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor;
- (c) agrees that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Security Trustee and each other Secured Party immediately on demand by the Security Trustee against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Loan Agreement or any other Finance Document on the date when it would have been due. Any such demand for indemnification shall be made through the Security Trustee, for itself or on behalf of the Secured Parties. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 2.1 (*Guarantee and indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

2.2 No limit on number of demands

The Security Trustee may serve any number of demands under Clause 2.1 (*Guarantee and indemnity*).

3 LIABILITY AS PRINCIPAL AND INDEPENDENT DEBTOR

3.1 Principal and independent debtor

The Guarantor shall be liable under this Guarantee as a principal and independent debtor and accordingly it shall not have, as regards this Guarantee, any of the rights or defences of a surety.

3.2 Waiver of rights and defences

Without limiting the generality of Clause 3.1 (*Principal and independent debtor*), the obligations of the Guarantor under this Guarantee will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Borrower or other person;

- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of any affiliate of the Borrower;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any insolvency or similar proceedings;
- (g) any arrangement or concession (including a rescheduling or acceptance of partial payments) relating to, or affecting, the Finance Documents;
- (h) any release or loss whatsoever of any guarantee, right or Security Interest created by the Finance Documents;
- (i) any failure whatsoever promptly or properly to exercise or enforce any such right or Security Interest, including a failure to realise for its full market value an asset covered by such a Security Interest; or
- (j) any other Finance Document or any Security Interest now being or later becoming void, unenforceable, illegal or invalid or otherwise defective for any reason, including a neglect to register it.

4 EXPENSES

4.1 Costs of preservation of rights, enforcement etc.

The Guarantor shall pay to the Security Trustee on its demand the amount of all expenses incurred by the Security Trustee or any other Secured Party in connection with any matter arising out of this Guarantee or any Security Interest connected with it, including any advice, claim or proceedings relating to this Guarantee or such a Security Interest.

4.2 Fees and expenses payable under Loan Agreement

Clause 4.1 (*Costs of preservation of rights, enforcement etc.*) is without prejudice to the Guarantor's liabilities in respect of the Borrower's obligations under clauses 9 (*Fees*) and 10 (*Taxes, Increased Costs, Costs and Related Charges*) of the Loan Agreement and under similar provisions of other Finance Documents.

5 ADJUSTMENT OF TRANSACTIONS

5.1 Reinstatement of obligation to pay

The Guarantor shall pay to the Security Trustee on its demand any amount which any Secured Party is required, or agrees, to pay pursuant to any claim by, or settlement with, a trustee in bankruptcy of the Borrower or of any other Obligor (or similar person) on the ground that the Loan Agreement or any other Finance Document, or a payment by the Borrower or of such other Obligor, was invalid or on any similar ground.

6 PAYMENTS

6.1 Method of payments

Any amount due under this Guarantee shall be paid:

- (a) in immediately available funds;
- (b) to such account as the Security Trustee may from time to time notify to the Guarantor;
- (c) without any form of set-off, cross-claim or condition; and
- (d) free and clear of any Tax Deduction except a Tax Deduction which the Guarantor is required by law to make.

6.2 Grossing-up for taxes

If the Guarantor is required by law to make a Tax Deduction, the amount due to the Security Trustee shall be increased by the amount necessary to ensure that the Security Trustee and (if the payment is not due to the Security Trustee for its own account) the Secured Party beneficially interested in the payment receives and retains a net amount which, after the Tax Deduction, is equal to the full amount that it would otherwise have received; provided that a payment shall not be increased under this Clause 6.2 if clause 10.2(d) of the Loan Agreement applies *mutatis mutandis*.

6.3 Tax Credits

If an additional payment is made by the Guarantor under this Clause and any Secured Party determines that it has received or been granted a credit against or relief of or calculated with reference to the deduction giving rise to such additional payment, such Secured Party shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment and provided that it has received the cash benefit of such credit, relief or remission, pay to the Guarantor such amount as such Secured Party shall in its reasonable opinion have concluded to be attributable to the relevant deduction. Any such payment shall be conclusive evidence of the amount due to the Guarantor hereunder and shall be accepted by the Guarantor in full and final settlement of its rights of reimbursement hereunder in respect of such deduction. Nothing herein contained shall interfere with the right of each Secured Party to arrange its tax affairs in whatever manner it thinks fit.

6.4 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, the Facility Agent and the other Secured Parties.

6.5 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 the Security Trustee to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a) (i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

6.6 No obligations on SACE

To the extent that this Clause 6 (*Payments*) imposes obligations or restrictions on a Secured Party, such obligations or restrictions shall not apply to SACE and SACE shall have no obligations hereunder nor be constrained by such restrictions.

7 INTEREST

7.1 Accrual of interest

Any amount due under this Guarantee shall carry interest after the date on which the Security Trustee demands payment of it until it is actually paid, unless interest on that same amount also accrues under the Loan Agreement.

7.2 Calculation of interest

Interest on sums payable under this Guarantee shall be calculated and accrue in the same way as interest under clause 6 (*Interest*) of the Loan Agreement.

7.3 Guarantee extends to interest payable under Loan Agreement

For the avoidance of doubt, it is confirmed that this Guarantee covers all interest payable under the Loan Agreement, including that payable under clause 17 (*Interest on Late Payments*) of the Loan Agreement.

8 SUBORDINATION

8.1 Subordination of rights of Guarantor

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, all rights which the Guarantor at any time has (whether in respect of this Guarantee or any other transaction) against the Borrower, any other Obligor or their respective assets shall be fully subordinated to the rights of the Secured Parties under the Finance Documents; and in particular, the Guarantor shall not:

- (a) claim, or in a bankruptcy of the Borrower or any other Obligor prove for, any amount payable to the Guarantor by the Borrower or any other Obligor, whether in respect of this Guarantee or any other transaction;
- (b) take or enforce any Security Interest for any such amount;
- (c) exercise any right to be indemnified by an Obligor;
- (d) bring legal or other proceedings for an order requiring the Borrower or any other Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under this Guarantee;
- (e) claim to set-off any such amount against any amount payable by the Guarantor to the Borrower or any other Obligor; or

- (f) claim any subrogation or right of contribution or other right in respect of any Finance Document or any sum received or recovered by any Secured Party under a Finance Document.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with the Loan Agreement and the Finance Documents.

9 ENFORCEMENT

9.1 No requirement to commence proceedings against Borrower

The Guarantor waives any right it may have of first requiring the Security Trustee or any other Secured Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Guarantee. Neither the Security Trustee nor any other Secured Party will need to make any demand under, commence any proceedings under, or enforce any guarantee or any Security Interest contained in or created by, the Loan Agreement or any other Finance Document before claiming or commencing proceedings under this Guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

9.2 Conclusive evidence of certain matters

However, as against the Guarantor:

- (a) any judgment or order of a court in England or the jurisdiction of the Approved Flag or Bermuda or the United States of America in connection with the Loan Agreement; and
 - (b) any statement or admission by the Borrower in connection with the Loan Agreement,
- shall be binding and conclusive as to all matters of fact and law to which it relates.

9.3 Suspense account

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, the Security Trustee and any Secured Party may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by it (or any trustee or agent on its behalf which, in the case of a Secured Party, shall include the Facility Agent and the Security Trustee) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Guarantee.

10 REPRESENTATIONS AND WARRANTIES

10.1 General

The Guarantor represents and warrants to the Security Trustee as follows on the Effective Date, which representations and warranties shall be deemed to be repeated, with reference *mutatis mutandis* to the facts and circumstances subsisting, as if made on each day from the Effective Date to the end of the Security Period.

10.2 Status

The Guarantor is duly incorporated and validly existing and in good standing under the laws of Bermuda as an exempted company.

10.3 Corporate power

The Guarantor has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute this Guarantee; and
- (b) to make all the payments contemplated by, and to comply with, this Guarantee.

10.4 Consents in force

All the consents referred to in Clause 10.3 (*Corporate power*) remain in force and nothing has occurred which makes any of them liable to revocation.

10.5 Legal validity

This Guarantee constitutes the Guarantor's legal, valid and binding obligations enforceable against the Guarantor in accordance with its terms subject to any relevant insolvency laws affecting creditors' rights generally.

10.6 No conflicts

The execution by the Guarantor of this Guarantee and its compliance with this Guarantee will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of the Guarantor; or
- (c) any contractual or other obligation or restriction which is binding on the Guarantor or any of its assets.

10.7 No withholding taxes

All payments which the Guarantor is liable to make under this Guarantee may be made without deduction or withholding for or on account of any tax payable under any law of Bermuda or the United States of America (other than a FATCA Deduction).

10.8 No default

To the knowledge of the Guarantor, no Event of Default has occurred which is continuing.

10.9 Information

All information which has been provided in writing by or on behalf of the Guarantor to the Security Trustee or any other Secured Party in connection with any Finance Document satisfied the requirements of Clause 11.2 (*Information provided to be accurate*); all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 11.4 (*Form of financial statements*); and there has been no material adverse change in the financial position or state of affairs of the Guarantor from that disclosed in the latest of those accounts.

10.10 No litigation

No legal or administrative action involving the Guarantor has been commenced or taken or, to the Guarantor's knowledge, is likely to be commenced or taken which, in either case, would be likely to have a material adverse effect on the Guarantor's ability to perform its obligations under this Guarantee.

10.11 No Security Interests

None of the assets or rights of the Guarantor is subject to any Security Interest except any Security Interest which (i) qualifies as a Permitted Security Interest with respect to the Guarantor or (ii) is permitted by Clause 11.11 (*Negative pledge*).

10.12 Sanctions

- (a) No investments made and no payments made, received or to be made by the Guarantor under the Loan Agreement, the Transaction Documents or any Finance Document have been or shall be funded, whether directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents, the construction of the Ship or its business, whether directly or, to the knowledge of the Guarantor, indirectly, are of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.
- (b) No Prohibited Payment has been or will be made, received or provided, directly or indirectly, by (or on behalf of) it or the Borrower (to the best of the Guarantor's knowledge), any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or any public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, the Loan Agreement and/or the Finance Documents.
- (c) The Guarantor:
 - (i) nor to its knowledge any director, officer, or Affiliate of any Obligor or member of the Group, is not a Prohibited Person;

- (ii) is not owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
- (iii) does not own or control a Prohibited Person.

11 UNDERTAKINGS

11.1 General

The Guarantor undertakes with the Security Trustee to comply with the following provisions of this Clause 11 (*Undertakings*) at all times from the Effective Date to the end of the Security Period, except as the Security Trustee may otherwise permit.

11.2 Information provided to be accurate

All financial and other information (but, in respect of information relating to the business and affairs of the Guarantor, excluding any forward looking statements and projections) which is provided in writing by or on behalf of the Guarantor under or in connection with this Guarantee will be true and not misleading and will not omit any material fact or consideration.

11.3 Provision of financial statements

The Guarantor will send to the Security Trustee:

- (a) as soon as practicable, but in no event later than 120 days after the end of each financial year of the Guarantor beginning with the year ending 31 December 2018, the audited consolidated accounts of the Guarantor and its subsidiaries;
- (b) as soon as practicable (and in any event within forty-five (45) days of the end of the contemplated quarter in respect of the first three quarters of each fiscal year and 90 days in respect of the final quarter) a copy of the unaudited consolidated quarterly management accounts (including current and year to date profit and loss statements and balance sheet compared to the previous year and to budget) of the Guarantor certified as to their correctness by the chief financial officer of the Guarantor (it being understood that the delivery by the Guarantor of quarterly or annual reports as filed with the Securities and Exchange Commission in respect of the Guarantor and its consolidated subsidiaries shall satisfy all the requirements of this paragraph (b));
- (c) a compliance certificate in the form set out in Schedule 1 (*Form of Compliance Certificate*) to this Guarantee or in such other form as the Security Trustee may reasonably require (each a "**Compliance Certificate**"):
 - (i) for the first time, no later than the First Financial Quarter on the basis of the latest available quarterly financial statements, and
 - (ii) at the same time as there is delivered to the Security Trustee, and together with, each set of unaudited consolidated quarterly management accounts under paragraph (b) and, if applicable, audited consolidated accounts under paragraph (a), duly signed by the chief financial officer of the Guarantor and certifying whether or not the requirements of Clause 11.15 (*Financial Covenants*) are then complied with;

- (d) such additional financial or other relevant information regarding the Guarantor and the Group as the Security Trustee may reasonably request;
- (e) as soon as practicable (and in any event within 120 days after the close of each fiscal year), commencing with the fiscal year ending 31 December 2018, annual cash flow projections on a consolidated basis of the Group showing on a monthly basis advance ticket sales (for at least 12 months following the date of such statement) for the Group;
- (f) as soon as practicable (and in any event not later than January 31 of each fiscal year):
 - (i) a budget for the Group for such new fiscal year including a 12 month liquidity budget for such new fiscal year;
 - (ii) updated financial projections of the Group for at least the next five years (including an income statement, balance sheet statement and cash flow statement and quarterly break downs for the first of those five years); and
 - (iii) an outline of the assumptions supporting such budget and financial projections including but without limitation any scheduled drydockings.

11.4 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 11.3 (*Provision of financial statements*) will:

- (a) be prepared in accordance with GAAP;
- (b) when required to be audited, be audited by the auditors which are the Guarantor's auditors at the Effective Date or other auditors approved by the Security Trustee, provided that, such approval by the Security Trustee shall not be unreasonably withheld or delayed;
- (c) give a true and fair view of the state of affairs of the Guarantor and its subsidiaries at the date of those accounts and of their profit for the period to which those accounts relate; and
- (d) fully disclose or provide for all significant liabilities of the Guarantor and its subsidiaries.

11.5 Shareholder and creditor notices

The Guarantor will send the Security Trustee, at the same time as they are despatched, copies of all communications which are despatched to the Guarantor's shareholders or creditors generally or any class of them.

11.6 Consents

The Guarantor will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Security Trustee of, all consents required:

- (a) for the Guarantor to perform its obligations under this Guarantee;
- (b) for the validity or enforceability of this Guarantee,

and the Guarantor will comply with the terms of all such consents.

11.7 Notification of litigation

The Guarantor will provide the Security Trustee with details of any material legal or administrative action involving the Guarantor as soon as such action is instituted or it becomes apparent to the Guarantor that it is likely to be instituted (and for this purpose proceedings shall be deemed to be material if they involve a claim in an amount exceeding twenty million Dollars (\$20,000,000) or the equivalent in another currency).

11.8 Domicile and principal place of business

The Guarantor:

- (a) will maintain its domicile and registered office at the address stated at the commencement of this Guarantee or at such other address in Bermuda as is notified beforehand to the Security Trustee;
- (b) will maintain its principal place of business and keep its corporate documents and records in the United States of America at 7665 Corporate Center Drive, Miami, 33126, Florida (Fax: (305) 436 4140) or at such other address in the United States of America as is notified beforehand to the Security Trustee; and
- (c) will not move its domicile out of Bermuda nor its principal place of business out of the United States of America without the prior agreement of the Security Trustee, acting with the authorisation of the Secured Parties, such agreement not to be unreasonably withheld.

11.9 Notification of default

The Guarantor will notify the Security Trustee as soon as the Guarantor becomes aware of the occurrence of an Event of Default and will thereafter keep the Security Trustee fully up-to-date with all developments.

11.10 Maintenance of status

The Guarantor will maintain its separate corporate existence and remain in good standing under the laws of Bermuda.

11.11 Negative pledge

The Guarantor shall not, and shall procure that the Borrower will not, create or permit to arise any Security Interest over any asset present or future except Security Interests created or permitted by the Finance Documents and except for the following:

- (a) Security Interests created with the prior consent of the Security Trustee or otherwise permitted by the Finance Documents;
- (b) in the case of the Guarantor, Security Interests which qualify as Permitted Security Interests with respect to the Guarantor;
- (c) in the case of the Borrower, Security Interests permitted under clause 12.8 (*Negative pledge*) of the Loan Agreement;
- (d) Security Interests provided in favour of lenders under and in connection with any refinancing of the Existing Indebtedness or any financing arrangements entered into by any member of the Group for the acquisition of additional or replacement ship(s) (including any refinancing of any such arrangement) but limited to:

- (i) pledges of the share capital of the relevant ship owning subsidiary(/ies); and/or
- (ii) ship mortgages and other securities over the financed ship(s).

11.12 No disposal of assets, change of business

The Guarantor will:

- (a) not, and shall procure that its subsidiaries, as a group, shall not, transfer all or substantially all of the cruise vessels owned by them and shall procure that any cruise vessels which are disposed of in compliance with the foregoing shall be disposed on a willing seller willing buyer basis at or about market rate and at arm's length subject always to the provisions of any pertinent loan documentation, and
- (b) continue to be a holding company for a group of companies whose main business is the operation of cruise vessels as well as the marketing of cruises on board such vessels and the Guarantor will not change its main line of business so as to affect any Obligor's ability to perform its obligations under the Finance Documents or to imperil, in the opinion of the Security Trustee, the security created by any of the Finance Documents or the SACE Insurance Policy.

11.13 No merger etc.

The Guarantor shall not enter into any form of merger, sub-division, amalgamation, restructuring, consolidation, winding-up, dissolution or anything analogous thereto or acquire any entity, share capital or obligations of any corporation or other entity (each of the foregoing being a "**Transaction**") unless:

- (a) the Guarantor has notified the Security Trustee in writing of the agreed terms of the relevant Transaction promptly after such terms have been agreed as heads of terms (or similar) and thereafter notified the Security Trustee in writing of any significant amendments to such terms during the course of the negotiation of the relevant Transaction; and
- (b) the relevant Transaction does not require or involve or result in any dissolution of the Guarantor so that at all times the Guarantor remains in existence; and
- (c) each notice delivered to the Security Trustee pursuant to paragraph (a) above is accompanied by a certificate signed by the chief financial officer of the Guarantor whereby the Guarantor represents and warrants to the Security Trustee that the relevant Transaction will not:
 - (i) adversely affect the ability of any Obligor to perform its obligations under the Finance Documents;
 - (ii) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; or
 - (iii) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 *Financial Covenants*); and

- (d) if the merger or analogous transaction involves the Guarantor or the Borrower, all the necessary "Know your customer requirements" have been complied with.

11.14 Maintenance of ownership of Borrower and Guarantor.

- (a) The Guarantor shall remain the direct or indirect beneficial owner of the entire issued and allotted share capital of the Shareholder, free from any Security Interest and the Shareholder shall remain the legal holder and direct beneficial owner of all shares in the Borrower, free from any Security Interest, except that created in favour of the Security Trustee.
- (b) No person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934 (15 USC §78a et seq.) as in effect on the date of this Guarantee) shall acquire beneficial ownership of 35% or more on a fully diluted basis of the voting interest in the Guarantor's equity interests unless the Management shall own directly or indirectly, more than such person or "group" on a fully diluted basis of the voting interest in the Guarantor's equity interests.

11.15 Financial Covenants

- (a) The Guarantor will not permit the Free Liquidity to be less than fifty million Dollars (\$50,000,000) at any time.
- (b) The Guarantor will not permit the ratio of Total Net Funded Debt to Total Capitalization to be greater than 0.70:1.00 at any time.
- (c) The Guarantor will not permit the ratio of Consolidated EBITDA to Consolidated Debt Service for the Group at the end of any fiscal quarter, computed for the period of the four consecutive fiscal quarters ending as at the end of the relevant fiscal quarter, to be less than 1.25:1.00 unless the Free Liquidity of the Group at all times during such period of four consecutive fiscal quarters ending as at the end of such fiscal quarter was equal to or greater than one hundred million Dollars (\$100,000,000).

11.16 Financial definitions

For the purposes of Clause 11.15 (*Financial Covenants*):

- (a) "**Cash Balance**" shall mean, at any date of determination, the unencumbered and otherwise unrestricted cash and Cash Equivalents of the Group;
- (b) "**Cash Equivalents**" shall mean (i) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one year from the date of acquisition, (ii) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company having capital, surplus and undivided profits aggregating in excess of two hundred million Dollars (\$200,000,000), with maturities of not more than one year from the date of acquisition by any person, (iii) repurchase obligations with a term of not more than 90 days for underlying securities of the types described in clause (i) above entered into with any bank meeting the qualifications specified in clause (ii) above, (iv) commercial paper issued by any person incorporated in the United States rated at least A-1 or the equivalent thereof by S&P or at least P-1 or the equivalent thereof by Moody's and in each case maturing not more than one year after the date of acquisition by any other person, and (v) investments in money market funds substantially all of whose assets are comprised of securities of the types described in clauses (i) through (iv) above;

- (c) **"Consolidated Debt Service"** shall mean, for any relevant period, the sum (without double counting), determined in accordance with GAAP, of:
- (i) the aggregate principal payable or paid during such period on any Indebtedness for Borrowed Money of any member of the Group, other than:
 - (A) principal of any such Indebtedness for Borrowed Money prepaid at the option of the relevant member of the Group or by virtue of "cash sweep" or "special liquidity" cash sweep provisions (or analogous provisions) in any debt facility of the Group;
 - (B) principal of any such Indebtedness for Borrowed Money prepaid upon a sale or a Total Loss of any ship (as if references in that definition were to all ships and not just the Ship) owned or leased under a capital lease by any member of the Group; and
 - (C) balloon payments of any such Indebtedness for Borrowed Money payable during such period (and for the purpose of this paragraph (c) a "balloon payment" shall not include any scheduled repayment instalment of such Indebtedness for Borrowed Money which forms part of the balloon);
 - (ii) Consolidated Interest Expense for such period;
 - (iii) the aggregate amount of any dividend or distribution of present or future assets, undertakings, rights or revenues to any shareholder of any member of the Group (other than the Guarantor, or one of its wholly owned Subsidiaries) or any dividends or distributions other than tax distributions in each case paid during such period; and
 - (iv) all rent under any capital lease obligations by which the Guarantor or any consolidated Subsidiary is bound which are payable or paid during such period and the portion of any debt discount that must be amortized in such period;
- as calculated in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 *Provision of financial statements*);
- (d) **"Consolidated EBITDA"** shall mean, for any relevant period, the aggregate of:
- (i) Consolidated Net Income from the Guarantor's operations for such period; and
 - (ii) the aggregate amounts deducted in determining Consolidated Net Income for such period in respect of gains and losses from the sale of assets or reserves relating thereto, Consolidated Interest Expense, depreciation and amortization, impairment charges and any other non-cash charges and deferred income tax expense for such period.
- (e) **"Consolidated Interest Expense"** shall mean, for any relevant period, the consolidated interest expense (excluding capitalized interest) of the Group for such period;
- (f) **"Consolidated Net Income"** shall mean, for any relevant period, the consolidated net income (or loss) of the Group for such period as determined in accordance with GAAP;

- (g) **"Free Liquidity"** shall mean, at any date of determination, the aggregate of the Cash Balance or any other amounts available for drawing under other revolving or other credit facilities of the Group, which remain undrawn, could be drawn for general working capital purposes or other general corporate purposes and would not, if drawn, be repayable within six months;
- (h) **"Indebtedness"** shall mean any obligation for the payment or repayment of money, whether as principal or as surety and whether present or future, actual or contingent including, without limitation, pursuant to an Interest Rate Protection Agreement or Other Hedging Agreement;
- (i) **"Indebtedness for Borrowed Money"** shall mean Indebtedness (whether present or future, actual or contingent, long-term or short-term, secured or unsecured) in respect of:
 - (i) moneys borrowed or raised;
 - (ii) the advance or extension of credit (including interest and other charges on or in respect of any of the foregoing);
 - (iii) the amount of any liability in respect of leases which, in accordance with GAAP, are capital leases;
 - (iv) the amount of any liability in respect of the purchase price for assets or services payment of which is deferred for a period in excess of 180 days;
 - (v) all reimbursement obligations whether contingent or not in respect of amounts paid under a letter of credit or similar instrument; and
 - (vi) (without double counting) any guarantee of Indebtedness falling within paragraphs (i) to (v) above;

PROVIDED THAT the following shall not constitute Indebtedness for Borrowed Money:

- (A) loans and advances made by other members of the Group which are subordinated to the rights of the Secured Parties;
 - (B) loans and advances made by any shareholder of the Guarantor which are subordinated to the rights of the Secured Parties on terms reasonably satisfactory to the Facility Agent; and
 - (C) any liabilities of the Guarantor or any other member of the Group under any Interest Rate Protection Agreement or any Other Hedging Agreement or other derivative transactions of a non-speculative nature;
- (j) **"Interest Rate Protection Agreement"** shall mean any interest rate swap agreement, interest rate cap agreement, interest collar agreement, interest rate hedging agreement, interest rate floor agreement or other similar agreement or arrangement entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliate, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement;
 - (k) **"Other Hedging Agreement"** shall mean any foreign exchange contracts, currency swap agreements, commodity agreements or other similar agreements or arrangements entered into between a Lender or its Affiliate, or a Joint Mandated Lead Arranger or its Affiliates, and the Guarantor and/or the Borrower in relation to the Secured Liabilities of the Borrower under the Loan Agreement and designed to protect against the fluctuations in currency or commodity values;

- (l) "**Total Capitalization**" means, at any date of determination, the Total Net Funded Debt plus the consolidated stockholders' equity of the Group at such date determined in accordance with GAAP and derived from the then latest accounts delivered under Clause 11.3 (*Provision of financial statements*); provided it is understood that the effect of any impairment of intangible assets shall be added back to stockholders' equity; and
- (m) "**Total Net Funded Debt**" shall mean, as at any relevant date:
- (i) Indebtedness for Borrowed Money of the Group on a consolidated basis; and
 - (ii) the amount of any Indebtedness for Borrowed Money of any person which is not a member of the Group but which is guaranteed by a member of the Group as at such date;

less an amount equal to any Cash Balance as at such date; provided that any Commitments and other amounts available for drawing under other revolving or other credit facilities of the Group which remain undrawn shall not be counted as cash or indebtedness for the purposes of this Guarantee.

11.17 Negative Undertakings

- (a) The Guarantor may:
- (i) at any time prior to the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee;
 - (ii) at any time after the end of the First Financial Quarter, declare or pay dividends or make other distributions or payment in respect of Financial Indebtedness owed to its shareholders without the prior written consent of the Security Trustee, subject to it on each such occasion satisfying the Security Trustee acting on behalf of the Secured Parties that it will continue to meet all the requirements of Clause 11.15 (*Financial Covenants*), if such covenants were to be tested immediately following the payment of any such dividend; and
 - (iii) pay dividends (x) to persons responsible for paying the tax liability in respect of consolidated, combined, unitary or affiliated tax returns for each relevant jurisdiction of the Group, or (y) to holders of the Guarantor's Capital Stock with respect to income taxable as a result of a member of the Group being taxed as a pass-through entity for U.S. Federal, state and local income tax purposes or attributable to any member of the Group,

provided that the actions in paragraphs (ii) and (iii) above shall only be permitted if there is no Event of Default which is continuing under the Loan Agreement and no Event of Default would arise from the payment of such dividend.

- (b) The Guarantor shall not, and shall procure that none of its subsidiaries shall:

- (i) make loans to any person that is not the Guarantor or a direct or indirect subsidiary of the Guarantor; or
- (ii) issue or enter into one or more guarantees covering the obligations of any person which is not the Guarantor or a direct or indirect subsidiary of the Guarantor, except if such loan is granted to a non subsidiary or such guarantee is issued in the ordinary course of business covering the obligations of a non subsidiary and the aggregate amount of all such loans and guarantees made or issued by the Guarantor and its subsidiaries does not exceed [*] Dollars (\$[*]) or is otherwise approved by the Security Trustee which approval shall not be unreasonably withheld if such loan or guarantee in respect of a non subsidiary would neither:
 - (A) affect the ability of any Obligor to perform its obligations under the Finance Documents; nor
 - (B) imperil the security created by any of the Finance Documents or the SACE Insurance Policy; nor
 - (C) affect the ability of the Guarantor to comply with the financial covenants contained in Clause 11.15 (*Financial Covenants*) if such covenants were to be tested immediately following the grant of such loan or the issuance of such guarantee, as demonstrated by evidence satisfactory to the Security Trustee.

11.18 Most favoured nations

The Guarantor undertakes that if at any time after the Effective Date it enters into any financial contract or financial document relating to any Financial Indebtedness with or which has the support of any export credit agency and which contains *pari passu* provisions or cross default provisions which are more favourable to the lenders than those contained in paragraph (l) of clause 11.2 (*Continuing representations and warranties*) of the Loan Agreement and clause 18.6 (*Cross default*) of the Loan Agreement respectively, the Guarantor shall immediately notify the Borrower and the Facility Agent of such provisions and the relevant provisions contained in the Loan Agreement shall be deemed amended so that such more favourable *pari passu* provisions or cross default provisions are granted to the Creditor Parties pursuant to the Loan Agreement.

11.19 Sanctions and Illicit Payments

No payments made or received by the Guarantor under the Loan Agreement or any Finance Document shall be funded directly or, to the knowledge of the Guarantor, indirectly out of funds of Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction or which would otherwise cause any Party to be in breach of any Sanctions, and none of the sources of funds to be used by the Guarantor in connection with the Transaction Documents or the construction of the Ship or its business shall be of directly or, to the knowledge of the Guarantor, indirectly Illicit Origin or derived from any activity with a Prohibited Person or in a Prohibited Jurisdiction.

11.20 Prohibited Payments

No Prohibited Payment shall be received, made or provided, directly or indirectly, by (or on behalf of) the Guarantor or any of its affiliates, officers, directors or any other person acting on its behalf to, or for the benefit of, any authority or public or government entity (or any official, officer, director, agent or key employee of, or other person with management responsibilities in, any authority or public or government entity) in connection with the Ship, this Agreement, the Loan Agreement and/or the other Finance Documents.

11.21 Sanctions

The Guarantor shall comply, or procure compliance by the entities and persons referred to in Clause 11.20, with all Sanctions and shall provide details of any material litigation, arbitration or administrative proceedings relating to any alleged or actual breach of Sanctions.

11.22 Additional Undertakings

The Guarantor shall not and shall procure that no Obligor shall do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for an Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of an Obligor under the Finance Documents to cease to be legal, valid, binding or enforceable if that cessation individually or together with any other cessations materially or adversely affects the interests of the Secured Parties under the Transaction Documents;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Security Interest created under the Finance Documents to lose its priority or ranking; and
- (e) imperil or jeopardise any Security Interest created under the Finance Documents.

12 JUDGMENTS AND CURRENCY INDEMNITY

12.1 Judgments relating to Loan Agreement

This Guarantee shall cover any amount payable by the Borrower under or in connection with any judgment relating to the Loan Agreement.

12.2 Currency indemnity

In addition, clause 20.4 (*Currency indemnity*) of the Loan Agreement shall apply, with any necessary adaptations, in relation to this Guarantee.

13 SET-OFF

13.1 Application of credit balances

Each Secured Party may without prior notice:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Guarantor at any office in any country of that Secured Party in or towards satisfaction of any sum then due from the Guarantor to that Secured Party under this Guarantee; and
- (b) for that purpose:

- (i) break, or alter the maturity of, all or any part of a deposit of the Guarantor;
- (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; or
- (iii) enter into any other transaction or make any entry with regard to the credit balance which the Secured Party concerned considers appropriate.

13.2 Existing rights unaffected

No Secured Party shall be obliged to exercise any of its rights under Clause 13.1 (*Application of credit balances*); and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Secured Party is entitled (whether under the general law or any document).

13.3 Sums deemed due to a Lender

For the purposes of this Clause 13 (*Set-Off*), a sum payable by the Guarantor to the Security Trustee for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to that Lender.

14 SUPPLEMENTAL

14.1 Continuing guarantee

This Guarantee shall remain in force as a continuing security at all times during the Security Period, regardless of any intermediate payment or discharge in whole or in part.

14.2 Rights cumulative, non-exclusive

The Security Trustee's rights under and in connection with this Guarantee are cumulative, may be exercised as often as appears expedient and shall not be taken to exclude or limit any right or remedy conferred by law.

14.3 No impairment of rights under Guarantee

If the Security Trustee omits to exercise, delays in exercising or invalidly exercises any of its rights under this Guarantee, that shall not impair that or any other right of the Security Trustee under this Guarantee.

14.4 Severability of provisions

If any provision of this Guarantee is or subsequently becomes void, illegal, unenforceable or otherwise invalid, that shall not affect the validity, legality or enforceability of its other provisions.

14.5 Guarantee not affected by other security

This Guarantee is in addition to and shall not impair, nor be impaired by, any other guarantee, any Security Interest or any right of set-off or netting or to combine accounts which the Security Trustee or any Secured Party may now or later hold in connection with the Loan Agreement.

14.6 Guarantor bound by Loan Agreement

The Guarantor agrees with the Security Trustee to be bound by all provisions of the Loan Agreement which are applicable to the Obligors in the same way as if those provisions had been set out (with any necessary modifications) in this Guarantee.

14.7 Applicability of provisions of Guarantee to other Security Interests

Any Security Interest which the Guarantor creates (whether at the time at which it signs this Guarantee or at any later time) to secure any liability under this Guarantee shall be a principal and independent security, and Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall, with any necessary modifications, apply to it, notwithstanding that the document creating the Security Interest neither describes it as a principal or independent security nor includes provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*).

14.8 Applicability of provisions of Guarantee to other rights

Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*) shall also apply to any right of set-off or netting or to combine accounts which the Guarantor creates by an agreement entered into at the time of this Guarantee or at any later time (notwithstanding that the agreement does not include provisions similar to Clauses 3 (*Liability as Principal and Independent Debtor*) and 17 (*Invalidity of Loan Agreement*)), being an agreement referring to this Guarantee.

14.9 Third party rights

Other than a Secured Party or the Italian Authorities, no person who is not a party to this Guarantee has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Guarantee.

14.10 Waiver of rights against SACE

Nothing in this Guarantee or any of the Finance Documents is intended to grant to the Guarantor or any other person any right of contribution from or any other right or claim against SACE and the Guarantor hereby waives irrevocably any right of contribution or other right or claim as between itself and SACE.

14.11 Certification or determination

Any certification or determination by the Security Trustee of a rate or amount under any Finance Document or this Guarantee is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

14.12 SACE subrogation

The Guarantor acknowledges that immediately upon any payment by SACE of any amount due under the SACE Insurance Policy, SACE shall be automatically subrogated to the extent of such payment to the rights of the Security Trustee under this Guarantee in accordance with the SACE Insurance Policy.

15 ASSIGNMENT AND TRANSFER

15.1 Assignment and transfer by Security Trustee

- (a) The Security Trustee may assign or transfer its rights under and in connection with this Guarantee to the same extent as it may assign or transfer its rights under the Loan Agreement.
- (b) The Guarantor may not assign or transfer its rights under and in connection with this Guarantee.

16 NOTICES

16.1 Notices to Guarantor

Any notice or demand to the Guarantor under or in connection with this Guarantee shall be given by letter or fax at:

NCL Corporation Ltd.
7665 Corporate Center Drive
Miami
Florida, 33126
Fax: (305) 436 4140

or to such other address which the Guarantor may notify to the Security Trustee.

16.2 Application of certain provisions of Loan Agreement

Clauses 32.3 (*Effective date of notices*) to 32.9 (*Meaning of "notice"*) of the Loan Agreement apply to any notice or demand under or in connection with this Guarantee.

16.3 Validity of demands

A demand under this Guarantee shall be valid notwithstanding that it is served:

- (a) on the date on which the amount to which it relates is payable by the Borrower under the Loan Agreement; or
- (b) at the same time as the service of a notice under clause 18.21 (*Actions following an Event of Default*) of the Loan Agreement;

and a demand under this Guarantee may refer to all amounts payable under or in connection with the Loan Agreement without specifying a particular sum or aggregate sum.

16.4 Notices to Security Trustee

Any notice to the Security Trustee under or in connection with this Guarantee shall be sent to the same address and in the same manner as notices to the Security Trustee under the Loan Agreement.

17 INVALIDITY OF LOAN AGREEMENT

17.1 Invalidity of Loan Agreement

In the event of:

- (a) the Loan Agreement or any provision thereof now being or later becoming, with immediate or retrospective effect, void, illegal, unenforceable or otherwise invalid for any reason whatsoever; or
- (b) without limiting the scope of paragraph (a) above, a bankruptcy of the Borrower, the introduction of any law or any other matter resulting in the Borrower being discharged from liability under the Loan Agreement, or the Loan Agreement ceasing to operate (for example, by interest ceasing to accrue);

this Guarantee shall cover any amount which would have been or become payable under or in connection with the Loan Agreement if the Loan Agreement had been and remained entirely valid, legal and enforceable, or the Borrower had not suffered bankruptcy, or any combination of such events or circumstances, as the case may be, and the Borrower had remained fully liable under it for liabilities whether invalidly incurred or validly incurred but subsequently retrospectively invalidated; and references in this Guarantee to amounts payable by the Borrower under or in connection with the Loan Agreement shall include references to any amount which would have so been or become payable as aforesaid.

17.2 Invalidity of Finance Documents

Clause 17.1 (*Invalidity of Loan Agreement*) also applies to each of the other Finance Documents to which the Borrower is a party.

18 GOVERNING LAW AND JURISDICTION

18.1 English law

This Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

18.2 Exclusive English jurisdiction

The courts of England shall have exclusive jurisdiction to settle any Dispute.

18.3 Process agent

The Guarantor irrevocably appoints Hannaford Turner LLP of 4th Floor, 15 Old Bailey, London EC4M 7EF, United Kingdom, to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

18.4 Secured Parties' rights unaffected

Nothing in this Clause 18 (*Governing Law and Jurisdiction*) shall exclude or limit any right which any Secured Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

18.5 Meaning of "proceedings"

In this Clause 18 (*Governing Law and Jurisdiction*), "**proceedings**" means proceedings of any kind, including an application for a provisional or protective measure and a "**Dispute**" means any dispute arising out of or in connection with this Guarantee (including a dispute relating to the existence, validity or termination of this Guarantee) or any non-contractual obligation arising out of or in connection with this Guarantee.

THIS GUARANTEE has been entered into on the date stated at the beginning of this Guarantee.

SCHEDULE 1

FORM OF COMPLIANCE CERTIFICATE

To: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**
8 Canada Square
London
E14 5HQ

Attn: [●]

[●] 20[●]

Dear Sirs

Loan Agreement dated [●] 2018 (as amended from time to time, the "Loan Agreement") made between (1) Explorer III New Build, LLC (the "Borrower"), (2) the banks and financial institutions named at schedule 1 therein as lenders, (3) Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank plc, KfW IPEX-BANK GmbH, Cassa Depositi e Prestiti S.p.A., Banco Santander S.A. and Société Générale as Joint Mandated Lead Arrangers, (4) Crédit Agricole Corporate and Investment Bank as SACE Agent (5) BNP Paribas as Facility Agent and (6) HSBC Corporate Trustee Company (UK) Limited as Security Trustee for a facility of up to the aggregate of the Dollar Equivalent of up to three hundred and seventy eight million and eight hundred thousand Euros (€ 378,800,000) and the amount of the SACE Premium (but not exceeding five hundred and sixty five million, one hundred and fifty four thousand, six hundred and sixty eight Dollars and five cents (\$ 565,154,668.05)) and Guarantee dated [●] 2018 (the "Guarantee") made between (1) us as guarantor and (2) HSBC Corporate Trustee Company (UK) Limited as Security Trustee.

We refer to the Loan Agreement and the Guarantee. Terms defined in the Loan Agreement and the Guarantee have their defined meanings when used in this Compliance Certificate.

We also refer to the financial covenants set out in Clause 11.15 (*Financial Covenants*) of the Guarantee.

We certify that in relation to such covenants and by reference to the latest accounts provided under Clause 11.3[(11.3(a))/(11.3(b))] of the Guarantee:

- (a) Free Liquidity is \$[●] and [was / was not] less than fifty million Dollars (\$50,000,000) at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided;
- (b) the ratio of Total Net Funded Debt to Total Capitalization is [●] and therefore [was/was not] greater than 0.70:1.00 at all times during the three month period ending at the end of the fiscal quarter for which the latest accounts have been provided; and
- (c) [the Free Liquidity of the Group at all times during the period of four consecutive fiscal quarters ending as at the end of the fiscal quarter for which the latest accounts have been provided was equal to or greater than one hundred million Dollars (\$100,000,000)] [as at the end of the fiscal quarter for which the latest accounts have been provided, computed for the period of four consecutive fiscal quarters ending at the end of such fiscal quarter, Consolidated EBITDA to Consolidated Debt Service is [●] and therefore [is/is not] less than 1.25:1.00].

To evidence compliance with the terms of Clause 11.15 (*Financial Covenants*), we attach:

a copy of the latest quarterly consolidated accounts of the Group as Appendix A [and a copy of the latest annual consolidated accounts of the Group as Appendix B].

No Event of Default has occurred in relation to the Borrower or the Guarantor.

Signed: _____

Chief Financial Officer of
NCL Corporation Ltd.

EXECUTION PAGE

GUARANTOR

SIGNED by
for and on behalf of
NCL CORPORATION LTD.
as its duly appointed attorney-in-fact
in the presence of:

) /s/Paul A. Turner

) Paul A. Turner
) Attorney-in-Fact
)
) /s/Ioanna Tsekoura

Ioanna Tsekoura
Solicitor
Clyde & Co LLP
The St Botolph Building
138 Houndsditch
London EC3A 7AR
United Kingdom

SECURITY TRUSTEE

SIGNED by
for and on behalf of
HSBC CORPORATE TRUSTEE COMPANY
(UK) LIMITED
acting by its attorney
in the presence of:

) /s/Andrea Stevenson

) Andrea Stevenson
) Authorised Signatory
)
) /s/Hanish Bhatt

) Hanish Bhatt

NORWEGIAN CRUISE LINE HOLDINGS LTD.

DIRECTORS' COMPENSATION POLICY

(Updated February 11, 2019)

Directors of Norwegian Cruise Line Holdings Ltd., a company organized under the laws of Bermuda (the "Company"), who are not employed by the Company or one of its subsidiaries ("non-employee directors") are entitled to the compensation set forth below for their service as a member of the Board of Directors (the "Board") of the Company. The Board has the right to amend this policy from time to time.

| Cash Compensation | |
|---|------------|
| Annual Cash Retainer | \$ 100,000 |
| Annual Chairperson Retainer | \$ 50,000 |
| Annual Audit Committee Chairperson Retainer | \$ 30,000 |
| Annual Compensation Committee Chairperson Retainer | \$ 20,000 |
| Annual Nominating and Governance Committee Chairperson Retainer | \$ 20,000 |
| Annual Technology, Environmental, Safety and Security ("TESS") Chairperson Retainer | \$ 20,000 |
| Annual Audit Committee Member Retainer | \$ 15,000 |
| Out-of-Country Meeting Attendance Fee | \$ 10,000 |

| Equity Compensation | |
|----------------------------|------------|
| Annual Equity Award | \$ 140,000 |

Cash Compensation

Each non-employee director will be entitled to an annual cash retainer while serving on the Board in the amount set forth above (the "Annual Cash Retainer"). A non-employee director who serves as the Chairperson of the Board will be entitled to an additional annual cash retainer while serving in that position in the amount set forth above (the "Annual Chairperson Retainer"). A non-employee director who serves as the Chairperson of the Audit Committee will be entitled to an additional annual cash retainer while serving in that position in the amount set forth above (the "Annual Audit Committee Chairperson Retainer"). A non-employee director who serves as the Chairperson of the Compensation Committee will be entitled to an additional annual cash retainer while serving in that position in the amount set forth above (the "Annual Compensation Committee Chairperson Retainer"). A non-employee director who serves as the Chairperson of the Nominating and Governance Committee will be entitled to an additional annual cash retainer while serving in that position in the amount set forth above (the "Annual Nominating and Governance Committee Chairperson Retainer"). A non-employee director who serves as the Chairperson of the TESS Committee will be entitled to an additional annual cash retainer while serving in that position in the amount set forth above (the "Annual TESS Committee Chairperson Retainer"). A non-employee director who serves as a member of the Audit Committee (other than the Chairperson of the Audit Committee) will be entitled to an additional annual cash retainer while serving in that position in the amount set forth above (the "Annual Audit Committee Member Retainer"). A non-employee director who attends in person a Board or committee meeting located outside of their country of residence will be entitled to a fee for attendance at the meeting in the amount set forth above (an "Out-of-Country Meeting Attendance Fee"), provided that the director will only be entitled to one Out-of-Country Meeting Attendance Fee if multiple Board or committee meetings are held on the same day or over consecutive days. Except for the Out-of-Country Meeting Attendance Fee, no non-employee director will be entitled to a meeting fee for attending in-person or telephonically any other Board or committee meetings.

The amounts of the Annual Cash Retainer, Annual Chairperson Retainer, Annual Audit Committee Chairperson Retainer, Annual Compensation Committee Chairperson Retainer, Annual Nominating and Governance Committee Chairperson Retainer, Annual TESS Committee Chairperson Retainer and Annual Audit Committee Member Retainer are expressed as annualized amounts. These retainers will be paid on a quarterly basis, at the end of each quarter in arrears, and will be pro-rated if a non-employee director serves (or serves in the corresponding position, as the case may be) for only a portion of the quarter (with the proration based on the number of calendar days in the quarter that the director served as a non-employee director or held the particular position, as the case may be). Out-of-Country Meeting Attendance Fees for attendance at meetings that occur in a particular quarter will be paid at the end of the quarter.

Equity Awards

Annual Equity Awards for Continuing Board Members

On the first business day of each calendar year, each non-employee director then in office will automatically be granted an award of restricted share units of the Company (an "Annual Restricted Share Unit Award") determined by dividing (1) the Annual Equity Award grant value set forth above by (2) the per-share closing price of an Ordinary Share on the first business day of that year (rounded down to the nearest whole share). Subject to the non-employee director's continued service, each Annual Restricted Share Unit Award will vest in one installment on the first business day of the calendar year following the calendar year of the grant.

For each new non-employee director appointed or elected to the Board after the first business day of the calendar year, on the date that the new non-employee director first becomes a member of the Board, the new non-employee director will automatically be entitled to a pro-rata portion of the Annual Restricted Share Unit Award (a "Pro-Rata Annual Restricted Share Unit Award") determined by dividing (1) a pro-rata portion of the Annual Equity Award grant value set forth above by (2) the per-share closing price of an Ordinary Share on the date the new non-employee director first became a member of the Board (rounded down to the nearest whole share). The pro-rata portion of the Annual Equity Award grant value for purposes of a Pro-Rata Annual Restricted Share Unit Award will equal the Annual Equity Award grant value set forth above multiplied by a fraction (not greater than one), the numerator of which is 12 minus the number of whole months that as of the particular grant date had elapsed since the first business day of the year, and the denominator of which is 12. Subject to the non-employee director's continued service, each Pro-Rata Annual Restricted Share Unit Award will vest in one installment on the first business day of the calendar year following the year the award was granted.

Elective Grants of Equity Awards

Non-employee directors may elect, prior to the start of each applicable calendar year, to convert all or a portion of their Annual Cash Retainer (but not any Annual Chairperson Retainer, Annual Audit Committee Chairperson Retainer, Annual Compensation Committee Chairperson Retainer, Annual Nominating and Governance Committee Chairperson Retainer, Annual TESS Committee Retainer, Annual Audit Committee Member Retainer or Out-of-Country Meeting Attendance Fees) payable with respect to the particular calendar year into the right to receive an award of restricted share units of the Company (an "Elective Restricted Share Unit Award"). The Elective Restricted Share Unit Award shall automatically be granted on the first business day of each calendar year in an amount determined by dividing (1) the amount of the Annual Cash Retainer elected to be so converted by (2) the per-share closing price of an Ordinary Share on the first business day of the year (rounded down to the nearest whole share). Subject to the non-employee director's continued service, each Elective Restricted Share Unit Award will vest in one installment on the first business day of the calendar year following the year the award was granted.

In order to elect to receive an Elective Restricted Share Unit Award, non-employee directors must complete an election form in such form as the Board may prescribe from time to time (an "Election Form"), and file such completed form with the Company prior to the start of the applicable calendar year (i.e. if a director wants to convert his or her Annual Cash Retainer payable for the 2020 calendar year, the Election Form must be filed prior to December 31, 2019). Once an Election Form is validly filed with the Company, it shall automatically continue in effect for future calendar years unless the non-employee director changes or revokes his or her Election Form prior to the beginning of any such future calendar years.

Provisions Applicable to All Equity Awards

Each award of restricted share units will be made under and subject to the terms and conditions of the Company's Amended and Restated 2013 Performance Incentive Plan (the "2013 Plan") or any successor equity compensation plan approved by the Company's stockholders and in effect at the time of grant, and will be evidenced by, and subject to the terms and conditions of, an award agreement in the form approved by the Board to evidence such type of grant pursuant to this policy.

Expense Reimbursement

All directors will be entitled to reimbursement from the Company for their reasonable travel (including airfare and ground transportation), lodging and meal expenses incident to meetings of the Board or committees thereof or in connection with other Board related business.

Product Familiarization

It being in the interest of the Company for non-employee directors of its Board to review and assess the Company's products, the non-employee directors of the Board are encouraged to take one cruise with one of the Company's brands annually. Accordingly, the Company will annually provide to each non-employee director one cabin for an up to 14 night cruise with the Company brand of their choice. Non-employee directors and a guest of their choice will be accommodated in a penthouse level (or Haven equivalent) cabin with such accommodation to be assigned by the Company's revenue management department. The non-employee director will be responsible for taxes, port fees and fuel supplements as well as all onboard spending and transportation to and from the ship (other than any transportation that would otherwise be included in the ticket price of the cruise).

If a Board meeting is held on a cruise, the Company will absorb the cost of the cruise fare for each non-employee director and any guests traveling with such non-employee director in his or her stateroom. The non-employee director will be responsible for all onboard spending during such cruise.

In addition, non-employee directors and their immediate families are entitled to participate in any Company discount program in effect that is generally available to all Company employees for any additional cruises they may wish to take.

The Chairperson of the Compensation Committee of the Board may approve certain exceptions to the "Product Familiarization" section of this policy.

List of Subsidiaries of Norwegian Cruise Line Holdings Ltd.

| <u>Name of Subsidiary</u> | <u>Jurisdiction of Incorporation or Organization</u> |
|--|--|
| NCL Corporation Ltd. | Bermuda |
| Norwegian Cruise Co. Inc. | Delaware |
| Norwegian Sextant Ltd. | United Kingdom |
| Norwegian Compass Ltd. | United Kingdom |
| Arrasas Limited | Isle of Man |
| NCL International, Ltd. | Bermuda |
| NCL America Holdings, LLC | Delaware |
| Norwegian Dawn Limited | Isle of Man |
| Norwegian Star Limited | Isle of Man |
| Norwegian Jewel Limited | Isle of Man |
| Norwegian Sun Limited | Bermuda |
| Norwegian Spirit, Ltd. | Bermuda |
| Norwegian Pearl, Ltd. | Bermuda |
| Norwegian Gem, Ltd. | Bermuda |
| Norwegian Epic, Ltd. | Bermuda |
| Breakaway One, Ltd. | Bermuda |
| Breakaway Two, Ltd. | Bermuda |
| Breakaway Three, Ltd. | Bermuda |
| Breakaway Four, Ltd. | Bermuda |
| Seahawk One, Ltd. | Bermuda |
| Seahawk Two, Ltd. | Bermuda |
| NCL (Bahamas) Ltd. d/b/a Norwegian Cruise Line | Bermuda |
| Norwegian Sky, Ltd. | Bermuda |
| NCL America LLC | Delaware |
| Pride of America Ship Holding, LLC | Delaware |
| Pride of Hawaii, LLC | Delaware |
| NCL Australia Pty Ltd. | Australia |
| Belize Island Holdings Ltd. | Belize |
| Eurosoft Corporation Limited | United Kingdom |
| Eurosoft Cruise Line (Shanghai) Co., Ltd. | China |
| Leonardo One, Ltd. | Bermuda |
| Leonardo Two, Ltd. | Bermuda |
| Leonardo Three, Ltd. | Bermuda |
| Leonardo Four, Ltd. | Bermuda |
| Leonardo Five, Ltd. | Bermuda |

| Name of Subsidiary | Jurisdiction of Incorporation or Organization |
|---|--|
| Leonardo Six, Ltd. | Bermuda |
| O Class Plus One, LLC | Delaware |
| O Class Plus Two, LLC | Delaware |
| Explorer III New Build, LLC | Delaware |
| Classic Cruises, LLC | Delaware |
| Classic Cruises II, LLC | Delaware |
| Explorer New Build, LLC | Delaware |
| Explorer II New Build, LLC | Delaware |
| Insignia Vessel Acquisition, LLC | Delaware |
| Marina New Build, LLC | Republic of the Marshall Islands |
| Mariner, LLC | Republic of the Marshall Islands |
| Nautica Acquisition, LLC | Delaware |
| Navigator Vessel Company, LLC | Delaware |
| Oceania Cruises S. de R.L. (formerly Oceania Cruises, Inc.) | Panama |
| OCI Finance Corp. | Delaware |
| Prestige Cruises Air Services, Inc. | Florida |
| Prestige Cruises International S. de R.L. (formerly Prestige Cruises International, Inc.) | Panama |
| Prestige Cruise Services LLC | Delaware |
| Prestige Cruise Services (Europe) Limited | United Kingdom |
| Prestige Cruise Holdings S. de R.L. (formerly Prestige Cruise Holdings, Inc.) | Panama |
| Regatta Acquisition, LLC | Delaware |
| Riviera New Build, LLC | Republic of the Marshall Islands |
| Seven Seas Cruises S. de R.L. | Panama |
| Sirena Acquisition | Cayman Islands |
| SSC Finance Corp. | Delaware |
| Voyager Vessel Company, LLC | Delaware |

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (No. 333-216441) and Form S-8 (Nos. 333-212352, 333-196538, 333-190716, 333-186184) of Norwegian Cruise Line Holdings Ltd. of our report dated February 27, 2019 relating to the financial statements, financial statement schedule and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP

Miami, Florida

February 27, 2019

CERTIFICATION

I, Frank J. Del Rio, certify that:

1. I have reviewed this annual report on Form 10-K of Norwegian Cruise Line Holdings Ltd.;
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 registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer 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 registrant 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 registrant, 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 registrant'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;
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant'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 registrant's internal control over financial reporting.

Dated: February 27, 2019

/s/Frank J. Del Rio

Name: Frank J. Del Rio

Title: President and Chief Executive Officer

CERTIFICATION

I, Mark A. Kempa, certify that:

1. I have reviewed this annual report on Form 10-K of Norwegian Cruise Line Holdings Ltd.;
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 registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer 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 registrant 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 registrant, 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 registrant'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;
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant'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 registrant's internal control over financial reporting.

Dated: February 27, 2019

/s/Mark A. Kempa

Name: Mark A. Kempa

Title: Executive Vice President and Chief Financial Officer

**CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350 AS ADOPTED
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, each of Frank J. Del Rio, the President and Chief Executive Officer, and Mark A. Kempa, the Executive Vice President and Chief Financial Officer, of Norwegian Cruise Line Holdings Ltd. (the "Company"), does hereby certify, that, to such officer's knowledge:

The Annual Report on Form 10-K of the Company, for the year ended December 31, 2018 (the "Form 10-K"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: February 27, 2019

By: /s/Frank J. Del Rio
Name: Frank J. Del Rio
Title: President and Chief Executive Officer

By: /s/Mark A. Kempa
Name: Mark A. Kempa
Title: Executive Vice President and Chief Financial Officer
